

**City of Kelowna  
Regular Council Meeting  
AGENDA**



**Monday, May 2, 2016  
1:30 pm  
Council Chamber  
City Hall, 1435 Water Street**

**Pages**

**1. Call to Order**

This meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

**2. Confirmation of Minutes**

6 - 13

PM Meeting - April 25, 2016

**3. Committee Reports**

**3.1 Financial Statements for the Year Ending December 31, 2015**

14 - 44

To present the Financial Statements to Council for acceptance per the legislative requirement, to provide Council with a recommendation on the contribution of \$3,300,000 of surplus to reserves and to seek approval to include the Financial Statements in the annual report.

**4. Development Application Reports & Related Bylaws**

**4.1 330 Merrifield Road, Z16-0011 - Corey Knorr Construction Ltd.**

45 - 53

To rezone the subject property from RU1 to RU2 to facilitate a 2-lot subdivision.

**4.2 330 Merrifield Road, BL11241 (Z16-0011) - Corey Knorr Construction Ltd.**

54 - 54

To give Bylaw No. 11241 first reading in order to rezone the subject property to facilitate a 2-lot subdivision.

**4.3 845 Kinnear Court, Z15-0050 - Carol Kergan**

55 - 67

To rezone the subject property to facilitate the conversion of an accessory building to a carriage house on the subject parcel.



<b>4.4</b>	<b>845 Kinnear Court, BL11242 (Z15-0050) - Carol Kergan</b>	<b>68 - 68</b>
	To give Bylaw No. 11242 first reading in order to facilitate the conversion of an accessory building to a carriage house on the subject parcel.	
<b>4.5</b>	<b>135 Mugford Road &amp; 345 Rutland Road N, Z15-0059 - City of Kelowna</b>	<b>69 - 111</b>
	To rezone the subject properties to facilitate the redevelopment and adaptive re-use of the heritage building and site.	
<b>4.6</b>	<b>135 Mugford Road &amp; 345 Rutland Road N, BL11243 (Z15-0059) - City of Kelowna</b>	<b>112 - 112</b>
	To give Bylaw No. 11243 first reading in order to rezone the subject properties to facilitate the redevelopment and adaptive re-use of the heritage building and site.	
<b>4.7</b>	<b>820 Finns Road, OCP15-0016 &amp; Z15-0053 - Raif Holdings Ltd.</b>	<b>113 - 122</b>
	To amend the Official Community Plan to change the future land use designation and rezone the subject property to allow the lands to be used for service commercial development.	
<b>4.8</b>	<b>820 Finns Road, BL11246 (OCP15-00016) - Raif Holdings Ltd.</b>	<b>123 - 124</b>
	<b>Requires a majority of all members of Council (5).</b> To give Bylaw No. 11246 first reading in order to change the future land use designation of the subject property to allow the lands to be used for service commercial development.	
<b>4.9</b>	<b>820 Finns Road, BL11247 (Z15-0053) Raif Holdings Ltd.</b>	<b>125 - 126</b>
	To give Bylaw No. 11247 first reading in order to rezone the subject property to allow the lands to be used for service commercial development.	
<b>4.10</b>	<b>894 Stremel Road, OCP16-0001 &amp; Z16-0006 - McBeetle Holdings</b>	<b>127 - 138</b>
	To consider an OCP and Zoning Bylaw amendment application to rezone a portion of the subject property to facilitate the construction of an automobile dealer, and dedicate a portion of the property as parkland.	

## **5. Non-Development Reports & Related Bylaws**

<b>5.1</b>	<b>Quarterly Report Update - Q1 2016</b>	<b>139 - 152</b>
	To provide Council with an update of the City's activities for the first quarter of 2016.	
<b>5.2</b>	<b>2016-2019 Crime Reduction Strategy</b>	<b>153 - 189</b>
	To seek Council approval and endorsement of the 2016-2019 Crime Reduction Strategy.	

<b>5.3</b>	<b>Amendment No. 2 to Development Cost Charge Bylaw No.10515</b>	<b>190 - 209</b>
	To inform Council about the outcome of the public open house.	
<b>5.4</b>	<b>BL11207 - Amendment No. 2 to Development Cost Charge Bylaw No. 10515</b>	<b>210 - 211</b>
	To give Bylaw No. 11207 second and third readings in order to amend the City of Kelowna's Development Cost Charge Bylaw.	
<b>5.5</b>	<b>2016 Rental Housing Grant Bylaws</b>	<b>212 - 214</b>
	To consider Housing Agreements for the purpose-built rental housing projects that were approved for rental housing grants, in accordance with Council Policy No. 335.	
<b>5.6</b>	<b>125 Dundas Road, BL11234, Housing Agreement Authorization Bylaw - Unico Developments Ltd.</b>	<b>215 - 222</b>
	To give Bylaw No. 11234 first, second and third readings in order to enter into a Purpose-Built Rental Housing Agreement with Unico One Developments Ltd.	
<b>5.7</b>	<b>2065 Benvoulin Court, BL11235, Housing Agreement Authorization Bylaw - National Society of Hope</b>	<b>223 - 231</b>
	To give Bylaw No. 11235 first, second and third readings in order to authorize the City to enter into a Purpose-Built Rental Housing Agreement with the Society of Hope.	
<b>5.8</b>	<b>1745 Chapman Place, BL11236, Housing Agreement Authorization Bylaw - Ki-Low-Na Friendship Society</b>	<b>232 - 239</b>
	To give Bylaw No. 11236 first, second and third readings in order to authorize the City to enter into a Purpose-Built Rental Housing Agreement with the Ki-Low-Na Friendship Society.	
<b>5.9</b>	<b>1170 Highway 33 W, BL11237, Housing Agreement Authorization Bylaw - Okanagan Metis &amp; Aboriginal Housing Society</b>	<b>240 - 248</b>
	To give Bylaw No. 11237 first, second and third readings in order to authorize the City to enter in to a Purpose-Built Rental Housing Agreement with the Okanagan Mets & Aboriginal Housing Society.	
<b>5.10</b>	<b>805 Academy Way, BL11238, Housing Agreement Authorization Bylaw - U Three-Mission Group Rentals Ltd.</b>	<b>249 - 257</b>
	To give Bylaw No. 11238 first, second and third readings in order to authorize the City to enter into a Purpose-Built Rental Housing Agreement with U Three - Mission Group Rentals Ltd.	

- 5.11 305 Homer Road, BL11239, Housing Agreement Authorization Bylaw - Davara Holdings Ltd. 258 - 266**

To give Bylaw No. 11239 first, second and third readings in order to authorize the City to enter into a Purpose-Built Rental Housing Agreement with Dvara Holdings Ltd.

- 5.12 Concession Operation Bid Awards - Various Food & Activity 267 - 494**

To endorse the award of food vendor contracts for Lawrence Avenue, Leon Avenue and Stuart Park; and a water activity concession contract for Gyro and Rotary Beaches.

**6. Bylaws for Adoption (Non-Development Related)**

- 6.1 BL11210 - A Bylaw to Rename a Portion of Rutland Road North 495 - 496**

To adopt Bylaw No. 11210 in order to rename of portion of Rutland Road North.

- 6.2 BL11223 - Sterile Insect Release Program Parcel Tax Bylaw 2016 497 - 508**

To adopt Bylaw No. 11223 in order to impose and levy a Parcel Tax upon the owners of land or real property within the City of Kelowna being served by the Sterile Insect Release Program.

- 6.3 BL11227 - Five Year Financial Plan 2016-2020 509 - 513**

To adopt Bylaw No. 11227 in order to adopt the Five Year Financial Plan 2016-2020.

- 6.4 BL11228 - Tax Structure Bylaw, 2016 514 - 514**

To adopt Bylaw No. 11228 in order to adopt the Tax Structure for 2016.

- 6.5 BL11229 - Annual Tax Rates Bylaw, 2016 515 - 517**

To adopt Bylaw No. 11229 in order to adopt the Annual Tax Rate for 2016.

- 6.6 BL11230 - DCC Reserve Fund Expenditure Bylaw, 2016 518 - 518**

To adopt Bylaw No. 11230 in order to create the DCC Reserve Expenditures for 2016.

- 6.7 BL11231 - Sale of City-Owned Land Reserve Fund Expenditure Bylaw, 2016 519 - 519**

To adopt Bylaw No. 11231 in order to create the Sale of City-Owned Land Reserve Fund Expenditure for 2016.

**7. Mayor and Councillor Items**

## 8. Termination



## City of Kelowna Regular Council Meeting Minutes

Date: Monday, April 25, 2016  
 Location: Council Chamber  
 City Hall, 1435 Water Street

Members Present Mayor Colin Basran, Councillors Maxine DeHart, Ryan Donn, Gail Given, Tracy Gray, Charlie Hodge, Mohini Singh\* and Luke Stack

Members Absent Councillor Brad Sieben

Staff Present City Manager, Ron Mattiussi; City Clerk, Stephen Fleming; Community Planning Department Manager, Ryan Smith\*; Urban Planning Manager, Terry Barton\*; Suburban & Rural Planning Manager, Todd Cashin\*; Planner Specialist, Melanie Steppuhn\*; Divisional Director, Community Planning & Real Estate, Doug Gilchrist\*; Financial Services Director, Genelle Davidson\*; Financial Planning Manager, George King\*; Financial Analyst, Liz Demers\*; Accountant, Matt Friesen\*; Bylaw Services Manager, Greg Wise\*; Divisional Director, Corporate & Protective Services, Rob Mayne\*; Divisional Director, Civic Operations, Joe Creron\*; Community & Neighbourhood Services Manager, Louise Roberts\*; Event Development Supervisor, Mariko Siggers\*; Divisional Director, Active Living & Culture, Jim Gabriel\*; Planner, Laura Bentley\*; Policy & Planning Department Manager, James Moore\*; Council Recording Secretary, Arlene McClelland

(\* Denotes partial attendance)

### 1. Call to Order

Mayor Basran called the meeting to order at 1:31 p.m.

Mayor Basran advised that the meeting is open to the public and all representations to Council form part of the public record. A live audio and video feed is being broadcast and recorded by CastaNet and a delayed broadcast is shown on Shaw Cable.

### 2. Confirmation of Minutes

Moved By Councillor Hodge/Seconded By Councillor Singh

R305/16/04/25 THAT the Minutes of the Regular Meetings of April 18, 2016 be confirmed as circulated.

Carried

### 3. Development Application Reports & Related Bylaws

#### 3.1 268 Lake Avenue, Z16-0005 - Frank Renou & Joan Chapman

**Staff:**

- Displayed a PowerPoint presentation summarizing the application and responded to questions from Council.

**Moved By Councillor DeHart/Seconded By Councillor Stack**

**R306/16/04/25** THAT Rezoning Application No. Z16-0005 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, District Lot 14, ODYD, Plan 42536 located at 268 Lake Avenue, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1c - Large Lot Housing with Carriage House zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated March 1, 2016;

**Carried**

#### 3.2 268 Lake Avenue, BL11240 (Z16-0005) - Frank Renou & Joan Capman

**Moved By Councillor Hodge/Seconded By Councillor Gray**

**R307/16/04/25** THAT Bylaw No. 11240 be read a first time.

**Carried**

#### 3.3 3090 Burtch Road, DP15-0294 - MKS Resources Inc.

**Staff:**

- Displayed a PowerPoint presentation summarizing the application and responded to questions from Council.

**Moved By Councillor Donn/Seconded By Councillor DeHart**

**R308/16/04/25** THAT Council authorize the issuance of Development Permit DP15-0294 for Lot B, District Lot 131, ODYD, Plan KAP80073, located on 3090 Burtch Rd, Kelowna, BC, subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land to be in general accordance with Schedule "C";
4. That the applicant be required to post with the City, a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;



AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit Application in order for the permit to be issued;

AND FURTHER THAT this Development Permit be valid for two (2) years from the date of Council approval, with no opportunity to extend.

Carried

### **3.4 1610 Swainson Road, FH15-0004 - GP Sander Holdings Ltd.**

Staff:

- Displayed a PowerPoint presentation summarizing the application; displayed a map of the 300 metre notification area and responded to questions from Council.

Council:

- Made reference to the numerous public comments and concerns received over the past few days.

Moved By Councillor Stack/Seconded By Councillor Donn

R309/16/04/25 THAT Council authorize the issuance of Development Permit No. FH15-0004 for Lot 1 Plan KAP77945, Section 25 and 30 and Section 27, TWP 27, ODYD, located at 1610 Swainson Road, Kelowna, BC for 1610 Swainson Road, Kelowna, BC.

Carried  
Councillor Hodge - Opposed

## **4. Bylaws for Adoption (Development Related)**

### **4.1 BL11119 (OCP15-0008) - Amendment to Chapter 4 - Future Land Use - MRM**

Moved By Councillor Given/Seconded By Councillor Donn

R310/16/04/25 THAT Bylaw No. 11119 be adopted.

Carried

### **4.2 BL11118 (TA15-0003) - CD 22 - Central Green Comprehensive Development Zone Amendments**

Moved By Councillor Gray/Seconded By Councillor Given

R311/16/04/25 THAT Bylaw No. 11118 be adopted.

Carried

## **5. Non-Development Reports & Related Bylaws**

### **5.1 Proposed Renaming of a Section of Rutland Road North**

Staff:

- Displayed a PowerPoint presentation summarizing the logistics of the proposed re-naming of a section of Rutland Road.

Moved By Councillor Donn/Seconded By Councillor Singh

R312/16/04/25 THAT Council receives, for information, the Report from the Deputy Subdivision Approving Officer dated April 25, 2016 recommending the renaming of a section of Rutland Rd North to Rutland Court and the new road to be renamed as Rutland Rd North as shown on Map "A" as attached to and forming part of the Report from the Community Planning Department dated April 25, 2016;

AND THAT Council gives reading consideration to Bylaw No. 11210 being: A Bylaw to Rename a Portion of Rutland Road North".

Carried

**5.2 BL11210 - A Bylaw to Rename a Portion of Rutland Road North**

Moved By Councillor Donn/Seconded By Councillor Gray

R313/16/04/25 THAT Bylaw No. 11210 be read a first, second and third time.

Carried

**5.3 2016 Financial Plan - Final Budget**

Staff:

- Displayed a PowerPoint presentation summarizing the 2016 final budget submissions and responded to questions from Council.

Moved By Councillor Donn/Seconded By Councillor Singh

R314/16/04/25 THAT Council adopts the 2016-2020 Financial Plan;

AND THAT Council approves the formulation of 2016 Property Tax Rates that will raise the required funds in 2016, from General Taxation, in the amount of \$119,879,430, resulting in an average net property owner impact of 4.11 per cent;

AND FURTHER THAT Bylaw No. 11227 being the 2016-2020 Financial Plan, Bylaw Nos. 11228 and 11229 being the 2016 Tax Rates and Bylaw Nos. 11230 and 11231 being the Reserve Fund Expenditures be advanced for reading consideration.

Carried

**5.4 BL11227 - Five Year Financial Plan 2016-2020**

Moved By Councillor Hodge/Seconded By Councillor Donn

R315/16/04/25 THAT Bylaw No. 11227 be read a first, second and third time.

Carried

**5.5 BL11228 - Tax Structure Bylaw, 2016**

Moved By Councillor Given/Seconded By Councillor Hodge

R316/16/04/25 THAT Bylaw No. 11228 be read a first, second and third time.

Carried



**5.6 BL11229 - Annual Tax Rates Bylaw, 2016**

Moved By Councillor Gray/Seconded By Councillor Hodge

R317/16/04/25 THAT Bylaw No. 11229 be read a first, second and third time.

Carried

**5.7 BL11230 - Development Cost Charge Reserve Fund Expenditure Bylaw, 2016**

Moved By Councillor Stack/Seconded By Councillor DeHart

R318/16/04/25 THAT Bylaw No. 11230 be read a first, second and third time.

Carried

**5.8 BL11231 - Sale of City-Owned Land Reserve Fund Expenditure Bylaw, 2016**

Moved By Councillor DeHart/Seconded By Councillor Stack

R319/16/04/25 THAT Bylaw No. 11231 be read a first, second and third time.

Carried

**5.9 Investment of City of Kelowna Funds for 2015**

Staff:

- Displayed a PowerPoint presentation summarizing the City's 2015 investment of surplus funds and overview of the performance portfolio.

Moved By Councillor Stack/Seconded By Councillor Gray

R320/16/04/25 THAT Council receives, for information, the Report from the Systems and Reporting Manager dated April 25, 2016 with respect to the investment of City of Kelowna funds for 2015.

Carried

**5.10 2016 Sterile Insect Release (SIR) Parcel Tax**

Staff:

- Provided an overview of the 2016 Sterile Insect Release Parcel Tax levy.

Moved By Councillor Donn/Seconded By Councillor Given

R321/16/04/25 THAT Council approve the Sterile Insect Release Program as outlined in the report dated April 25, 2016, charging the 2016 Sterile Insect Release (SIR) Parcel Tax to individual property tax rolls in accordance with the 2016 SIR Parcel Tax Assessment Roll provided to the City of Kelowna by SIR administration.

AND THAT Bylaw No. 11223 being the Sterile Insect Release Program Parcel Tax Bylaw 2016 be forwarded for reading consideration.

Carried

**5.11 BL11223 - Sterile Insect Release Program Parcel Tax Bylaw 2016**

Moved By Councillor DeHart/Seconded By Councillor Singh

R322/16/04/25 THAT Bylaw No. 11223 be read a first, second and third time.

Carried

Councillor Singh departed the meeting at 3:26 p.m.

### **5.12 Additional Bylaw Officer Support for Summer 2016**

Staff:

- Provided an overview of the report regarding additional bylaw officer support for Summer 2016.
- Confirmed amount requested is \$176,396.00.
- Confirmed the RCMP Crime Reduction Strategy will be brought forward May 2<sup>nd</sup>.

Councillor Singh rejoined the meeting at 3:33 p.m.

Moved By Councillor Hodge/Seconded By Councillor Gray

**R323/16/04/25** THAT council direct staff to supplement the current Bylaw Services staffing level with four additional temporary casual Bylaw Enforcement Officers in 2016;

AND THAT Council authorize the expenditure of up to \$176,396 funded by the RCMP 2016 Budget;

AND THAT the 2016 Financial Plan be amended to include up to \$176,396 funded from the RCMP 2016 Budget.

Carried

### **5.13 Multi Material BC - Statement of Work Contract Renewal**

Staff:

- Provided an overview of the Multi Material BC Work Contract.

Moved By Councillor DeHart/Seconded By Councillor Given

**R324/16/04/25** THAT Council receives, for information, the Report from the Public Works Manager dated April 11, 2016, with respect to Multi Material British Columbia - Statement of Work Contract Renewal;

AND THAT Council approves the City entering into a two-year agreement with Multi Material BC Society in the form attached to the Report of the Public Works manager dated April 11, 2016;

AND THAT the Mayor and City Clerk be authorized to execute the Agreement.

Carried

### **5.14 2016 Community Social Development Grants**

Staff:

- Provided background information regarding the 2016 Community Social Development Grants.

Moved By Councillor Given/Seconded By Councillor Hodge

**R325/16/04/25** THAT Council receives, for information, the report from the Community & Neighbourhood Services Manager dated April 25, 2016, regarding the Community Social Development Grants;



AND THAT Council approves the recommendations of the Central Okanagan Foundation Grant Advisory Committee for the distribution of the 2016 Community Social Development Grants as outlined in the report from the Community & Neighbourhood Services Manager dated April 25, 2016.

Carried

#### 5.15 Community Parade Float Theme

Staff:

- Provided an overview of the report and responded to questions from Council.

Moved By Councillor Stack/Seconded By Councillor DeHart

R326/16/04/25 THAT Council receives, for information, the report from the Event Development Supervisor dated April 25, 2016 with respect to the Community Parade Float;

AND THAT Council direct staff to proceed with the concept Ogopogo 2.0 expanding on the theme of our current community float, Ogopogo takes centre stage in experiencing all that Kelowna has to offer: recreation, culture, relaxation and of course, Okanagan Lake.

Carried

#### 5.16 Annual Housing Report Update

Staff:

- Displayed a PowerPoint Presentation summarizing the Annual Housing Report and responded to questions from Council.

Moved By Councillor DeHart/Seconded By Councillor Gray

R327/16/04/25 THAT Council receives for information the Report from the Planner II dated April 25, 2016 with respect to the annual Housing Report update.

Carried

### 6. Bylaws for Adoption (Non-Development Related)

#### 6.1 BL11212 - Amendment No. 7 to Water Regulation Bylaw No. 10480

Moved By Councillor DeHart/Seconded By Councillor Singh

R328/16/04/25 THAT Bylaw No. 11212 be adopted.

Carried

#### 6.2 BL11216 - Amendment No. 16 to Bylaw Notice Enforcement Bylaw No. 10475

Moved By Councillor DeHart/Seconded By Councillor Stack

R329/16/04/25 THAT Bylaw No. 11216 be adopted.

Carried

#### 6.3 BL11233 - Amendment No. 5 to Development Application Fees Bylaw No. 10560

Moved By Councillor DeHart/Seconded By Councillor Singh

R330/16/04/25 THAT Bylaw No. 11233 be adopted.

Carried

## 7. Mayor and Councillor Items

### Councillor Given:

- Thanked all those who contributed to making the SILGA Convention such a great success.

### Councillor Donn:

- Spoke to his attendance at the SILGA Convention.
- Reminder of the Vaisakhi Parade this Saturday, April 30<sup>th</sup>.

### Councillor Gray:

- Congratulated all for hosting a great SILGA Convention and to the Mayor and Councillor Given for their MC duties.

### Councillor Hodge:

- Congratulated all for hosting a great SILGA Convention. Pleased to have been elected back onto the SILGA Board.
- Spoke to his upcoming attendance at a Local Government Issues Conference this Friday in Vancouver.

### Councillor Singh:

- Spoke to the Vaisakhi Parade and Breakfast this Saturday, April 30<sup>th</sup> at the Sikh Temple.

### Councillor DeHart:

- Spoke to the upcoming 41<sup>st</sup> Community & Civic Awards Ceremony this Wednesday, April 27<sup>th</sup>.
- Congratulated all for hosting a great SILGA Convention.

### Mayor Basran:

- Thanked Councillors Given, Donn and Hodge and to staff Stephen Fleming and Corinne Boback for all their work in hosting the SILGA Convention.
- Spoke to his recent visit to Toronto for an Animation Conference and his efforts in speaking with young professionals to consider living and working in Kelowna.
- Spoke to his attendance at the upcoming Junior Chamber International (JCI) Regional Conference this weekend.
- Congratulated the Westside Warriors on their recent BCHL Championship.

## 8. Termination

This meeting was declared terminated at 4:32 p.m.

\_\_\_\_\_  
Mayor

/acm

\_\_\_\_\_  
City Clerk

# Report to Council



**Date:** May 2, 2016  
**File:** 0250-20  
**To:** City Manager  
**From:** Chair, Audit Committee  
**Subject:** Financial Statements for the Year Ending December 31, 2015

Report Prepared by: Financial Services Director

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## **Recommendation:**

THAT Council receives, for information, the Report from the Audit Committee dated May 2, 2016 with respect to the Consolidated Financial Statements and Auditor's Report for the City of Kelowna for the year ending December 31, 2015;

AND THAT Council approves the contribution of \$3,300,000 of surplus generated from all general fund operations in 2015 to reserves as detailed in the Report from the Audit Committee dated May 2, 2016;

AND FURTHER THAT the Consolidated Financial Statements and Auditor's Report be reprinted in and form part of the City of Kelowna's annual report.

## **Purpose:**

To present the Financial Statements to Council for acceptance per the legislative requirement, to provide Council with a recommendation on the contribution of \$3,300,000 of surplus to reserves and to seek approval to include the Financial Statements in the annual report.

## **Background:**

A detailed review of draft City of Kelowna Financial Statements for the year ending December 31, 2015 was undertaken on April 26, 2016 by the Audit Committee, the City of Kelowna Auditor, Grant Thornton LLP, and Financial Services staff.

City Administration has recommended the contribution to reserves of 2015 surplus generated from all general fund operations, in the amount of \$3,300,000 in addition to those amounts that are normally contributed through the budget process. The Audit Committee is in agreement with reasons provided for the contribution. This results in an unappropriated surplus for 2015 of \$135,719 dollars and an accumulated surplus balance of \$2.2 million, equivalent to approximately 2.0% of taxation.

The reserve contribution recommendation is:

RCMP Contract	\$ 600,000
Finance/Major Systems Software	\$ 800,000
Major Facilities	\$ 900,000
Land Sales	\$ 500,000
Parkland	\$ 500,000
	<u>\$3,300,000</u>

**Legal/Statutory Authority:**

The Community Charter section 167 "Annual Financial Statements" requires that municipal financial statements for a fiscal year must be presented to Council for its acceptance.

**Financial/Budgetary Considerations:**

The financial impact is that \$3,300,000 will be contributed from surplus to reserves.

**Considerations not applicable to this report:**

**Internal Circulation:**

**Legal/Statutory Procedural Requirements:**

**Existing Policy:**

**Personnel Implications:**

**External Agency/Public Comments:**

**Communications Comments:**

**Alternate Recommendation:**

Submitted by:



Mayor Basran, Chair, Audit Committee

cc: Councillor G. Given - Audit Committee  
Councillor L. Stack - Audit Committee  
Divisional Director, Corporate & Protective Services  
Financial Services Director  
Financial Planning Manager  
Special Projects Manager  
Grant Thornton LLP - Auditor  
Mr. Jim Grant, CPA, BEd, MBA  
Mr. Tyler Neels, CPA, CA



# 2015 Financial Statements

For the year ended December 31, 2015

# CITY OF KELOWNA

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## Independent auditors' report

**Grant Thornton LLP**  
200 - 1633 Ellis Street  
Kelowna, BC  
V1Y 2A8  
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(800) 661-4244 (Toll Free)  
F (250) 712-6850  
[www.GrantThornton.ca](http://www.GrantThornton.ca)

To the members of Council of the City of Kelowna

We have audited the accompanying consolidated financial statements of the City of Kelowna (the "City"), which comprise the consolidated statement of financial position as at December 31, 2015, and the consolidated statement of operations and accumulated surplus, consolidated statement of changes in net financial assets and consolidated statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

### **Management's responsibility for the consolidated financial statements**

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditors' responsibility**

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the City's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the City of Kelowna as at December 31, 2015, and the results of its operations and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Kelowna, Canada  
April 26, 2016

*Grant Thornton LLP*  
Chartered Professional Accountants

# CITY OF KELOWNA

## Consolidated Statement of Financial Position

As at December 31, 2015

(in thousands of dollars)

	<u>2015</u>	<u>2014</u>
<b>Financial Assets</b>		
Cash and cash equivalents (Note 4)	\$ 7,509	\$ 59,907
Accounts receivable (Note 4)	29,004	33,917
Accrued interest	1,047	591
Portfolio investments (Note 4)	352,398	247,797
Long term investments (Note 11)	6,000	6,000
Property held for resale	2,939	220
	<u>398,897</u>	<u>348,432</u>
<b>Liabilities</b>		
Accounts payable	42,308	39,333
Performance deposits	8,786	8,422
Deferred revenue (Note 4)	36,703	37,017
Deferred development cost charges (Note 4)	10,984	18,149
Long term debt (Note 4)	136,183	105,611
	<u>234,964</u>	<u>208,532</u>
<b>Net Financial Assets</b>	<u>163,933</u>	<u>139,900</u>
<b>Non-Financial Assets</b>		
Prepaid expenses	1,939	2,392
Inventory	1,152	1,220
Work in progress (Note 5)	88,484	60,060
Tangible capital assets (Note 5)	1,588,378	1,566,200
	<u>1,679,953</u>	<u>1,629,872</u>
<b>Accumulated Surplus (Note 6)</b>	<u>\$ 1,843,886</u>	<u>\$ 1,769,772</u>

Contingent liabilities and Commitments (Notes 9 and 10)

Subsequent Event (Note 20)



Genelle Davidson, CPA, CMA  
Financial Services Director



Colin Basran  
Mayor, City of Kelowna

See accompanying notes to the consolidated financial statements.

# CITY OF KELOWNA

## Consolidated Statement of Operations and Accumulated Surplus

For the Year Ended December 31, 2015

(in thousands of dollars)

	Budget 2015	Actual 2015	Actual 2014
<b>Revenue</b>			
Taxation (Note 7)	\$ 125,185	\$ 125,188	\$ 119,266
Fees and charges	101,508	113,024	107,383
Interest earned	5,400	8,979	8,438
DCC contributions	17,143	22,576	18,000
Government transfers (Note 8)	34,530	22,419	22,387
Other capital contributions	316	34,102	14,649
Gain on disposal of tangible capital assets	-	-	4,455
	<u>284,082</u>	<u>326,288</u>	<u>294,578</u>
<b>Expenses</b>			
General government services	26,932	22,973	22,792
Protective services	51,892	53,696	49,810
Transportation services	34,108	60,884	58,555
Recreational and cultural services	33,781	41,319	42,583
Other services	15,391	18,184	18,153
Airport operations	12,886	17,435	16,814
Natural Gas Legacy Services	2,915	4,506	4,509
Wastewater utility	13,502	22,834	23,061
Water utility	6,615	10,343	10,151
	<u>198,022</u>	<u>252,174</u>	<u>246,428</u>
<b>Annual Surplus</b>	\$ <u>86,060</u>	<b>74,114</b>	48,150
Accumulated Surplus, beginning of year		<b>1,769,772</b>	1,721,622
<b>Accumulated Surplus, end of year</b>		\$ <u><u>1,843,886</u></u>	\$ <u><u>1,769,772</u></u>

See accompanying notes to the consolidated financial statements.

# CITY OF KELOWNA

## Consolidated Statement of Changes in Net Financial Assets

For the Year Ended December 31, 2015

(in thousands of dollars)

	Budget <u>2015</u>	Actual <u>2015</u>	Actual <u>2014</u>
<b>Annual Surplus</b>	\$ 86,060	\$ 74,114	\$ 48,150
Amortization of tangible capital assets	-	61,885	61,411
Proceeds from disposal of tangible capital assets	-	926	8,274
Loss (Gain) on disposal of tangible capital assets	-	27	(4,455)
Acquisition of tangible capital assets	(212,796)	(113,440)	(68,723)
Change in inventory and prepaid expenses	<u>-</u>	<u>521</u>	<u>(1,131)</u>
<b>Increase (decrease) in Net Financial Assets</b>	(126,736)	24,033	43,526
Net Financial Assets, beginning of year	139,900	139,900	96,374
Net Financial Assets, end of year	\$ <u>13,164</u>	\$ <u>163,933</u>	\$ <u>139,900</u>

See accompanying notes to the consolidated financial statements.

**CITY OF KELOWNA**  
**Consolidated Statement of Cash Flows**  
**For the Year Ended December 31, 2015**  
(in thousands of dollars)

	<b>Actual 2015</b>	Actual 2014
<b>Net inflow (outflow) of cash and cash equivalents related to the following activities</b>		
<b>Operating</b>		
Annual Surplus	\$ 74,114	\$ 48,150
Adjustment for non-cash items		
Amortization of tangible capital assets	61,885	61,411
Loss (Gain) on disposal of tangible capital assets	27	(4,455)
Actuarial adjustment on long term debt	(4,389)	(4,082)
Developer contributions of tangible capital assets	(28,271)	(8,344)
Decrease (increase) in		
Accounts receivable	4,913	(1,608)
Inventory and prepaid expenses	521	(1,131)
Other assets	(3,175)	361
Increase (decrease) in		
Accounts payable	2,975	(1,420)
Deferred development cost charges	(7,165)	(5,869)
Other liabilities	50	1,735
	<u>101,485</u>	<u>84,748</u>
<b>Capital</b>		
Acquisition of tangible capital assets	(85,169)	(60,150)
Proceeds from disposal of tangible capital assets	926	8,274
	<u>(84,243)</u>	<u>(51,876)</u>
<b>Investing</b>		
Change in investments	<u>(104,601)</u>	<u>(30,259)</u>
<b>Financing</b>		
Proceeds from issuance of long term debt	42,500	345
Repayment of long term debt	(7,539)	(10,893)
	<u>34,961</u>	<u>(10,548)</u>
<b>Net decrease in cash and cash equivalents</b>	<b>(52,398)</b>	<b>(7,935)</b>
Cash and cash equivalents, beginning of year	59,907	67,842
<b>Cash and cash equivalents, end of year</b>	<b>\$ <u>7,509</u></b>	<b>\$ <u>59,907</u></b>
<b>Supplemental cash flow information</b>		
Interest paid	\$ 9,494	\$ 9,747
<b>Non-cash capital activities</b>		
Acquisition of tangible capital assets through developer contributions	\$ 28,271	\$ 8,344

*See accompanying notes to the consolidated financial statements.*

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

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The notes to the consolidated financial statements are an integral part of the statements. They explain the significant accounting and reporting policies and principles underlying these statements. They also provide relevant supplementary information and explanations which cannot be conveniently expressed in the consolidated financial statements.

The consolidated financial statements are the responsibility of and prepared by management in accordance with Canadian public sector accounting standards (PSAS). The preparation of these consolidated financial statements necessarily involves the use of estimates based on management's judgment, particularly when transactions affecting the current accounting period cannot be finalized with certainty until future periods.

**1. Significant accounting policies**

**Basis of presentation**

The City of Kelowna's resources and operations are segregated into General, Airport, Wastewater Utility, Water Utility, Natural Gas Legacy, Development Cost Charges and Statutory Reserve Funds for accounting and financial reporting purposes. The consolidated financial statements include all the accounts of these funds. All material interfund transactions and balances have been eliminated within the consolidated financial statements.

The City of Kelowna Library Society is controlled by the City of Kelowna through its appointment of the members of the Society. Accordingly, the consolidated financial statements include all the accounts of the Society.

**Accrual accounting**

The accrual method for reporting revenues and expenses has been used.

**Property held for resale**

Property held for sale are those expected to be sold within one year. They are valued at the lower of cost or expected net realizable value. Cost includes amounts for improvements to prepare the property for sale.

**Inventory**

Inventory is valued at the lower of cost, determined principally on a weighted average and specific item basis, or replacement cost.

**Work in progress**

Work in progress represents capital projects under construction but not yet completed and are valued at cost.

**Tangible capital assets**

The City records tangible capital assets, including assets held as work in progress or capital lease, at cost in the period they were acquired or when the asset is put into use.

All tangible capital assets are valued at cost which includes all costs directly attributable to acquisition, construction, development or betterment of the tangible capital asset.

Assets owned by the City but not paid for by the City including contributions, dedications, gifts and donations, are valued at fair value at the date of contribution, dedication, gift or donation, where fair value is reasonably determinable.

**Contributions of tangible capital assets**

Tangible capital assets received as contributions are recorded at their fair market value.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**Amortization**

The cost less residual value of the tangible capital assets is amortized on a straight-line basis over the useful lives of the asset as follows:

<u>Asset Type</u>	<u>Useful Life Years</u>	<u>Asset Type</u>	<u>Useful Life Years</u>
Parks infrastructure		Vehicles	
Playground equipment	15 - 20	Cars and light trucks	5 - 10
Artificial turf field	10 - 12	Fire trucks	15 - 20
Washrooms, concessions, picnic shelters	40 - 50	IT infrastructure	
Outdoor pools, spray pools	50 - 60	Hardware	4 - 5
Building structure	40 - 75	Software	5 - 10
Building improvements		Telephone system	7 - 10
Exterior envelope	30 - 40	Infrastructure	
HVAC systems	10 - 12	(dependent upon component and material)	
Roofs	15 - 20	Electrical	20 - 25
Electrical, plumbing and fire	15 - 20	Water	10 - 100
Site works - asphalt, water and sewer lines, etc	10 - 100	Wastewater	10 - 100
Machinery & equipment		Drainage	10 - 100
General equipment	7 - 10	Transporation	10 - 100
Grounds equipment and machinery	10 - 15		
Heavy construction equipment	5 - 10		

Land and Work in Progress are not amortized.

**Intangible assets**

Intangible assets include works of art and historic assets located throughout the City. They are not reflected in these consolidated financial statements.

**Interest capitalization**

The City of Kelowna only capitalizes interest on projects being financed internally which will require debenture borrowing upon completion. Interest is calculated on monthly expenditures at the bank prime rate less 2%.

**Municipal Finance Authority cash deposits and demand notes**

The City issues the majority of its debt instruments through the Municipal Finance Authority. As a condition of these borrowings, a portion of the debenture proceeds is withheld by the Municipal Finance Authority as a debt reserve fund. The City also executes demand notes in connection with each debenture whereby the City may be required to loan certain amounts to the Municipal Finance Authority. These demand notes are contingent in nature. The Debt Reserve and Demand Note balances are as follows:

	<u>2015</u>	<u>2014</u>
Cash Deposits held by MFA	\$ 3,137	\$ 2,642
Demand Notes held by MFA	8,674	7,576
	<u>\$ 11,811</u>	<u>\$ 10,218</u>

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

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**Reserves for future expenditures**

Reserves for future expenditures are non-statutory reserves which represent an appropriation of surplus for specific purposes. Transfers to reserves for future expenditures include funds to finance incomplete projects and accumulations for specific purposes.

**Statutory reserve funds**

The use of these funds is restricted by the Community Charter and associated Municipal Bylaws. Statutory reserve funds are funded 100% by cash and portfolio investments.

**Revenue recognition**

Taxation revenue

Annual levies for non-optional municipal services and general administrative services are recorded as taxes for municipal purposes. Levies imposed by other taxing authorities are not included as taxes for municipal purposes. Taxes are recognized as revenue in the year they are levied.

Through the BC Assessment appeal process taxes may be adjusted by way of supplementary roll adjustments. The affects of these adjustments on taxes are recognized at the time they are awarded.

Fees and charges revenue

Charges for transportation, environmental health, building permits, water, wastewater, natural gas and airport are included in this category. These revenues are recorded on the accrual basis and recognized as earned which is usually when services are provided or facilities are utilized.

DCC contributions

DCCs are recognized as revenue during the period in which the related costs are incurred.

Government transfers

Government transfers are recognized as revenue in the period that the transfer is authorized, eligibility criteria, if any, have been met by the City, and a reasonable estimate of the amount to be received can be made.

Investment income

The City's investments are disclosed in Note 4.

Investment income is recorded on the accrual basis and recognized when earned.

A portion of the City's investments are invested in pooled funds of the Municipal Finance Authority of British Columbia. Earnings on these funds are allocated to the members from time to time based on the market value of the pool. The City recognizes only its share of the realized earnings of the pool. This revenue is recorded as investment income and the amount is added to the cost of the units held.

To the extent that investments have no stated rate of return, investment income is recognized as it is received.

**Expenses**

Expenses are recorded in the period in which the goods or services are acquired and a liability is incurred.

**Use of estimates**

Management has made estimates and assumptions that affect the amounts reported in preparing these financial statements. Actual results could differ from the estimates. Significant areas requiring the use of management estimates relate to the determination of tangible capital assets estimated useful life and related amortization, landfill post closure costs and settlement costs associated with outstanding legal actions.



**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

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**2. Adoption of new accounting policy**

Effective April 1, 2014, the Public Sector Accounting Board issued Section 3260 Liability for contaminated sites. This Section establishes standards on how to account for and report a liability associated with the remediation of contaminated sites. A liability should be recognized when:

- an environmental standard exists,
- contamination exceeds the environmental standard,
- the Government is directly responsible or accepts responsibility,
- it is expected that future economic benefits will be given up, and
- a reasonable estimate of the amount can be made.

The City adopted this standard on a retroactive basis and there were no adjustments as a result of the adoption of this standard.

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**3. Future accounting changes**

**PS 2200 – Related party transactions**

This new Section defines a related party and establishes disclosures required for related party transactions. Disclosure of information about related party transactions and the relationship underlying them is required when they have occurred at a value different from that which would have been arrived at if the parties were unrelated. This Section applies to fiscal years beginning on or after April 1, 2017, with early adoption permitted.

**PS 3420 – Inter-entity transactions**

This section establishes how to account for and report transactions between public sector entities that comprise a government's reporting entity from both a provider and recipient perspective. This Section applies to fiscal years beginning on or after April 1, 2017, with early adoption permitted.

**PS 3210 – Assets**

This new section provides guidance for applying the definition of an asset as set out in Section PS 1000 *Financial statement concepts* and establishes general disclosure standards for assets. This section applies to fiscal years beginning on or after April 1, 2017, with early adoption permitted.

**PS 3320 – Contingent assets**

This new section defines and establishes disclosure standards for contingent assets. This section applies to fiscal years beginning on or after April 1, 2017, with early adoption permitted.

**PS 3380 – Contractual rights**

This new section defines and establishes disclosure standards on contractual rights. This section applies to fiscal years beginning on or after April 1, 2017, with early adoption permitted.

**PS 2601 – Foreign currency translation**

This section revises and replaces the existing Section PS 2600 *Foreign currency translation*. This section applies to fiscal years beginning on or after April 1, 2019, with early adoption permitted.

**PS 1201 – Financial statement presentation**

This section revises and replaces the existing Section PS 1200 *Financial statement presentation*. This section applies to fiscal years beginning on or after April 1, 2019, with early adoption permitted.

**PS 3450 – Financial instruments**

This section establishes standards for recognizing and measuring financial assets, financial liabilities and non-financial derivatives. This section applies to fiscal years beginning on or after April 1, 2019, with early adoption permitted.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**PS 3041 – Portfolio investments**

This section revises and replaces the existing Section PS 3040 *Portfolio investments*. This section applies to fiscal years beginning on or after April 1, 2019, with early adoption permitted.

**4. Financial Assets and Liabilities**

**Cash and cash equivalents**

Cash and cash equivalents consist of cash and short-term investments with maturities of 90 days or less from the date of acquisition.

**Accounts receivable**

Accounts receivable are recorded net of allowance and are comprised of the following:

<u>Type of receivable</u>	<u>2015</u>	<u>2014</u>
Property Tax	\$ 5,090	\$ 5,894
Trade Receivables	9,994	8,224
Due from Federal Government	1,453	4,032
Due from Provincial Government	5,456	7,159
Due from Regional Government	16	219
Utilities	4,359	4,346
Deferred Development Cost Charges	2,636	4,043
	<u>\$ 29,004</u>	<u>\$ 33,917</u>

**Portfolio investments**

Portfolio investments are recorded at cost and are comprised of the following:

<u>Type of investment</u>	<u>2015</u>	<u>2014</u>
Municipal Finance Authority Bond/Intermediate Funds	\$ 69,706	\$ 33,654
Provincial and Bank Issued Accrual Notes and Debentures	88,344	102,142
Publicly traded shares	57,328	56,297
Guaranteed Investment Certificates and Deposit Notes	137,019	55,704
Total Portfolio investments	<u>\$ 352,398</u>	<u>\$ 247,797</u>

The quoted market value of the publicly traded shares at December 31, 2015 was \$66.68 million (2014 - \$68.52 million).

**Operating line of credit**

The City has an operating line of credit with the Royal Bank of Canada for an authorized amount of \$5.0 million, bearing interest at bank prime rate. At December 31, 2015 the balance outstanding was \$nil (2014 - \$nil).

**Deferred revenue**

The City records deferred revenue for funds received in advance on services not yet rendered and is recognized into revenue during the period in which the service is provided. The City also records deferred revenue when a contract specifies how the resources are to be used and therefore funds received in advance are deferred until the period in which the requirements are met. Because these funds are restricted in nature they are shown as a liability.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

<u>Deferred Revenue by Type</u>	<u>2015</u>	<u>2014</u>
Tax Prepayments	\$ 18,036	\$ 17,302
Construction	11,522	12,458
Grants	94	763
Other	2,992	2,516
Local Area Service	<u>4,059</u>	<u>3,978</u>
	<u>\$ 36,703</u>	<u>\$ 37,017</u>

**Deferred development cost charges (DCC)**

The City collects development cost charges to pay for a proportionate share of infrastructure related to new growth. In accordance with the Local Government Act, these funds must be deposited into a separate reserve fund. Because these funds are externally restricted in nature they are shown as a liability.

	<u>2014</u>	<u>Receipts</u>	<u>Interest</u>	<u>Transfers Out</u>	<u>2015</u>
Roads	\$ 13,828	\$ 7,037	\$ 376	\$ 7,791	\$ 13,450
Parks	1,081	3,652	47	8,623	(3,843)
Water	9,596	387	259	47	10,195
Wastewater	<u>(6,356)</u>	<u>3,816</u>	<u>(163)</u>	<u>6,115</u>	<u>(8,818)</u>
Total Deferred DCC	<u>\$ 18,149</u>	<u>\$ 14,892</u>	<u>\$ 519</u>	<u>\$ 22,576</u>	<u>\$ 10,984</u>

**Long term debt**

Debenture debt principal is reported net of sinking fund balances. Interest rates on long term debt ranged from 1.80% to 10.07%. The weighted average rate for 2015 was 3.62% (2014 – 5.08%). Principal repayments for the next five years are as follows:

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
General Fund	\$ 3,763	\$ 3,743	\$ 3,742	\$ 2,875	\$ 2,451
Airport	1,972	1,972	1,972	639	639
Wastewater Fund	4,180	4,180	4,180	4,173	1,496
Water Fund	333	333	333	333	333
Natural Gas Legacy	1,699	1,699	1,699	-	-
Library Society	<u>502</u>	<u>177</u>	<u>-</u>	<u>-</u>	<u>-</u>
	<u>\$ 12,449</u>	<u>\$ 12,104</u>	<u>\$ 11,926</u>	<u>\$ 8,020</u>	<u>\$ 4,919</u>

Schedule 3 provides a breakdown of long term debt.

**Debt as a percentage of total expenditures:**

<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>
54.01%	42.79%	48.84%	53.64%	59.50%

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**5. Tangible capital assets and work in progress**

	<b>2015</b>	<b>2015</b>	<b>2014</b>	<b>2014</b>
	<b>Work in</b>	<b>Tangible</b>	<b>Work in</b>	<b>Tangible</b>
	<b>Progress</b>	<b>Capital</b>	<b>Progress</b>	<b>Capital</b>
		<b>Assets (NBV)</b>		<b>Assets (NBV)</b>
Land	\$ -	\$ 246,875	\$ 6,372	\$ 191,587
Land Improvements	2,713	33,501	1,746	35,194
Buildings	10,580	161,485	5,758	165,580
Infrastructure	50,190	1,077,417	30,693	1,099,268
Machinery and Equipment	25,001	36,301	15,491	40,172
Natural Gas System (Capital Lease)	-	32,799	-	34,399
	<u>\$ 88,484</u>	<u>\$ 1,588,378</u>	<u>\$ 60,060</u>	<u>\$ 1,566,200</u>

Contributions received in 2015 include:

**Type of contribution**

	<b><u>2015</u></b>	<b><u>2014</u></b>
Land - park	\$ <u>28,271</u>	\$ <u>8,344</u>

Schedule 1 provides a break down of tangible capital assets and work in progress.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**6. Accumulated Surplus**

	Reserves for Future Expenditures	Equity in FortisBC Inc.	Statutory Reserves	Fund Surpluses	Investment in Tangible Capital Assets	Total 2015	Total 2014
Accumulated surplus, beginning of year	\$ 101,612	56,297	\$ 56,290	\$ 36,423	\$ 1,519,150	\$ 1,769,772	\$ 1,721,622
Annual surplus (deficit)	354	2,720	1,679	78,924	(9,563)	74,114	48,150
Transfers	5,790	(1,650)	(3,003)	(1,137)	-	-	-
Acquisition of tangible capital assets	-	-	-	(61,867)	61,867	-	-
Repayment of long term debt	-	-	-	(10,539)	10,539	-	-
Accumulated surplus, end of year	<u>\$ 107,756</u>	<u>\$ 57,367</u>	<u>\$ 54,966</u>	<u>\$ 41,804</u>	<u>\$ 1,581,993</u>	<u>\$ 1,843,886</u>	<u>\$ 1,769,772</u>

Accumulated Surplus detail as follows:

Description	Balances, Beginning of Year	Transfer From	Transfer To	Annual Surplus	Balances, End of Year
<b><u>Non-Statutory Reserves</u></b>					
General Fund Reserve	\$ 57,619	\$ 13,735	\$ 17,065	\$ 28	\$ 60,977
Airport Fund Reserve	26,083	17,423	15,444	236	24,340
Waste Water Fund Reserve	7,354	244	2,284	15	9,409
Water Fund Reserve	10,556	341	2,740	75	13,030
	<u>101,612</u>	<u>31,743</u>	<u>37,533</u>	<u>354</u>	<u>107,756</u>
<b><u>Statutory Reserves</u></b>					
Parking Reserve	4,887	7,971	5,666	210	2,792
Land Reserve	16,659	11,366	2,351	450	8,094
Capital Works, Machinery & Equip Reserve	34,744	7,735	16,052	1,019	44,080
	<u>56,290</u>	<u>27,072</u>	<u>24,069</u>	<u>1,679</u>	<u>54,966</u>
<b><u>Surplus by Fund</u></b>					
General Fund Surplus	2,116	54,518	10,200	44,453	2,251
Airport Fund Surplus	596	15,515	1,333	14,182	596
Waste Water Fund Surplus	21,301	15,048	6,914	10,891	24,058
Water Fund Surplus	7,551	7,843	3,124	7,509	10,341
Natural Gas Legacy Surplus	4,694	3,159	1,429	1,429	4,393
Library Surplus	165	920	460	460	165
Accumulated Surplus	<u>36,423</u>	<u>97,003</u>	<u>23,460</u>	<u>78,924</u>	<u>41,804</u>
<b><u>Equity Investment</u></b>					
Equity in FortisBC Inc.	56,297	1,650	-	2,720	57,367
<b><u>Investment in Non Financial Assets</u></b>					
Investment in Tangible Capital Assets	1,519,150	20,102	92,508	(9,563)	1,581,993
Accumulated Surplus	<u>\$ 1,769,772</u>	<u>\$ 177,570</u>	<u>\$ 177,570</u>	<u>\$ 74,114</u>	<u>\$ 1,843,886</u>

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**7. Taxation**

Taxation revenue comprises the following amounts raised less transfers to other governments:

	<u>2015</u>	<u>2014</u>
<b>Taxes collected</b>		
Property taxes	\$ 206,636	\$ 199,000
Local improvement levies	179	104
Frontage tax – water	1,419	1,406
Specified sewer area recoveries	1,552	1,655
Grants in lieu of taxes	446	486
Levies	<u>6,596</u>	<u>6,409</u>
	<u>216,828</u>	<u>209,060</u>
<b>Less transfers to other governments</b>		
Province of BC (school taxes)	66,909	65,932
BC Assessment Authority	2,017	2,003
Regional Hospital District	11,307	10,896
Regional District of Central Okanagan	<u>11,407</u>	<u>10,963</u>
	<u>91,640</u>	<u>89,794</u>
<b>Net taxes available for municipal purposes</b>	<u>\$ 125,188</u>	<u>\$ 119,266</u>

**8. Government transfers**

Government transfers are the major source of transfers to the City. Government transfers received are for completed projects that meet the required criteria as set out by the Government body providing the funding. Due to the completion of the projects in 2015 there is no deferred revenue balances related to these transfers. Government transfers do not include grants in lieu of taxes received from the Federal and Provincial governments. In 2015 the City received and recorded as revenue the following transfers:

	<u>2015</u>	<u>2014</u>
<b>Operating transfers</b>		
Federal	\$ 333	\$ 531
Provincial	<u>18,324</u>	<u>15,313</u>
	<u>18,657</u>	<u>15,844</u>
<b>Capital transfers</b>		
Federal	1,508	1,660
Provincial	<u>2,254</u>	<u>4,882</u>
	<u>3,762</u>	<u>6,543</u>
<b>Total transfers</b>	<u>\$ 22,419</u>	<u>\$ 22,387</u>

**9. Contingent liabilities**

**Regional District of Central Okanagan**

Regional District debt is, under the provisions of the Local Government Act, a direct, joint and several liability of the District and each member municipality within the District including the City of Kelowna.

The loan agreements with the Regional District of Central Okanagan and the Municipal Finance Authority provide that if at any time the scheduled payments provided for in the agreements are not sufficient to meet the Authority's obligation with respect to such borrowing, the resulting deficiency becomes a liability of the member municipalities.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

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**Pension liability**

The employer and its employees contribute to the Municipal Pension Plan (a jointly trustee pension plan). The board of trustees, representing plan members and employers, is responsible for administering the plan, including investment of assets and administration of benefits. The plan is a multi-employer defined benefit pension plan. Basic pension benefits are based on a formula. As at December 31, 2014, the plan has about 185,000 active members and approximately 80,000 retired members. Active members include approximately 37,000 contributors from local governments.

Every three years, an actuarial valuation is performed to assess the financial position of the plan and adequacy of plan funding. The actuary determines an appropriate combined employer and member contribution rate to fund the plan. The actuary's calculated contribution rate is based on the entry-age normal cost method, which produces the long-term rate of member and employer contributions sufficient to provide benefits for average future entrants to the plan. This rate is then adjusted to the extent there is amortization of any funding deficit.

The most recent valuation for the Municipal Pension Plan as at December 31, 2012, indicated a \$1,370 million funding deficit for basic pension benefits on a going concern basis.

The City of Kelowna paid \$6.9 million for employer contributions to the plan in fiscal 2015, which represents 0.4% of the total plan contributions. The City of Kelowna expects to pay \$6.9 million for employer contributions in the next fiscal year.

The next valuation will be as at December 31, 2015, with results available in 2016.

Employers participating in the plan record their pension expense as the amount of employer contributions made during the fiscal year (defined contribution pension plan accounting). This is because the plan records accrued liabilities and accrued assets for the plan in aggregate, resulting in no consistent and reliable basis for allocating the obligation, assets and cost to individual employers participating in the plan.

The City of Kelowna paid \$6.9 million (2014 - \$5.9 million) for employer contributions while employees contributed \$5.6 million (2014 - \$4.8 million) to the plan in fiscal 2015.

**Post employment benefits**

The City of Kelowna does not accrue expenses for post employment benefits such as retirement allowances or compensated absences (sick leave). City employees retiring do not receive any retirement allowance that either vests or accrues over the period of employment. Sick benefits do not accrue and are not vested. The City recognizes the expense for sick time when the event obligates the City to pay.

**Legal actions**

The City of Kelowna is currently engaged in certain legal actions, the outcome of which is not determinable at this time. Accordingly, no provision has been made in the accounts for these actions.

The amount of loss, if any, arising from these contingent liabilities will be recorded in the accounts in the period in which the loss is realized. The City of Kelowna has insurance policies and financial reserves to offset associated risks.

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**10. Commitments**

**Agreements, contracts and purchase orders**

The City has entered into various agreements and contracts for services and construction with periods ranging from one to five years.

The City has purchase orders open as at December 31, 2015 which have not been recorded in the accounts. The balance of these open purchase orders are not determinable at this time. The funding for the majority of these obligations has been set aside in reserves for future expenditures. These amounts will be recorded in the accounts in the period the goods and services, to which they relate, are received.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
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**Landfill closure and post closure costs**

As required by PSAS and regulated by the Ministry of Water, Land and Air Protection, the City has agreed to obligations regarding the operation of the landfill site. These obligations include recognition of closure and post-closure liability. The City's estimated liability for these expenditures is recognized as the landfill site's capacity is used. The reported liability of \$3.7 million (2014 - \$3.6 million) represents the portion of the estimated total expenditure recognized as at December 31, 2015. The liability and annual expenditure is calculated based on the ratio of current usage to the total capacity of the site and the discounted estimated future cash flows associated with closure and post-closure activities.

The reported liability is based on estimates and assumptions with respect to events extending over the remaining life of the landfill. The remaining capacity of the landfill site is estimated at 14.9 million tonnes, which is 81% of the site's total capacity. The future cash flows for closure and post-closure cost is estimated at \$11.9 million as at December 31, 2015. The landfill site is expected to reach its capacity in 2092.

**Kelowna Family Y Centre loan guarantee agreement**

The City has, under the terms of the partnering agreement between the City of Kelowna and YMCA-YWCA of Central Okanagan, guaranteed repayment in the event that the YMCA-YWCA of Central Okanagan defaults on a \$1.8 million, 20-year loan. Under the agreement the City shall resume operation of the facility and assume responsibility for the repayment of the debt incurred by the YMCA-YWCA of Central Okanagan. During 2010 an amendment was made to the agreement for additional financing of \$700,000. As at December 31, 2015 the outstanding loan balance was \$1,089,336 (2014 - \$1,189,598).

**Multi-Purpose Facility Public/Private Partnership**

The City has, under the terms of the Preferred Share Agreement between the City of Kelowna and RG Properties Ltd., purchased \$6.0 million of preferred shares in RG Arenas (Kelowna) Ltd. at a cost of \$1 per share. The terms and conditions of the purchase are subject to the terms of a Tripartite Agreement between the City of Kelowna, Royal Bank of Canada and RG Arenas (Kelowna) Ltd., RG Properties Ltd., Prospero Canadian Land Investment Fund Ltd. group of companies.

The City has, under the terms of the above noted Tripartite Agreement, committed to the annual purchase of community use time at the Multi-Purpose facility, commencing with substantial completion, on November 10, 1999 under the following terms:

- (i) \$1.3 million per annum for Years 1 to 3 comprised of a payment of \$1.1 million, which for Years 2 and 3 is subject to a minimum CPI increase of 1% per annum and a maximum average CPI increase of 5% per annum, plus an annual payment of \$150,000 without any adjustment for CPI;
- (ii) \$1.2 million per annum for Years 4 to 7, subject to a minimum CPI increase of 1% per annum and a maximum average CPI increase of 5% per annum;
- (iii) \$1.2 million per annum for Years 8 to 10, subject to a minimum CPI increase of 1% per annum and a maximum average CPI increase of 5% per annum, minus \$150,000 per annum;
- (iv) \$1.0 million per annum for Years 11 to 20, subject to a minimum CPI increase of 1% per annum and a maximum average CPI increase of 5% per annum; and
- (v) \$0.5 million per annum for Years 21 to 30, subject to a minimum CPI increase of 1% per annum and a maximum average CPI increase of 5% per annum.

The year 2015 represented year 16 of the agreement.



**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
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(all tabular amounts reported in 000's of dollars)

Should the City not exercise, in its sole discretion, its option to renew any future term for community use time in the Multi-Purpose facility, under the above terms it shall be required to make a lump sum payment to RG Arenas (Kelowna) Ltd. on or before the 15<sup>th</sup> day of one of year 6, 11, 16, 21 or 26 commencing with the year of substantial completion in the following amounts:

2005	Year 6	\$13.2 million
2010	Year 11	\$11.9 million
2015	Year 16	\$10.4 million
2020	Year 21	\$6.7 million
2025	Year 26	\$4.5 million

Upon such payment, no further amounts will be payable to RG Arenas (Kelowna) Ltd. and the City will have the right to the community use time for the period from the beginning of the year in which the payment was made until November 9, 2029 without any additional payment.

The City did exercise its option to renew the purchase of community use time under the above annual payments terms and accordingly did not make any of the lump sum payment of \$13.2 or \$11.9 or \$10.4 million otherwise due to RG Arenas (Kelowna) Ltd. in years 6 or 11 or 16.

**Royal Canadian Mounted Police Services**

The Province of British Columbia and the Federal Government have an agreement with the Royal Canadian Mounted Police to provide police services for various municipalities in the Province, including the City of Kelowna. This agreement has a 20 year term expiring on March 31, 2032.

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**11. Long-term investments**

**Kelowna Developments Ltd.**

The investment in Kelowna Developments Ltd., a wholly owned subsidiary, is carried at its cost of \$2. The company is inactive with no assets or liabilities and is being retained for potential future use.

**RG Arenas (Kelowna) Ltd.**

The investment in preferred shares in RG Arenas (Kelowna) Ltd. is carried at its cost of \$6.0 million. The shares were purchased under the terms of the Preferred Share Agreement between the City of Kelowna and RG Properties Ltd. and are to be retained until 2028 per the terms of that agreement described in Note 10.

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**12. Letters of credit**

In addition to the performance deposits reflected in cash balances, the City is holding irrevocable Letters of Credit in the amount of \$29.5 million (2014 - \$28.9 million) which were received from depositors to ensure their performance of works to be undertaken within the City. These amounts are not reflected in the financial statements but are available to satisfy any liabilities arising from non-performance by the depositors. Included in the \$29.5 million, the City is holding irrevocable Letters of Credit in the amount of \$2.7 million (2014 - \$4.1 million) which are received from developers to ensure payment of development cost charges in future years.

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**13. Capital lease payable**

The City has entered into an agreement with FortisBC Energy Inc. ("FortisBC") that has resulted in the creation of the Natural Gas Legacy Fund.

# **CITY OF KELOWNA**

## **Notes to the Consolidated Financial Statements**

### **December 31, 2015**

(all tabular amounts reported in 000's of dollars)

#### **Capital lease**

Under the terms of the agreement the City entered into a 35 year capital lease with FortisBC on November 1, 2001 for the natural gas distribution system within the City's municipal boundary. The City has prepaid \$47.5 million of the capital lease obligation and has financed the prepayment through debenture debt. The remaining obligation of \$2.3 million, which is included in long term debt, will be paid with annual lease payments of \$260,870 including interest based on FortisBC approved pre-tax weighted average cost of capital of 10.072%.

#### **Operating lease**

The City also entered into a 17 year operating lease with FortisBC on November 1, 2001 whereby the City leases back to FortisBC the operations of the gas distribution system. Under the operating lease FortisBC is required to make annual lease payments to the City calculated by a formula specified in the agreement which is based on the total annual revenue generated by the transaction. At the end of the 17 year term FortisBC has the option of making a termination payment to the City equal to the unamortized portion of the City's \$47.5 million prepayment under the capital lease, which is estimated to be \$27.0 million, or negotiate a new 18 year operating lease with a continuation of the annual lease payments which existed under the previous 17 year operating lease.

Annual lease revenues for the past five years are:

2011	\$4.8 million
2012	\$4.6 million
2013	\$4.4 million
2014	\$4.3 million
2015	\$4.2 million

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#### **14. City of Kelowna Library Society**

In March 1997, the City transferred the Library building and land located on Ellis Street in the City of Kelowna and the related mortgage loan to the City of Kelowna Library Society, a non-profit society. The City has guaranteed the repayment of the mortgage. As at December 31, 2015 the mortgage balance was \$682 thousand (2014 - \$1.1 million). The City has taken back an option to purchase these assets at a nominal value. The Society's financial information is included in with the City of Kelowna consolidated financial statements.

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#### **15. Trust funds**

In accordance with PSAS, trust funds are not included in the City's consolidated financial statements. The City administers a Cemetery Maintenance Fund for the perpetual care and maintenance of the City owned and operated cemetery. As at December 31, 2015 the Trust Fund balance is \$2.45 million (2014 - \$2.3 million).

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#### **16. Segmented information**

The City of Kelowna is connecting communities and providing a multitude of services to the citizens of Kelowna. The City's operations and activities are organized and reported by funds and departments. The General Fund reports on operations, funded primarily by property taxes, which include services provided by the City such as general government, protective services, transportation services, recreation and cultural services, as well as public health, and environmental and development services. The City also operates its own airport and City utilities comprised of the wastewater and water systems that are self-sustaining operations. Operating results reported by the following segments are included in Schedule 2.

##### **General government**

General Government operations are primarily funded by property taxation and business tax revenues. The expenses within the department are for executive and legislative costs, general administration, and other general government areas such as community service grants and rental property operating costs within the municipality. The general revenue reported under the department includes revenues associated with taxation, business tax revenues and senior government payments in lieu of taxes. These revenues have not been apportioned to other departments supported by the General Fund.

**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

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**Protective services**

Protective services are comprised of police services provided by the Royal Canadian Mounted Police, fire protection services, building inspection services and bylaw enforcement as well as the Provincial Emergency Program.

Police services include administration, crime investigation and prevention, traffic, prisoner custody and court liaison expenses.

The fire department is responsible for effective fire protection and public safety services to the City. This includes fire suppression and rescue, prevention and investigation, specialty rescue/first medical responses and fire safety inspections.

Costs for maintenance and repair of police and fire buildings are included in this section.

**Transportation services**

Transportation services are responsible for the delivery of municipal public works services related to the planning, development and maintenance of streets and roads, bridges, drainage systems, street lights, traffic lights and signals, parking lots and on-street parking, and public transit as well as maintenance of workshops, yards and other buildings. The mandate is to provide a safe, efficient, environmentally-sensitive and cost-effective transportation network.

**Recreation & cultural services**

Recreation & cultural services provide services related to recreation, leisure and culture including administration and program costs as well as grounds and building maintenance. Facilities managed within this area include parks and playgrounds, arenas, swimming pools, beaches, boat launches, stadiums as well as community and seniors centers. The H<sub>2</sub>O Adventure & Fitness Centre, Parkinson Recreation Centre, Kelowna Community Theatre, Kelowna Museum, Kelowna Art Gallery and the Rotary Centre for the Arts are some of the larger facilities included.

**Other services (Public Health/Environmental/Development services)**

Public health services are comprised of cemetery operations and maintenance, environmental and development services including community planning and zoning as well as landfill operations.

**Airport services**

The Airport, owned and operated by the City of Kelowna, provides quality airport services in a safe and cost effective manner in compliance with Federal regulations. The Airport is accounted for in its own fund.

**Wastewater Services**

Kelowna's sanitary sewer system collects, conveys, treats and disposes of domestic wastewater (derived from the home) and industrial wastewater (resulting from business use, manufacturing and processing). The system currently services approximately 70% of Kelowna's population and continues to be extended to unserved areas. Kelowna's wastewater system has a treatment capacity of 72 million liters per day. Wastewater Utility is accounted for in its own fund.

**Water services**

The Water Utility is responsible for planning, designing, building, operating and maintaining the City's Water Utility and is one of five water suppliers operating within Kelowna's boundaries. The Water Utility is accounted for in its own fund.

**Natural Gas legacy services**

Natural Gas Legacy Fund was created from an agreement with FortisBC for a 35 year capital lease for the natural gas distribution system within the City's municipal boundary and a 17 year operating lease whereby the City leases back to FortisBC the operations of the gas distribution system. The Natural Gas Legacy Fund is accounted for in its own fund.

**Library services**

The City of Kelowna Library Society is a non-profit society instituted and controlled by the City of Kelowna. The Society was incorporated for the purpose of establishing, operating, and maintaining libraries and library services for the benefit of the City of Kelowna and its citizens. Financial statements for the Society are prepared separately and are consolidated with the City of Kelowna.

**Statutory reserves**

Statutory Reserves include funds for parking, land and capital works, machinery and equipment.

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**17. Expenses by object**

Total consolidated expenses by object are itemized in Schedule 2 – Segmented information.

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**CITY OF KELOWNA**  
**Notes to the Consolidated Financial Statements**  
**December 31, 2015**

(all tabular amounts reported in 000's of dollars)

**18. Budget data**

The budget figures are from the Annual Five-Year Financial Plan Bylaw adopted before May 15 of each year. Subsequent amendments have been made by Council to reflect changes in the budget as required by law. Amortization of tangible capital assets was not included in the budget. The table below shows the reconciliation between the approved budget and the budget presented in these consolidated financial statements.

	<u><b>Budget Amount</b></u>
<b>Revenues:</b>	
Operating budget	\$ 254,332
Capital budget	<u>29,750</u>
	<u>284,082</u>
<b>Expenses:</b>	
Operating budget	198,022
Capital budget	<u>212,796</u>
	<u>410,818</u>
Annual deficit per approved budget	(126,736)
Add: tangible capital asset purchases	<u>212,796</u>
<b>Annual surplus per statement of operations</b>	<u><u>\$ 86,060</u></u>

**19. Comparative figures**

Certain comparative figures have been reclassified to conform to the presentation format adopted in the current year.

**20. Subsequent Event**

Subsequent to December 31, 2015, the City of Kelowna acquired approximately 84 acres of property adjacent to the airport for \$5,400,000. The property is currently operating as the Shadow Ridge Golf Course.

**CITY OF KELOWNA**  
**Schedule 1 - Tangible Capital Assets**  
**For the Year Ended December 31, 2015**  
(in thousands of dollars)

	Machinery & Equipment						
	Land	Land Improvements	Buildings	Vehicles	Other Machinery & Equipment	Computer	Misc
<b>Cost</b>							
Balance, beginning of year	\$ 191,587	\$ 64,304	\$ 285,254	\$ 29,519	\$ 48,454	\$ 9,884	\$ 5,582
Add: additions during the year	58,627	616	4,966	903	764	794	-
Less: capital held for resale	(2,916)	-	-	-	-	-	-
Less: disposals during the year	(423)	-	(162)	(1,255)	(398)	(489)	-
Balance, end of year	<u>246,875</u>	<u>64,920</u>	<u>290,058</u>	<u>29,167</u>	<u>48,820</u>	<u>10,189</u>	<u>5,582</u>
<b>Accumulated Amortization</b>							
Balance, beginning of year	-	29,110	119,674	14,656	30,739	6,426	1,446
Add: amortization	-	2,309	9,028	2,100	2,778	676	279
Less: accumulated amortization on disposals	-	-	(129)	(964)	(296)	(383)	-
Balance, end of year	<u>-</u>	<u>31,419</u>	<u>128,573</u>	<u>15,792</u>	<u>33,221</u>	<u>6,719</u>	<u>1,725</u>
<b>Net Book Value of Tangible Capital Assets</b>	<u>\$ 246,875</u>	<u>\$ 33,501</u>	<u>\$ 161,485</u>	<u>\$ 13,375</u>	<u>\$ 15,599</u>	<u>\$ 3,470</u>	<u>\$ 3,857</u>
<b>Work in Progress</b>	<u>\$ -</u>	<u>\$ 2,713</u>	<u>\$ 10,580</u>	<u>\$ -</u>	<u>\$ 9,728</u>	<u>\$ 1,666</u>	<u>\$ 13,607</u>

	Infrastructure						Natural Gas Capital Lease	Total 2015	Total 2014
	Plant & Facilities	Roads, Lanes, Sidewalks & Bike Paths	Bridges, Overpasses	Underground, Overhead & Other Networks	Airport Infrastructure	Subtotal Infrastructure			
<b>Cost</b>									
Balance, beginning of year	\$ 175,802	\$ 486,288	\$ 30,136	\$ 1,023,387	\$ 43,883	\$ 1,759,496	\$ 55,609	\$ 2,449,689	\$ 2,390,461
Add: additions during the year	1,334	13,481	3	3,524	2,922	21,264	-	87,934	68,140
Less: capital held for resale	-	-	-	-	-	-	-	(2,916)	(220)
Less: disposals during the year	-	-	-	-	-	-	-	(2,727)	(8,692)
Balance, end of year	<u>177,136</u>	<u>499,769</u>	<u>30,139</u>	<u>1,026,911</u>	<u>46,805</u>	<u>1,780,760</u>	<u>55,609</u>	<u>2,531,980</u>	<u>2,449,689</u>
<b>Accumulated Amortization</b>									
Balance, beginning of year	53,679	234,118	7,161	343,824	21,446	660,228	21,210	883,489	827,171
Add: amortization	6,081	19,035	466	15,471	2,062	43,115	1,600	61,885	61,411
Less: accumulated amortization on disposals	-	-	-	-	-	-	-	(1,772)	(5,093)
Balance, end of year	<u>59,760</u>	<u>253,153</u>	<u>7,627</u>	<u>359,295</u>	<u>23,508</u>	<u>703,343</u>	<u>22,810</u>	<u>943,602</u>	<u>883,489</u>
<b>Net Book Value of Tangible Capital Assets</b>	<u>\$ 117,376</u>	<u>\$ 246,616</u>	<u>\$ 22,512</u>	<u>\$ 667,616</u>	<u>\$ 23,297</u>	<u>\$ 1,077,417</u>	<u>\$ 32,799</u>	<u>\$ 1,588,378</u>	<u>\$ 1,566,200</u>
<b>Work in Progress</b>	<u>\$ 9,682</u>	<u>\$ 15,505</u>	<u>3,829</u>	<u>\$ 9,187</u>	<u>\$ 11,987</u>	<u>\$ 50,190</u>	<u>\$ -</u>	<u>88,484</u>	<u>60,060</u>
								<u>\$ 1,676,862</u>	<u>\$ 1,626,260</u>

**CITY OF KELOWNA**  
**Schedule 2 - Segmented Information**  
**For the Year Ended December 31, 2015**  
(in thousands of dollars)

	General Gov't	Protective Services	Transportation Services	Recreation & Cultural Services	Other Services	Airport Services	Wastewater Services	Water Services	Nat. Gas Legacy Services	Library Services	Statutory Reserves	2015
<b>Revenue</b>												
Taxation	\$ 122,012	\$ -	\$ 179	\$ -	\$ -	\$ -	\$ 1,552	\$ 1,445	\$ -	\$ -	\$ -	\$ 125,188
Fees and charges	55,691	529	10,134	3,995	12,937	26,368	16,165	11,776	4,335	766	41	142,737
Interest earned	6,279	-	-	-	-	251	548	264	-	-	1,637	8,979
DCC contributions	-	-	7,791	8,623	-	-	6,115	47	-	-	-	22,576
Contribution from other governments	1,889	3,884	12,407	264	3,601	116	258	-	-	-	-	22,419
Other capital contributions	862	-	-	-	-	354	1,025	80	2,068	-	-	4,389
	<u>186,733</u>	<u>4,413</u>	<u>30,511</u>	<u>12,882</u>	<u>16,538</u>	<u>27,089</u>	<u>25,663</u>	<u>13,612</u>	<u>6,403</u>	<u>766</u>	<u>1,678</u>	<u>326,288</u>
<b>Expenses</b>												
Salaries and benefits	14,711	26,846	8,760	10,800	5,019	3,888	3,144	2,309	-	21	-	75,498
Contract and professional services	3,172	1,483	23,874	7,575	7,312	936	658	781	-	95	-	45,886
RCMP contract	-	24,787	-	-	-	-	-	-	-	-	-	24,787
Materials and supplies	4,436	1,421	5,296	10,034	1,504	5,112	1,278	769	-	28	-	29,878
Equipment	203	313	2,584	1,488	1,716	18	632	436	-	2	-	7,392
Allocations	(3,880)	(77)	(297)	(182)	(863)	1,461	3,113	753	20	-	-	48
Cost recoveries	(612)	(2,306)	(7,974)	(371)	(1,269)	(494)	-	(636)	-	-	-	(13,662)
Grants and external transfers	368	101	6	1,108	2,246	-	(127)	-	-	-	-	3,702
Utilities	175	212	2,005	2,075	148	560	1,084	899	-	81	-	7,239
Loss on disposal of tangible capital assets	27	-	-	-	-	-	-	-	-	-	-	27
Amortization of tangible capital assets	1,572	916	26,630	8,792	1,903	5,159	10,591	4,560	1,600	162	-	61,885
<b>Total before Debt</b>	<u>20,172</u>	<u>53,696</u>	<u>60,884</u>	<u>41,319</u>	<u>17,716</u>	<u>16,640</u>	<u>20,373</u>	<u>9,871</u>	<u>1,620</u>	<u>389</u>	<u>-</u>	<u>242,680</u>
Debt interest and fiscal services	2,801	-	-	-	-	795	2,461	472	2,886	79	-	9,494
<b>Total operating expenses</b>	<u>22,973</u>	<u>53,696</u>	<u>60,884</u>	<u>41,319</u>	<u>17,716</u>	<u>17,435</u>	<u>22,834</u>	<u>10,343</u>	<u>4,506</u>	<u>468</u>	<u>-</u>	<u>252,174</u>
<b>Annual Surplus (Deficit)</b>	<u>\$ 163,760</u>	<u>\$ (49,283)</u>	<u>\$ (30,373)</u>	<u>\$ (28,437)</u>	<u>\$ (1,178)</u>	<u>\$ 9,654</u>	<u>\$ 2,829</u>	<u>\$ 3,269</u>	<u>\$ 1,897</u>	<u>\$ 298</u>	<u>\$ 1,678</u>	<u>\$ 74,114</u>

**CITY OF KELOWNA**  
**Schedule 2 - Segmented Information**  
**For the Year Ended December 31, 2014**  
(in thousands of dollars)

	General Gov't	Protective Services	Transportation Services	Recreation & Cultural Services	Other Services	Airport Services	Wastewater Services	Water Services	Nat. Gas Legacy Services	Library Services	Statutory Reserves	2014
<b>Revenue</b>												
Taxation	\$ 116,074	\$ -	\$ 104	\$ -	\$ -	\$ -	\$ 1,655	\$ 1,433	\$ -	\$ -	\$ -	\$ 119,266
Fees and charges	34,864	434	8,384	4,039	12,562	26,180	14,849	11,296	4,481	795	66	117,950
Interest earned	6,157	-	-	-	-	251	579	202	-	-	1,249	8,438
DCC contributions	-	-	7,120	1,024	-	-	6,897	2,959	-	-	-	18,000
Contribution from other governments	222	3,704	14,549	483	2,830	116	463	20	-	-	-	22,387
Other capital contributions	728	-	-	-	-	289	1,157	64	1,844	-	-	4,082
Gain on disposal of tangible capital assets	4,455	-	-	-	-	-	-	-	-	-	-	4,455
	<u>162,500</u>	<u>4,138</u>	<u>30,157</u>	<u>5,546</u>	<u>15,392</u>	<u>26,836</u>	<u>25,600</u>	<u>15,974</u>	<u>6,325</u>	<u>795</u>	<u>1,315</u>	<u>294,578</u>
<b>Expenses</b>												
Salaries and benefits	14,419	23,139	8,386	10,480	4,633	3,797	3,001	2,139	-	14	-	70,008
Contract and professional services	3,303	1,481	21,935	9,464	7,404	847	838	690	-	134	-	46,096
RCMP contract	-	23,891	-	-	-	-	-	-	-	-	-	23,891
Materials and supplies	4,465	1,419	5,303	9,926	1,531	5,139	1,119	779	-	27	-	29,708
Equipment	201	305	2,306	1,453	1,469	14	634	396	-	2	-	6,780
Allocations	(3,799)	(65)	(294)	(128)	(746)	1,306	2,945	782	20	-	-	21
Cost recoveries	(620)	(1,631)	(7,380)	(413)	(729)	(638)	(2)	(543)	-	-	-	(11,956)
Grants and external transfers	350	104	-	1,046	2,225	-	(131)	-	-	-	-	3,594
Utilities	161	222	1,863	1,979	175	667	1,090	891	-	80	-	7,128
Amortization of tangible capital assets	1,740	945	26,436	8,776	1,655	4,938	10,614	4,545	1,600	162	-	61,411
<b>Total before Debt</b>	<u>20,220</u>	<u>49,810</u>	<u>58,555</u>	<u>42,583</u>	<u>17,617</u>	<u>16,070</u>	<u>20,108</u>	<u>9,679</u>	<u>1,620</u>	<u>419</u>	<u>-</u>	<u>236,681</u>
Debt interest and fiscal services	2,572	-	-	-	-	744	2,953	472	2,889	117	-	9,747
<b>Total operating expenses</b>	<u>22,792</u>	<u>49,810</u>	<u>58,555</u>	<u>42,583</u>	<u>17,617</u>	<u>16,814</u>	<u>23,061</u>	<u>10,151</u>	<u>4,509</u>	<u>536</u>	<u>-</u>	<u>246,428</u>
<b>Annual Surplus (Deficit)</b>	<u>\$ 139,708</u>	<u>\$ (45,672)</u>	<u>\$ (28,398)</u>	<u>\$ (37,037)</u>	<u>\$ (2,225)</u>	<u>\$ 10,022</u>	<u>\$ 2,539</u>	<u>\$ 5,823</u>	<u>\$ 1,816</u>	<u>\$ 259</u>	<u>\$ 1,315</u>	<u>\$ 48,150</u>



**CITY OF KELOWNA**  
**Schedule 3 - Long Term Debt**  
**as at December 31, 2015**

(in thousands of dollars)

**Long term debt - General Fund**

**Debenture Debt**

<b>Year of Maturity</b>	<b>Purpose</b>	<b>Debt Balance Dec. 31/15</b>	<b>Sinking Fund Balance Dec. 31/15</b>	<b>Amount of Issue</b>	<b>Current Interest Rate</b>
	<b>Public Works</b>				%
2019	South Pandosy Spec Area 1	\$ 66	\$ 168	\$ 234	2.10
2019	South Pandosy Spec Area 2	115	295	410	2.10
2019	Automated Curb Side Carts	2,153	2,657	4,810	4.13
2021	Library Parkade	792	1,408	2,200	4.43
2022	Chapman Parkade	1,890	2,181	4,071	2.10
2028	DCC Roads	3,558	6,842	10,400	5.15
	<b>Local Improvements</b>				
2016	Local Improvements	30	363	393	3.05
2016	Local Improvements	21	248	269	4.43
2017	Local Improvements	8	46	54	4.82
2019	Local Improvements	19	50	69	2.10
2035	Lawrence Ave LAS	333	12	345	3.00
	<b>Recreation and Cultural</b>				
2021	Kokanee Gym Facility	204	296	500	3.05
2027	H2O Centre	18,991	8,509	27,500	4.82
2027	Kokanee Gymnastic	552	248	800	4.82
2028	H2O Centre	1,470	530	2,000	5.15
2035	Police Facilities	20,000	-	20,000	2.75
2035	Library Parkade Ext & Memorial Parkade	15,000	-	15,000	2.75
<b><u>Total Debt - General Fund</u></b>		<b>\$ <u>65,202</u></b>	<b>\$ <u>23,853</u></b>	<b>\$ <u>89,055</u></b>	

**CITY OF KELOWNA**  
**Schedule 3 - Long Term Debt (continued)**  
**as at December 31, 2015**  
(in thousands of dollars)

**Long term debt - Wastewater Fund**

**Debenture Debt**

<b>Year of Maturity</b>	<b>Purpose</b>	<b>Debt Balance Dec. 31/15</b>	<b>Sinking Fund Balance Dec. 31/15</b>	<b>Amount of Issue</b>	<b>Current Interest Rate</b>
	<b>Specified Area Programs</b>				%
2018	Spec. Area 18 - Caramillo	30	105	135	4.65
2018	Spec. Area 19 - Poplar Point	17	60	77	4.65
2022	Spec. Area 22A - Gerstmar	18	22	40	3.05
2024	Spec. Area 21A - McKenzie Bench	770	580	1,350	2.00
2024	Spec. Area 22B - Vista Rd	45	35	80	2.00
2024	Spec. Area 22C - Hein Rd	152	114	266	2.00
2024	Spec. Area 22D - Elwyn Rd	85	64	149	2.00
2024	Spec. Area 22E - Dease Rd	55	41	96	2.00
2024	Spec. Area 22F - Mills Rd	195	147	342	2.00
2024	Spec. Area 29 - Campion Cambro	499	375	874	2.00
2024	Spec. Area 30 - Acland	208	156	364	2.00
2025	Spec. Area 20 - North Rutland	4,071	2,751	6,822	1.80
2025	Spec. Area 28A - Okaview	381	257	638	1.80
2028	Spec Area 26 - Fisher Rd	1,485	536	2,021	5.15
2028	Spec Area 34 - Country Rhodes	319	116	435	5.15
2028	Spec Area 36 - Clifton	196	71	267	5.15
	<b>Sewer Improvement Programs</b>				
2019	Byrns Baron Main	1,321	2,545	3,866	2.00
	<b>Sewage Treatment Plant</b>				
2019	Waste Water Treatment Expansion	8,951	11,049	20,000	4.90
2019	Waste Water Treatment Expansion	4,475	5,525	10,000	4.13
2020	Waste Water Treatment Expansion	5,489	4,511	10,000	3.73
2031	Brandt's Creek Tradewaste Treatment	2,994	806	3,800	3.25
<b><u>Total Debt - Wastewater Fund</u></b>		<b>\$ 31,756</b>	<b>\$ 29,866</b>	<b>\$ 61,622</b>	

**CITY OF KELOWNA**  
**Schedule 3 - Long Term Debt (continued)**  
**as at December 31, 2015**  
(in thousands of dollars)

**Long term debt - Water Fund**

<u>Debenture Debt</u>		<u>Debt</u>	<u>Sinking Fund</u>		<u>Current</u>
<u>Maturity</u>	<u>Purpose</u>	<u>Balance</u>	<u>Balance</u>	<u>Amount</u>	<u>Interest</u>
		<u>Dec. 31/15</u>	<u>Dec. 31/15</u>	<u>of Issue</u>	<u>Rate</u>
	<b>Specified Area Programs</b>				%
2023	Spec Area 16 - Byrns	\$ 20	\$ 19	\$ 39	2.40
2024	Spec Area 18 - Lakeshore	13	11	24	2.00
2028	Spec Area 26 - Fisher Rd	219	78	297	5.15
	<b>Water Improvement Programs</b>				
2028	Cedar Creek Pump Station	5,567	2,010	7,577	5.15
2031	Poplar Point Pump Station Upgrade	1,715	285	2,000	3.25
<b>Total Debt - Water Fund</b>		<b>\$ 7,534</b>	<b>\$ 2,403</b>	<b>\$ 9,937</b>	

**Long term debt - Airport Fund**

<u>Debenture Debt</u>					
2018	Airport Expansion	\$ 5,474	\$ 10,526	\$ 16,000	4.65
2025	Airport Expansion	7,500	-	7,500	2.75
<b>Total Debt - Airport Fund</b>		<b>\$ 12,974</b>	<b>\$ 10,526</b>	<b>\$ 23,500</b>	

**Long term debt - Natural Gas Legacy Fund**

<u>Debenture Debt</u>					
2018	Leased Capital Assets	\$ 7,732	\$ 22,068	\$ 29,800	6.00
2018	Leased Capital Assets	5,059	14,441	19,500	4.45
		<b>12,791</b>	<b>36,509</b>	<b>49,300</b>	
<b>Capital Lease Payable</b>		<b>2,244</b>		<b>2,500</b>	10.072
<b>Total Debt - Natural Gas Legacy Fund</b>		<b>\$ 15,035</b>		<b>\$ 51,800</b>	

**Long term debt - Library**

2017	Mortgage - Building	\$ 682		\$ 5,100	8.94
<b>Total Debt - Library Fund</b>		<b>\$ 682</b>		<b>\$ 5,100</b>	

**Long term debt - Other**

2018	CN Rail	\$ 3,000		\$ 3,000	-
<b>Total Debt - Other</b>		<b>\$ 3,000</b>		<b>\$ 3,000</b>	

<b>Total City Long Term Debt</b>	<b>\$ 136,183</b>	<b>\$ 103,157</b>	<b>\$ 244,014</b>
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City Hall  
1435 Water Street  
Kelowna, BC V1Y 1J4  
TEL 250-469-8500  
[ask@kelowna.ca](mailto:ask@kelowna.ca)

[kelowna.ca](http://kelowna.ca)

# REPORT TO COUNCIL



**Date:** May 2, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (TB)

**Application:** Z16-0011 **Owner:** Corey Knorr Construction Ltd., Inc. No. BC0389398

**Address:** 330 Merrifield Rd **Applicant:** Corey Knorr

**Subject:** Rezoning Application

**Existing OCP Designation:** S2RES - Single/Two Unit Residential

**Existing Zone:** RU1 - Large Lot Housing

**Proposed Zone:** RU2 - Medium Lot Housing

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## 1.0 Recommendation

THAT Rezoning Application No. Z16-0011 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Section 26, Township 26, ODYD, Plan 18164 located at 330 Merrifield Rd, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU2 - Medium Lot Housing zone be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated April 6, 2016;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance of a Preliminary Layout Review Letter by the Approving Officer;

## 2.0 Purpose

To rezone the subject property from RU1 to RU2 to facilitate a 2-lot subdivision.

## 3.0 Community Planning

Community Planning supports the proposal to rezone the subject property. The rezoning of this property from RU1 to RU2 would allow it to be subdivided into two lots and a single family dwelling developed on the second lot. The existing lot has one single family dwelling with a

suite, and the rezoning and subdivision would not cause any variances on the existing dwelling. This is consistent with the Official Community Plan (OCP) Future Land Use Designation of S2RES - Single/Two Family Residential and the OCP urban infill policy of compact urban form. The subject property is located within the Permanent Growth Boundary in the City's Core Area.

In fulfillment of Council Policy No. 367 respecting public consultation, the applicant undertook neighbour consultation by individually contacting the neighbours on April 6, 2016.

#### **4.0 Proposal**

##### **4.1 Background**

The subject property had a single family dwelling that was damaged by fire in August 2014. The home was demolished in July 2015, and a new single family dwelling with a suite was completed in January 2016. The siting of the new single family dwelling was sited to allow for a future rezoning and subsequent subdivision without variances.

##### **4.2 Project Description**

The subject property is 931m<sup>2</sup> and the proposed rezoning does not trigger any variances. The RU2 - Medium Lot Housing zoning would allow the property to be subdivided into 2 lots without triggering a variance on the existing single family dwelling with suite. The second lot could then be developed with a single family dwelling, or a single family dwelling with suite. Should Council approve this rezoning, the Subdivision Approving Officer will review the application to subdivide. Should this be successful, a development permit would not be required for the single family dwelling on the new lot provided there were no variances requested.

This rezoning is consistent with the Future Land Use of Single/Two Unit Residential. It is also consistent with the OCP policy of Compact Urban Form, creating density where infrastructure already exists and is within 400m walking distance of transit stops.

##### **4.3 Site Context**

The subject property is located on the west side of Merrifield Road, north of Hwy 33 E and south of Mugford Road. It is within the Permanent Growth Boundary and the Core Area, and within walking distance to Mugford Park and Briarwood Park. It is a short drive to the commercial amenities located at Rutland Road and Highway 33 E.

There is an RU2 development two blocks to the east on Poonian Street that consists of 55 lots. There are nearly 20 RU6 lots in close proximity.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Residential
East	RU1 - Large Lot Housing	Residential
South	RU1 - Large Lot Housing	Residential
West	RU1 - Large Lot Housing	Residential

Subject Property Map: 330 Merrifield Road



#### 4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RU2 ZONE REQUIREMENTS	PROPOSAL
Existing Lot		
Minimum Lot Area	400 m <sup>2</sup>	913 m <sup>2</sup>
Minimum Lot Width	13.0 m	30.40 m
Minimum Lot Depth	30.0 m	30.04 m
Proposed Future Subdivision		
Minimum Lot Area	400 m <sup>2</sup>	Lot 1: 410 m <sup>2</sup> Lot 2: 503 m <sup>2</sup>
Minimum Lot Width	13.0 m	Lot 1: 13.67 m Lot 2: 16.74
Minimum Lot Depth	30.0 m	Lot 1: 30.04 m Lot 2: 30.04 m



## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

## 6.0 Technical Comments

### 6.1 Development Engineering Department

- Please see attached Schedule "A" attached to the Report from the Community Planning Department dated April 6, 2016.

### 6.2 Fire Department

- Ensure both lots are addressed off of Merrifield Rd
- Ensure appropriate fire flows/hydrants in area.

### 6.3 FortisBC Gas

- Please be advised FortisBC Gas has reviewed the above mentioned referral and the gas service line may be impacted by this proposal. A Statutory Right of Way will be required to protect the existing asset from encroachment or a gas service alteration will be required.

### 6.4 FortisBC Electric

- There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities along Merrifield Rd. To date, arrangements have not been completed to meet the requirements to service the proposed subdivision. The applicant is responsible for costs associated with changes to the proposed lots' existing service, if any, as well as the provision of appropriate land rights where required.
- Otherwise, FBC(E) has no concerns with this circulation.

### 6.5 Rutland Water Works District

- Please see attached letter dated February 25, 2016

### 6.6 Ministry of Transportation

- Preliminary Approval is granted for the rezoning for one year pursuant to Section 52(3)(a) of the Transportation Act.

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

- Please forward the bylaw for Ministry signature after 3rd reading.

## 7.0 Application Chronology

Date of Application Received: February 18, 2016

Date Public Consultation Completed: April 6, 2016

**Report prepared by:**

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Trisa Brandt, Planner I

**Reviewed by:**

☐

Terry Barton, Urban Planning Manager

**Approved for Inclusion:**

☐

Ryan Smith, Community Planning Department Manager

### Attachments:

Schedule "A": Development Engineering Memorandum dated April 6, 2016

Letter from Rutland Water Works District dated February 25, 2016

Site Plan

Site Photo

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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** April 06, 2016  
**File No.:** Z16-0011  
**To:** Community Planning (TB)  
**From:** Development Engineering Manager (SM)  
**Subject:** 330 Merrifield Road

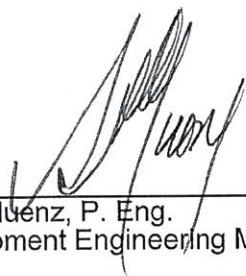
RU1 to RU2

Development Engineering has the following comments and requirements associated with this application.

1. General

Road frontage improvements are triggered by this rezoning application. The requirements include curb and gutter, storm drainage system and pavement widening. Also required is a landscaped boulevard, street lighting and the re-location or adjustment of utility appurtenances if required to accommodate the upgrading construction. The cost of this construction is at the applicant's expense and securities will be required.

The proposed redevelopment includes the subject parcel being subdivided into two lots. A subdivision application will require service upgrades that include the installation of additional services. The work will require road cuts and boulevard and pavement restoration. These Works will be at the developer's expense. Development Engineering is prepared to defer the requirements of the rezoning application to the subdivision stage under file No. S16-0017.

  
\_\_\_\_\_  
Steve Muenz, P. Eng.  
Development Engineering Manager

jo

SCHEDULE A

This forms part of development

Permit # Z16-0011



106 – 200 Dougall Road North  
Kelowna, BC V1X 3K5  
www.rutlandwaterworks.com

p: (250) 765-5218  
f: (250) 765-7765  
e: info@rutlandwaterworks.com

February 25, 2016

Corey Knorr Construction Ltd  
182 Fitzpatrick Rd  
Kelowna BC V1X 5C7

**RE: Lot A, 18164 – 330 Merrifield Rd SUBDIVISION Z16-0011, S16-0017 RWD File 16/04**

In response to City of Kelowna request for comment the following is a summary of Rutland Waterworks District requirements:

- |  |            |
|--|------------|
| 1. Capital Expenditure Charges   | \$2,700.00 |
| Please pay by separate cheque, noting file # 16/04 CEC                                 |            |
| 2. Water Service Works Deposit   | 1,500.00   |
| Please pay by separate cheque, noting file # 16/04 Works<br>(Includes new water meter) |            |

Upon receipt of above noted fees a water certificate will be issued.

Should you have any questions or require further information, please contact the undersigned.

Sincerely,

Pete Preston  
General Manager

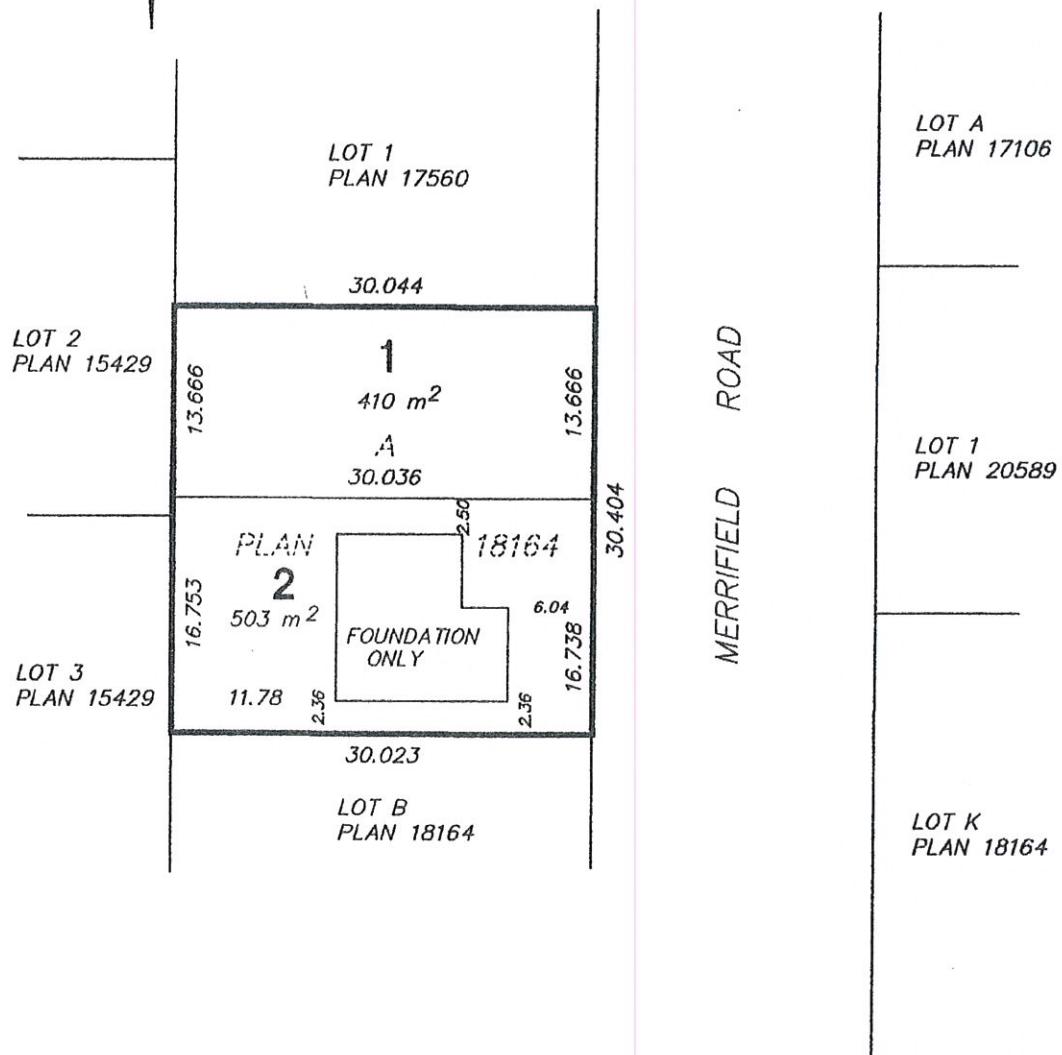
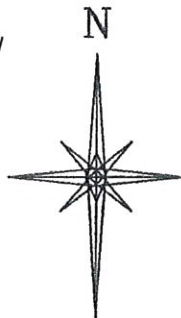
c. City of Kelowna (Planning Department)

# **PROPOSED SUBDIVISION OF LOT A PLAN 18164 SEC. 26 TP. 26 O.D.Y.D.**

SCALE 1:500

DISTANCES ARE IN METRES.

Civic Address:  
330 Merrifield Road  
Kelowna, BC

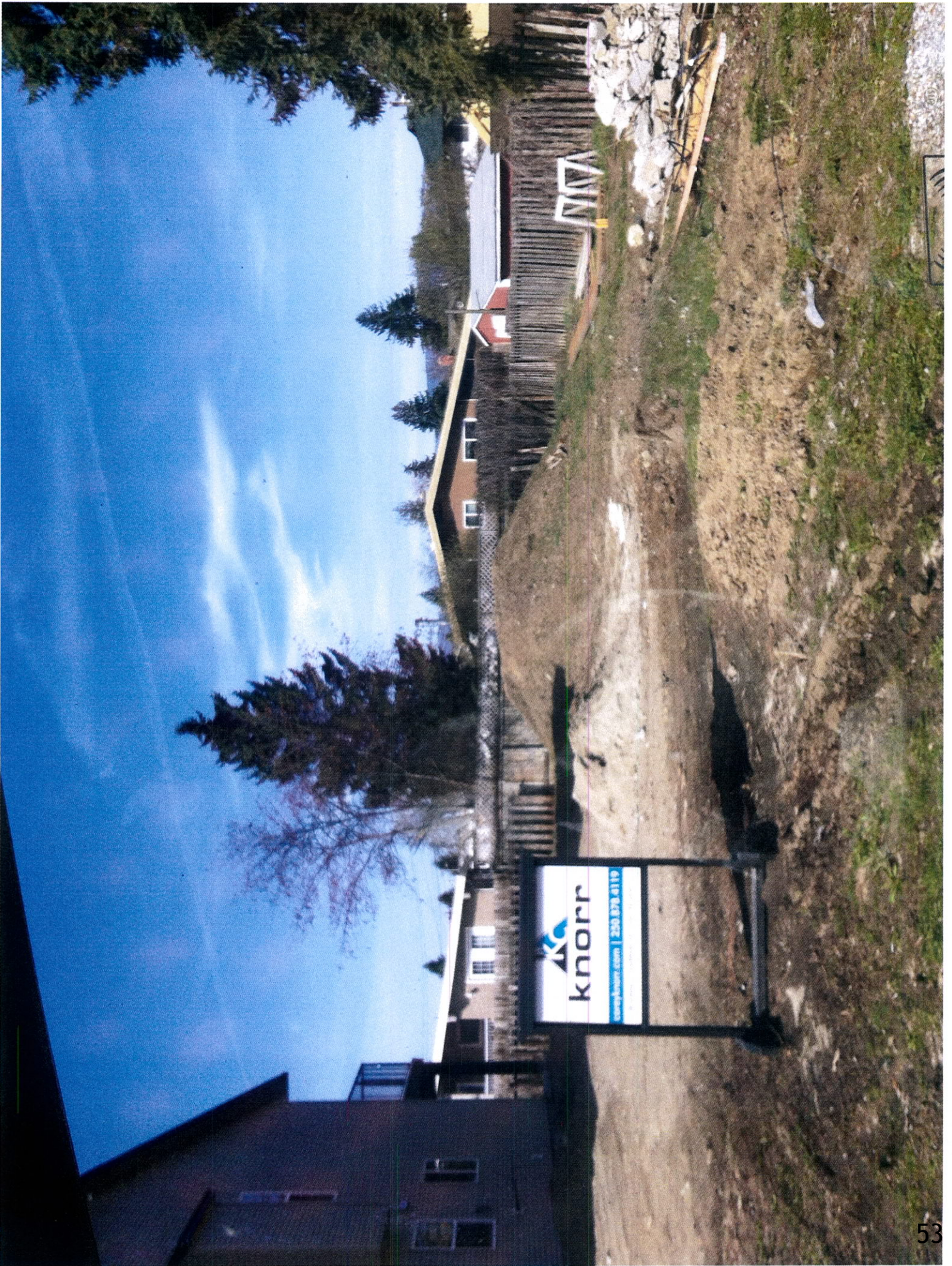


NOTE:  
SUBDIVISION REQUIRES RE-ZONING

**FILE 16772 FB 380**  
CLIENT - COREY KNORR CONST.

D.A. Goddard Land Surveying Inc.  
103-1358 St. Paul Street, Kelowna  
Phone (250) 763-3733







**CITY OF KELOWNA**  
**BYLAW NO. 11241**  
**Z16-0011 - Corey Knorr Construction Ltd., Inc. No.**  
**BC0380398**  
**330 Merrifield Road**

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot A, Section 26, Township 26, ODYD, Plan 18164 located on Merrifield Road, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU2 - Medium Lot Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

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(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



# REPORT TO COUNCIL



**Date:** May 2, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (LK)

**Application:** Z15-0050 **Owner:** Carol Kergan

**Address:** 845 Kinnear Ct **Applicant:** Carol Kergan

**Subject:** Rezoning Application

**Existing OCP Designation:** S2RES - Single / Two Unit Residential

**Existing Zone:** RU1 - Large Lot Housing

**Proposed Zone:** RU1c - Large Lot Housing with Carriage House

---

## 1.0 Recommendation

THAT Rezoning Application No. Z15-0050 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 6 District Lot 135 ODYD Plan 25798, located at 845 Kinnear Court, Kelowna, BC from the RU1 - Large Lot Housing zone to the RU1c - Large Lot Housing with Carriage House zone, be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the issuance and completion of a Building Permit for the removal of the existing second kitchen within the primary dwelling for the subject property;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Development Variance Permit for the subject property.

## 2.0 Purpose

To rezone the subject property to facilitate the conversion of an accessory building to a carriage house on the subject parcel.

## 3.0 Community Planning

Community Planning Staff supports the proposed rezoning application to allow the construction of a carriage house on the subject property. The S2RES - Single / Two Unit Residential land use designation permits the proposed RU1c - Large Lot Housing with Carriage House zone. Currently the adjacent parcels contain single family dwellings with a few having carriage houses. Across Kinnear Court from the subject parcel is a large parking lot for the Bethel Church.

## 4.0 Proposal

### 4.1 Background

The existing 1 ½ storey single detached dwelling with a single attached garage was constructed in June of 1977. The existing accessory building was approved for construction in September of the same year. A second kitchen was approved for within the dwelling in June of 2003. Since that time, there have been multiple bylaw enforcement investigations regarding illegal suites. The applicant has since purchased the home and is taking measures to legalize the existing accessory building as a carriage house. The second kitchen will be removed from the dwelling to ensure bylaw compliance is addressed.

### 4.2 Project Description

The subject parcel is located within the Permanent Growth Boundary on the south side of Kinnear Court. At the time of construction, the accessory building met all of the Zoning Bylaw regulations. In rezoning the parcel to allow for the conversion of the accessory building to a carriage house, one variance is triggered. The required side yard setback of 2.0 m would need a variance to be reduced to 1.17 m proposed.



Parking for the primary dwelling is accommodated at the front of the house with a single car attached garage and the driveway is able to accommodate an additional parking space. Parking for the carriage house is accessed from the rear lane. The parking space provided is large enough to accommodate 3 vehicles. Private amenity space is located beside the carriage house. A fence will be added to provide privacy between the primary dwelling and the carriage house. The addition of a lit pathway from the street to the carriage house will provide additional access.



The requested variance to the east side setback will not negatively affect the adjacent parcel, as the neighbouring property has a raised planter bed garden which extends the length of the carriage house. This, along with the shed and fence in the adjacent rear yard, creates separation and privacy to the proposed carriage house.

#### 4.3 Site Context

The subject property is located on the south side of Kinnear Court in the South Pandosy/KLO sector of Kelowna.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P2 - Education & Minor Institutional RU2c - Medium Lot Housing with Carriage House	Religious Assembly Single Family Dwelling with Carriage House
East	RU1 - Large Lot Housing	Single Family Dwelling
South	RU1 - Large Lot Housing	Single Family Dwelling
West	RU1 - Large Lot Housing	Single Family Dwelling

#### Subject Property Map:



#### 4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RU1c ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Min. Lot Area	550 m <sup>2</sup>	667 m <sup>2</sup>
Min. Lot Width	16.5 m	18.23 m
Min. Lot Depth	30 m	36.58 m
Development Regulations		
Site Coverage	40%	29%
Site Coverage: accessory buildings or structures and carriage house (one storey)	20%	6.67%

Floor area of carriage house (footprint)	100 m <sup>2</sup>	44.5 m <sup>2</sup>
Max. area of carriage house (total building area)	130 m <sup>2</sup>	44.5 m <sup>2</sup>
Max. net floor area of carriage house to total net floor area of principal building	75%	22.94%
Height (mid point of roof)	4.8 m	3.24 m
Setback from Principal Dwelling	3.0 m	5.76 m
<b>Carriage House Regulations</b>		
Max. Height	4.8 m	3.24 m
Min. Side Yard (east)	2.0 m	1.17 m●
Min. Side Yard (west)	2.0 m	10.96 m
Min. Rear Yard (with a lane)	0.9 m	1.52 m
Height (carriage house shall not be higher than existing primary dwelling unit)	1 1/2 storey ex. House	1 storey Carriage house
<b>Other Regulations</b>		
Min. Parking Requirements	3 stalls	+3 stalls provided
Min. Private Open Space	30 m <sup>2</sup>	+30 m <sup>2</sup>
● Indicates a requested variance to the side setback to a carriage house.		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- Full Plan check for Building Code related issues will be done at time of Building Permit applications.
- Please indicate how the requirements of Radon mitigation are being applied to this structure.

### 6.2 Development Engineering Department

- See attached Development Engineering memorandum.

### 6.3 Bylaw Services

- Bylaw Services has two open files for this property, an illegal suite in the main house and an illegal suite in the garage with numerous complaints received. Records indicate an

"Affidavit for a second kitchen", within the main dwelling, which has been misused with complaints for both units dating back to 2003.

#### 6.4 Fire Department

- Requirements of section 9.10.19 Smoke Alarms and Carbon Monoxide alarms of the BCBC 2012 are to be met.
- All units shall have a posted address on Kinnear Court for emergency response.
- Should a gate or fence be installed between main house and carriage house the gate is to open without special knowledge (locking device and have a clear width of 1100mm.
- Emergency access is NOT from the lane to the south but from Kinnear Court.

#### 7.0 Application Chronology

Date of Application Received:	September 24, 2015
Date of Amended Plans Received:	January 27, 2016
Date Public Consultation Completed:	April 8, 2016

Report prepared by:

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Lydia Korolchuk, Planner

Reviewed by:



Terry Barton, Urban Planning Manager

Approved for Inclusion:



Ryan Smith, Community Planning Department Manager

#### Attachments:

Subject Property Map

Site Plan

Conceptual Elevations

Attachment A: Development Engineering Memorandum dated October 27, 2015

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<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).



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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** October 27, 2015  
**File No.:** Z15-0050

**To:** Community Planning (LK)

**From:** Development Engineering Manager

**Subject:** 845 Kinnear Court

RU1c

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Development Engineering has the following comments and requirements associated with this application to rezone from RU1 to RU1c.

1. Domestic Water and Fire Protection

Our records indicate this property is currently serviced with a 19mm-diameter water service. The service is adequate for the proposed application.

2. Sanitary Sewer

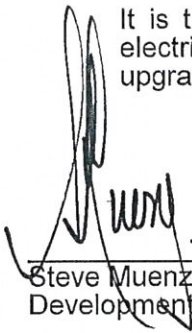
Our records indicate that this property is currently serviced with a 100mm-diameter sanitary sewer service. An inspection chamber (IC) complete with brooks box should be installed on the service at the owner's cost. Service upgrades can be provided by the City at the applicant's cost. **The applicant will be required to sign a Third Party Work Order for the cost of the service upgrade.** For estimate inquiry's please contact Sergio Sartori, by email [ssartori@kelowna.ca](mailto:ssartori@kelowna.ca) or phone, 250-469-8589.

3. Development Permit and Site Related Issues

Direct the roof drains into on-site splash pads.  
On-site parking modules must meet zoning bylaw requirements.  
All driveway/parking areas must be finished with a dust free surface.

4. Electric Power and Telecommunication Services

It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.



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Steve Muenz, P. Eng.  
Development Engineering Manager

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**CITY OF KELOWNA**  
**MEMORANDUM**

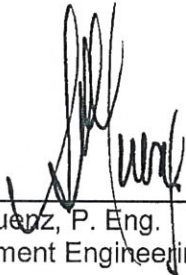
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**Date:** October 27, 2015  
**File No.:** DVP15-0232  
**To:** Community Planning (LK)  
**From:** Development Engineering Manager (SM)  
**Subject:** 845 Kinnear Court

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Development Engineering comments and requirements regarding this development permit application are as follows:

This development variance permit application to vary the side yard setback does not compromise any municipal services.

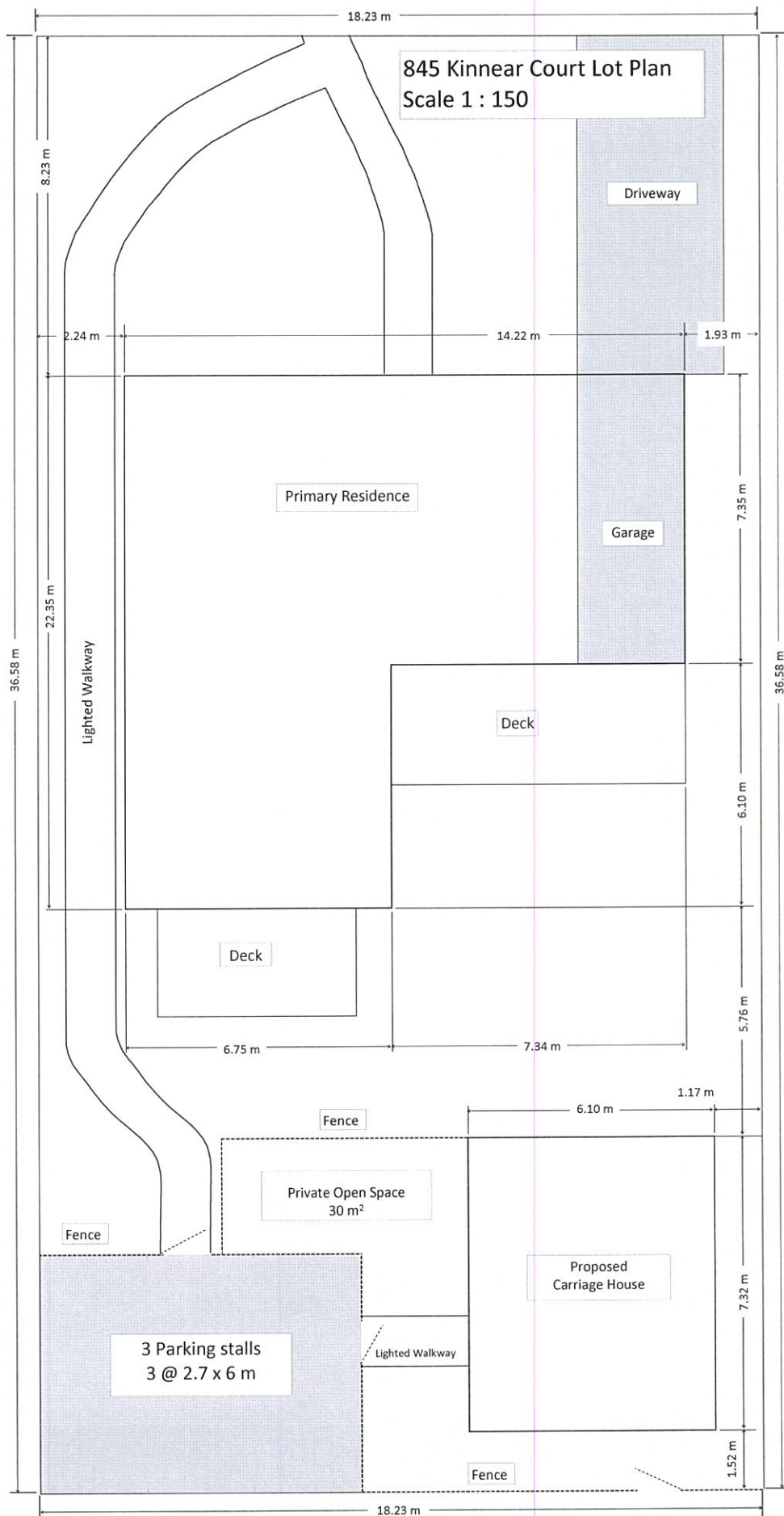


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Steve Muenz, P. Eng.  
Development Engineering Manager

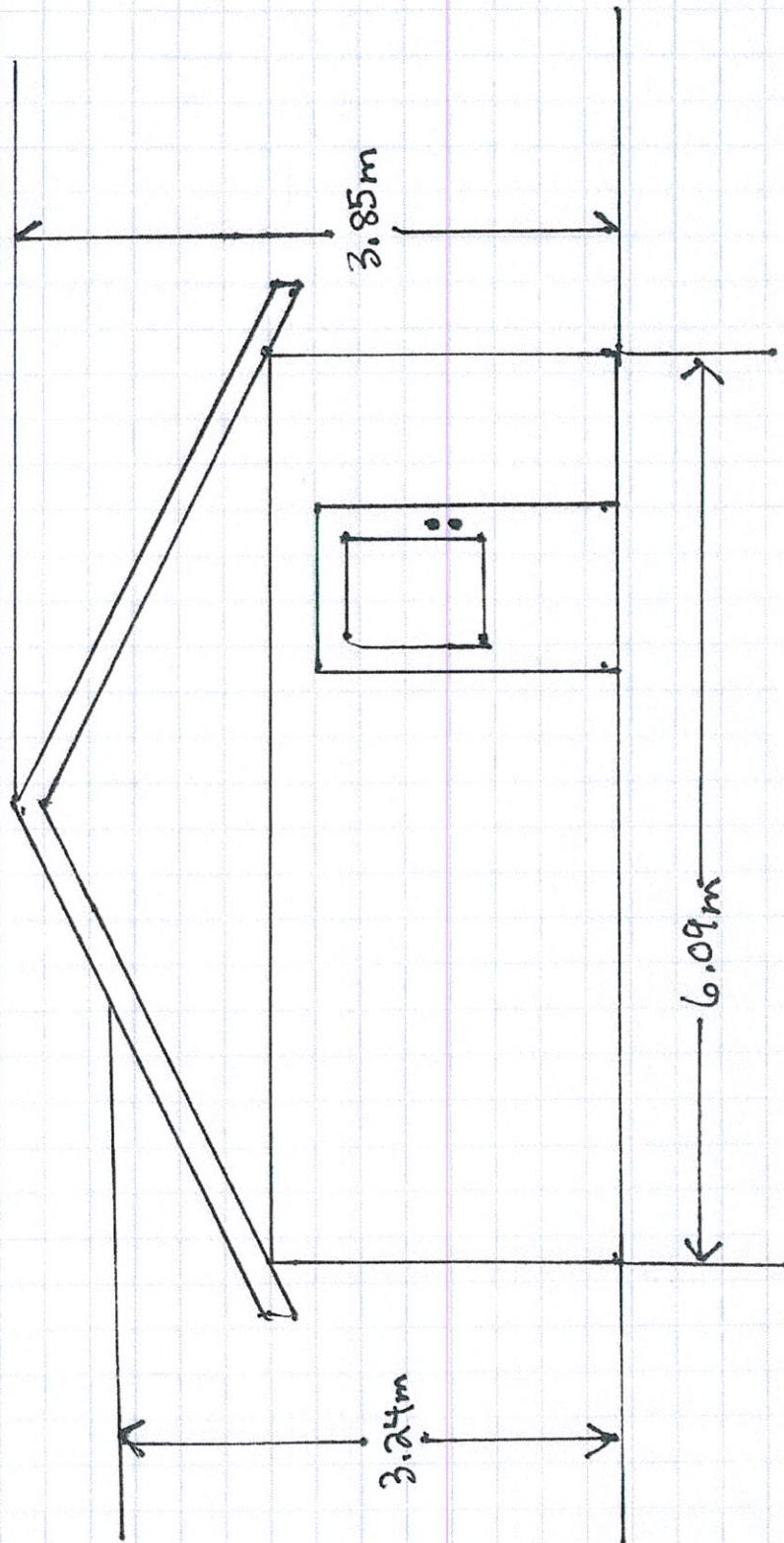
SS





Scale  
1 square = 1 foot

845 Kinnear Ct  
Rear Carriage House

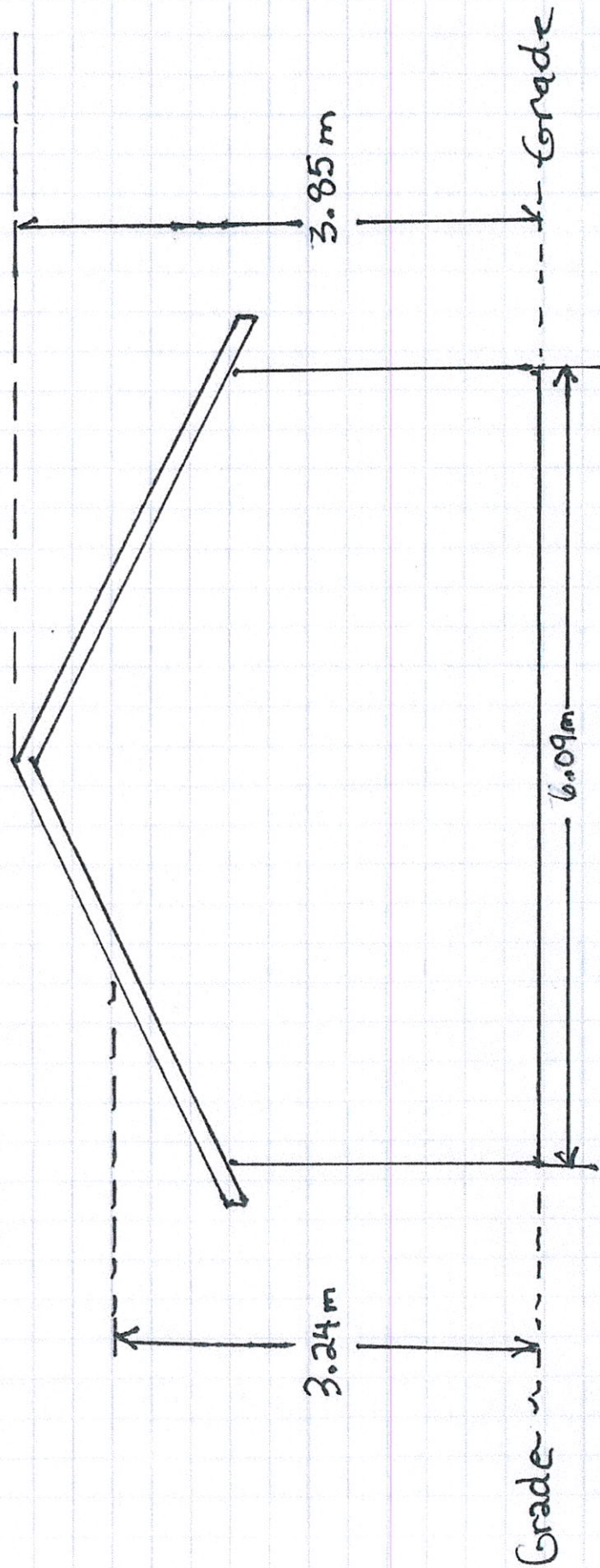


South Perspective



Scale  
1 square = 1 foot

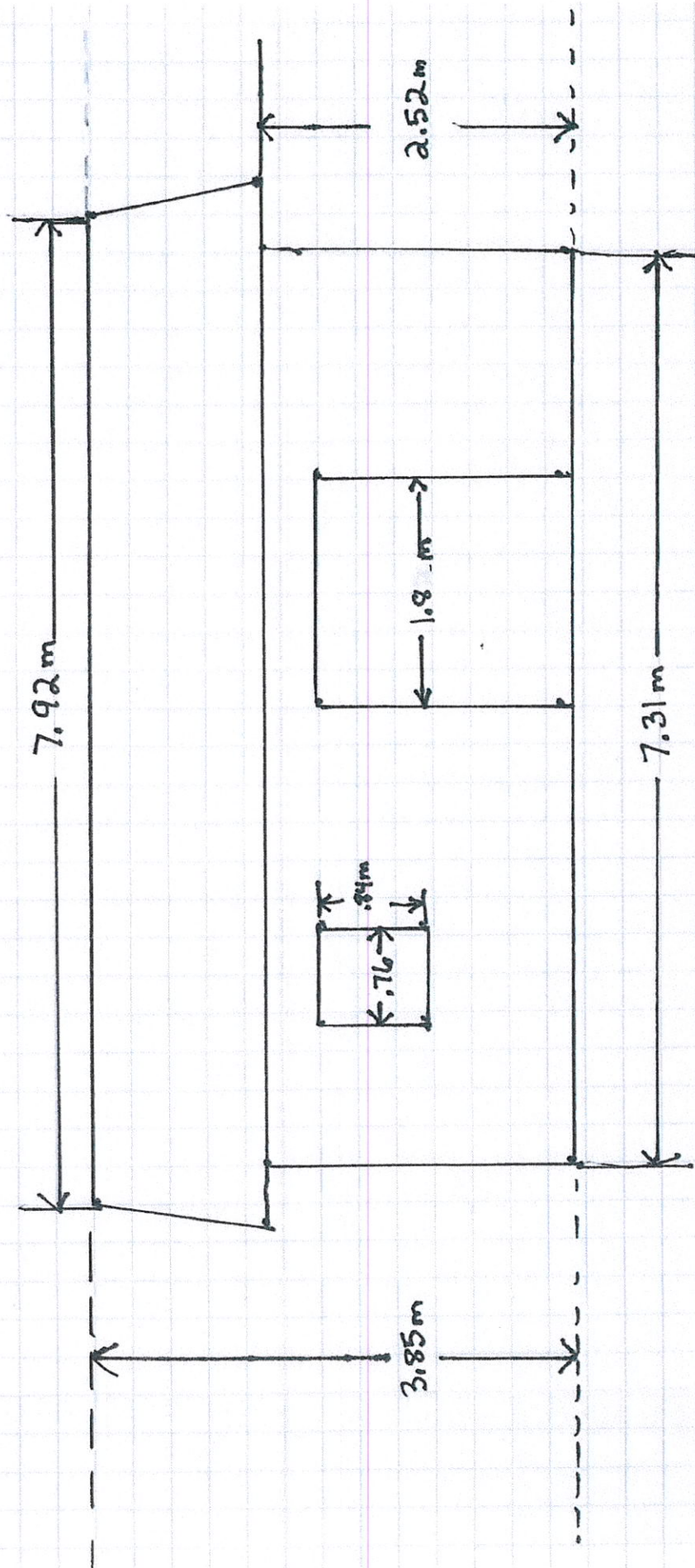
845 Kinnear Ct  
Rear 'Carriage' House





Scale  
1 sq = 1 ft.

845 Kinneer Ct  
Rear Carriage House

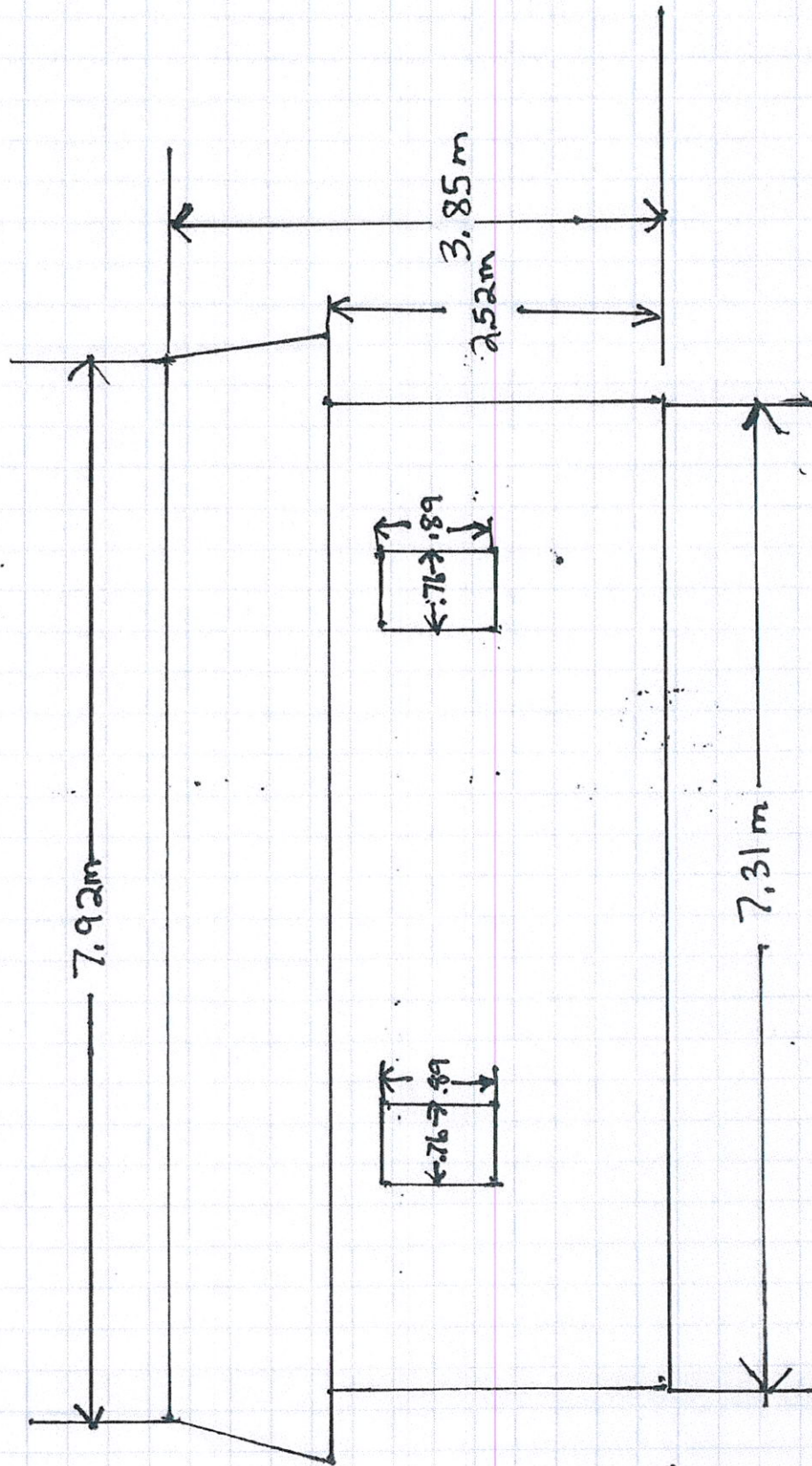


West Perspective



Scale  
1 sq = 1 ft

845 Kinnear Court  
Rear Carriage House

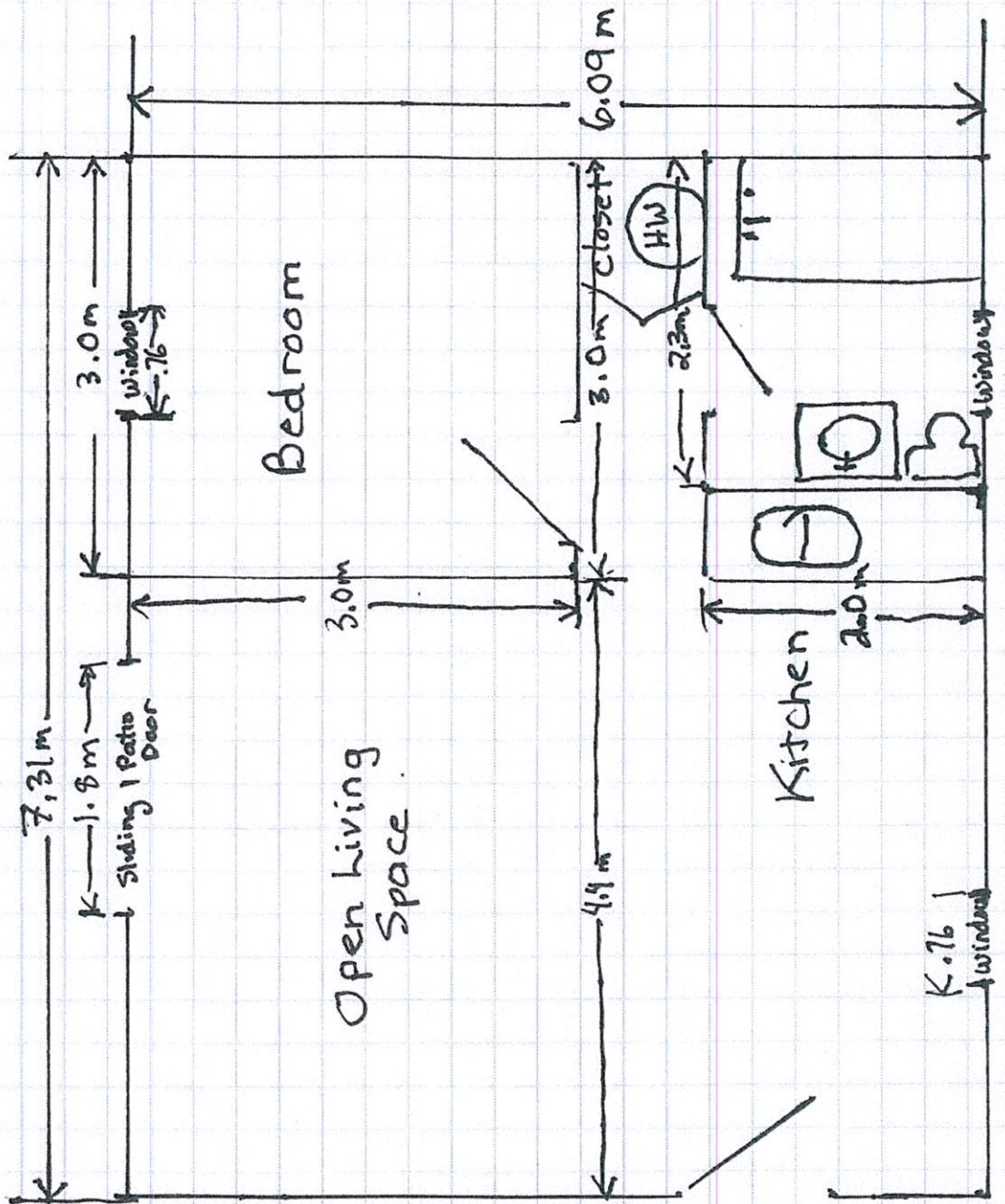


East Perspective



Scale  
1 square = 1 sq foot

845 Kinnear Court  
Rear Carriage House



Layout of Interior

**CITY OF KELOWNA**  
**BYLAW NO. 11242**  
**Z15-0050 - Carol Kergan**  
**845 Kinnear Court**

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A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 6, District Lot 135, ODYD, Plan 25798 located on Kinnear Court, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the RU1c - Large Lot Housing with Carriage House zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# REPORT TO COUNCIL



**Date:** May 2, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (LK)

**Application:** Z15-0059

**Owner:** City of Kelowna

**Address:** 135 Mugford Road, 345 Rutland Road N

**Applicant:** Peter Chataway

**Subject:** Rezoning Application

**Existing OCP Designation:** EDINST - Educational / Major Institutional

**Existing Zone:** RU1 - Large Lot Housing

**Proposed Zone:** P2 - Education and Minor Institutional

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## 1.0 Recommendation

THAT Rezoning Application No. Z15-0059 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of THAT part of Lot 3 which may be more particularly described as follows: commencing at the north east corner of the area covered by Plan B3922; thence following the north boundary of said Lot 3 Plan 2478 bearing south 89 degrees 48 minutes east for a distance of 50 feet; thence south 75 feet; thence bearing 89 degrees and 48 minutes west for a distance of 50 feet to the south east corner of the said area covered by Plan B3922; thence following the east boundary of said area north for a distance of 75 feet to the point of commencement, and containing by admeasurement 0.086 of an acre more or less; Section 26 Township 26 ODYD Plan 2478, located at 135 Mugford Road, Kelowna, BC from the RU1 - Large Lot Housing zone to the P2 - Education and Minor Institutional zone; and by changing the zoning classification of Lot 1 Section 26 Township 26 ODYD Plan 9290, located at 345 Rutland Road N, Kelowna, BC from the RU1 - Large Lot Housing zone to the P2 - Education and Minor Institutional zone, be considered by Council;

AND THAT the Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated December 22, 2015;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the approval of Ministry of Transportation and Infrastructure;



AND FURTHER THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Heritage Alteration Permit for the subject property.

## 2.0 Purpose

To rezone the subject properties to facilitate the redevelopment and adaptive re-use of the heritage building and site.

## 3.0 Community Planning

Community Planning Staff supports the proposed rezoning to permit the redevelopment of the subject properties, which includes the building known as old Saint Aidan's Church. This is a highly visible location within the Rutland area at the corner of Rutland Road N and Mugford Road. The historic church is listed on the municipal heritage registry for its association within the Anglican Church, its importance to the early community of Rutland and its architectural Arts and Crafts style. The proposed rezoning is consistent with the Official Community Plan (OCP) Future Land Use for the parcels.

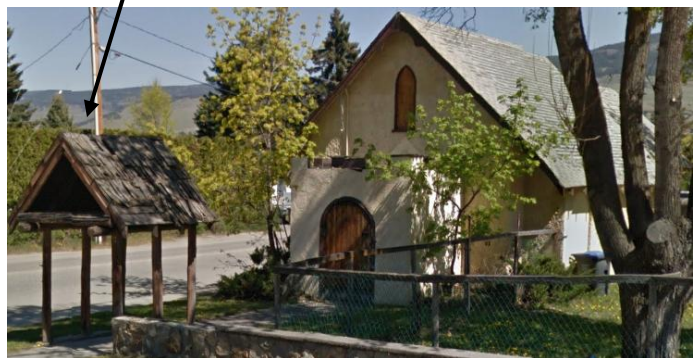
In 2013, the City of Kelowna commissioned the firm, Donald Luxton and Associates Inc., to provide an independent heritage impact statement of the proposed rehabilitation of the subject site. The purpose of the report was to evaluate the impact of the proposed development on character-defining elements of the historic church and to provide conservation recommendations to mitigate potential adverse impacts. The report concluded that the proposed changes to the building are acceptable from a heritage perspective and balanced with the proposed modern uses.

## 4.0 Proposal

### 4.1 Background

St. Aidan's Anglican Church was built in 1933 and is located on the corner parcel addressed at 365 Rutland Road N. The neighbourhood is mainly single family homes with multi-residential located across Rutland Road N. The church is a one-storey, front gabled building. In 1938 an addition of the chancel at the rear of the building and the vestry on the north side was completed. In 1958, the front vestibule was enclosed as the original porch was relocated and reused as the Lych Gate. In 1990, the church was deconsecrated and purchased by the City of Kelowna. Currently, the structure is not occupied and exterior openings have been boarded up. The building is situated in a road right of way and cannot be preserved in its current location. The proposal will see it relocated centrally on the site. The character-defining elements of materials, forms and spatial configurations will be preserved throughout the adaptive re-use and renovation.

Lych Gate



In 2009, St. Aidan's Church was identified as high priority for conservation work through the City's Heritage Asset Management Strategy. A Request for Expressions of Interest was put out in 2012. The submission from the Okanagan Buddhist Cultural Society (OBCS) garnered further discussion. After the Request for Proposal (RFP) process, The City of Kelowna and OBCS signed a Memorandum of Understanding agreement (MOU) based on the premise that The City of Kelowna would sell the land to the OBCS. The MOU establishes the future conservation objectives and

acceptable uses with respect to the redevelopment and restoration of the old St. Aidan's Church building.

#### 4.2 Project Description

The goal is the adaptive re-use of the building with conservation of the structure and site in a manner that will showcase and celebrate it as a community heritage asset. The Society is proposing to conserve the existing old St. Aidan's Church building. The three subject parcels will be consolidated and the structure centrally located on the new parcel. The proposed addition to the existing building will include a new entry on the north side of the chancel, a church hall and cultural centre on the south side of the chancel, a new foundation and site improvements. The changes to the site will include a parking area at the rear of the parcel and a publicly accessible Friendship Garden in the northwest corner. A Heritage Alteration Permit (HAP) will be required for the proposed changes and will be considered by Council at a later date, should the rezoning be successful, along with the requirement of a Heritage Designation (HD) in the form of a municipal bylaw.

The proposal consists of three parcels which will be consolidated. 135 Mugford Road was purchased by the City in 1992 and was leased as an Early Years Learning Centre until it was demolished in the mid-2000's. 345 Rutland Road was purchased by the City in 2004 and the single family dwelling was rented until it was demolished in 2014. 365 Rutland Road is the St. Aidan's Church site. As part of the lot consolidation, future road widening requirements will see a 3.2 m road dedication along Rutland Road N and a 9.14 m road dedication along Mugford Road. This will include a new corner rounding. These requirements will establish the new property lines of the consolidated parcel. To ensure the provision of a future rear lane is possible, a road reserve will be registered.

The redevelopment of the parcels will provide on-site parking, increase the accessibility of the site, and create an open and inviting garden area. The parking area will provide accessible parking with ramp access, a loading area and a turnaround stall.

Staff views the proposed redevelopment of the site positively. The heritage building will be adaptively re-used with many of the original character defining elements preserved. Since the relocation of the structure is unavoidable due to the road widening requirement, the new central location ensures the building is still the prominent feature of the parcel. The proposed modern use of the building as a Cultural Centre will provide a positive contribution to the Rutland Town Centre.

#### 4.3 Site Context

The subject properties are located at the intersection of Rutland Road N and Mugford Road. The proposal consists of three parcels, 345 & 365 Rutland Rd N and 135 Mugford Rd which will be consolidated into one larger parcel. The Future Land Use Designation is EDINST - Educational / Major Institutional and is within the Rutland Urban Centre and the Permanent Growth Boundary.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 - Large Lot Housing	Single Dwelling Housing
East	RU1 - Large Lot Housing	Single Dwelling Housing
South	RU1 - Large Lot Housing	Single Dwelling Housing
West	RM5 - Medium Density Multiple Housing	Apartments

## Subject Property Map:



## 4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	P2 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Minimum Lot Area	660 m <sup>2</sup>	1490 m <sup>2</sup> (proposed lot)
Minimum Lot Width	18 m	36.52 m
Minimum Lot Depth	30 m	41.16 m
Development Regulations		
Maximum Floor Area Ratio	1.0	0.20
Maximum Site Coverage (buildings)	40%	20.04%
Maximum Site Coverage (buildings, driveways and parking)	60%	
Maximum Height	13.5 m or 3 stories	6.7 m (proposed addition)
Minimum Front Yard	6.0 m	6.10 m
Minimum Side Yard (south)	4.5 m	4.9 m
Minimum Side Yard (north)	6.0 m	14.36 m
Minimum Rear Yard	7.5 m	19.2 m
Other Regulations		
Minimum Parking Requirements	21	21
Minimum Bicycle Parking	5	5
Minimum Loading Space	1	1

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Heritage Register.**<sup>1</sup> Use the Kelowna Heritage Register for fully informed decision-making regarding land use of heritage properties.

**Heritage Designation.**<sup>2</sup> Encourage owners of properties listed in the Kelowna Heritage Register and identified as significant to voluntarily provide long-term heritage protection to their properties through the use of a Heritage Designation Bylaw.

### 5.2 Heritage Conservation Area Development Guidelines

#### Restoration Guidelines for Designated Heritage Sites.<sup>3</sup>

- Authenticity to the architectural style, original site configuration, landscaping and auxiliary structures are encouraged to be adhere to for all restorations.
- Colour schemes are encouraged to be authentic to the period and architectural style of the designated building.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permit(s)
- Placement permits are required for any sales or construction trailers that will be on site. The location(s) of these are to be shown at time of development permit application.
- A Building Code analysis is required for the structure at time of building permit applications.
- Fire resistance ratings are required for storage, janitor and/or garbage enclosure room(s). The drawings submitted for building permit is to clearly identify how this rating will be achieved and where these area(s) are located.
- An exit analysis is required as part of the code analysis at time of building permit application. The exit analysis is to address travel distances within the units, multiple parking areas (future), number of required exits per area, accessibility etc
- Size and location of all signage to be clearly defined as part of the development permit. This should include the signage required for the building addressing to be defined on the drawings per the bylaws on the permit application drawings.
- Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation are being applied to this structure.

### 6.2 Development Engineering Department

- See Attachment "A"

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.7.1 (Development Process Chapter).

<sup>2</sup> City of Kelowna Official Community Plan, Policy 5.7.2 (Development Process Chapter).

<sup>3</sup> City of Kelowna Abbott Street & Marshall Street Heritage Conservation Area, Policy 4.11 (Development Guidelines).

### 6.3 Fire Department

- A construction fire safety plan is required to be submitted prior to the start of construction
- Should the occupant load be above 300 a fire alarm shall be installed. Should the fire alarm be required, an approved Fire Department steel lock box or key tube acceptable to the fire dept. is required by the fire dept. entrance.
- Assembly occupancy requires a fire safety plan as per section 2.8 BCFC at occupancy. The fire safety plan and floor plans are to be submitted for approval in AutoCAD Drawing format on a CD.
- All requirements of the City of Kelowna Fire and Life Safety Bylaw 10760 shall be met.
- Contact Fire Prevention Branch for fire extinguisher requirements and placement.
- dumpster/refuse container must be 3 meters from structures or overhangs

### 6.4 Ministry of Transportation

- Based on the materials provided November 9, 2015, Preliminary Approval is granted for this rezoning for one year pursuant to section 52(3)(a) of the Transportation Act.

Please provide the final bylaw after third reading to this Ministry for final approval.

## 7.0 Application Chronology

Date of Application Received: November 6, 2015  
Date Public Consultation Completed: January 4, 2016

### Report prepared by:

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Lydia Korolchuk, Planner

Reviewed by:

☐

Terry Barton, Urban Planning Manager

Approved for Inclusion:

☐

Ryan Smith, Community Planning Department Manager

### Attachments:

Site Context Plan

Schedule A: Site plan & Floor plans

Schedule B: Conceptual Elevations

Landscape Plan

Attachment A: Development Engineering Memorandum

Attachment B: Rutland Waterworks District Letter

Attachment C: Statement of Significance

Attachment D: Heritage Register

Attachment E: Memorandum of Understanding



'A'

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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** March 30, 2016  
**File No.:** Z15-0059 Revised 03  
**To:** Urban Planning Management (LK)  
**From:** Development Engineering Manager (SM)  
**Subject:** 345 Rutland Rd N, 135 Mugford Rd                      RU1 to P2

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The Development Engineering Department has the following comments and requirements associated with this application to rezone the properties at 345 Rutland Rd North and 135 Mugford Rd from RU1 to P2 and consolidate with 365 Rutland Rd North to accommodate the relocation and restoration of Old Saint Aidan's Church.

The road and utility upgrading requirements outlined in this report will be a requirement of this development.

The Development Engineering Technologist for this project is Jason Ough

**1.     Domestic Water and Fire Protection**

- (a)     The property is located within the Rutland Water District (RWD) service area. The water system must be capable of supplying domestic and fire flow demands of the project in accordance with the Subdivision, Development & Servicing Bylaw. The developer is responsible, if necessary, to arrange with RWD staff for any service improvements and the decommissioning of existing services. Only one water service will be permitted to a consolidated lot.
- (b)     A water meter is mandatory for each property and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system.

**2.     Sanitary Sewer**

The developer's consulting mechanical engineer will determine the development requirements of the proposed development and establish the service needs. Both lots fronting Rutland Rd N have existing sanitary sewer services. Only one service per lot will be permitted for this development. The applicant will arrange for the removal and disconnection of any sanitary sewer services that are no longer needed and the installation of one new larger service, if required, at the applicants cost.

**3. Storm Drainage**

The developer must engage a consulting civil engineer to provide a storm water management plan which meets the requirements of the City Storm Water Management Policy and Design Manual. The storm water management plan must also include provision of a lot grading plan, identify minimum basement elevation (MBE), overland drainage routes, floodplain elevations and setbacks, and provision of a storm drainage service for the lot and /or recommendations for onsite drainage containment and disposal systems. The on-site drainage systems may be connected to the existing municipal drainage system in Rutland Rd with an overflow service.

**4. Road Improvements**

(a) Driveway access to Rutland Road North must be relocated to Mugford Road and restoration of continuous barrier curb and sidewalk is required at the developer's expense.

(b) ~~Construction of a public lane along the east property line of the consolidated property is required at the developer's expense. The lane will be built to one half width (3.0m) of the urban standard SS-R2 complete with asphalt curb along the east property line.~~

*Revised: 6.0m along the east property line will be taken as Highway Reserve. The land is reserved for the future lane and may be used for temporary parking. If only 3m is required for future lane dedication, the remaining 3m will be returned to the cultural center. The applicant will design the onsite parking construction such that it can be utilized for the future permanent lane.*

(c) ~~Increased pedestrian traffic related to this development triggers the need for a cross walk to the west side of Rutland Road North. The developer will submit a design and estimated cost for a cross walk at McIntosh Road.~~

*Revised: This development will increase pedestrian crossing demand across Rutland Road adjacent to the site. It should be a two-stage crossing, estimated to cost \$25,000 paid for by the developer.*

*Revised: The pedestrian crossing at Rutland Road will not be a requirement of this application. If the need to construct a crosswalk is identified in future, these works will be undertaken as part of the annual Capital Construction program.*

(d) The existing pedestrian curb letdown at the corner of Rutland Road North and Mugford Road is facing north-west to indicate crossing in both directions. This must be relocated to a position that directs pedestrian traffic to cross Mugford Road only and deter pedestrians from attempting to cross Rutland Road North. Relocation of this curb letdown and restoration of continuous barrier curb and sidewalk is required at the developer's expense.

(e) The estimated cost of required road frontage and lane improvement works, for bonding purpose, must be determined based upon a design provided by the developer to be reviewed by the City of Kelowna.

(f) Verify that physical driveway access will satisfy City requirements for the consolidated lot.

**5. Road Dedication and Subdivision Requirements**

(a) ~~The developer is required to consolidate the subject properties.~~

*Revised: The technical subdivision (consolidation) will be deferred to the HAP phase of this development application process.*



- (b) The developer is required dedicate roadway along the north frontage of 365 Rutland Road North and 135 Mugford Road to align with the property at 155 Mugford Road.
- (c) The developer is required to provide 3.0m (measured the east property line of 345 Rutland Rd N) of road dedication for an access lane along the east property line of the consolidated property.
- (d) Grant Statutory Rights Of Way if required for utility services.
- (e) If any road dedication or closure affects lands encumbered by a Utility right-of-way (such as Hydro, Telus, Gas, etc.) please obtain the approval of the utility. Any works required by the utility as a consequence of the road dedication or closure must be incorporated in the construction drawings submitted to the City's Development Manager.

**6. Electric Power and Telecommunication Services**

All proposed service connections are to be installed underground. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost.

**7. Design and Construction**

- (a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- (b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- (c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- (d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- (e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Development Engineering Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

**8. Survey Monuments and Iron Pins**

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.



**9. Other Engineering Comments**


- (a) Provide all necessary Statutory Rights-of-Way for any utility corridors required, including those on proposed or existing City Lands.
- (b) If any road dedication affects lands encumbered by a Utility right-of-way (such as Terasen, etc.) please obtain the approval of the utility prior to application for final subdivision approval. Any works required by the utility as a consequence of the road dedication must be incorporated in the construction drawings submitted to the City's Development Manager.

**10. Servicing Agreements for Works and Services**

- a) A Servicing Agreement is required for all works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

**11. Administration Charge**

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as (3% of Total Off-Site Construction Cost plus GST)



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Steve Muenz, P. Eng.  
Development Engineering Manager

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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** December 22, 2015  
**File No.:** HD15-0001  
**To:** Urban Planning Management (LK)  
**From:** Development Engineering Manager (SM)  
**Subject:** 345, 365 Rutland Rd N, 135 Mugford Rd

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Development Engineering comments and requirements regarding this development permit application are as follows:

This development permit application for Heritage Designation of Old Saint Aidan's Church does not compromise any municipal services.



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Steve Muenz, P. Eng.  
Development Engineering Manager

jo

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**CITY OF KELOWNA**  
**MEMORANDUM**

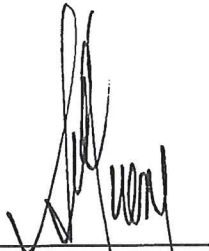
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**Date:** December 22, 2015  
**File No.:** DVP15-0277  
**To:** Community Planning (LK)  
**From:** Development Engineering Manager (SM)  
**Subject:** 345, 365 Rutland Rd N, 135 Mugford Rd

---

Development Engineering comments and requirements regarding this development permit application are as follows:

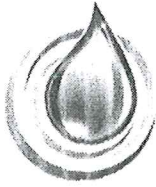
This development variance permit application to vary the landscape buffer to 1m at the East and South boundaries of the consolidated lot does not compromise any municipal services.



---

Steve Muenz, P. Eng.  
Development Engineering Manager

jo



**Rutland**  
WATERWORKS DISTRICT

106 – 200 Dougall Road North  
Kelowna, BC V1X 3K5  
www.rutlandwaterworks.com

p: (250) 765-5218  
f: (250) 765-7765  
e: info@rutlandwaterworks.com

December 17, 2015

Peter Chataway, Agent  
Okanagan Buddhist Cultural Society  
220 Mugford Rd  
Kelowna BC V1X 2E2

**RE: Lot A, Plan EPP51686 – 365 & 345 Rutland Rd N & 135 Mugford Rd File #  
HD 15-0001 RWD File 15/18**

In response to City of Kelowna request for comment the following is a summary of  
Rutland Waterworks District requirements:

1. Capital Expenditure Charges **\$2,700.00**

Please pay by separate cheque, noting file # 15/18/CEC

2. Additional Costs:

Service Abandonment and Upgrade **\$10,000.00**

Please pay by separate cheque, noting file # 15/18/AD

Existing service to former lot 2478 Pt. 3 should be abandoned and the service to former  
Lot 1, PI 9290 utilized but must be upgraded to the main.

Please note costs are an estimate and any credit or invoice for additional costs will be  
adjusted prior to turn on of water service.

Upon receipt of above noted fees a water certificate will be issued.

...2

December 17, 2015  
Peter J. Chataway, Agent  
Page 2

Should you have any questions or require further information, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pete Preston', written over a horizontal line.

Pete Preston  
General Manager

c. City of Kelowna Planning Department

PP/clp




[New Search](#)

## Heritage Building

### 365 Rutland Rd - St. Aidan's Church

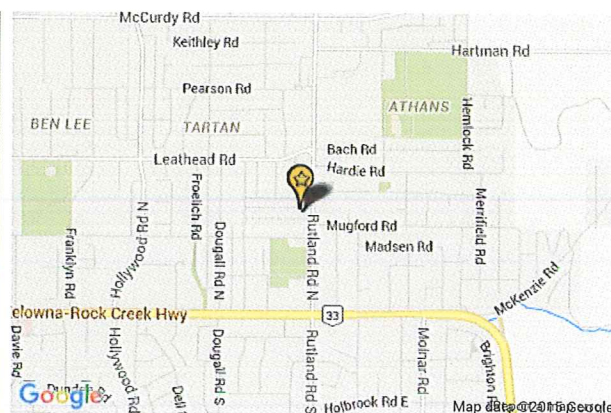
**Place** St. Aidan's Anglican Church is a one-storey, front-gabled church distinguished by its square front-projecting entryway with crenellated parapets and a round-arched entry with a wood-panelled door. The church is located on a highly visible lot on Rutland Road, at the corner of Mugford Road, in the Rutland neighbourhood of Kelowna. The site is now owned by the City of Kelowna.

**Heritage Value:** St. Aidan's Anglican Church, built in 1933, is valued as a symbol of the importance of the Anglican Church to the early rural community of Rutland. It also represents the importance of local churches to rural settlements, and the central role they played in community life. The church's strategic positioning in a highly visible and central location in Rutland is a prominent statement of the importance of the Anglican Church to the early community. Rutland and East Kelowna were established as outstations of St. Michael and All Angels Anglican Church in 1912. A meeting was held in the Rutland Community Hall on January 9, 1929, to discuss the building of a church facility. At the time, there was no place for Anglican worship in Rutland other than a small room in the Community Hall. The site for a new church was donated by Mr. and Mrs. Ben Hardie, who owned the local grocery and hardware store. The design was provided by Enoch Mugford (1879-1969), superintendent of the Black Mountain Irrigation District, and prominent local developer and contractor Hector Maranda (1879-1967) led the mostly volunteer building crew. St. Aidan's Rutland was dedicated on June 18, 1933. In 1938, a chancel and a vestry were added. Of interest is the Norman arch between the chancel and nave, a replica of the entrance to St. Aidan's first church at Lindisfarne Abbey in Northumberland, England. In 1958, the original porch was moved to the front of the lot for use as a lych gate, to allow the construction of an enclosed front vestibule.

The church is also significant as a demonstration of simple British Arts and Crafts influences, which serves to honour the Diocese's motherland and illustrates a conscious shift to a traditional style reflective of the social and economic consciousness of the interwar period. At the time, buildings were expected to display some sort of historical reference in order to demonstrate good taste and underlying conservatism. The British Arts and Crafts influence is demonstrated in the steeply pitched, overhanging roof with exposed rafters and the use of roughcast stucco.

**Character Defining Elements:** Key elements that define the heritage character of the St. Aidan's Anglican Church include its:

- Prominent location at the corner of Rutland and Mugford Roads in the Rutland neighbourhood
- Ecclesiastical form, scale and massing as expressed by its: rectangular plan; one-storey height; and front-gabled roof with gabled projection at side of church
- Post and beam frame construction and rock-dash stucco cladding
- Features of the British Arts and Craft style including: steeply pitched roofline with exposed rafter tails; decorated bargeboards, curved upper window openings; and entryway with curved doorway and crenellated parapet
- Exterior features such as internal chimney clad in stucco
- Original window openings, with inset Gothic pointed-arch multi-paned wooden-sash windows
- Round-arched, vertically-panelled wooden front door with original hardware
- Interior features such as fir floors and baseboards, lath-and-plaster walls, barrel-vaulted ceiling and arched entry to chancel
- Associated landscape features such as a mature deciduous tree at front of property, a portion of the original coursed rock perimeter wall, and the original porch now used as a lych gate





E

**Memorandum of Understanding**  
**Between**  
**The Okanagan Buddhist Cultural Society**  
**and**  
**The City of Kelowna**  
**November, 2014**

**1. Introduction**

This Memorandum of Understanding (MOU) sets out a general understanding between the Okanagan Buddhist Cultural Society (the Society) and the City of Kelowna (the City) with respect to the redevelopment and restoration of old St. Aidan's Church building in Rutland.

**2. Goal**

The goal is adaptive re-use of this facility with conservation of the building and site in a manner that will showcase and celebrate the facility as a community heritage asset.

**3. Background**

The Society is proposing to conserve the existing old St. Aidan's Church building. The Society is also proposing an addition to the existing building to include a church hall and cultural centre, as well as site improvements including a parking area and a new publicly-accessible Friendship Garden.

An agreement with the Society will result in the conservation of a significant heritage asset that is currently in disrepair and will assure its adaptive re-use as a community benefit, consistent with the heritage-related policies identified in the City of Kelowna Official Community Plan. Additionally, accruing economic benefits from the operation of the facility will be a positive contribution to the revitalization of the Rutland Town Centre.

**4. The Subject Site**

The City is the legal owner of 135 Mugford Road, 345 Rutland Road North, and 365 Rutland Road North, collectively known as the 'Subject Site'. The existing residential building at 345 Rutland Road will be removed and the site made good at the City's expense and the City will sell the Subject Site to the Society as a consolidated, titled lot, as per the terms and conditions of this agreement.

**5. Project Contributions**

In addition to the long-term public benefits identified above, the Society will purchase the Subject Site from the City for \$100,000.00. The Society will also construct a publicly-accessible Friendship Garden on the Subject Site and provide public access to the building on an as-available basis and within stated operating hours as determined by the Society.

**6. Building Program**

365 Rutland Road North is zoned P2 (Educational and Minor Institutional). 135 Mugford Road and 345 Rutland Road North will be rezoned from RU1 (Large Lot Housing) to P2. A Heritage Alteration Permit (HAP) and a Heritage Designation in the form of a municipal bylaw will also be required.

Each application process will require consideration by the Community Heritage Committee as well as a Public Hearing and adoption by City Council. As the HAP will include any required variances, a Development Permit and a Development Variance Permit will not be required.

Applications for the rezoning, the HAP, and the Heritage Designation will be undertaken by the Society, noting that the application processes can run concurrently.

All improvements of the building and site will be the responsibility of the Society. Heritage conservation of the existing building will be consistent with the Statement of Significance as set out in the City of Kelowna Heritage Register, in the municipal Heritage Designation bylaw, and according to best practices as set out in the *Standards and Guidelines for the Conservation of Historic Places in Canada (Parks Canada, Second Edition, 2010)*.

#### **7. Permits and Fees**

The proposed development is subject to all permits, fees, and approvals required under the processes outlined herein.

#### **8. Building Relocation**

Relocation of the existing building within the Subject Site to facilitate the necessary public road takings for the City's transportation network will be the responsibility of the Society.

#### **9. Site Servicing**

The City commits to providing all City utility services to the property line at its cost (water, and sanitary and storm drainage). All private utility service hookups will be the responsibility of the Society and should be accessed through City road rights-of-way.

#### **10. Friendship Garden**

The design of the Friendship Garden will be according to Vietnamese Buddhist traditions and practices and not require any references to the building or other aspects of the Subject Site or to otherwise adhere to the heritage aesthetics of the building and site.

#### **11. Parking**

The applicant must provide adequate parking for the facility on-site in accordance with Zoning Bylaw 8000 or subject to a variance as approved by City Council.

#### **12. Future Changes to Building and/or Subject Site**

Any changes to the building and/or Subject Site subsequent to the initial changes proposed by the Society will be governed by the municipal Heritage Designation bylaw. As such, any future changes to the building and/or Subject Site will require a Heritage Alteration permit.

To ensure that the building improvements as proposed by the Society are realized, the City will register a development covenant on the Subject Site dictating that the Subject Site will only be developed and built upon in accordance with the City-approved development plans.

#### **13. Public Access**

The Society will register a Statutory Right of Way on the Subject Site guaranteeing public access to the community garden area.

#### **14. Right of First Refusal**

An Option to Purchase will be registered on the Subject Site, giving the City the right to re-purchase the property at the equivalent discount to market value at which it was sold to the

Society. The terms of the option will be determined as part of the Purchase and Sale agreement of the Subject Site.

**15. Commercial Occupancy**

Any commercial occupancy in the building must be approved by the City and comply with the P2 zoning. The City agrees that minor food services directly attributable to the facility operations will be supported by City staff.

**16. Legal, Survey & Registration Costs**

The City will be responsible for all costs associated with consolidation of the lots comprising the Subject Site. The Society will be responsible for costs associated with establishing a Statutory Right of Way identified in section 13. above and all other costs associated with the proposed development.

**17. Development Permit Process**

All parties will work co-operatively to identify and address issues with the intent that the Subdivision, Rezoning, Heritage Alteration Permit, Heritage Designation, and Building Permit applications can be processed in a timely fashion. Subject to Council approval, the aim is for a construction start in 2015. All parties recognize that good communication, prompt responses, and complete documentation will be essential to achieve this schedule.

**18. Geotechnical**

Any geotechnical improvements required for development of the Subject Site are the responsibility of the Society and must not negatively impact adjoining publicly- or privately-owned buildings or infrastructure.

**19. Communications**

The Society will be responsible for all aspects of public communications and community engagement for the project.

**20. Expiry of the MOU**

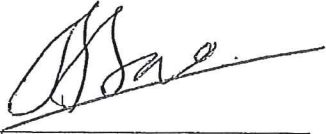
The agreement will expire twelve (12) months after execution of the agreement by both parties.

**21. Execution of the MOU**

No legal rights or obligations of either party shall be created or shall arise from the execution or approval of this MOU. The parties hereby acknowledge the MOU as an indication of intentions to proceed with the proposed project in good faith and that any binding obligations between the parties will be secured by way of future contracts.



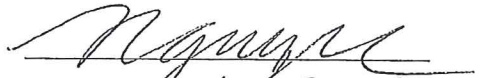
For: Okanagan Buddhist  
Cultural Society



MINH CHAU

PRESIDENT

NOV 13 2014



HAO VAN NGUYEN

SECRETARY

NOV 13 2014

For: The City of Kelowna



Mayor Walter Gray

Walter Gray, MAYOR



City Clerk

Karen Needham,  
Deputy City Clerk



Note: 19 Carstalls-  
6m.Hwy.Reserve

NO.	DATE	DESCRIPTION
1	JULY	ISSUED FOR REVIEW
2	AUGUST	ISSUED FOR CLIENT REVIEW
3	NOVEMBER	ISSUED FOR RFP
4	DECEMBER	FINAL APPLICATION REVIEW
5	DECEMBER	ISSUED FOR CONSTRUCTION



BENCH  
SITE  
[100-1234 4th Street, Kelowna BC V1Y 2P1]  
[1-250-860-0791]

CONSULTANT:  
PETER CHATAWAY, B.Arch.  
KELOWNA, B.C.

CLIENT:  
OKANAGAN BUDDHIST  
CULTURAL SOCIETY  
KELOWNA, B.C.

PROJECT:  
OKANAGAN BUDDHIST  
CULTURAL CENTRE  
KELOWNA, B.C.

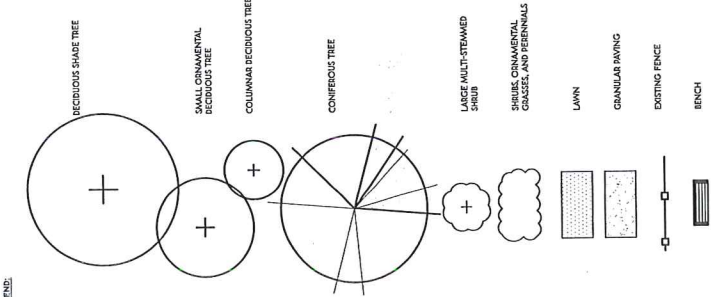
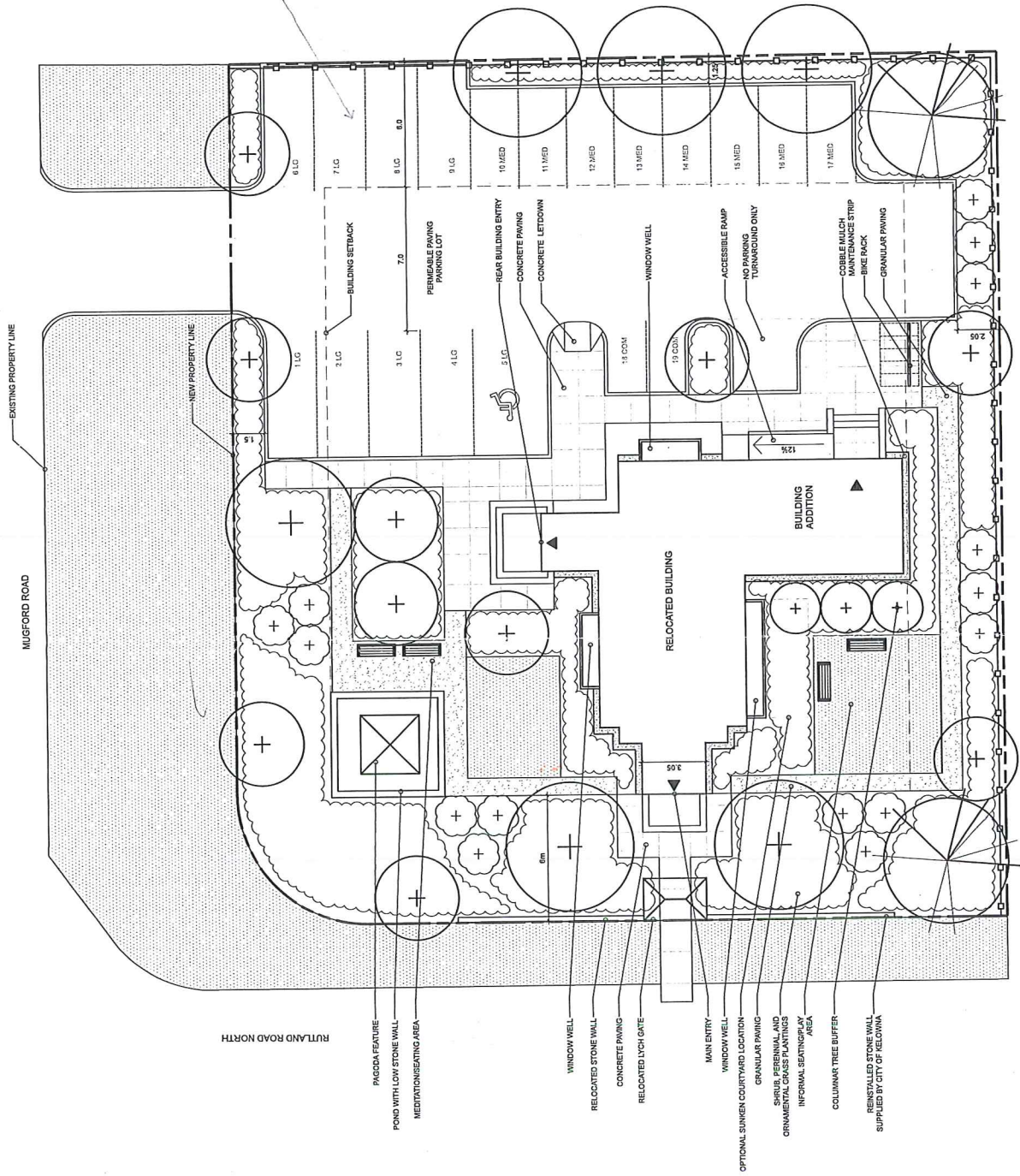
SHEET TITLE  
CONCEPTUAL SITE PLAN

DESIGN BY	AK
DRAWN BY	AJ
CHECKED BY	AK
PROJECT NO.	13-044
SCALE	1:200

SHEET NO.

L-1

08/1



LEGEND



# ST. AIDAN'S CHURCH

## HERITAGE IMPACT STATEMENT

DECEMBER 2013



**DONALD LUXTON**  
AND ASSOCIATES INC

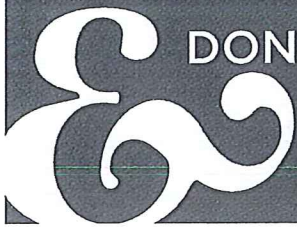


DONALD LUXTON AND ASSOCIATES INC.  
1030 - 470 GRANVILLE STREET VANCOUVER BC V6C 1V5  
info@donaldluxton.com 604 688 1216 www.donaldluxton.com

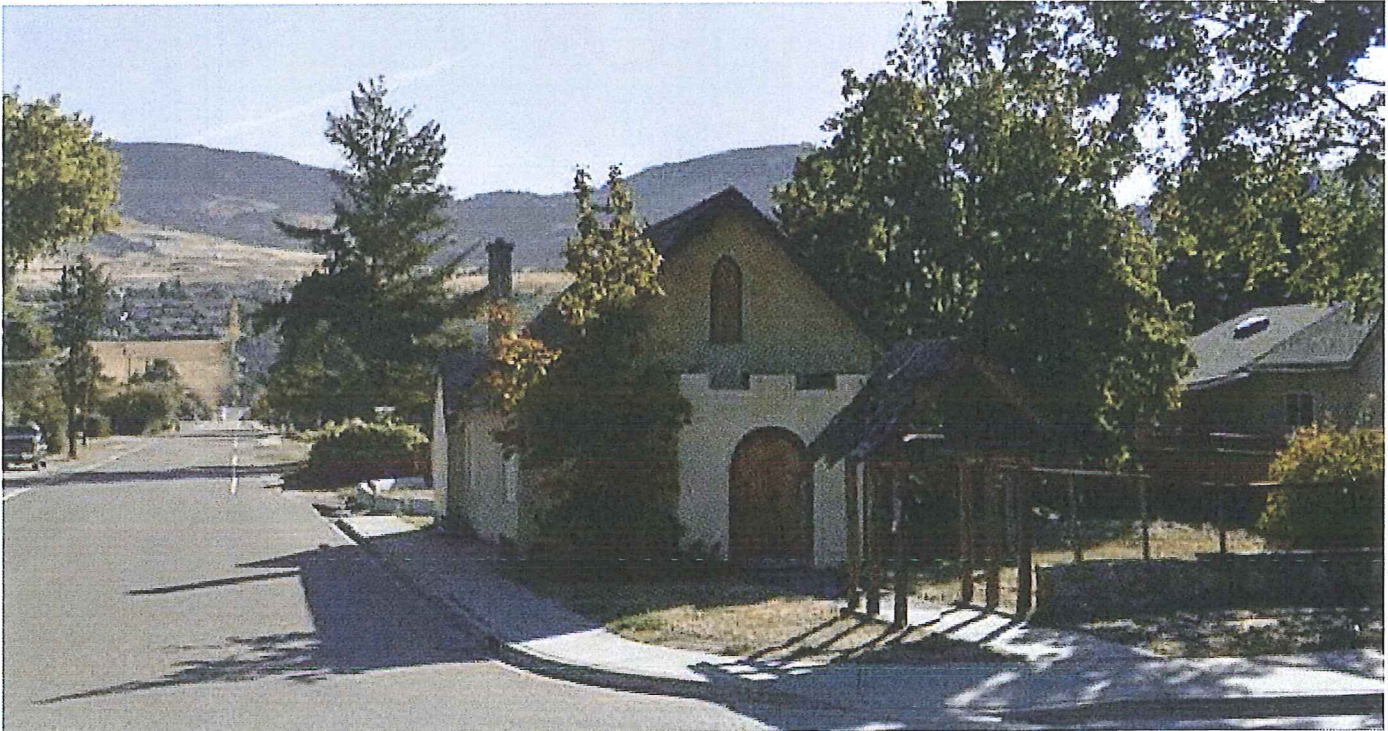


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DONALD LUXTON  
ASSOCIATES



St. Aidan's Church looking east, 2013 (Google Earth)



# INTRODUCTION

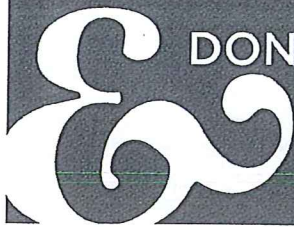
## 1. INTRODUCTION

<b>SUBJECT PROPERTY:</b>	ST. AIDAN'S CHURCH
<b>ADDRESS:</b>	365 RUTLAND ROAD, KELOWNA
<b>DATE OF CONSTRUCTION:</b>	1933 1938 ADDITION OF CHANCEL AND VESTRY 1958 ORIGINAL PORCH RELOCATED AND REUSED AS LYCH GATE, FRONT VESTIBULE ENCLOSED
<b>ORIGINAL DESIGNER:</b>	ENOCH MUGFORD
<b>ORIGINAL CONTRACTOR:</b>	HECTOR MARANDA
<b>CURRENT OWNER:</b>	CITY OF KELOWNA
<b>HERITAGE STATUS:</b>	LISTED ON MUNICIPAL HERITAGE REGISTER

The historic St. Aidan's Church is situated at the corner of Rutland and Mugford Road in a highly visible location in the Rutland neighbourhood of Kelowna. Built in 1933 and listed on the municipal heritage register, the historic church is valued for its association with the Anglican Church, its importance to the early community of Rutland and its architectural British Arts and Crafts style associated with the Diocese's motherland.

Our firm was commissioned by the City of Kelowna to provide an independent and professional heritage impact statement of the proposed rehabilitation of the subject site. The purpose of this report is to evaluate the impact of the proposed development on character-defining elements of the historic church and to provide conservation recommendations to mitigate potential adverse impacts.





## 2. DESCRIPTION OF THE SITE

Located in the mostly residential neighbourhood of Rutland on the northeast of Kelowna's city core, the church was built in 1933 as a local community church prominently situated at a street intersection. The historic St. Aidan's Church is a one-storey structure facing west towards Rutland Road and north towards Mugford Road. To the east and south sides are residential lots with single family homes.

The post and beam construction is finished with original rock-dash stucco cladding and the roof was originally covered with cedar shingles that were later replaced with asphalt shingles.

Early alterations in 1938 included the addition of an east-facing chancel entered through a Norman arch, a later removed vestry on the north façade and an interior stucco-clad chimney.



Prominent corner location of St. Aidan's Church in Rutland, 2013 (Google Earth)



# DESCRIPTION OF THE SITE

In 1958, the original wooden entrance porch attached to the west façade was relocated to the front of the lot and repurposed as a lych gate while an enclosed front vestibule was constructed. In 1990, the historic church was deconsecrated and purchased by the City of Kelowna. The structure is not occupied and exterior openings are boarded up. The historic church is situated in the right of way and cannot be preserved in its original location.

St. Adain's Church is a listed historic resource on the municipal heritage register. The heritage value of the historic site is embodied in character-defining materials, forms, location and spatial configurations. These elements should be preserved during interventions, if possible, in order to retain the heritage character and value of the historic site.



Southwest view of St. Aidan's Church with lych gate and rock wall, 2013 (Google Earth)



### 3. STATEMENT OF SIGNIFICANCE

**NAME:** St. Aidan's Church  
**ADDRESS:** 365 Rutland Road, Kelowna  
**DATE OF CONSTRUCTION:** 1933

#### DESCRIPTION OF THE HISTORIC PLACE

St. Aidan's Anglican Church is a one-storey, front-gabled church distinguished by its square front-projecting entryway with crenellated parapets and a round-arched entry with a wood-panelled door. The church is located on a highly visible lot on Rutland Road, at the corner of Mugford Road, in the Rutland neighbourhood of Kelowna. The site is now owned by the City of Kelowna.

#### HERITAGE VALUE

St. Aidan's Anglican Church, built in 1933, is valued as a symbol of the importance of the Anglican Church to the early rural community of Rutland. It also represents the importance of local churches to rural settlements, and the central role they played in community life. The church's strategic positioning in a highly visible and central location in Rutland is a prominent statement of the importance of the Anglican Church to the early community. Rutland and East Kelowna were established as outstations of St. Michael and All Angels Anglican Church in 1912. A meeting was held in the Rutland Community Hall on January 9, 1929, to discuss the

building of a church facility. At the time, there was no place for Anglican worship in Rutland other than a small room in the Community Hall. The site for a new church was donated by Mr. and Mrs. Ben Hardie, who owned the local grocery and hardware store. The design was provided by Enoch Mugford (1879-1969), superintendent of the Black Mountain Irrigation District, and prominent local developer and contractor Hector Maranda (1879-1967) led the mostly volunteer building crew. St. Aidan's Rutland was dedicated on June 18, 1933. In 1938, a chancel and a vestry were added. Of interest is the Norman arch between the chancel and nave, a replica of the entrance to St. Aidan's first church at Lindisfarne Abbey in Northumberland, England. In 1958, the original porch was moved to the front of the lot for use as a lych gate, to allow the construction of an enclosed front vestibule.

The church is also significant as a demonstration of simple British Arts and Crafts influences, which serves to honour the Diocese's motherland and illustrates a conscious shift to a traditional style reflective of the social and economic consciousness of the interwar period. At the time, buildings were expected to display some sort of historical reference in order to demonstrate good taste and underlying conservatism. The British Arts and Crafts influence is demonstrated in the steeply pitched, overhanging roof with exposed rafters and the use of roughcast stucco.



# STATEMENT OF SIGNIFICANCE

## CHARACTER-DEFINING ELEMENTS

Key elements that define the heritage character of the St. Aidan's Anglican Church include its:

- Prominent location at the corner of Rutland and Mugford Roads in the Rutland neighbourhood
- Ecclesiastical form, scale and massing as expressed by its: rectangular plan; one-storey height; and front-gabled roof with gabled projection at side of church
- Post and beam frame construction and rock-dash stucco cladding
- Features of the British Arts and Craft style including: steeply pitched roofline with exposed rafter tails; decorated bargeboards, curved upper window openings; and entryway with curved doorway and crenellated parapet
- Exterior features such as internal chimney clad in stucco
- Original window openings, with inset Gothic pointed-arch multi-paned wooden-sash windows
- Round-arched, vertically-panelled wooden front door with original hardware
- Interior features such as fir floors and baseboards, lath-and-plaster walls, barrel-vaulted ceiling and arched entry to chancel
- Associated landscape features such as a mature deciduous tree at front of property, a portion of the original coursed rock perimeter wall, and the original porch now used as a lych gate



Interior view with Norman arch , 1938 (courtesy: City of Kelowna)



## 4. HERITAGE IMPACT STATEMENT

Proposed interventions to a historic site should adhere to Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010) outlining the guiding principles of best conservation practice. Under these guidelines the proposed relocation and rehabilitation of the historic St. Aidan's Church was evaluated. This report can be used as a planning tool to evaluate the proposed interventions and to protect and conserve the heritage character and value of the historic resource.

### 4.1 ASSESSMENT METHODOLOGY

The objective of this assessment is to identify the significance of effects on character-defining elements that likely arise from the proposed development.

The evaluation entailed a desktop review of the building information file provided by the City of Kelowna. The data included information about the historic evolution of the site, its current condition, historic and recent site photos, the Statement of Significance and copies of the proposed design concept.

The assessment methodology follows a set of criteria that assists in the evaluation of potentially beneficial and adverse impacts associated with the proposed rehabilitation. These criteria are described below and assess the level of potential impacts on the heritage value and character-defining elements of St. Aidan's Church.

#### CATEGORIES OF POTENTIAL IMPACTS

- **Magnitude:** Describes the level of physical intervention.
- **Severity:** Describes a reversible or irreversible effect.
- **Duration:** Describes a temporary or permanent effect.
- **Range:** Describes the spatial distribution of an effect (on or off site).

#### EFFECTS OF POTENTIAL IMPACTS

- **Neutral:** The development does not affect the historic significance and value of the site.
- **Beneficial:** A sympathetic impact that potentially enhances the heritage value and character.
- **Adverse:** A harmful impact that potentially diminishes the heritage value and character.

#### SCALE OF POTENTIAL IMPACTS

- **Low:** The proposed intervention is minimal and the heritage value is only slightly beneficial or adversely affected.
- **Medium:** Noticeable physical impacts are either beneficial or adverse to the heritage value and character of a site.
- **High:** The heritage value and character are either significantly enhanced or totally altered or destroyed.

#### RATING SYSTEM OF POTENTIAL IMPACTS

**Neutral:** (•)  
**Beneficial:** low (••), medium (•••), high (••••)  
**Adverse:** low (••), medium (•••), high (••••)

This report evaluates the impact the proposed development may have on the character-defining elements of the historic St. Aidan's Church. These impacts can be beneficial, neutral or adverse to the attributes of the historic structure and its site context.

In case where adverse impacts are identified, conservation recommendations to minimize any potential for diminishing the heritage value of the site are proposed for consideration. The proposed concept design also provides appropriate mitigation measures in some instances.



# HERITAGE IMPACT STATEMENT

## 4.2 DESCRIPTION OF THE PROPOSED DESIGN

The primary conservation strategy proposed for St. Aidan's Church is **Rehabilitation** with components of **Restoration** and **Preservation** of specific building elements. These treatments are described in the *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010):

### REHABILITATION

The action or process of making possible a continuing or compatible contemporary use of an historic place, or an individual component, while protecting its heritage value.

### RESTORATION

The action or process of accurately revealing, recovering or representing the state of an historic place, or of an individual component, as it appeared at a particular period in its history, while protecting its heritage value.

### PRESERVATION

The action or process of protecting, maintaining, and/or stabilizing the existing materials, form, and integrity of an historic place, or of an individual component, while protecting its heritage value.

The conceptual design package, consisting of a site plan, floor plans, elevation drawings and a landscape plan, provided a general overview over the proposed physical interventions and future use of the subject site as the Okanagan Buddhist Cultural Centre. In summary, the conceptual design considers the following interventions.

The historic St. Aidan's Church is situated in the road allowance right of way and the preservation of the structure in its original location is not feasible. It is planned to move the structure to allow for future widening of Mugford Road. The church will be relocated and placed onto new foundations on an adjacent lot. A new full basement with window wells on three sides will provide additional functional space below grade.

The main body and roof structure of the historic church will be mostly retained while a new one-storey hall will be constructed at the southeast corner of the church and connected with two new wall openings. A smaller addition with an entry at the north façade reminisces the 1938 vestry that was later removed.

Exterior character-defining elements such as the roof structure, post and beam walls with stucco cladding, and wood-sash windows will be mainly preserved and restored. Original materials that are currently missing will be reinstated including the original cedar shingle roofing material.

With regards to interior character-defining elements the concept design mentions the retention of the historic Norman arch. It is assumed that the barrel-vaulted ceiling of the church will be retained. The conservation treatments of other interior elements such as the original fir floor or baseboards is not described in the design concept.

Historic landscape features that are still extant including the wooden lych gate and a rock wall on the west perimeter will be dismantled and relocated as part of the proposed rehabilitation of the historic site.



## 4.3 HERITAGE IMPACT ASSESSMENT

The proposed rehabilitation of the historic St. Aidan's Church and the adaptive re-use was evaluated under Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada* to ensure good conservation practice is followed. Under these guidelines the design of new additions to historic places should adhere to **Standard 11**:

(a) Conserve the heritage value and character-defining elements when creating any new additions to an historic place or any related new construction.

(b) Make the new work physically and visually compatible with, subordinate to, and distinguishable from the historic place.

The conceptual design was evaluated based on this Standard and the report identifies beneficial and adverse impacts associated with the proposed rehabilitation including their level of impact on the heritage value and character-defining elements of St. Aidan's Church.

Recommendations for mitigating potentially adverse impacts are outlined. These mitigation measures may be considered to avoid or limit potentially adverse impacts on the heritage value and character of the heritage resource.

## A. LOCATION

### Character-defining Element

***Prominent location at the corner of Rutland and Mugford Roads in the Rutland neighbourhood.***

### Description of Impact

- Proposed relocation approximately 56 feet south and slightly east to an adjacent lot. It appears that the original lot and adjacent lot will be consolidated.
- The east-west direction of the church will be retained.

### Level of Impact (••)

- The original setting of the historic church will not be preserved. This is a permanent intervention and irreversible if the road will be widened in the future.
- The relocation in close proximity to the original location while reinstating the prominent corner location and retaining the original east-west direction of the church, are design strategies that respect the historical setting of the church and its spatial relations with its surroundings.

### Conservation Recommendation

- Photographically document and measure dimensions of exterior and interior character-defining elements before any work commences on site.



West elevation, 1933 (courtesy: City of Kelowna)



# HERITAGE IMPACT STATEMENT

## B. EXTERIOR ARCHITECTURAL FEATURES

### Character-defining Element

*Ecclesiastical form, scale and massing as expressed by its: rectangular plan; one-storey height; and front-gabled roof with gabled projection at side of church.*

### Description of Impact

- The form, scale and massing of the historic church will be mainly retained except for the new one-storey "Ben Hardie" hall addition at the southeast corner. The height of the new hall is lower than the original church roof.
- It is proposed to finish the hall with new stucco cladding matching the original.
- The appearance of the west and north façades will be preserved except for a new north facing entry reminiscing the 1938 vestry.
- It appears that the original height of the church will be reinstated when lowered onto new foundations at the new location.
- A new full basement with window wells on the north, east and south sides provides additional functional space below grade.

### Level of Impact (•)

- The proposed additions are permanent and reversible interventions.
- The essential form and integrity of the historic church is being retained even if the new additions may be removed in the future.
- The visual impact of the proposed new hall is minimal and barely visible from the street intersection.
- The overall design of the new additions is sympathetic to the historic structure.
- Alterations below grade (full basement and window wells) do not diminish the heritage value and character of the church.
- The additional functional spaces (hall, north entry, full basement) are highly beneficial for the re-use of the vacant church.

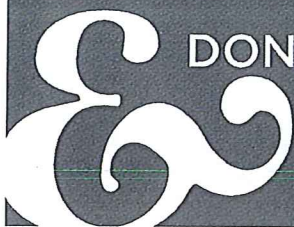
### Conservation Recommendations

- It should be confirmed that the relation of the original roof ridge to grade will be retained in the new location (the church should not be significantly raised).
- The relocation of the structure including temporary bracing should not damage character-defining elements.



Southwest elevations, 1933 (courtesy: City of Kelowna)





### Character-defining Element

***Post and beam frame construction and rock-dash stucco cladding.***

#### Description of Impact

- The post and beam frame construction will be mainly retained and presumably requires structural and/or seismic upgrades.
- The original rock-dash stucco cladding will be preserved and presumably repaired where required.
- Interventions entail new wall openings for proposed additions.
- New building services (MEP) will presumably be installed.

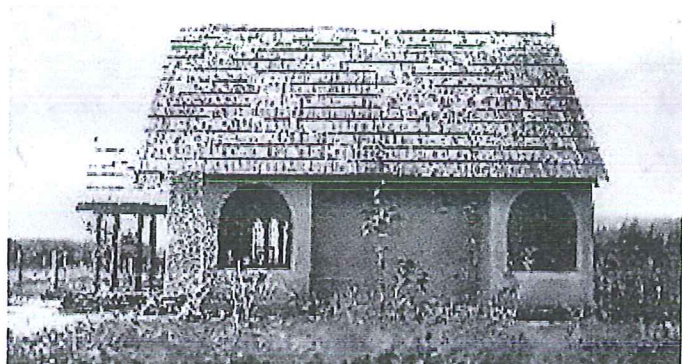
#### Level of Impact (•) potentially (••)

- Structural/seismic upgrades and new building services have potentially a high visual, permanent and irreversible impact on exterior and/or interior character-defining elements. However, they are essential for the adaptive re-use of the church and contribute to the long-term use and thus protection of the historic resource.

- The restoration and repair of the historic rock-dash stucco cladding is beneficial as it will preserve the historic fabric.
- The new wall openings connecting the new additions with the historic church are not visible from the outside.

#### Conservation Recommendations

- Structural and/or seismic upgrades and the installation of services (MEP) should be sensibly designed to minimize the impact on character-defining elements.
- Repair of the historic rock-dash stucco cladding should be carried out with suitable repair products.
- The stucco cladding of the new hall and north entry additions should be visually distinguishable from the historic church in order to follow good conservation practice. This can be achieved with a slightly different stucco colour of the same hue as the original stucco finish or different stucco surface texture.



South elevation with original wooden porch, 1933 (courtesy: City of Kelowna)



# HERITAGE IMPACT STATEMENT

## Character-defining Element

*Features of the British Arts and Craft style including: steeply pitched roofline with exposed rafter tails; decorated bargeboards, curved upper window openings; and entryway with curved doorway and crenellated parapet.*

## Description of Impact

- The proposed design mainly preserves the architectural British Arts and Crafts features except in areas where these elements are disturbed to allow for the construction of new additions.

## Level of Impact (•)

- The impact is minimal and only in localized areas with new additions. The interventions are permanent but can be reversed in the future.
- It is assumed that historic rafter tails, bargeboards, curved upper window openings, and entryway with curved doorway and crenellated parapet will be repaired as required to increase the lifespan of the historic fabric.
- It is assumed that the steeply pitched roofline and its relation to grade will be preserved.

## Conservation Recommendations

- Replace decayed or missing Arts and Crafts features to match originals in material and form.
- Reinstall the original height of the church in its new location.

## Character-defining Element

*Exterior features such as internal chimney clad in stucco.*

## Description of Impact

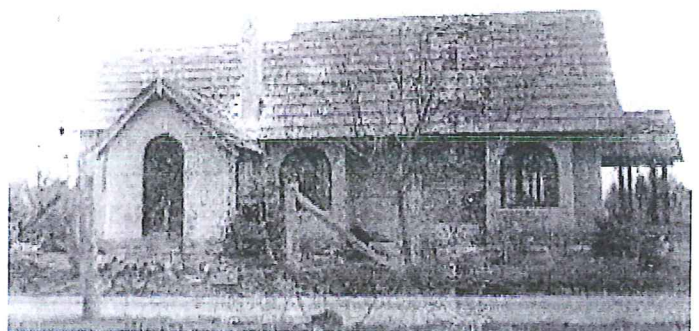
- The internal stucco-clad chimney will be retained as a character-defining element.

## Level of Impact (••)

- The retention of the chimney is beneficial to protect the heritage character of the church.

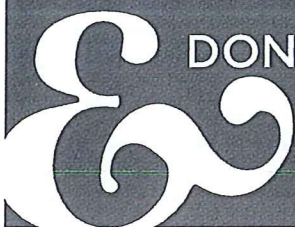
## Conservation Recommendations

- The chimney should be relocated with the structure if possible and not deconstructed and rebuilt.
- The chimney can be decommissioned if desired while the exterior stack rising above the roof should be preserved and repaired as required.
- Structural restraints of the chimney may be required and should be designed to minimise the visual impact when viewed from the street.



North elevation with chimney and vestry, 1938 (courtesy: City of Kelowna)





### Character-defining Element

*Original window openings, with inset Gothic pointed-arch multi-paned wooden-sash windows.*

### Description of Impact

- The historic window openings will be retained and the multi-paned wood-sash windows and glazing restored as required.

### Level of Impact (•••)

- The historic windows in their original openings are important features of the church.
- The restoration of the historic window sashes and glazing contributes significantly to extend the lifespan of these character-defining elements.

### Conservation Recommendations

- The single glazing of the historic multi-paned windows should be preserved. Missing or damaged glass should be replaced in kind. Original hardware should be preserved.
- Thermal performance of the historic windows can be increased with storm windows.
- New windows in the proposed new additions may utilize modern technology (e.g. double-panes), which will also help in distinguishing old from new.

### Character-defining Element

*Round-arched, vertically-panelled wooden front door with original hardware.*

### Description of Impact

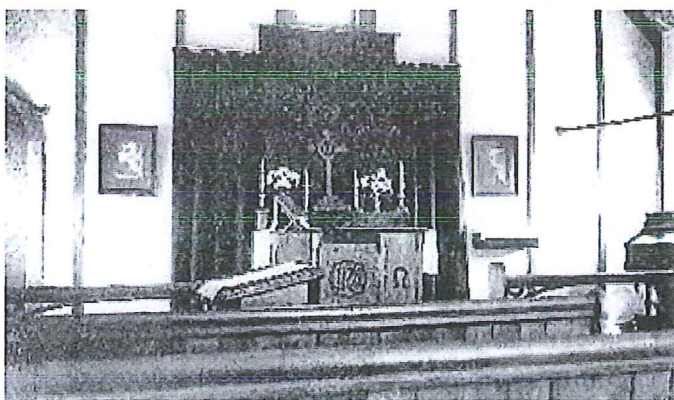
- The original panelled wooden front door will be retained and repaired as required.
- Information about the original door hardware was not available.

### Level of Impact (•••)

- The restoration of the wooden front door as a character-defining element is highly beneficial.

### Conservation Recommendations

- The original hardware should be preserved and repaired if possible.
- The design of the new entry door in the north-facing addition can be inspired by the west-facing front door while installing new hardware sympathetic to the historic character of the church.



View of altar, 1933 (courtesy: City of Kelowna)



# HERITAGE IMPACT STATEMENT

## 3. INTERIOR ARCHITECTURAL FEATURES

### Character-defining Element

*Interior features such as fir floors and baseboards, lath-and-plaster walls, barrel-vaulted ceiling and arched entry to chancel.*

### Description of Impact

- The Norman arch will be retained.
- Information if other interior features (fir floors, baseboards, lath-and-plaster walls, barrel-vaulted ceiling) will be retained is not available.

### Level of Impact (●) potentially (●●)

- The permanent retention of the Norman arch as a character-defining element is beneficial.
- It is assumed that other listed interior features, in particular the barrel-vaulted ceiling, will be retained and restored where possible.
- Structural/seismic and services (MEP) upgrades may have potentially low to high visual and permanent impacts on the interior finishes. Any alterations will also be difficult to reverse in the future. However, upgrades are required to rehabilitate and re-use the vacant structure, which is strongly desired in order to extend the lifespan of the historic church.

### Conservation Recommendations

- Structural and/or seismic upgrades and new building services should be respectful in their design and aim to preserve the interior historic fabric as much as possible.
- If character-defining elements need to be disturbed, historic materials should be salvaged and reinstated if possible. Otherwise new materials to match historic should be installed.

## 4. LANDSCAPE FEATURES

### Character-defining Element

*Associated landscape features such as a mature deciduous tree at front of property, a portion of the original coursed rock perimeter wall, and the original porch now used as a lych gate.*

### Description of Impact

- The proposed relocation of the church requires the dismantling and reinstatement of historic materials (rock wall and lych gate) in new locations.
- Vegetation listed as character-defining elements may have to be removed.
- Overall the existing landscape surrounding the relocated church will be redesigned and includes new features (pagoda at northwest corner, parking lot to the east, etc.).

### Level of Impact (●●)

- The dismantling and relocation of the rock wall and historic lych gate are moderately adverse impacts, also considering that the lych gate (originally the wooden entrance porch) has been relocated in the past. The design proposes to reinstate their current spatial and functional relation to the church at their new locations as a mitigation measure.
- Mature trees may have to be removed as part of the rehabilitation of the site. This would be a permanent impact, which can be mitigated by planting new trees of the same species.
- New vegetation and proposed landscape structures (pagoda) may potentially obstruct the view of the church at the prominent corner location. This would have a permanent but reversible impact.
- The new parking lot to the east does not diminish the heritage character of the church and provides easier access.
- Overall the new landscape design concept visually enhances the open space surrounding the church and its continuous use as a cultural-spiritual place.



## 5. CONCLUSION

### Conservation Recommendations

- The lych gate and rock wall should be photographically documented and measured before carefully salvaged and reinstated in their new locations.
- Landscape features may be designed as such that they do not considerably obscure the church viewed from the street intersection.

### 5. CONCLUSION

The heritage impact statement has identified a number of effects the proposed development potentially has on the heritage value and character of the historic St. Aidan's Church. These impacts have mostly beneficial effects on the character-defining elements as they generally aim to retain and restore important architectural features. This approach prevents further deterioration of the historic fabric while allowing for the rehabilitation and future use of the vacant church.

Considering that the relocation of the structure is unavoidable, which is the most significant adverse impact, the proposed new location in close proximity to the original setting is a good mitigation measure that reinstates the prominent corner location.

Structural and/or seismic upgrades to meet code requirements and the installation of modern services may potentially harm exterior or interior character-defining elements. These interventions, however, provide an interior functional space that meets contemporary standards. A design that minimises impacts these alterations potentially have on character-defining elements would follow good conservation practice.

The proposed new additions (south hall, north entry) do not diminish the integrity of the historic resource and their design and locations are compatible with the historic character of the church.

Recommendations for mitigation measures where deemed appropriate, are listed in the assessment and may be considered during the planning process for the historic site. Overall the proposed design for the rehabilitation of St. Aidan's Church is respectful to the historic resource and follows Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada*.



# CONCLUSION

## Appendix A – Resources

Conceptual design drawings (2013), Peter J. Chataway B.Arch.

Conceptual site plan (2013), Bench Site Design

*Heritage Impact Assessment in British Columbia* (2013), BC Heritage Branch

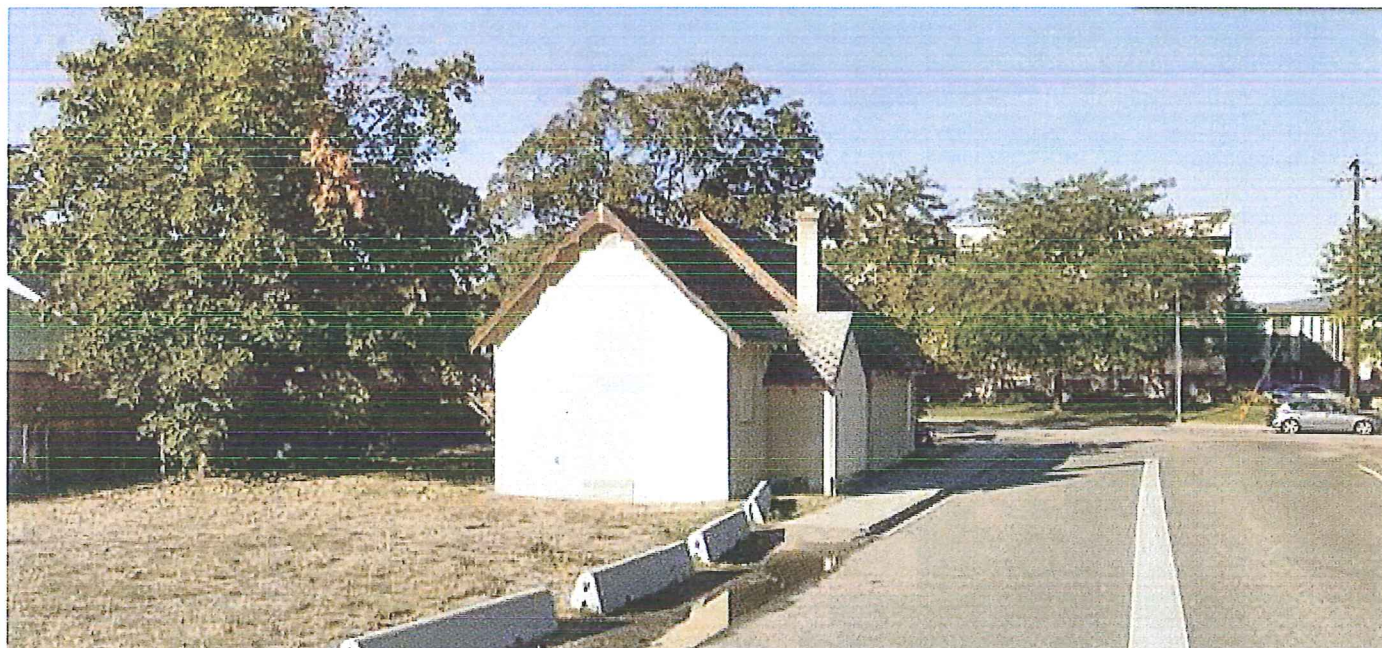
*Standards and Guidelines for the Conservation of Historic Places in Canada* (2010), Parks Canada

St. Aidan's Church Statement of Significance, City of Kelowna, Heritage Register

## Additional Resources

U.S. National Park Service:

- Preservation Brief 9: The Repair of Historic Wooden Windows
- Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns
- Preservation Brief 19: The Repair and Replacement of Historic Wooden Shingle Roofs
- Preservation Brief 22: The Preservation and Repair of Historic Stucco
- Preservation Brief 41: The Seismic Retrofit of Historic Buildings. Keeping Preservation in the Forefront.



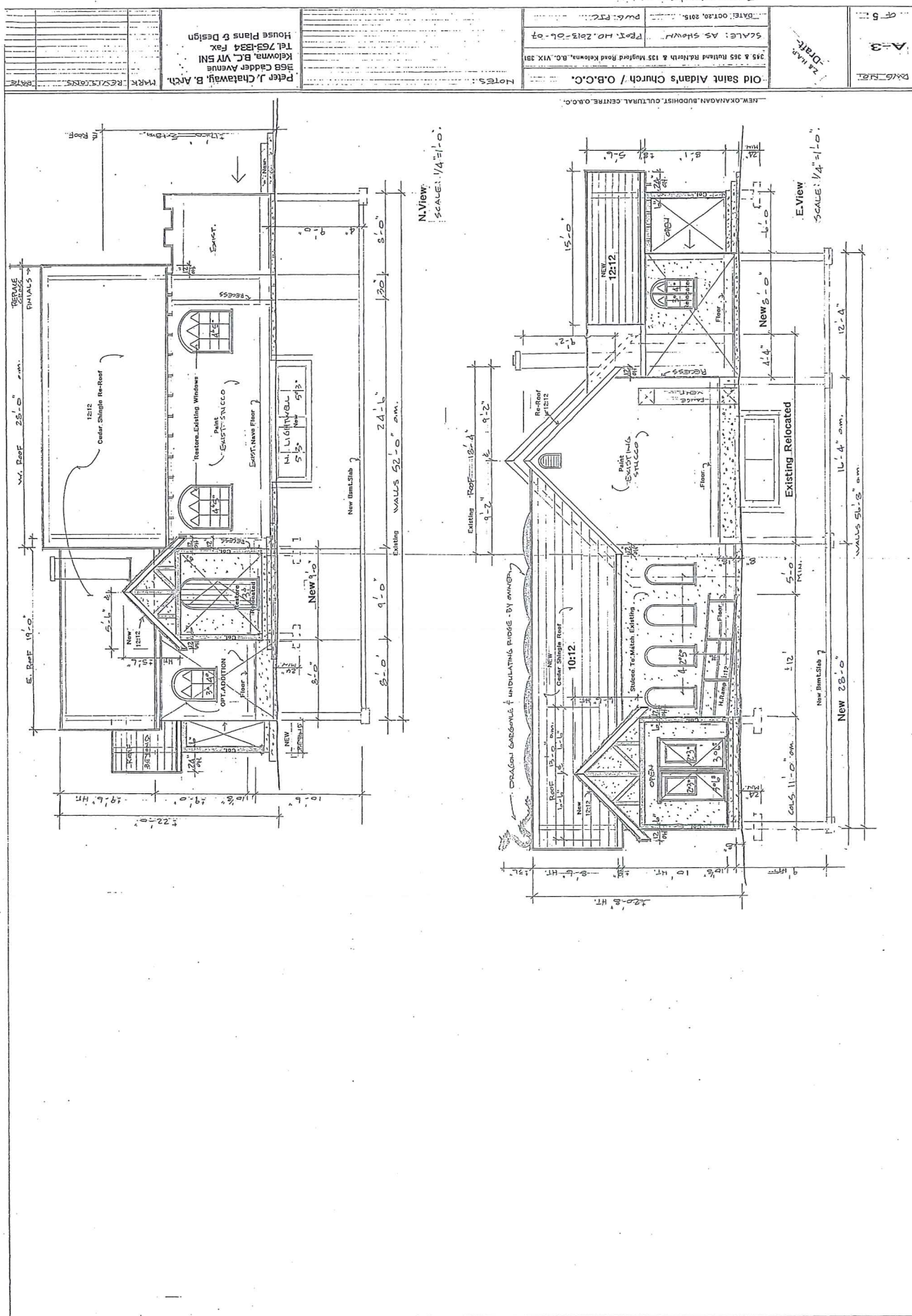
View of northeast elevations, 2013 (Google Earth)













Permit # 215-0059



110



**CITY OF KELOWNA**  
**BYLAW NO. 11243**  
**Z15-0059 - City of Kelowna**  
**135 Mugford Road & 345 Rutland Road N**

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A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of that part of Lot 3 which may be more particularly described as follows: commencing at the north east corner of the area covered by Plan B3922; thence following the north boundary of said Lot 3, Plan 2478 bearing south 89 degrees 48 minutes east for a distance of 50 feet; thence south 75 feet; thence bearing 89 degrees and 48 minutes west for a distance of 50 feet to the south east corner of the said area covered by Plan B3922; thence following the east boundary of said area north for a distance of 75 feet to the point of commencement, and containing by admeasurement 0.086 of an acre more or less; Section 26, Township 26, ODYD, Plan 2478 located on Mugford Road, Kelowna, B.C., and Lot 1, Section 26, Township 26, ODYD, Plan 9290, located on Rutland Road N, Kelowna, B.C., from the RU1 - Large Lot Housing zone to the P2 - Education and Minor Institutional zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

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(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



# REPORT TO COUNCIL



**Date:** May 2, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (RR)

**Application:** Z15-0053 / OCP15-0016      **Owner:** Raif Holdings Ltd.,  
Inc. No. 129371

**Address:** 820 Finns Road      **Applicant:** McBeetle Holdings Ltd

**Subject:** OCP Amendment and Rezoning Application

**Existing OCP Designation:** IND - Industrial

**Proposed OCP Designation:** SC - Service Commercial

**Existing Zone:** A1 - Agriculture

**Proposed Zone:** C10 - Service Commercial

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## 1.0 Recommendation

THAT Official Community Plan Map Amendment Application No. OCP15-0016 to amend Map 4.1 in the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of Lot 1, Section 34, Township 26, ODYD, Plan 18592 located at 820 Finns Road, Kelowna, BC from the IND - Industrial designation to the SC - Service Commercial and PARK - Major Park/Open Space designations be considered by Council;

AND THAT Rezoning Application No. Z15-0053 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1, Section 34, Township 26, ODYD, Plan 18592, located at 820 Finns Road, Kelowna, BC from the A1 - Agriculture zone to the C10 - Service Commercial and P3 - Parks and Open Space zones be considered by Council;

AND THAT the OCP Amending Bylaw and Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Council considers the Public Information Session public process to be appropriate consultation for the *Purpose* of Section 475 of the *Local Government Act*, as outlined in the Report from the Community Planning Department dated May 2, 2016;

AND THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Form and Character Development Permit for the subject property.

AND THAT final adoption of the Rezoning Bylaw be considered in conjunction with the issuance of an Environmental Development Permit for the subject property.

AND FURTHER THAT prior to final adoption of the Rezoning Bylaw, that the Riparian Management Area be dedicated to the City as protected area.

## **2.0 Purpose**

To amend the Official Community Plan to change the future land use designation and rezone the subject property to allow the lands to be used for service commercial development.

## **3.0 Community Planning**

Community Planning recommends that the bylaws be given initial consideration and forwarded to public hearing. The property is currently vacant and, given its size and location, is unlikely to be developed for agricultural use. The property is not within the ALR.

While the Official Community Plan designates the property for industrial use, the amendment to Service Commercial is in keeping with the neighbourhood development pattern. The proposed use on the site, a car dealership, is also in keeping with similar land uses along Highway 97 in the area. Orchard Ford is located to the south of the property, and an application for a new automotive dealership has been received for another dealership on an adjoining property.

Prior to any development occurring, the applicant will be required to apply for a Development Permit.

## **4.0 Proposal**

### **4.1 Background**

The property is an undeveloped lot between Highway 97 and Finns Road. The property is currently zoned A1 - Agriculture, but is not being used for any agricultural purposes. The property is currently designated for future Industrial use in the OCP Future Land Use Map.

The subject property, as well as several in the area, are subject to negotiations regarding land swaps for the highway expansion and future road re-alignments. The land swap will not effect the applicant's development plans for the site, and the property will be usable as a C10 zoned parcel after the swap is completed.

### **4.2 Project Description**

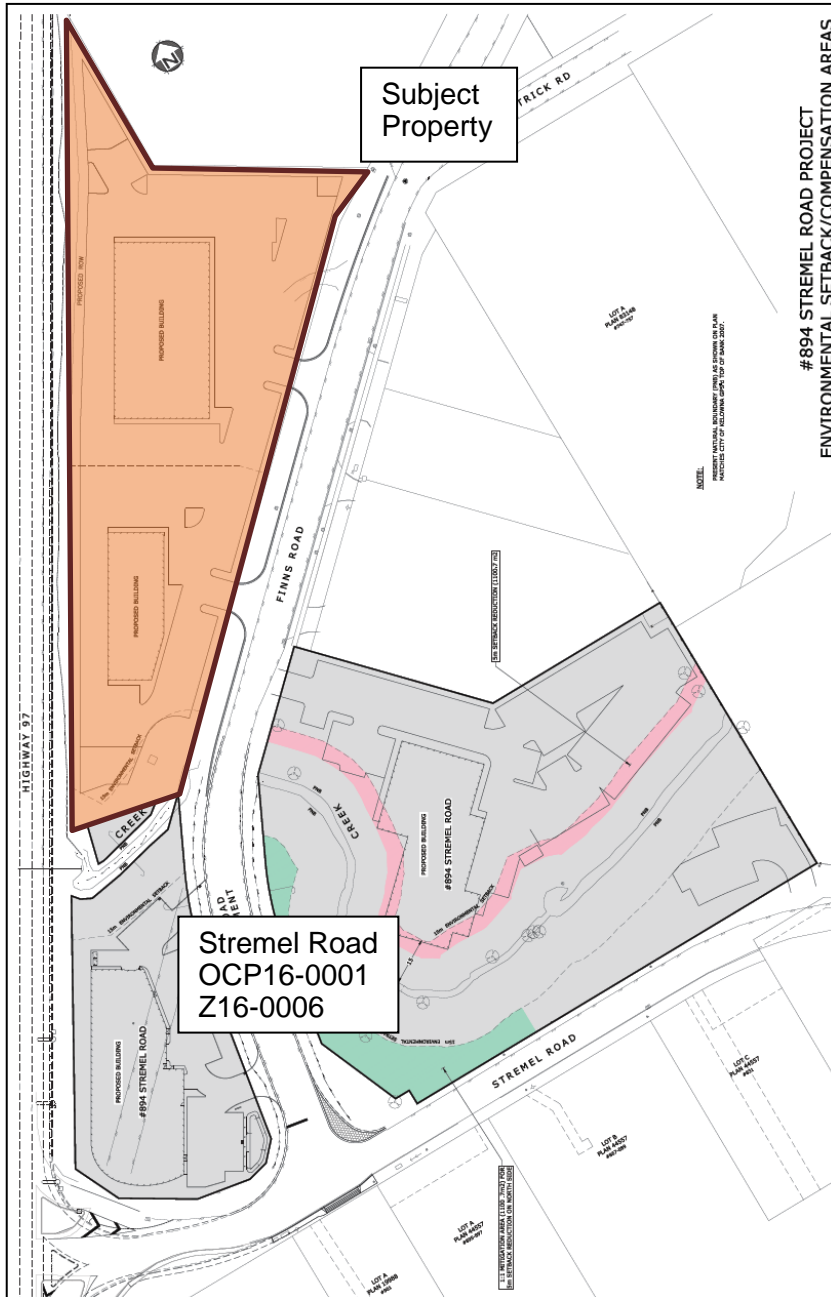
The applicant has made application to amend the Official Community Plan and Zoning Bylaw to allow the property to be used for service commercial purposes under the C10 zone. The applicant has indicated that the property will be used as a car dealership. Designs for the dealership will be submitted as part of the development permit, which will be a condition of zoning bylaw approval.

### **4.3 Site Context**

The property is a vacant parcel that tapers out between Highway 97 and Finns Road. It is located in an area with primarily service commercial uses, with a boat storage and business park nearby.

The property will be impacted by the 6-laning of Highway 97, and a 15 m road dedication will be required along the northerly property line for future road alignment.

Gopher Creek runs near the south boundary of the property. While the creek itself is outside of the property, a portion of the 15 m riparian management area runs into the property. This land will be dedicated to the city as a condition of bylaw adoption for its long term protection.

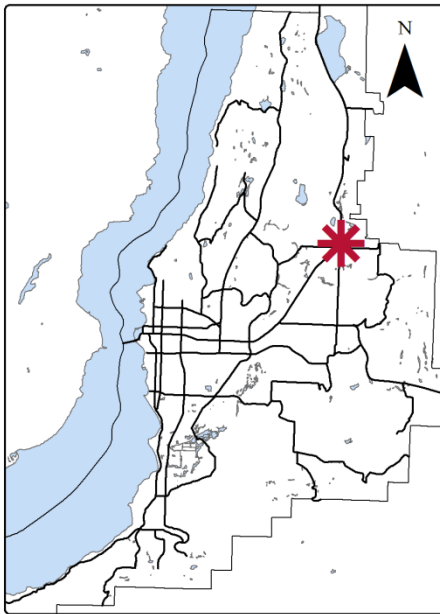


Adjacent land uses are as follows:

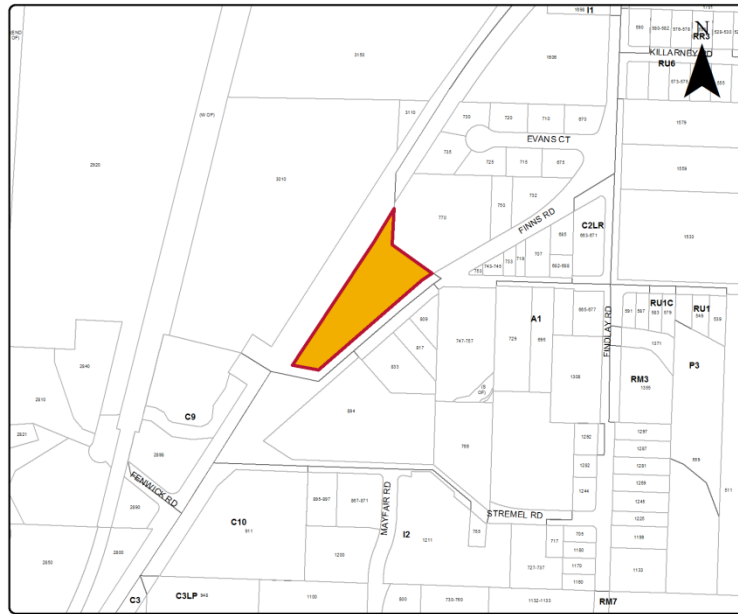


Orientation	Zoning	Land Use
North	I2 - General Industrial	Boat Storage / Building
East	I1 - Business Industrial	Business Park
South	RU1 - Large Lot Housing	Residence
West	A1 - Agriculture	Vacant / Pasture

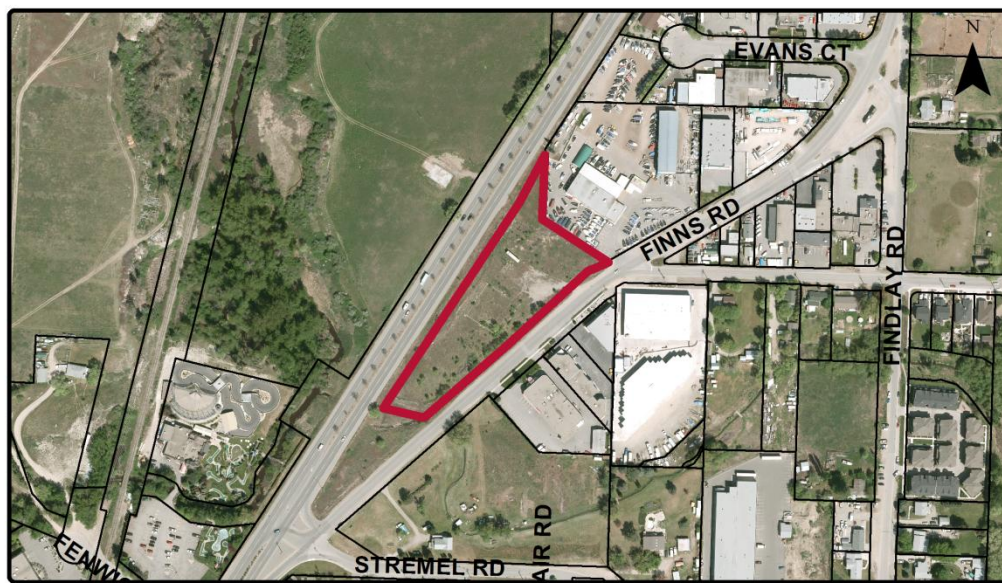
### Subject Property Map:



CONTEXT



NEIGHBOURING ZONING



SUBJECT PROPERTY

## 5.0 Current Development Policies

## 5.1 Kelowna Official Community Plan (OCP)

### Service Commercial (SC)

Developments for the provision of business support services and other commercial uses requiring extensive on-site storage. Building densities would be consistent with the provision of the C10 zone of the Zoning Bylaw.

### Riparian Management Area

Table 12.1 establishes a 15m Riparian Management Area around Francis Brook Creek.

### Dedication of Linear Parks

At subdivision and rezoning for all development types secure a minimum 10-metre wide linear corridor for public access as included in Table 5.1 Linear Park - Public Access and/or are shown on Map 5.9 - Linear Corridors / Paths. The 10-metre wide corridor may be in addition to, and outside, any riparian management area requirements imposed through the Environmental Development Permit (see Chapter 12) requirements of the OCP. On the private property side of the public access corridor, the City may, as necessary, consider stipulating additional "no disturb" zones. Lot line adjustments or other subdivision applications not resulting in the creation of new lots suitable for the construction of buildings permitted under the applicable zoning will be considered exempt from this policy.

## 5.2 Public Notification & Consultation for Development Applications Policy #367

The applicant has delivered notifications to surrounding property owners.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

No concerns at this time, will make further comments during the Development Permit Process.

### 6.2 Development Engineering Department

See attached document dated October 29, 2015.

### 6.3 Bylaw Services

No concerns

### 6.4 Iplan / Parks Planning

1. The RMA should be dedicated titled property in favour of the City and zoned P3 Parks and Open Space for environmental protection, drainage and recreation.
2. A 1.2m high black chain link fence built to City standards should be installed 15cm inside the new western private property line to delineate the private / public parkland.

### 6.4 Fire Department

No concerns at this time, will make further comments during the Development Permit Process.

### 6.5 Ministry of Transportation

No concerns at this time, bylaw will require Ministry approval.

## 7.0 Application Chronology

Date of Application Received: Sept. 21, 2015

Report prepared by:

\_\_\_\_\_  
Ryan Roycroft, Planner

Reviewed by: ☐ Terry Barton, Urban Planning Manager

Approved for Inclusion: ☐ Ryan Smith, Community Planning Department Manager

### Attachments:

Development Engineering Memorandum



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## CITY OF KELOWNA

# MEMORANDUM

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**Date:** October 29, 2015  
**File No.:** Z15-0053  
**To:** Urban Planning (RR)  
**From:** Development Engineering Manager  
**Subject:** 820 Finns Road      Zone: A-1 to C-10

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The Development Engineering Department has the following comments and requirements associated with this application. The road and utility upgrading requirements outlined in this report will be a requirement of this development.

These are Development Engineering comments/requirements and are subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.

The Development Engineering Technologist for this project is Jason Ough

### 1. **General**

These are Development Engineering comments/requirements and are subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.

### 2. **Domestic Water and Fire Protection**

- (a) The property is located within the Black Mountain Irrigation District (BMID) service area. The water system must be capable of supplying domestic and fire flow demands of the project in accordance with the Subdivision, Development & Servicing Bylaw
- (b) A water meter is mandatory for each property and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. Boulevard landscaping, complete with underground irrigation system, must be integrated with the on-site irrigation system.

### 3. **Sanitary Sewer**

The developer's consulting mechanical engineer will determine the development requirements of the proposed development and establish the service needs. The existing lot is serviced with a 150mm diameter sanitary service. Only one service per lot will be permitted for this development. If required, the applicant will arrange for the removal and disconnection of the existing service and the installation of one new larger service at the applicants cost.

#### **4. Storm Drainage**

The developer must engage a consulting civil engineer to provide a storm water management plan for the site, which meets the requirements of the Subdivision, Development and Servicing Bylaw No. 7900. The storm water management plan must also include provision of lot grading plan, minimum basement elevation (MBE), if applicable, and provision of a storm drainage service for the development and / or recommendations for onsite drainage containment and disposal systems.

#### **5. Road Improvements and Dedication**

- (a) There is a project identified in the 2010 - 2030 OCP to extend Fitzpatrick Road to the west and connect to Highway 97 N. The developer is required to provide a 15m road dedication area along the north property line of 820 Finns Road.
  - (i) The developer will submit an engineered design with the following dimensions measured from the existing property line:  
0.45m Curb, (2) 4.9m lanes, 0.45m curb, 2.5m Blvd, 1.5m sidewalk and 0.3m gap to the property line.
  - (ii) Design will include piped storm drainage system, fillet pavement, boulevard grading street lights, and adjustment and/or re-location of existing utility appurtenances, if required, to accommodate this construction.
  - (iii) Parallel right turn lane will be designed to BC MOTI standards and with required property corner rounding and island with crosswalk.
- (b) The Ministry of Transportation Hwy 97 widening project design is near completion. The developer is responsible for Highway 97 frontage improvements as per MOTI design and bonding is required for these works. Please contact Andrew Albiston for design details.
  - (i) Parallel right turn lane should be designed to BC MOT standards and with required property corner rounding and island with crosswalk;
- (c) Finns Road must be upgraded to a full urban standard (SS-R5)
  - (ii) Design will include separate sidewalk, landscaped boulevard complete with street trees, curb and gutter, piped storm drainage system, fillet pavement, boulevard grading street lights, and adjustment and/or re-location of existing utility appurtenances, if required, to accommodate this construction.
- (d) The estimated cost of required road improvement works, for bonding purpose, must be determined based upon a design provided by the developer to be reviewed by the City of Kelowna and MOTI.

#### **6. Electric Power and Telecommunication Services**

The electrical and telecommunication services to this building must be installed in an underground duct system, and the building must be connected by an underground service. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost.

**7. Design and Construction**

- (a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- (b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- (c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- (d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.
- (e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Development Engineering Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

**8. Servicing Agreements for Works and Services**

- (a) A Servicing Agreement is required for all offsite works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- (b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

**9. Other Engineering Comments**

- (a) Provide all necessary Statutory Rights-of-Way for any utility corridors required, including those on proposed or existing City Lands.
- (b) If any road dedication affects lands encumbered by a Utility right-of-way (such as Terasen, etc.) please obtain the approval of the utility prior to application for final subdivision approval. Any works required by the utility as a consequence of the road dedication must be incorporated in the construction drawings submitted to the City's Development Manager.

**10. Development Permit and Site Related Issues**

- (a) Access and Manoeuvrability
  - (i) An SU-9 standard size vehicle must be able to manoeuvre onto and off the site without requiring a reverse movement onto public roadways. If the development plan intends to accommodate larger vehicles movements should also be illustrated on the site plan.



- (ii) Perimeter access must comply with the BC Building Code. Fire Truck access designs and proposed hydrant locations will be reviewed by the Fire Protection Officer.

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Steve Muenz, P. Eng.  
Development Engineering Manager

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# CITY OF KELOWNA

## BYLAW NO. 11246

### Official Community Plan Amendment No. OCP15-0016 Raif Holdings Ltd., Inc. No. 129371 820 Finns Road

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A bylaw to amend the "*Kelowna 2030* - Official Community Plan Bylaw No. 10500".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT Map 4.1 - **GENERALIZED FUTURE LAND USE** of "*Kelowna 2030* - Official Community Plan Bylaw No. 10500" be amended by changing the Generalized Future Land Use designation of portions of Lot 1, Section 34, Township 26, ODYD, Plan 18592, located on Finns Road, Kelowna, B.C., from the IND - Industrial designation to the SC - Service Commercial designation and PARK - Major Park / Open Space designation as per Map "A" attached to and forming part of this bylaw;
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

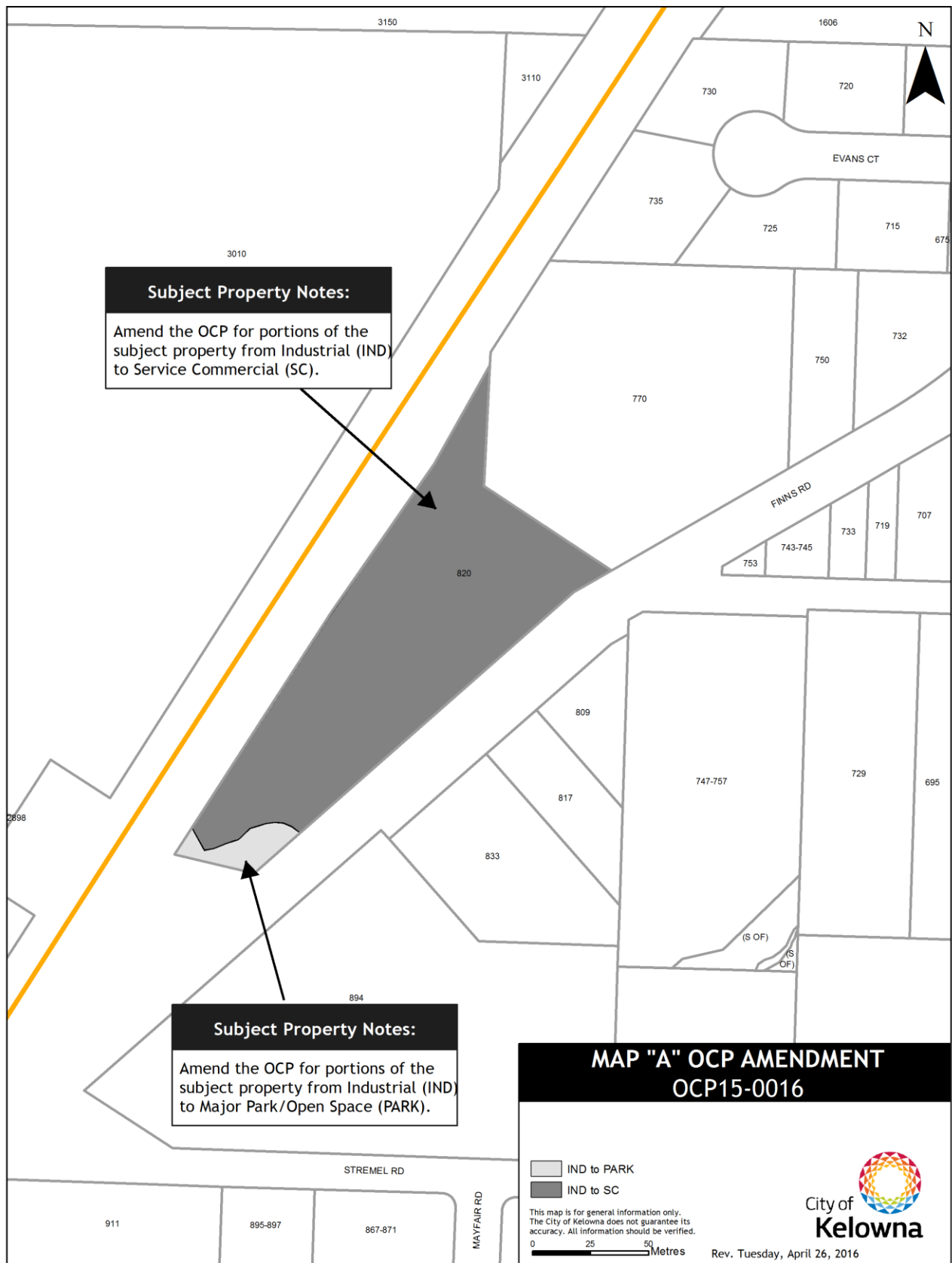
Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk





**CITY OF KELOWNA**  
**BYLAW NO. 11247**  
**Z15-0053 - Raif Holdings Ltd., Inc. No. 129371**  
**820 Finns Road**

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of portions of Lot 1, Section 34, Township 26, ODYD, Plan 18592 located on Finns Road, Kelowna, B.C., from the A1 - Agriculture 1 zone to the C10 - Service Commercial zone and P3 - Parks and Open Space zone as per Map "B" attached to and forming part of this bylaw.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act

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(Approving Officer-Ministry of Transportation)

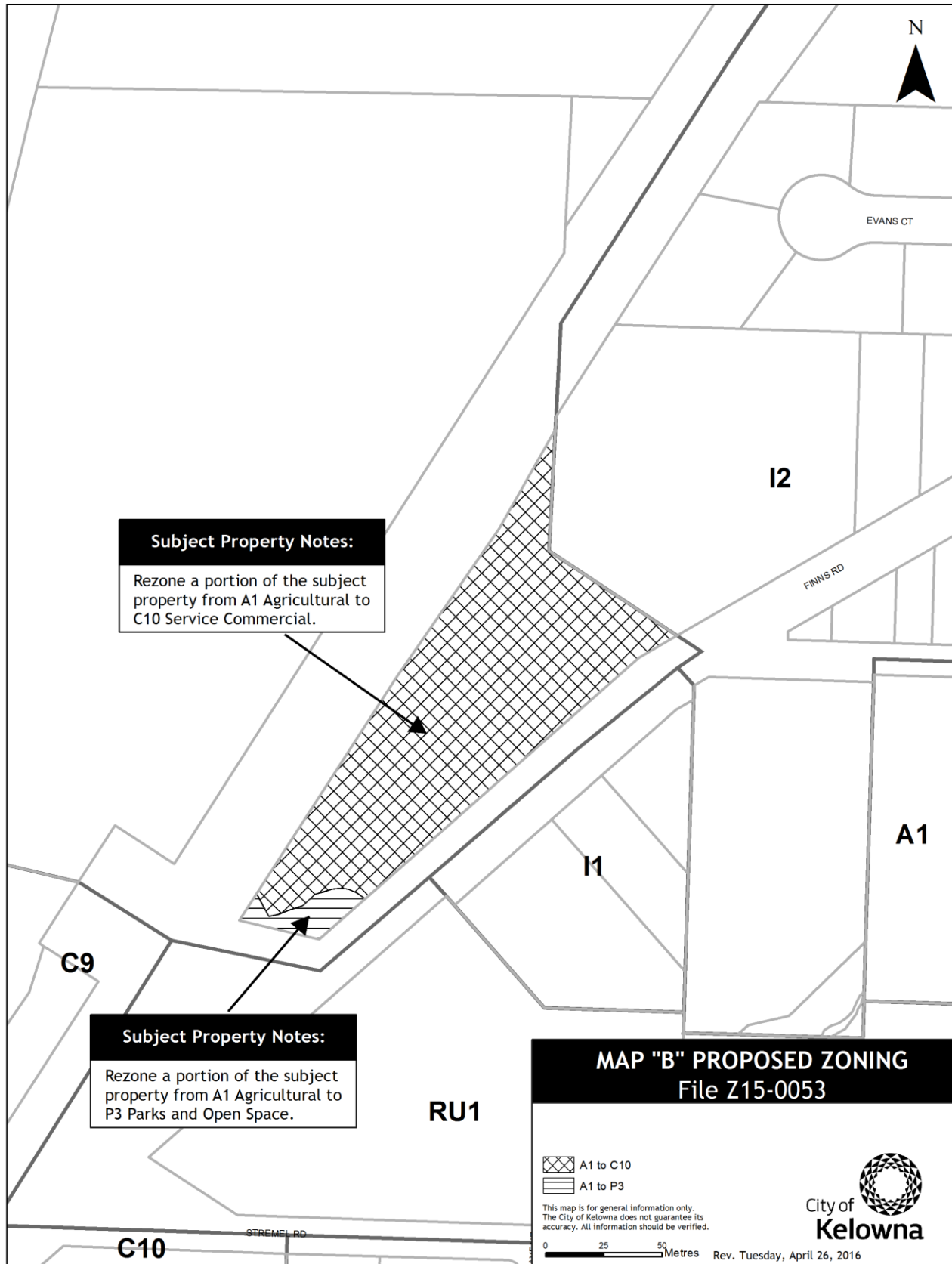
Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



# REPORT TO COUNCIL



**Date:** May 2, 2016

**RIM No.** 1250-30

**To:** City Manager

**From:** Community Planning Department (RR)

**Application:** Z16-0006

**Owner:** McBeetle Holdings

**Address:** 894 Stremel Road

**Applicant:** McBeetle Holdings

**Subject:** Rezoning Application

**Existing OCP Designation:** IND - Industrial

**Proposed OCP Designation:** COMM - Commercial / PARK - Major Park / Open Space

**Existing Zone:** RU1 - Large Lot Housing

**Proposed Zone:** C10 - Service Commercial / P3 - Parks and Open Space

---

## 1.0 Recommendation

THAT Official Community Plan Map Amendment Application No. OCP16-0001 to amend Map 4.1 in the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of portions of Lot A, Section 34, Township 26, ODYD Plan EPP53299 located at 894 Stremel Road, Kelowna, BC from the IND - Industrial designation to the SC - Service Commercial designation and the PARK - Major Park / Open Space designation, as shown on Map "A" attached to the Report from the Community Planning Department dated May 2, 2016 be considered by Council;

AND THAT Rezoning Application No. Z16-0006 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of portions of Lot A, Section 34, Township 26, ODYD Plan EPP53299 located at 894 Stremel Road Kelowna, BC from the RU1 - Large Lot Housing zone to the C-10 Service Commercial and P3 - Parks and Open Space zone as shown on Map "A" attached to the Report from the Community Planning Department dated May 2, 2016, be considered by Council;

AND THAT the OCP Amending Bylaw and Rezoning Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Council considers the Public Hearing process to be appropriate consultation for the Purpose of Section 475 of the *Local Government Act*;



AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Community Planning Department dated April 25<sup>th</sup>, 2016);

AND THAT final adoption of the Rezoning Bylaw be considered in conjunction with the issuance of an Environmental Development Permit for the subject property;

AND THAT prior to final adoption of the Rezoning Bylaw, that the Riparian Management Area be dedicated to the City as protected area;

AND FURTHER THAT final adoption of the Rezoning Bylaw be considered in conjunction with Council's consideration of a Form and Character Development Permit for the subject property.

## **2.0 Purpose**

To consider an OCP and Zoning Bylaw amendment application to rezone a portion of the subject property to facilitate the construction of an automobile dealer, and dedicate a portion of the property as parkland.

## **3.0 Community Planning**

Community Planning supports granting the bylaws first reading and advancing them to Public Hearing. The proposed use, a luxury car dealership, is not out of character for the area. There is already a car dealership directly to the south of the site and a proposal for another two dealerships to the north.

The rezoning will allow the City to acquire and protect land along Francis Brook Creek. The City will acquire 10 m to the north of the creek and the majority of the lands to the south, exceeding 15 m in depth. Francis Brook Creek is an important drainage corridor and habitat area, and the City will be able to protect it in perpetuity.

## **4.0 Proposal**

### **4.1 Background**

The subject property has been reconfigured as part of the Highway 97 six laning project. The City Real Estate group has worked closely with the owner and the Ministry of Transportation to realign roads in the area to best accommodate the highway and leave developable properties.

### **4.2 Project Description**

The applicant would like to construct an automobile dealership on the subject property. The first stages of the approvals process will require that the property be re-zoned and the OCP amended.

The OCP would be amended from Industrial to Service Commercial and Major Park/Open Space.



The proposed rezoning would amend the bylaw to zone the portion of land along Highway 97 to C10 - Service Commercial. Lands along the creek would be rezoned P3 - Park and Open Space. 10 m of property north of the creek will be dedicated to the City, and 15 m or more along the south will be dedicated. This flexible approach will maximize habitat protection on the south side of the creek, while leaving a viable development site to the north.

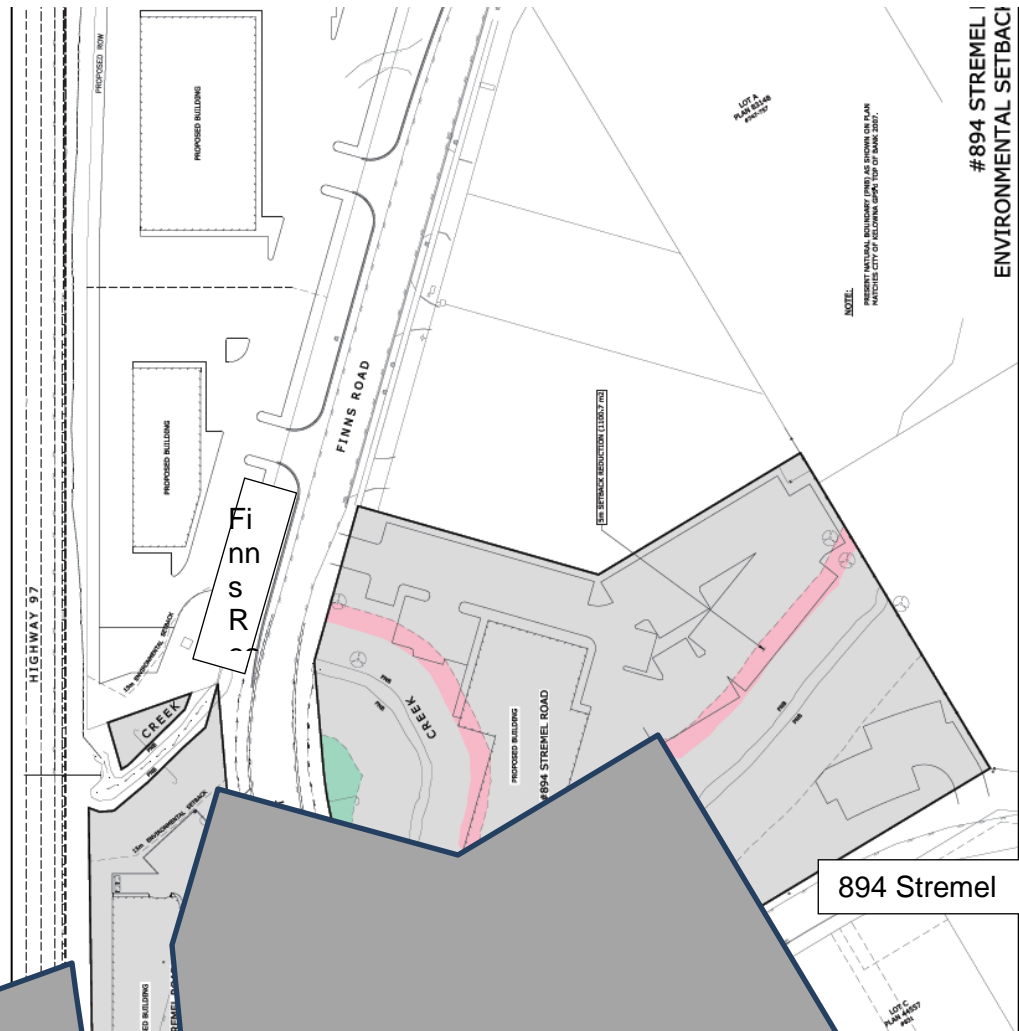
As part of the application, the applicant has submitted a further application for a Porsche dealership on the Highway 97 portion of the property. This application cannot be approved until such time as the property has been rezoned for commercial use.



#### 4.3 Site Context

The portion of the property to be developed is along Highway 97. It is north of the Orchard Ford dealership, in a light industrial and service commercial neighbourhood. The owner of the property has also applied to re-zone the parcel to the north to allow an additional automobile dealership.





#894 STREMEL  
ENVIRONMENTAL SETBACK

894 Stremel

Adjacent land use follows:

Orientation	Zone	Land Use
North	Mark Industrial	Industrial Rental
East	Housing	Residential
South	Commercial	Dealer
West		

Subject Property

#### 4.4 Zoning Analysis

Zoning Analysis Table		
CRITERIA	@ ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Minimum Lot Area	1,000 m <sup>2</sup>	5,400 m <sup>2</sup>
Minimum Lot Width	30 m	35 m

Minimum Lot Depth	40 m	125 m
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## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Service Commercial (SC)

Developments for the provision of business support services and other commercial uses requiring extensive on-site storage. Building densities would be consistent with the provision of the C10 zone of the Zoning Bylaw.

#### Riparian Management Area

Table 12.1 establishes a 15m Riparian Management Area around Francis Brook Creek.

#### Dedication of Linear Parks.

At subdivision and rezoning for all development types secure a minimum 10-metre wide linear corridor for public access as included in Table 5.1 Linear Park - Public Access and/or are shown on Map 5.9 - Linear Corridors / Paths. The 10-metre wide corridor may be in addition to, and outside, any riparian management area requirements imposed through the Environmental Development Permit (see Chapter 12) requirements of the OCP. On the private property side of the public access corridor, the City may, as necessary, consider stipulating additional "no disturb" zones. Lot line adjustments or other subdivision applications not resulting in the creation of new lots suitable for the construction of buildings permitted under the applicable zoning will be considered exempt from this policy.

### 5.2 Public Notification & Consultation for Development Applications Policy #367

The applicant has delivered notifications to surrounding property owners.

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- 1 Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permit(s) for new construction
- 2 This building may be required to be sprinklered throughout. It appears that this building has three major occupancies as per the building code . Any proposed deviance from this requirement of BCBC 12 requires an approved alternate solution report to be submitted and approved by the architect of record prior to the release of the Development Permit.
- 3 A Geotechnical report is required to address the sub soil conditions and site drainage at time of building permit application. This property falls within the Mill Creek flood plain bylaw area and compliance is required. Minimum building elevations are required to be established prior to the release of the Development Permit. This minimum Geodetic elevation is required for all habitable spaces. This building may be designed to low, which may affect the form and character of the building.
- 4 A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building(s):
  - 4.1 The British Columbia Building Code (BCBC 2012) may define this development as two separate buildings with possibly three separate major occupancies (D & E in building 1 and D & F2 in building #2). If a firewall is to be utilized, a complete building code analysis would be required to be reviewed prior to complete

comments (at time of building permit application) being provided for the spatial separation between the two buildings. Fire shutters would be a requirement and hooked to the fire alarm system to allow for the unprotected openings between buildings and a 900mm High non combustible fire wall must be constructed to separate the two structures. A 900mm high firewall parapet will affect the form and character of the building(s).

- 4.2 The exits from the building do not appear to meet minimum code requirements (number of exits, travel distance, etc). The code analysis is to contain a plan showing travel distances along with a code compliance analysis for the interconnected floors, 2nd stories, horizontal exits, convenience stairs and rated stairwell exits. This can be submitted at time of building permit application, but additional exterior doors may be required depending on the code analysis, which may affect the form and character of the building(s).
- 4.3 Any security system that limits access to exiting needs to be addressed in the code analysis by the architect
- 4.4 Access to the roof is required per NFPA and guard rails may be required and should be reflected in the plans if required.
- 4.5 Mechanical Ventilation inlet and exhausts vents are not clearly defined in these drawings. Screening of this equipment may be required and should be addressed as part of the Development permit.
- 4.6 Interior climbable guardrails are not code compliant as depicted in the illustrations and are required to be defined at time of permit application

5 Size and location of all signage to be clearly defined as part of the development permit

6 Fire resistance ratings are required for storage, janitor and/or garbage enclosure room(s). The drawings submitted for building permit is to clearly identify how this rating will be achieved and where these area(s) are located. Refer to fire department bylaws for placement of exterior garbage containers in relation to the building.

7 Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation are being applied to this structure.

## 6.2 Development Engineering Department

See attached Memorandum dated April 8, 2016.

## 6.3 Fire Department

The Fire Department has no issues with the zoning change

## 7.0 Application Chronology

Date of Application Received: January 15, 2016

Date referrals completed: April 8, 2016

Report prepared by:

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Ryan Roycroft, Planner

**Reviewed by:**

☐

Terry Barton, Urban Planning Manager

**Approved for Inclusion:**

☐

Ryan Smith, Community Planning Department Manager



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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** April 12, 2016  
**File No.:** Z16-0006  
**To:** Urban Planning Management (RR)  
**From:** Development Engineering Manager (SM)  
**Subject:** 894 Stremel Road    Lot 11    Plan 3236                      Zone: RU1 to C10

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The Development Engineering Department has the following comments and requirements associated with this application. The road and utility upgrading requirements outlined in this report will be a requirement of this development.

These are Development Engineering comments/requirements and are subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.

The Development Engineering Technologist for this project is Jason Ough

**1.    General**

- a)    These are Development Engineering comments/requirements and are subject to the review and requirements from the Ministry of Transportation (MOTI) Infrastructure Branch.
- b)    This proposed subdivision may require the installation of centralized mail delivery equipment. Please contact Rick Ould, Delivery Planning Officer, Canada Post Corporation, 530 Gaston Avenue, Kelowna, BC, V1Y 2K0 (250-763-3558 ext. 2008) to obtain further information and to determine suitable location(s) within the development.
- c)    The 2030 OCP identifies a linear park project that must be included in the development plan. This public corridor will follow Francis Brook through the subject property.
- d)    Where there is a possibility of a high water table or surcharging of storm drains during major storm events, non-basement homes may be required. This must be determined by the engineer and detailed on the Lot Grading Plan required in the drainage section.

**2.    Geotechnical Report**

Provide a comprehensive geotechnical report, prepared by a Professional Engineer competent in the field of hydro-geotechnical engineering to address the items below:

**NOTE:** The City is relying on the Geotechnical Engineer's report to prevent any damage to property and/or injury to persons from occurring as a result of problems with soil slippage or soil instability related to this proposed subdivision.

- (i) Area ground water characteristics, including any springs and overland surface drainage courses traversing the property. Identify any monitoring required.
- (ii) Site suitability for development.
- (iii) Site soil characteristics (i.e. fill areas, sulphate content, unsuitable soils such as organic material, etc.).
- (iv) Any special requirements for construction of roads, utilities and building structures.
- (v) Suitability of on-site disposal of storm water and sanitary waste, including effects upon adjoining lands.
- (vi) Recommendations for items that should be included in a Restrictive Covenant.
- (vii) Any items required in other sections of this document.
- (viii) Recommendations for erosion and sedimentation controls for water and wind.
- (ix) Recommendations for roof drains and perimeter drains.
- (x) Recommendations for construction of detention or infiltration ponds if applicable.

### **3. Domestic Water and Fire Protection**

- a) The property is located within Black Mountain Irrigation District (BMID) service area. The water system must be capable of supplying domestic and fire flow demands of the project in accordance with the Subdivision, Development & Servicing Bylaw. The developer is responsible, if necessary, to arrange with BMID staff for any service improvements and the decommissioning of existing services.
- b) Boulevard landscape irrigation system, must be integrated with the on-site irrigation system.

### **4. Sanitary Sewer**

The developer's consulting mechanical engineer will determine the development requirements of the proposed development and establish the service needs. The existing lot is serviced with a 150mm diameter sanitary service. Only one service per lot will be permitted for this development. If required, the applicant will arrange for the removal and disconnection of the existing service and the installation of one new larger service at the applicants cost.

## **5. Storm Drainage**

The developer must engage a consulting civil engineer to provide a storm water management plan for the site, which meets the requirements of the Subdivision, Development and Servicing Bylaw No. 7900. The storm water management plan must also include provision of lot grading plan, minimum basement elevation (MBE), if applicable, and provision of a storm drainage service for the development and / or recommendations for onsite drainage containment and disposal systems.

## **6. Road Improvements and Dedication**

- (a) Property frontage on Finns Road must be upgraded to a full urban standard (SS-R5).  
Design will include separate sidewalk, landscaped boulevard complete with street trees, curb and gutter, piped storm drainage system, fillet pavement, boulevard grading street lights, and adjustment and/or re-location of existing utility appurtenances, if required, to accommodate this construction.
- (b) Property frontage on Stremel Road must be upgraded to a full urban standard (SS-R5).  
Design will include separate sidewalk, landscaped boulevard complete with street trees, curb and gutter, piped storm drainage system, fillet pavement, boulevard grading street lights, and adjustment and/or re-location of existing utility appurtenances, if required, to accommodate this construction.
- (c) The estimated cost of required road improvement works, for bonding purpose, must be determined based upon a design provided by the developer to be reviewed by the City of Kelowna and MOTI.

## **7. Electric Power and Telecommunication Services**

The electrical and telecommunication services to this building must be installed in an underground duct system, and the building must be connected by an underground service. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services, which would be at the applicant's cost.

## **8. Design and Construction**

- (a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer. Drawings must conform to City standards and requirements.
- (b) Engineering drawing submissions are to be in accordance with the City's "Engineering Drawing Submission Requirements" Policy. Please note the number of sets and drawings required for submissions.
- (c) Quality Control and Assurance Plans must be provided in accordance with the Subdivision, Development & Servicing Bylaw No. 7900 (refer to Part 5 and Schedule 3).
- (d) A "Consulting Engineering Confirmation Letter" (City document 'C') must be completed prior to submission of any designs.

- (e) Before any construction related to the requirements of this subdivision application commences, design drawings prepared by a professional engineer must be submitted to the City's Development Engineering Department. The design drawings must first be "Issued for Construction" by the City Engineer. On examination of design drawings, it may be determined that rights-of-way are required for current or future needs.

## **9. Servicing Agreements for Works and Services**

- (a) A Servicing Agreement is required for all offsite works and services on City lands in accordance with the Subdivision, Development & Servicing Bylaw No. 7900. The applicant's Engineer, prior to preparation of Servicing Agreements, must provide adequate drawings and estimates for the required works. The Servicing Agreement must be in the form as described in Schedule 2 of the bylaw.
- (b) Part 3, "Security for Works and Services", of the Bylaw, describes the Bonding and Insurance requirements of the Owner. The liability limit is not to be less than \$5,000,000 and the City is to be named on the insurance policy as an additional insured.

## **10. Other Engineering Comments**

- (a) Provide all necessary Statutory Rights-of-Way for any utility corridors required, including those on proposed or existing City Lands.
- (b) If any road dedication affects lands encumbered by a Utility right-of-way (such as Terasen, etc.) please obtain the approval of the utility prior to application for final subdivision approval. Any works required by the utility as a consequence of the road dedication must be incorporated in the construction drawings submitted to the City's Development Manager.

## **11. Development Permit and Site Related Issues**

- (a) Access and Manoeuvrability
  - (i) An SU-9 standard size vehicle must be able to manoeuvre onto and off the site without requiring a reverse movement onto public roadways. If the development plan intends to accommodate larger vehicles movements should also be illustrated on the site plan.
  - (ii) Perimeter access must comply with the BC Building Code. Fire Truck access designs and proposed hydrant locations will be reviewed by the Fire Protection Officer.

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Steve Muenz, P. Eng.  
Development Engineering Manager

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# Report to Council



**Date:** April 27, 2016

**File:** 0165-30

**To:** Council

**From:** City Manager

**Subject:** Quarterly report update - Q1 2016

Report Prepared by: Summer Efray, Communications Consultant

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## **Recommendation:**

That Council receives, for information, the Quarterly Report from the City Manager, dated April 27, 2016

## **Purpose:**

To provide Council with an update of the City's activities for the first quarter of 2016.

## **Background:**

The attached presentation provides a brief summary of some key activities undertaken in the last quarter by the corporation.

The content of the presentation continues to evolve and staff welcomes Council's suggestions in ensuring the report is both informative and timely for our community. All contributors and contributing departments are not expected to attend the Council presentation, however if Council has specific questions that require a staff member attend the meeting, it is requested that the City Clerk be advised in advance of the meeting.

A collection of current and past quarterly report presentations can be found [online](#).

## **Internal Circulation:**

Content provided by Divisional Directors  
City Manager  
Communications Supervisor

## **Considerations not applicable to this report:**

Legal/Statutory Authority:  
Legal/Statutory Procedural Requirements:  
Existing Policy:

Financial/Budgetary Considerations:  
Personnel Implications:  
External Agency/Public Comments:  
Communications Comments:  
Alternate Recommendation:

Submitted by:

Ron Mattiussi, City Manager

Approved for inclusion:



cc: Divisional Directors

# QUARTERLY REPORT

January to March 2016



## A WELL-RUN CITY

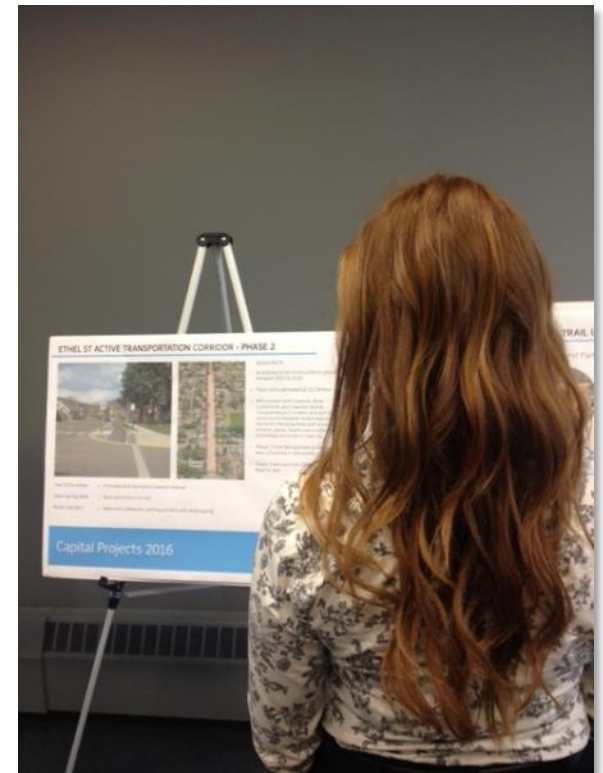
- ▶ Civic Block Plan
  - ▶ Endorsed March 14
- ▶ Pedestrian & Bicycle Master Plan
  - ▶ Public engagement activities
- ▶ Okanagan Rail Corridor Development Plan





## A WELL-RUN CITY

- ▶ 2030 Infrastructure Plan
- ▶ Development Cost Charge update
- ▶ Capital Projects presentation & open house
  - ▶ [kelowna.ca/cityprojects](http://kelowna.ca/cityprojects)



An aerial photograph of a large, crowded indoor event, likely a travel fair or expo, held at Kelowna International Airport. The space is filled with people of various ages, many of whom are gathered around informational booths and displays. Some individuals are standing and talking, while others are seated at long tables. The background features large windows and structural elements of the airport terminal. A semi-transparent grey box is overlaid on the lower half of the image, containing text and a list of bullet points.

## A STRONG ECONOMY

### Kelowna International Airport (YLW)

- ▶ 445,546 passengers
  - ▶ Up 7.8%
- ▶ Spring Travel Event
  - ▶ 2,500 attendees
- ▶ Acquired golf course for future land use
- ▶ Construction underway:
  - ▶ Expansion of terminal building & outbound baggage hall

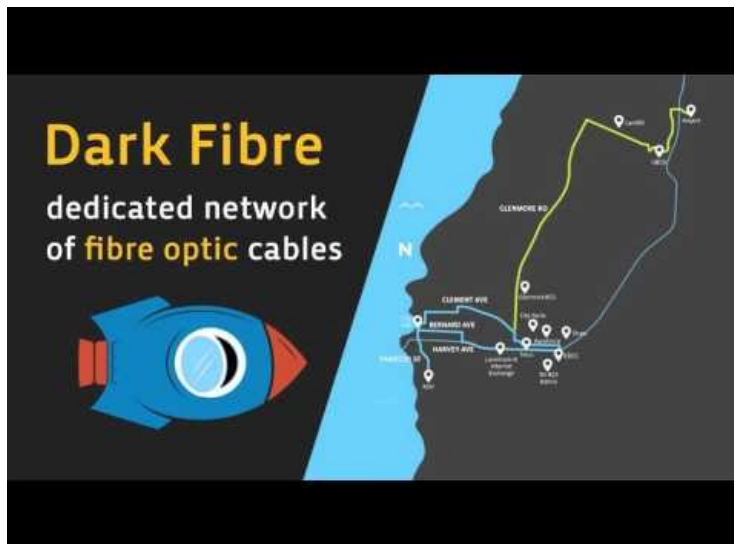
## A STRONG ECONOMY

- ▶ Development applications up 30%
  - ▶ Busiest year since 2000
- ▶ Permits for 600 rental housing units
- ▶ \$130M in building permits

	2014	2015	2016
<i>Q1 building permits</i>	\$74M	\$113M	\$131M

## A STRONG ECONOMY

- ▶ QHR joins dark fibre network



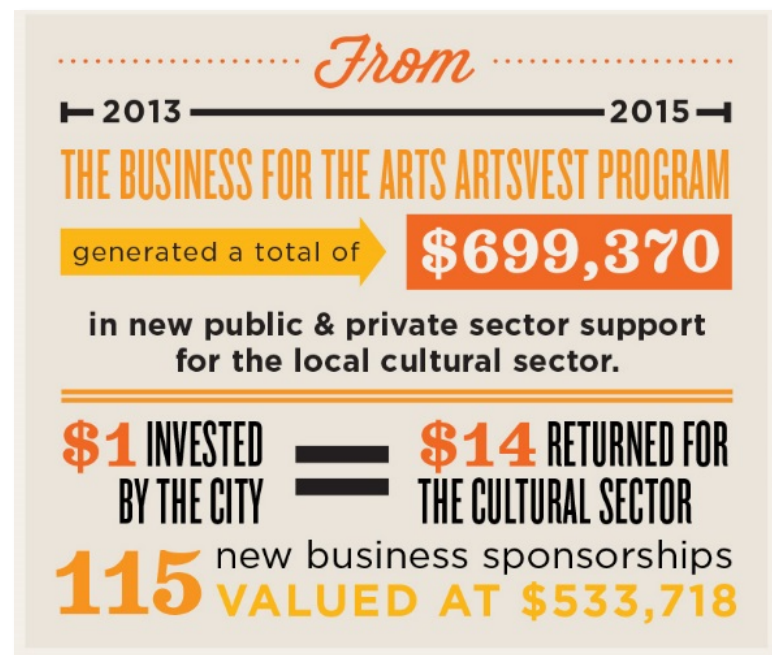
- ▶ Business development
  - ▶ 244 enquiries
  - ▶ 15 site visits
  - ▶ 24 one-on-one follow ups

<https://youtu.be/gqNVsdG5018>  
watch the video to learn about the  
City's dark fibre network or visit  
**kelowna.ca/darkfibre**



## AN ACTIVE, INCLUSIVE CITY

- ▶ Cultural grants
- ▶ artsVest III
- ▶ Hosted 8 sport tournaments & events
- ▶ 13<sup>th</sup> annual Sport Hero Awards



AN ACTIVE, INCLUSIVE CITY

**Active by Nature**

[kelowna.ca/activebynature](http://kelowna.ca/activebynature)

#ActivebyNature

Check out the [winter video!](#)



## AN ACTIVE, INCLUSIVE CITY

- ▶ Kelowna Community Theatre & Black Box
  - ▶ Lighting improvements
  - ▶ 26% increase in attendance
  - ▶ 27 % increase in performances
  - ▶ Highlights:
    - ▶ Vance Joy, Jay Ingram, Naomi Klein, CBC's The Irrelevant Show, The Wailers & The Royal Winnipeg Ballet





# A CLEAN, HEALTHY ENVIRONMENT

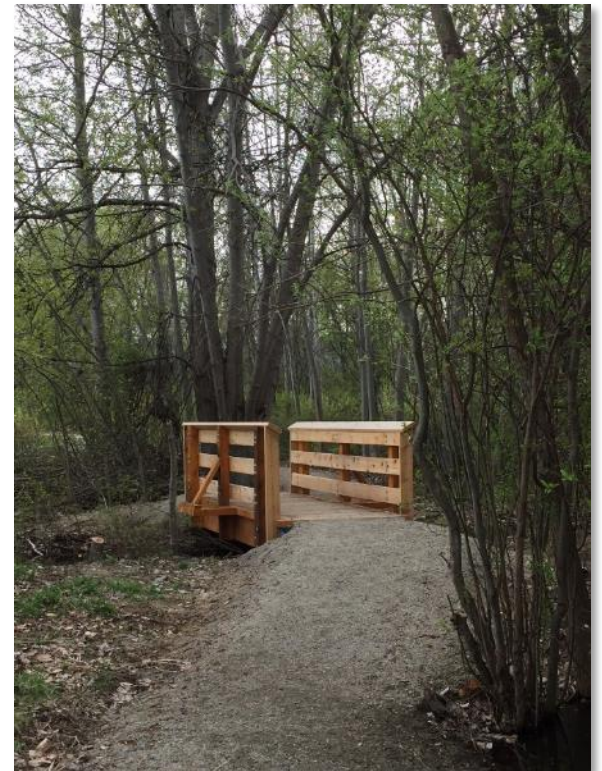
- 
- A photograph of a water treatment facility. In the foreground, a blue tablecloth with the City of Kelowna logo and name is draped over a table. On the table are several blue water bottles and a glass. In the background, large industrial tanks and pipes are visible. A blue banner with the City of Kelowna logo is also present.
- ▶ 7,900 Ponderosa Pine planted
  - ▶ Energy conservation at Rutland Twin Arena
  - ▶ Adam's Reservoir UV Treatment Facility



# RESILIENT, WELL-MANAGED INFRASTRUCTURE

## Project updates

- ▶ Kelowna Police Services Building
  - ▶ Construction [timelapse](#)
- ▶ Parkades
- ▶ Munson Pond Park
- ▶ Rutland Centennial Park



# RESILIENT, WELL-MANAGED INFRASTRUCTURE

Project updates, continued...

- ▶ Ethel Active Transportation Corridor
- ▶ Transit stop construction

# Report to Council



**Date:** May 2, 2016  
**File:** 0910-01  
**To:** City Manager  
**From:** Divisional Director Corporate and Protective Services  
**Subject:** RTC 2016-2019 Crime Reduction Strategy 2016-05-02.docx

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## **Recommendation:**

THAT council approve and endorse the 2016-2019 Crime Reduction Strategy document as outlined in the report from the Divisional Director Corporate and Protective Services dated May 2, 2016.

## **Purpose:**

To seek Council approval and endorsement of the 2016-2019 Crime Reduction Strategy.

## **Background:**

The City of Kelowna, working collaboratively with the RCMP have developed an updated crime reduction strategy that will guide our collective efforts through 2016 to 2019. The strategy identifies four goals along with their targets, as well as strategies to achieve goals. Performance measures will be used to measure success of several key strategies.

The City and RCMP strive to reduce crime and improve public safety, and are determined to better understand the root causes of crime at the local level. This will allow the RCMP and its partners to mobilize around proven strategies that will reduce crime and increase the sense of community safety.

The 2016-2019 Crime Reduction Strategy replaces the RCMP's 2012-2015 Strategic Plan with new focus areas goals. They are as follows;

- To prevent crime before it occurs through a proactive approach
- To work with partner agencies for more effective policing
- Maximize the efficiencies of resources through an intelligence-led model
- To effectively communicate public safety

Included in the strategies are new priority call standards and efforts to reduce the number of calls for service by having the right people (organization) dealing with non-criminal matters. Nearly 50% of calls are currently not crime related. If the number of calls for service can be reduced, the need for additional resources can be deferred. New measures will focus on service delivery, such as time to respond to priority one calls.

With improved systems, the RCMP generate better data to better understand where members are dispatched and the time it takes to respond to calls, as well as what types of crime are happening when and where. The plan anticipates moving to geographic deployment (to more strategically station members out of community police offices) and some flexibility to the traditional four on four off shifts that have been the standard for some time, but does not match resource peak time needs.

The plan includes regular reporting to Council and increased public communication on crime prevention activities and criminal code violations throughout the City.

**Internal Circulation:**

RCMP Superintendent  
Crime Prevention Supervisor  
Bylaw Services Manager  
Police Services Manager  
Communications Manager

**Considerations not applicable to this report:**

**External Agency/Public Comments:**

**Financial/Budgetary Considerations:**

**Personnel Implications:**

**Communications Comments:**

**Alternate Recommendation:**

**Legal/Statutory Authority:**

**Legal/Statutory Procedural Requirements:**

**Existing Policy:**

Submitted by:

Rob Mayne, CPA, CMA, Divisional Director Corporate and Protective Services

Approved for inclusion:



cc:

RCMP Superintendent  
Manager Police Services





2016 – 2019

CRIME REDUCTION

STRATEGY



City of

Kelowna







**OUR CITY IS A SAFE PLACE TO  
LIVE, WORK AND PLAY.**

Downtown Kelowna

## MESSAGE FROM THE MAYOR

On behalf of Kelowna City Council, I'm pleased to support the Crime Reduction Strategy.

This comprehensive plan builds on the 2012-2015 Crime Reduction Strategy and demonstrates that lowering the crime rate and calls for service in Kelowna is a priority. We continue to invest in protective services — 23 additional RCMP members have joined the ranks since 2012 and construction is underway on the new \$48-million Police Services building project — to ensure that the RCMP have the support in place to keep Kelowna safe.

Above all, we want to understand the root causes of crime at the local level and to mobilize around proven strategies that will reduce crime and increase the sense of community safety.

Every person in Kelowna plays a role in making our city a safe place. This strategy is designed to be sensitive to local needs, to respond to Kelowna's unique circumstances, to build on our strengths and successes, and to take a collaborative, community-based approach to reduce and prevent crime. As Mayor, I look forward to seeing its implementation and results.

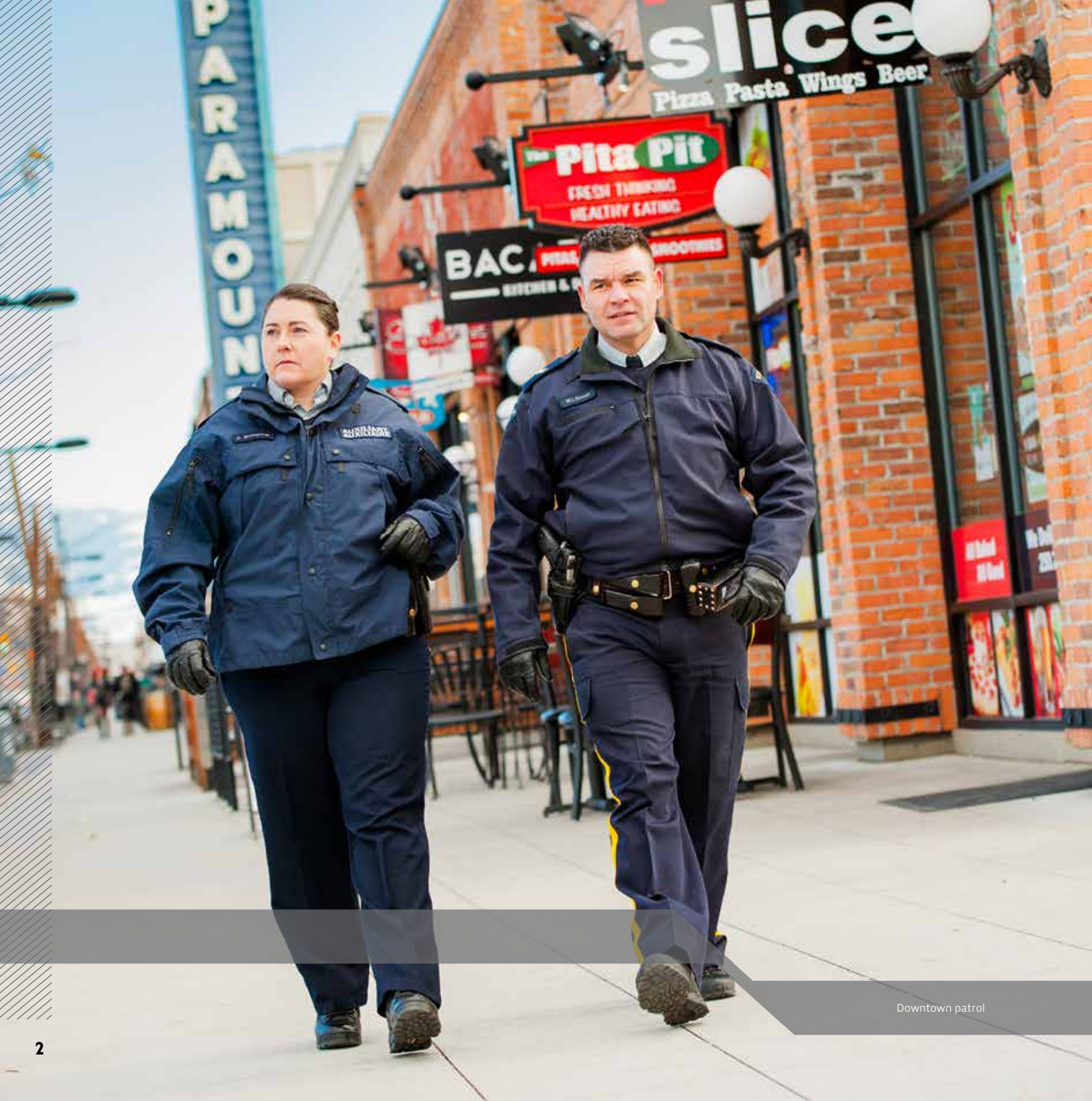
I believe this strategy will ensure our city is a safe place to live, work and play – a community we will be even more proud to call home.

**Colin Basran**

Mayor, City of Kelowna







Downtown patrol

## SUPERINTENDENT'S MESSAGE

Four years ago, Kelowna had the highest crime rate amongst all Census Metropolitan Areas in Canada. Through our crime reduction efforts, we have made significant progress and have dropped to the #4 position by 2014; however, we have much more work to do.

The Kelowna RCMP and the City of Kelowna have worked collaboratively to develop this crime reduction strategy that will guide our collective efforts.

Public safety is not a job for the police alone; we must work together towards our common goal of building safe communities.

This strategy outlines Kelowna RCMP's goals and targets, as well as key performance measures, to significantly reduce crime and improve public safety over the period 2016-2019.

The issues surrounding crime, the perception of crime and community safety are complex. Less than half of the calls for service we receive are related to crime, meaning many of the issues that we deal with will not be solved by police action alone and require a coordinated and collaborative effort by all stakeholders.

One of the primary focuses of our strategy will be to engage those groups and agencies which have the ability to impact these difficult issues. The members and staff at the Kelowna RCMP are proud to serve the City of Kelowna and work hard to make our community safe for both residents and visitors. A safe community is a vibrant and prosperous community.

Another major component of our crime reduction strategy focuses on sound decision-making based on the analysis of data and crime issues. Our crime analysts prepare data to assist in the decision-making of where resources can most efficiently and effectively be deployed. Our continued use of the CompStat model will ensure that we base our operational decisions on real-time analytical data to have the biggest impact on crime.

On behalf of the members and staff at Kelowna Detachment, I pledge our continued hard work and dedication to making Kelowna the best mid-sized community in North America.

**Superintendent Nick Romanchuk**

Officer in Charge  
Kelowna RCMP Detachment







**CREATING A SAFE,  
HEALTHY, AND VIBRANT  
COMMUNITY IS THE  
RESPONSIBILITY OF ALL  
CITIZENS.**

Community event as part of the City's  
Strong Neighbourhoods program

# INTRODUCTION

The City of Kelowna’s vision is to be the best mid-sized city in North America — a safe, vibrant and sustainable city.

A safe and healthy community is one that works to narrow the gaps between advantage and disadvantage, to ensure healthier children, resilient families and stronger neighbourhoods.

Creating a safe, healthy, and vibrant community is the responsibility of all citizens — everyone has a role to play. In addition to the RCMP, it’s essential that community participation, coordination between community and social agencies, and the continued work of courts and corrections all contribute to increased community safety and improved perceptions of safety.

## Crime Reduction

The City of Kelowna and the RCMP are committed to reducing crime and recognize that in order to succeed in making the city safer, they will need to continue work with community partners to develop further strategies in prevention, education and treatment. These strategies look to identify the root causes of criminal behaviour and prevent them from occurring.

The key to success is a matter of properly identifying the issues, collecting sufficient information to understand the issues, correctly analyzing the issues and then directing resources and engaging the appropriate agencies to help solve the issues.

As an example, it is well known that prolific offenders are a significant drain on resources. Knowing the identity of these repeat offenders as well as the location of crime hot spots and crime patterns is essential to reducing incidents of crime.

## Unique Challenges

Kelowna’s mild climate and reputation as a popular year-round destination brings its own unique challenges when it comes to policing – not many cities of 123,500 also welcome 1.5 million visitors per year, with most of them compressed into the three months between the May long weekend and the Labour Day long weekend.



The City’s 2015 Citizen Survey ranked concerns about personal safety relatively low, well behind other priorities such as transportation, recreation and culture services or the local economy. In the same survey, however, citizens put protective services as the top priority for community investment.



Although the overall crime rate continues to decline and people generally feel safe in Kelowna, the survey findings tells us that they want to continue investing in services such as the RCMP, crime prevention and bylaw enforcement to maintain community security.

Kelowna devotes nearly a quarter of its tax dollars to Police Services. More than half the new tax dollars collected in 2016 will go to support RCMP and construction on the new Police Services building. The existing detachment is well past its service life

and too small for current policing needs, and the new facility will improve RCMP efficiency and keep pace with safety needs in our growing community.

The \$48-million facility will create space for more members as needed, upgrade necessary policing technologies and improve effectiveness by consolidating departments under one roof, as well as meet future expansion as the city continues to grow. It is expected to open in spring 2017.



Rendering of the new Police Services building, expected to open in 2017

## Why a Crime Reduction Strategy?

Kelowna has had significant success in driving down its crime rate over the past five years — the Okanagan Valley was identified as having the highest crime rate per capita in Canada, among Census Metropolitan in 2012. By 2014, it had dropped to fourth place. Based on the 2012-2015 Crime Reduction Strategy, the target was to cut the crime rate by 10 per cent over those four years. Council is pleased that the crime rate was reduced by an additional 5.8 per cent beyond the goal, and in a shorter period of time.

In addition, the City has followed through on its 2011 financial strategy to hire 23 additional RCMP members by 2015. The final six new members were added this year.

The Kelowna RCMP credits the improvement to identifying risk factors, situations and circumstances that negatively impact safety and taking action to address these factors

and reduce crime. The most successful crime reduction initiatives are those that build on community strengths and resources, reflect local priorities, and are led by the community.

The 2016-2019 strategy builds on the previous plan's success and will further reduce the crime rate through collaboration with other agencies and the use of crime data to improve resource allocation.

This strategy also meets Kelowna residents' desire to keep protective services a priority in the community, with continued investment to maintain security.





## PROACTIVE POLICING DETERS OR PREVENTS CRIME FROM HAPPENING.

RCMP Volunteer helps prevent theft from vehicles

## GOAL #1

### To prevent crime before it occurs through a proactive approach

The community relies on the RCMP to curb disorder and help in times of emergency. The RCMP, on the other hand, rely on the community to report crime and provide vital information necessary for them to solve crimes and address community concerns.

Policing is all too frequently reactive. In other words, police respond to a crime or disturbance after it has occurred.

Proactive policing deters or prevents crime from happening. In many ways, our proactive policing efforts are not new — the Block Watch program is a neighbour-helping-neighbour program and has been around for many years — but reflect improvements made to our past approaches. We want to continually find ways to build strong communities and reduce the crime rate, not just arrest people. The City of Kelowna has a number of community policing programs such as Citizen's Patrol, Crime Stoppers and Block Watch to help deter crime and provide a security presence in neighbourhoods.

These proactive approaches do not replace or reduce reactive policing. We are continually finding ways to shift and balance the reactive response with more proactive approaches where possible.

### Strategies

Proactive community policing requires police and citizens to join together as partners. The Kelowna RCMP's Downtown Enforcement Unit works in conjunction with the Downtown Kelowna Association (DKA), City of Kelowna's Bylaw Services, Kelowna Parking, private security partner Paladin and BC Transit to actively patrol the downtown core and nearby parks to curb crime before it occurs.

- Continue a visible police presence in the community, including crime hot spots, public gathering places and major events. This includes high visibility patrols and street checks.
- When appropriate, communicate incidents and police response to the public to promote public education to assist in prevention. When the community feels informed about crime in their neighbourhoods and police strategies are in place to reduce it, the public is more likely to take an active role in preventing crime problems – reporting crime and providing information to police about who is participating in crime.
- Use Auxiliary RCMP members and volunteers through crime reduction programs such as Citizen's Patrol, the Auxiliary Constable Program and Block Watch.
- Continue with the partnership between the RCMP's Downtown Enforcement Unit and its existing partners, with an eye to exploring new partnerships to build and expand opportunities.

### Target

- Reduce crime a further 5 per cent by 2019.
- 25 per cent of a general duty Constable's time on shift will be available for proactive policing.
- Maintain over 9300 volunteer hours per year.





**DIVERSE STAKEHOLDERS  
WITH DIFFERENT  
VALUES, INTERESTS AND  
PERSPECTIVES MUST WORK  
TOGETHER TO PREVENT  
AND SOLVE CRIME.**

RCMP officers, Auxiliary and Volunteers  
work closely in the community

## GOAL #2

### To work with partner agencies for more effective policing

It's important to understand why people turn to crime if we are to try and prevent it.

The diverse mix of persons who commit crime means there are diverse stakeholders with different values, interests and perspectives who must work together with the RCMP to prevent and solve crimes. This requires a high level of coordination between government and non-government community resources, program providers and service groups.

For example, the City of Kelowna and Kelowna RCMP participate in a number of community partnerships and programs, including Partners for a Healthy Downtown, School District Liaison Program, Central Okanagan Restorative Justice Program, and Strong Neighbourhood Strategies.

The Assertive Community Treatment Team (ACT) provides an intensive, team-oriented range of support for individuals with serious mental health issues and substance use challenges. The ACT team includes professionals from various health backgrounds, working together to provide treatment, rehabilitation and support. Different from traditional programs, as the name states, the ACT team reaches out directly to clients 24 hours a day, seven days a week, making client contact in the community as frequently as two to three times per day, based on individual needs.

Further to the ACT team, Interior Health provides two resources as part of the Partnership with Mental Health and Substance Use (MHSU) for on-call mental health responses.

New to Kelowna RCMP is the Domestic Violence Unit, one of three RCMP detachments in BC that initiated the program in September 2014. Resources from the RCMP, Ministry of Children and Family Development and Community and Police-Based Victim Services monitor and work with victims and offenders.

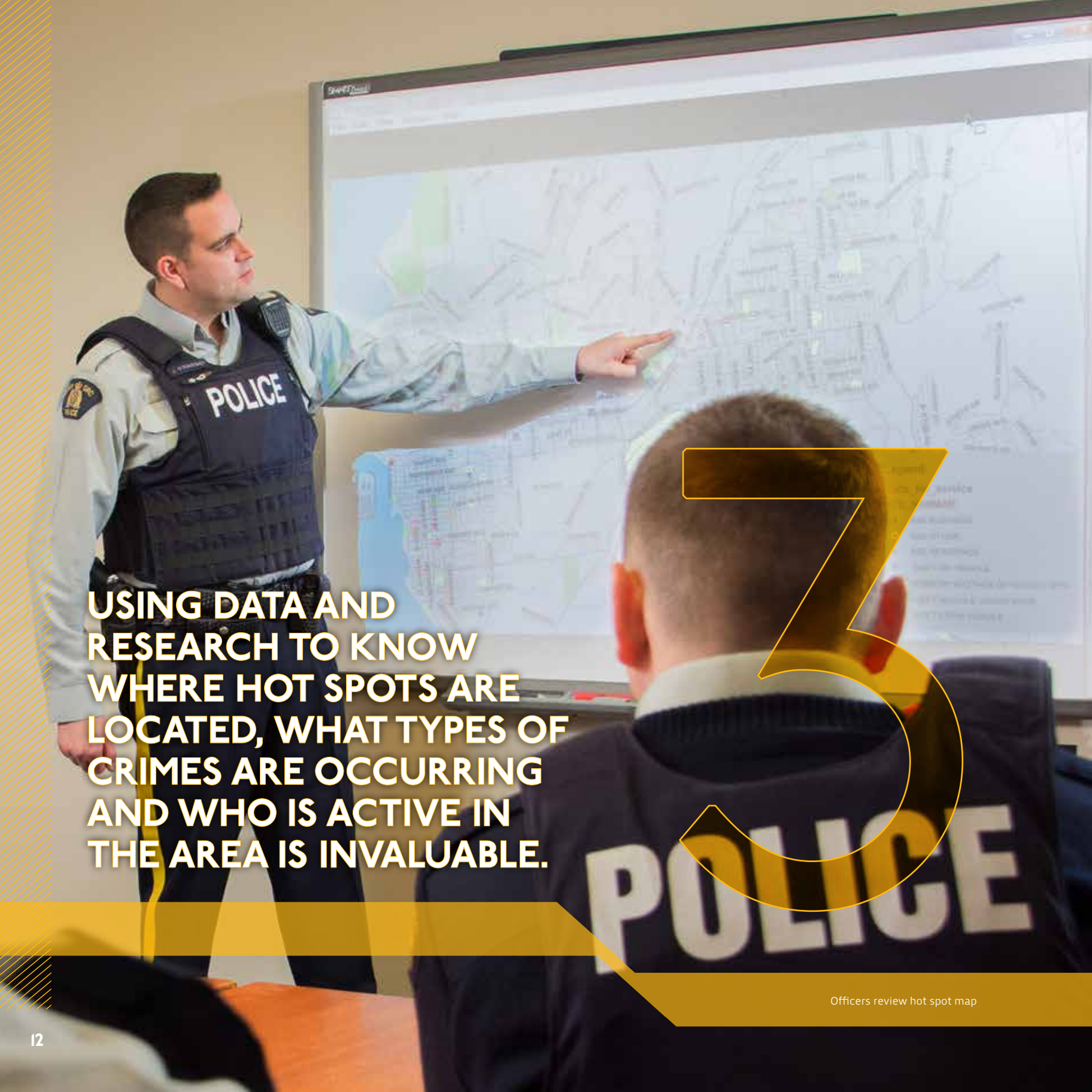
### Strategies

- Continue to work with government, non-government and social service agencies to determine which are most effective in dealing with offenders, rather than only relying on the traditional criminal justice system approach. These include the Partners for a Healthy Downtown, School District Liaison Program, Central Okanagan Restorative Justice Program, Strong Neighbourhood Strategies and the Assertive Community Treatment Team (ACT).
- Continue to support and report outcomes from the RCMP's Domestic Violence Unit.
- The City's Bylaw Services, working in conjunction with the RCMP, continue to build effective bylaws to assist in crime reduction. As an example, a new Good Neighbour Bylaw will allow the City to take remediation action on properties that use extraordinary resources and are affecting the neighbourhoods' quality of life. Other bylaws being reviewed and enhanced include the Panhandling Bylaw, Traffic Bylaw, and the Parks Bylaw.
- RCMP continue to meet regularly with senior Crown members to address emerging matters relating to the criminal justice system, through the Crown Counsel Partnership.
- Enter into and renew partnerships that can affect or prevent crime.

### Target

- Steady increase in the number of adult and youth referrals to the Restorative Justice program.
- Review and update nuisance bylaws with City of Kelowna Bylaw Department over 2016 and 2017.





**USING DATA AND RESEARCH TO KNOW WHERE HOT SPOTS ARE LOCATED, WHAT TYPES OF CRIMES ARE OCCURRING AND WHO IS ACTIVE IN THE AREA IS INVALUABLE.**

Officers review hot spot map

## GOAL #3

### To maximize the effectiveness of resources using an intelligence-led model

Part of proactive policing is staying one step ahead of those who are committing crime — using data and research to find out who is connected to whom, how and why people are connected, when and where they are connected, and under what circumstances they are connected.

Because crime tends to be concentrated in certain areas, referred to as “crime hot spots”, using data and research to know where these hot spots are in a neighbourhood, what types of crimes are occurring, and who is active in that area is also invaluable. Police can then develop targeted strategies to respond effectively.

Kelowna RCMP employs crime analysts to study and analyze these crime patterns and trends across the city. Just as important as determining who is committing crime and where, the information provided by crime analysts is used to direct available police and other resources to areas where the most impact will be made to prevent and deter crime.

A clear indicator of accomplishment is how much the RCMP is successfully integrating and using the intelligence generated by the crime analysts into operations. Essentially, we want the information produced by analysts to allow police to be more proactive, to be aware of emerging crime trends before they become established. This enables RCMP to develop strategies to deter crime, to be in a position to interrupt offenders before they become prolific and to identify upcoming policing challenges before they become a strain on police and community resources.

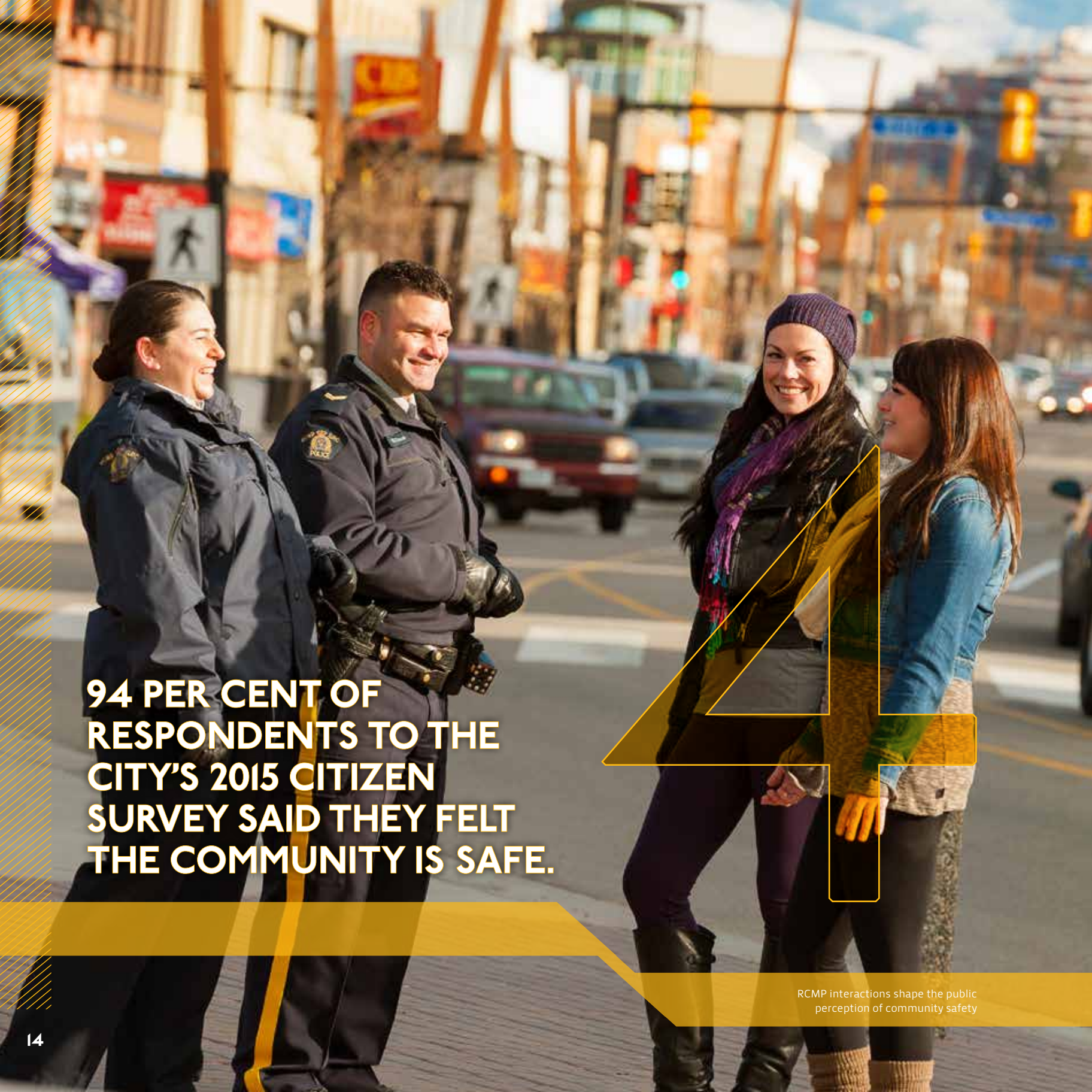
### Strategies

- To maintain RCMP resource levels, through the use of the 7/10/25/2 target, that keep pace with the growth of the community and the level of necessary policing to address Kelowna’s unique characteristics.
- Maximize resources through efficient geographic staff deployment and effective staff scheduling. Analyze dispatch data and officers’ consumed time to determine how to best divide the city geographically and then deploy resources accordingly. Efficient police resource allocation will allow appropriate response times and service standards.
- Leverage the use of crime analysts to study and examine the crime patterns and trends in the city, as the information is valuable in determining where to best deploy resources to prevent and deter crime.
- Target crime patterns through analysis and/or investigation so that they can be disrupted as early as possible.
- Target repeat offenders, including rigorous monitoring of their court/bail conditions.
- Target hot spots.
- Educate the public and media on crime patterns and prevention opportunities.

### Target

- Standard of 7/10/25/2 - meaning that Police will respond within 7 minutes to Priority 1 calls and within 10 minutes to Priority 2 calls for service, that 25 per cent of a general duty Constable’s time on shift will be available for proactive policing, and two units will be available at all times for community and officer safety.





**94 PER CENT OF  
RESPONDENTS TO THE  
CITY'S 2015 CITIZEN  
SURVEY SAID THEY FELT  
THE COMMUNITY IS SAFE.**

RCMP interactions shape the public  
perception of community safety

## GOAL #4

### To effectively communicate public safety

As a testament to the role the RCMP plays in protecting and maintaining the quality of life in Kelowna, 94 per cent of respondents to the City's 2015 Citizens Survey said they felt the community is safe.

In some cases, despite efforts of the police and community crime strategies, a community's perception may not always mirror the realities of crime and safety. It is important to understand the community perspective in this regard, and work toward making improvements.

Communications is key on a number of fronts — it's important to educate the public about incidents of crime and how they can avoid being victims of crime, along with educating potential offenders about the effects and consequences of crime.

### Strategies

- Establish regular reporting to Kelowna City Council and include a review of performance measures, strategy progress and discussion on emerging issues.
- Enhance communication opportunities between the RCMP and City of Kelowna Bylaw Services.
- Look for RCMP opportunities to use social media to inform the public of matters relating to policing and crime prevention.
- Establish the RCMP online tool in Kelowna for the public to report non-emergent crime through the Internet for action by the RCMP.
- Where appropriate, communicate incidents and police response to the public to promote public education to assist in crime prevention.

- Continue to interact positively with the marginalized population so that they feel comfortable in reporting crime.
- Continue to explore new and effective ways of communicating with the public and keep them informed with respect to public safety issues, crime trends and crime rates, the geographic distribution of crime and crime prevention tips.
- Include questions in the City of Kelowna Citizen Survey to consistently measure perception of crime and safety in the community.

### Target

- Report quarterly to public and council.
- Perception of community safety in Kelowna remains or improves from level of 94 per cent measured in 2015.



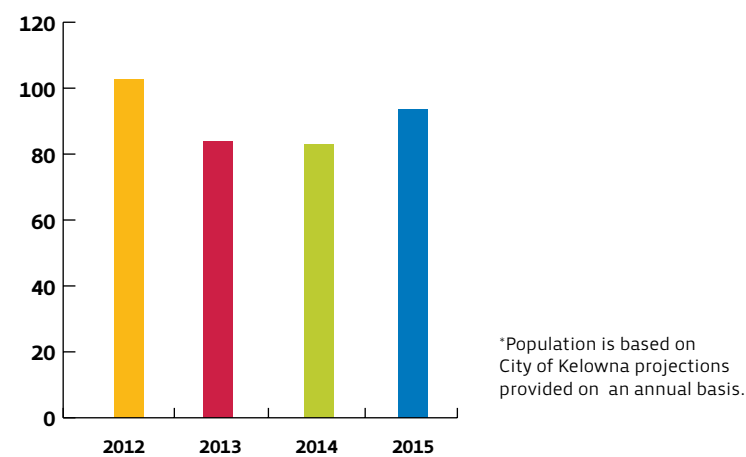


# PERFORMANCE MEASURES

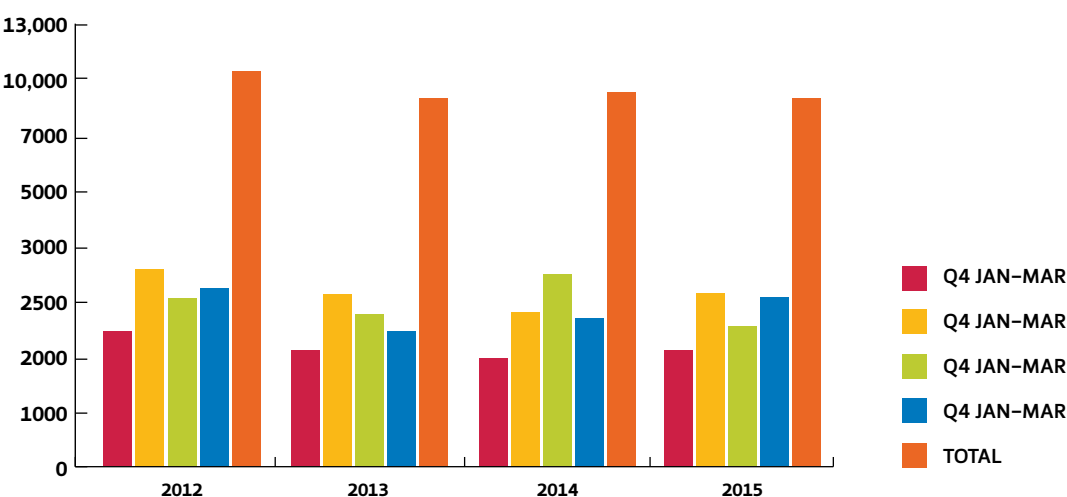
Performance measures and the supporting analysis will not only inform the public and Council on progress towards a reduction in crime, but will also be an opportunity to identify continuous improvement opportunities. Measures will form part of the communication goals of the strategy.

## Goal I Measures

Annual Crime Rate

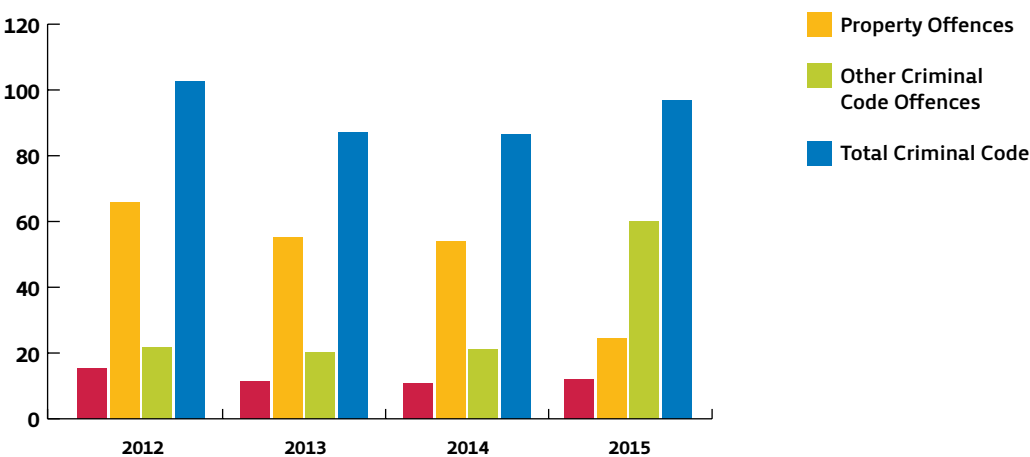


Hours of Community Policing



# Kelowna Offences

Annual Kelowna Offences  
(per 1,000 people)



Offense Type

- Persons Offences
- Property Offences
- Other Criminal Code Offences
- Total Criminal Code

## Offence Definitions:

- **Person Offences** – Includes as an example assault, or harassment or uttering threats.
- **Property Offences** – Includes as an example business break and enter, theft of auto or theft from an auto.
- **Other Criminal Code Offences** – Includes as an example disturbances, breaching conditions of probation and obstructing peace/police officers.

# PERFORMANCE MEASURES

## Goal 2 Measures

### Bylaw Offenses

Starting in 2016 the number of offences will be tracked for panhandling activity under the Panhandling Bylaw, transient behaviour under the Parks and Public Spaces Bylaw, obstruction of roads and sidewalks under the Traffic Bylaw and infractions under the Good Neighbour Bylaw.



### Referrals to Restorative Justice

	2012	2013	2014	2015
Adult	65	54	83	86
Youth	83	67	60	44

At an officer's discretion, offenders who meet established criteria may be referred to the Restorative Justice program rather than entering the Criminal Justice system.

Restorative Justice is a proven alternative to the Criminal Justice system. 85 per cent of those referred do not re-offend. Restorative Justice also reduces administrative time and court time for RCMP officers.

## Goal 3 Measures

### Response Time

#### Average Report Time in Minutes for November 2015

PRIORITY	Dispatched File Count	Response Time
1	156	8.5
2	1,141	9.9

\*Average Report Time is a new measure and data has only been collected since November 1, 2015. Going forward data will be collected and reported quarterly.

- **Priority 1 Calls** – The response time goal for Priority 1 calls is seven minutes. Officers are dispatched immediately for Priority 1 calls and will use emergency lights and siren (Code 3) to travel to the scene as needed. Priority 1 calls are for crimes in progress and include offences like robbery, assault, person with a weapon, or break and enter of a home or business.
- **Priority 2 Calls** – The response time goal for Priority 2 calls is 10 minutes. While Priority 2 calls also typically result in a rapid response from police, the immediate threat to an individual's safety or that of a premise is limited. Calls that fall under this priority level include domestic arguments where there is no physical altercation occurring or when a prowler is reported around a residence.

### Patrol Availability

The workload of General Duty investigators is broken down into three categories — investigational, administrative and proactive time. Computer software is used to measure the amount of time investigators contribute to each category. Proactive time is defined as the time that investigators have to conduct patrols and complete self-generated enforcement or crime prevention activities that align with the crime reduction strategies. Through increasing efficiencies and effectiveness, the goal is to have investigators spending 25 per cent of their time doing proactive policing and at least two members available for proactive policing at all times.

This is a new system and data collection. Quarterly reporting will start in 2016.

## Goal 4 Measures

### Perception of Safety

The public perception of safety will be tracked through the City of Kelowna's biannual (every second year) Citizen Survey. In the 2015, 94 per cent of survey respondents said they felt the community is safe. The next survey will be in the spring of 2017.



City Hall  
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Kelowna, BC V1Y 1J4  
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**kelowna.ca**





# CRIME REDUCTION STRATEGY

May 2<sup>nd</sup>, 2016



**Superintendent Nick Romanchuk**  
**Kelowna RCMP**

# Crime Reduction Strategy

## **GOAL #1**

**TAKING A PROACTIVE APPROACH TO CRIME**

## **GOAL #2**

**TO WORK WITH PARTNER AGENCIES FOR MORE EFFECTIVE POLICING**

## **GOAL #3**

**TO MAXIMIZE THE EFFECTIVENESS OF RESOURCES USING AN  
INTELLIGENCE-LED MODEL**

## **GOAL #4**

**LEVERAGING EFFECTIVE COMMUNICATIONS**

# GOAL #1

## TAKING A PROACTIVE APPROACH TO CRIME

- ❖ RCMP resource levels to match the growth of the community:
  - ❖ Resource Utilization Methodology
- ❖ Community Policing programs to match the needs of the City, including:
  - ❖ Citizen's Patrol
  - ❖ Crime Stoppers
  - ❖ Block Watch
  - ❖ Auxiliary Constable Program



# **GOAL #1**

## **TAKING A PROACTIVE APPROACH TO CRIME**

- ❖ **Downtown Enforcement Unit**
  - ❖ **Continue the effort of the Unit in conjunction with the DKA, Bylaw, Kelowna Parking, BC Transit , etc.**
- ❖ **City Watch Program**
  - ❖ **City staff trained to observe and report crimes to the police**
- ❖ **Target**
  - ❖ **Reduce crime by 5% by 2019**
  - ❖ **Maintain over 9300 volunteer hours per year**

## **GOAL #2**

### **TO WORK WITH PARTNER AGENCIES FOR MORE EFFECTIVE POLICING**

- ❖ **A.C.T.**
- ❖ **Nuisance Property Program**
- ❖ **Partners for a Healthy Downtown**
- ❖ **RCMP/KGH/IHA Committee**
- ❖ **Partnership with MHSU for on-call mental health responses**
- ❖ **Strong Neighbourhood Strategies (COK Active Living and Culture Department)**
- ❖ **Municipal bylaws to assist in crime reduction**

## **GOAL #2**

### **TO WORK WITH PARTNER AGENCIES FOR MORE EFFECTIVE POLICING**

- ❖ **School District Liaison Program**
- ❖ **Central Okanagan Restorative Justice Program**
- ❖ **Crown Counsel Partnership**
- ❖ **Partnered Harm Reduction Strategies**
- ❖ **Domestic Violence Unit**
  - ❖ **RCMP, MCFD, Community and Police-Based Victim Services**
- ❖ **Target**
  - ❖ **Reduce mental health calls**
  - ❖ **Review and update nuisance bylaws with City of Kelowna Bylaw Department over 2016 and 2017**



# **GOAL #3**

## **TO MAXIMIZE THE EFFECTIVENESS OF RESOURCES USING AN INTELLIGENCE-LED MODEL**

### **Strategic Goals:**

- ❖ **Zone Policing**
  - ❖ **Resources deployed based on geographic division of the City.**
- ❖ **CompStat**
  - ❖ **Crime analysis to better understand prolific offenders, crime hot spots, and crime causation.**

## **GOAL #3**

### **TO MAXIMIZE THE EFFECTIVENESS OF RESOURCES USING AN INTELLIGENCE-LED MODEL**

- ❖ **Target**
  - ❖ **7/10/25/2**
    - ❖ **7 minute response time to Priority 1 Calls for Service**
    - ❖ **10 minute response time to Priority 2 Calls for Service**
    - ❖ **25% proactive time**
    - ❖ **2 Units available at all times for Community and Officer safety**

## **GOAL #4**

### **LEVERAGING EFFECTIVE COMMUNICATIONS**

- ❖ **Quarterly Reporting in March and September in public, and June and December in camera.**
  - ❖ **Performance Measures**
  - ❖ **Crime Reduction Strategy Progress**
  - ❖ **Standardized Template**
- ❖ **Online Crime Reporting**
- ❖ **Social Media**
- ❖ **RCMP/Bylaw Services Communication**
- ❖ **Crime statistics to influence messaging – breaking down the perception of crime.**



## **GOAL #4**

### **LEVERAGING EFFECTIVE COMMUNICATIONS**

- ❖ **Target**
  - ❖ **Report quarterly to the public and council**
  - ❖ **Perception of community safety in Kelowna remains or improves from level of 94% measured in 2015**

# Crime Reduction Strategy

## Recent Successes:

## Implementation of CompStat:

- ❖ Bi-weekly, intelligence-led, issue-focused meetings
- ❖ Comparative statistics
- ❖ Immediate implementation of strategies to address increasing levels of certain crimes
- ❖ Operational units to provide updates

# Crime Reduction Strategy

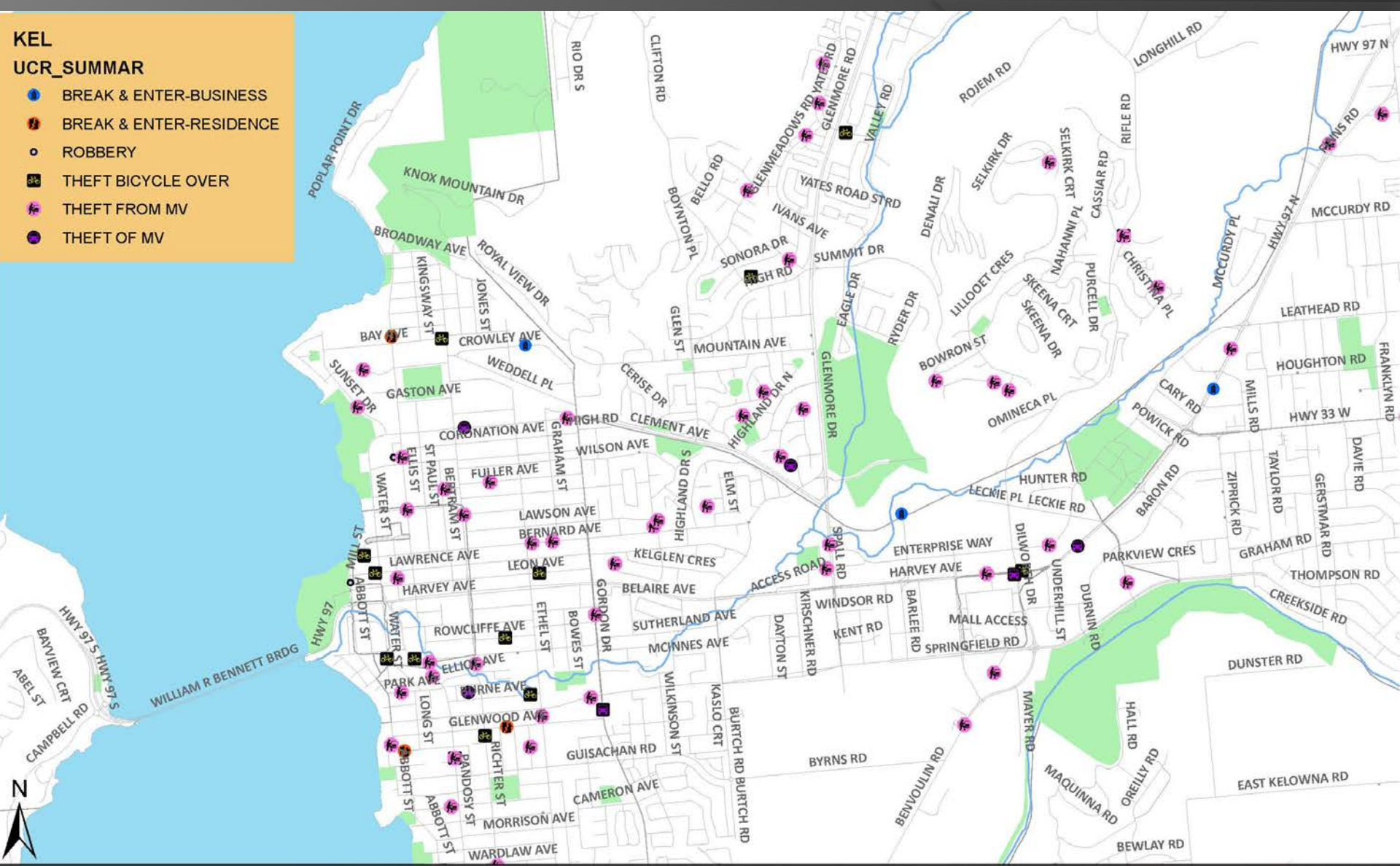
## CompStat Example

KELOWNA DETACHMENT PROPERTY CRIME (KELOWNA, LAKE COUNTRY & WEST KELOWNA)	Avg. Prev. 2 wks	02/10- 02/16	02/17- 02/23	Avg. Weekly Range	YTD 2013	YTD 2014	% Chg
B&E – Business	11	6	4	10-13	80	76	-5%
B&E – Residence	8	7	8	9-18	59	55	-7%
Theft of Vehicle	4	15	6	8-15	49	48	-2%
Theft from Vehicle	27	54	41	30-33	197	258	31%
Theft of Bike	3	3	2	1-4	14	23	64%
EMERGING ISSUES	Avg. Prev. 2 wks	02/10- 02/16	02/17- 02/23	Avg. Range	YTD 2013	YTD 2014	% Chg
Robberies	4	3	5	2-3	8	16	100%
Fraud and Counterfeit Currency Files	24	21	22	13-18	111	153	38%



KEL  
UCR\_SUMMAR

- BREAK & ENTER-BUSINESS
- BREAK & ENTER-RESIDENCE
- ROBBERY
- THEFT BICYCLE OVER
- THEFT FROM MV
- THEFT OF MV

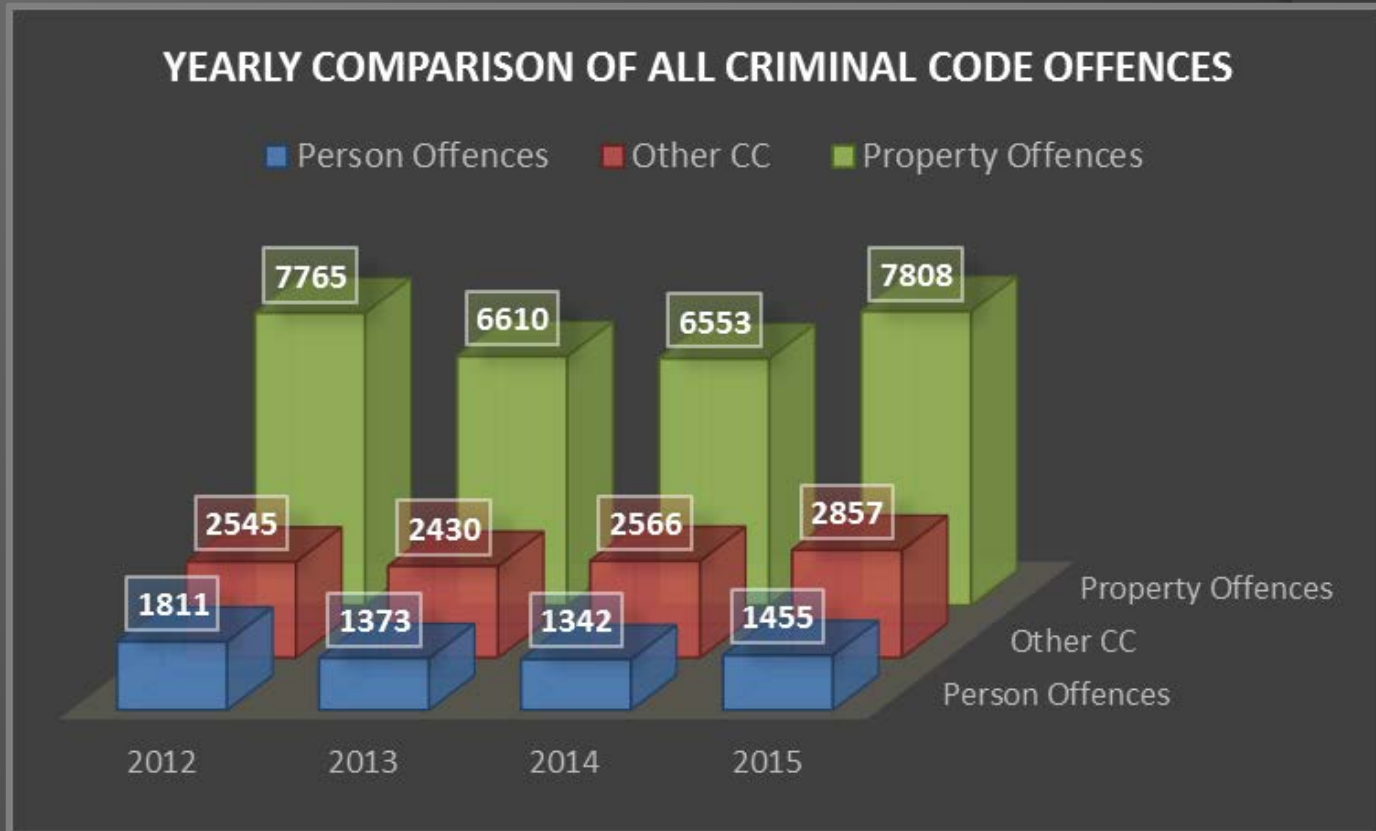


# Crime Reduction Strategy

## Uniqueness of Kelowna's Population:

- ❖ Kelowna's crime rate remains competitive with like jurisdictions despite a substantial increase in population during the summer months.
- ❖ According to Tourism Kelowna, the City of Kelowna receives approximately 1.5 million visitors throughout the year, with the majority between May and September.
- ❖ The tourism population is not captured in census data yet places a significant strain on police resources.

# Crime Reduction Strategy





# Crime Reduction Strategy

## 2015 - Year in Review

- ❖ Based on a Statistics Canada estimate, the greater Kelowna area grew in population by 3% from June 2014 to June 2015.
- ❖ The Kelowna metropolitan area includes Peachland, West Kelowna, and Lake Country.



# Crime Reduction Strategy

## 2015 - Year in Review

- ❖ From the estimate of a 3% increase in population, the early projection for the 2015 population for the city of Kelowna is 124,676\*
- ❖ Using the projected population, an early estimate for the crime rate for 2015:

**97.20 CC violations per 1,000\***

# Crime Reduction Strategy

Crime Rate (per 1,000):

2012: 102.44

2013: 87.22

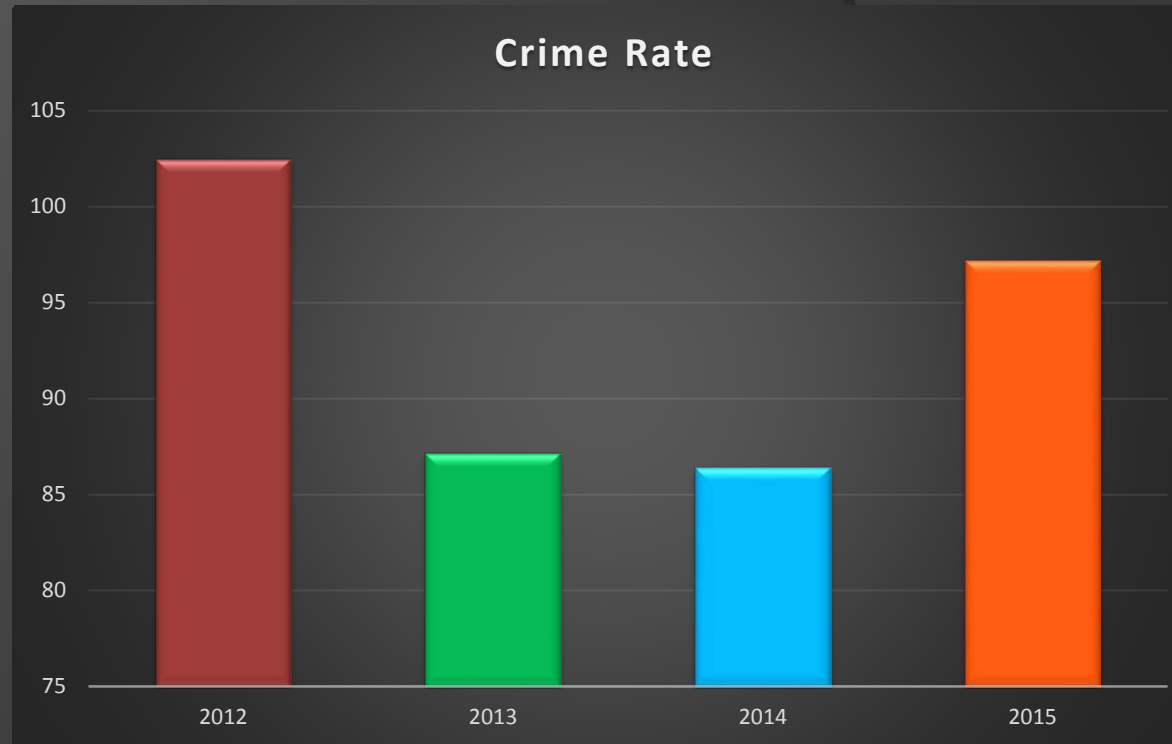
(14.85% reduction from 2012)

2014: 86.23

(1.14% reduction from 2013)

2015: 97.20\*

(11.29% gain from 2014)





# Crime Reduction Strategy

## 2015 - Year in Review

Possible drivers for the increase:

- ❖ Unemployment in Kelowna may have played a factor in the crime rate increase in 2015.

- ❖ 3% unemployment rate in January of 2015.
- ❖ 8.1% unemployment rate in February of 2016.

# Crime Reduction Strategy

## 2015 - Year in Review

Possible drivers for the increase:

- ❖ Industry related to oil and natural gas is suffering, and potentially driving those unemployed in Alberta and Saskatchewan into British Columbia.
- ❖ Intangible population growth of impermanent residents.

# Crime Reduction Strategy

## 2015 - Year in Review

Possible drivers for the increase:

### ❖ 1892 thefts from motor vehicles

- ❖ 43.55% increase from 2014.
- ❖ 24.23% of all property crime in 2015.
- ❖ Roughly 40% of instances involved an unlocked vehicle.
- ❖ Multiple efforts in public outreach, including 'Don't Be A Target' media campaign.
- ❖ 16 of 30 RCMP detachments in the Southeast District of BC reported an increase in the third quarter of 2015; the most significant impact of any one property crime type in the district.

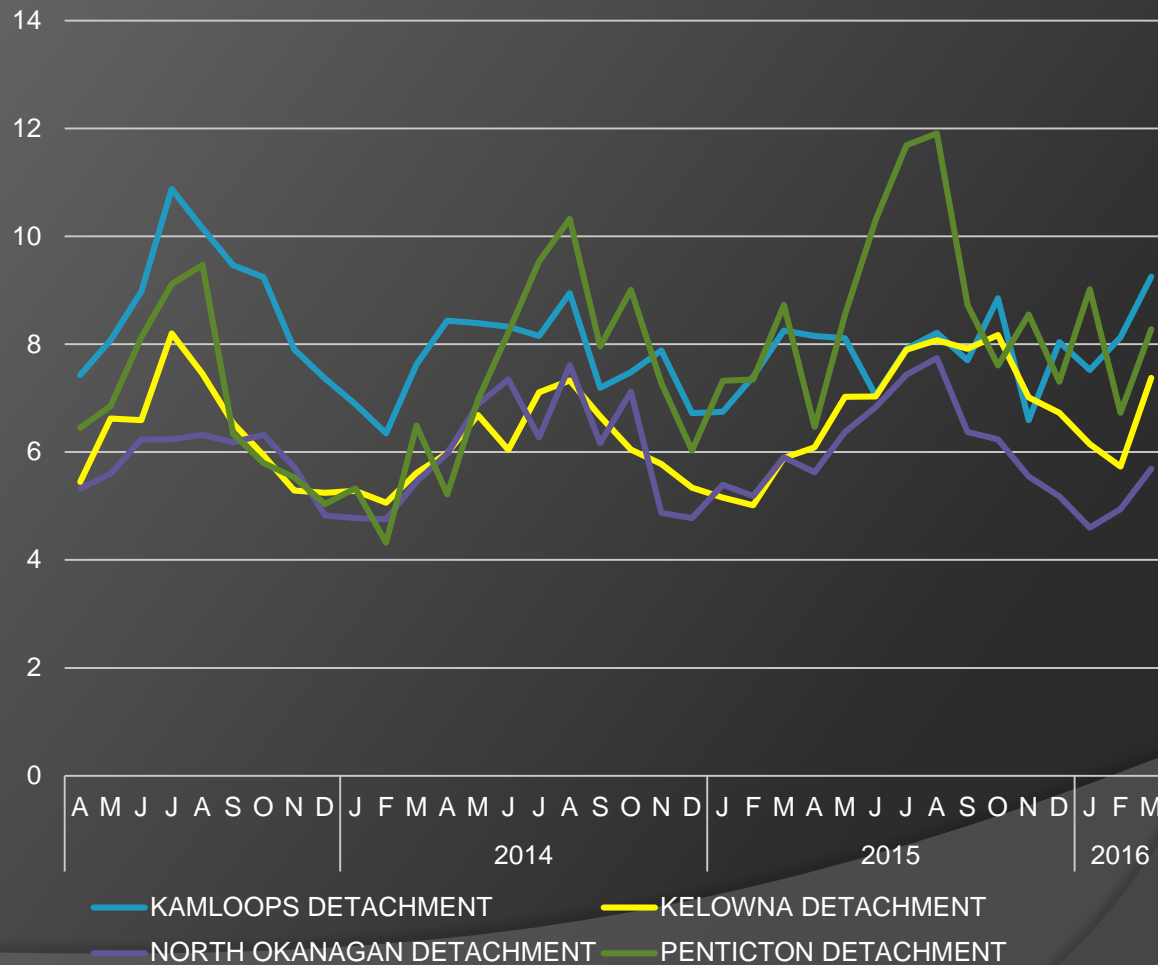




# Crime Reduction Strategy

## Jurisdictional Comparison – Criminal Code Offences

Rate per 1,000



# QUESTIONS?

# Report to Council



**Date:** May 2<sup>nd</sup>, 2016

**File:** 0245-20

**To:** City Manager

**From:** J. Shaw Manager, Infrastructure Planning Manager

**Subject:** Bylaw No. 11207 Amendment No.2 to Development Cost Charge Bylaw No.10515

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## **Recommendation:**

THAT Council receives, for information, the Report from the Infrastructure Planning Manager dated May 2, 2016, with respect to Bylaw No. 11207, Amendment No.2 to Development Cost Charge Bylaw No.10515;

AND THAT Bylaw No. 11207, Amendment No.2 to Development Cost Charge Bylaw No.10515 be forwarded for further reading consideration;

AND FURTHER THAT Council directs Staff to submit DCC Bylaw and supporting documentation to Inspector of Municipalities for their review and approval prior to fourth reading and adoption of Bylaw No. 11207, Amendment No. 2 to Development Cost Charge Bylaw No. 10515.

## **Purpose:**

To inform Council about the outcome of the public open house.

## **Background:**

The Development Cost Charge (DCC) Bylaw sets out the charges imposed on developers to offset some of the infrastructure expenditures incurred to service the needs of new development. DCCs are intended to facilitate development by providing a method to finance capital projects related to public roads, water, sanitary sewer, drainage and parkland. The current DCC Bylaw 10515 was adopted by Council June 13, 2011 in conjunction with the OCP review.

It has been five years since the last DCC update and this bylaw amendment is required to update construction and land costs to current market conditions so there is adequate funding to support infrastructure improvements that are needed to service growth in our community.



Council received information regarding the proposed DCC Bylaw at a March 7th, 2016 Council meeting. The projected DCC program costs and rate changes presented at that meeting are appended to this report. Council directed staff at the March 7th Council meeting to facilitate a public open house to get feedback on the proposed rate increases.

#### **External Agency/Public Comments:**

##### Public Open House

A public open house for the proposed DCC Bylaw amendment was facilitated at the Kelowna Public Library on Wednesday March 30<sup>th</sup>, 2016. Approximately 40 people attended and received the information provided. Staff were available at the Open House to answer questions. An exit survey was available and 5 were completed by attendees (Appendix B).

Three of the exit surveys expressed concern that not enough warning had been given regarding the proposed rate increase and recommended a grace period or phase approached to implementing the proposed changes.

##### Discussion

In response to these comments and other comments from the development industry collected over the last 4 months, Staff provide the following justification for proceeding with amendment of the Bylaw as planned.

- The Urban Development Institute (UDI) was notified of the proposed changes in December 2015. The earliest that Council can adopt the Bylaw is likely mid-June because it must be approved by the Ministry prior to final adoption by Council. The Ministry is indicating a 6-week review process. This represents a 6-month notification period.
- Subdivision and building permit applications that are complete prior to the date of bylaw adoptions are considered “in-stream” and are not subject to the new DCC rates for a period of one year from bylaw adoption. In other words, given the current scenario where the proposed DCC’s have increased from the existing charges, an in-stream application will be exempt from the increased DCC’s for one year from the date of adoption of the new bylaw provided the applications are complete and application fees have been paid.
- To improve the process for providing more certainty of the timing of future DCC updates, Staff are recommending that the DCC Bylaw be amended annually to reflect current land and construction costs. This frequency is recommended in the Development Cost Charge Best Practice Guide. Utilization of an indexing model for unit costs will be considered as part of several items to be reviewed as part of an upcoming shared DCC review involving City Staff and UDI.
- The last DCC update 5 years ago saw the developer funded portion of the program decrease by \$209 million (-30.9%) in part to help stimulate a stagnate housing market. These lower rates have continued for the last 5 years but given the increase in both construction and land costs a DCC rate increase is required now to fund the infrastructure required to support growth in the future.
- The increased rates are still comparable to like size communities in BC as shown in the figure below.

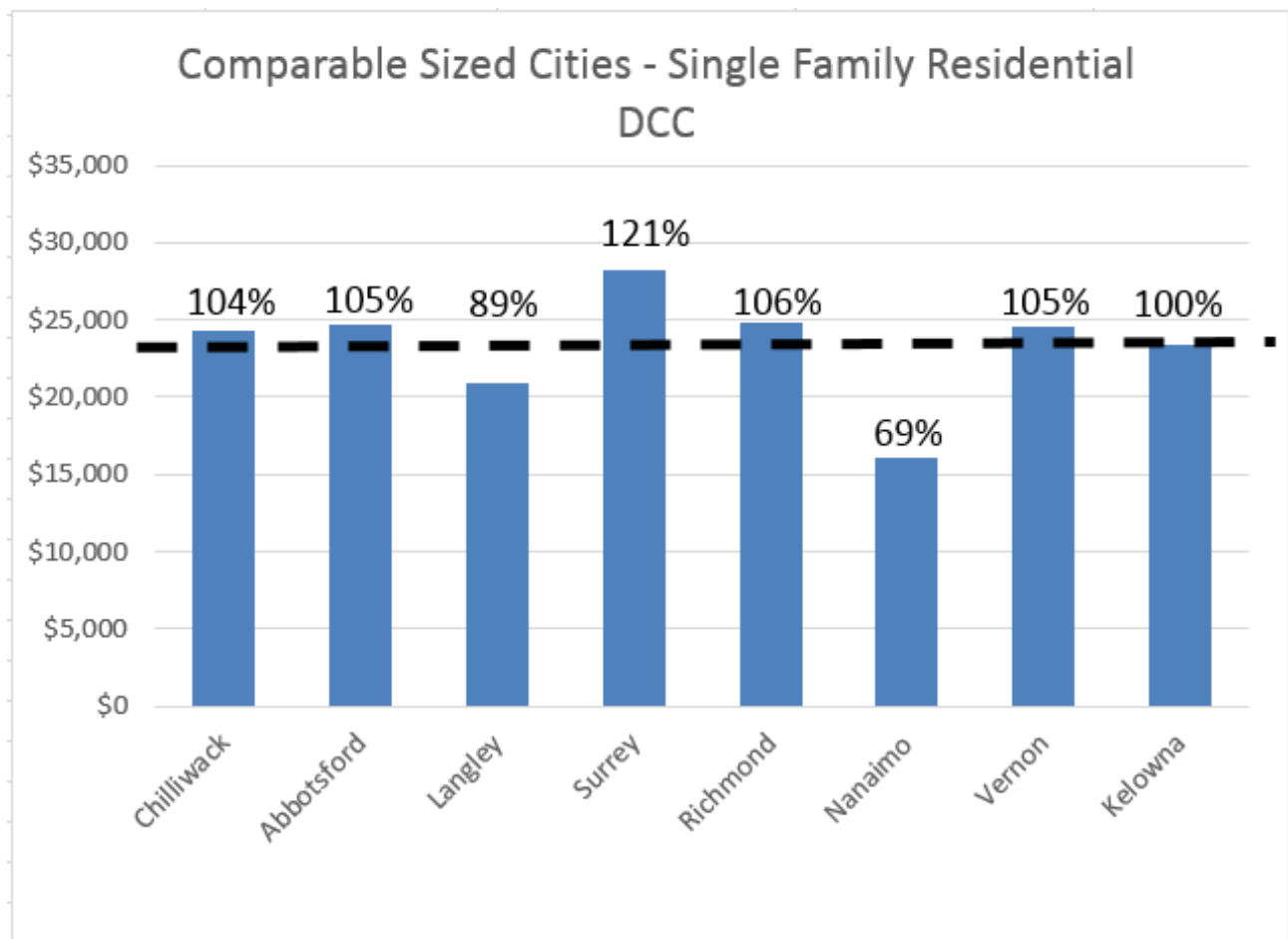


Figure 1. Single Family Residential Average DCC Rate based on updated DCC rates. Rates for the City of Vernon include DCC charges for Parks and Water from the Regional District of the North Okanagan.

#### Internal Circulation:

Divisional Director, Infrastructure  
 Divisional Director, Community Planning & Real Estate  
 Divisional Director, Corporate & Protective Services  
 Legislative Coordinator  
 Director, Financial Services  
 Community Engagement Consultant  
 Financial Analyst, Infrastructure Planning

#### Legal/Statutory Authority:

The Development Cost Charge (DCC) Bylaw sets out the charges imposed for public roads, water, sanitary sewer, drainage and public park infrastructure when subdividing or constructing, altering or extending a building, pursuant the Local Government Act.

**Legal/Statutory Procedural Requirements:**

The *Local Government Act* requires the Inspector of Municipalities to approve local government DCC bylaws. The following process, which is recommended by *DCC Best Practices Guide*, is being followed by staff for amending the DCC Bylaw.

- Staff calculate the DCC rates and amend DCC Bylaw for Council review,
- First reading of proposed DCC Bylaw by Council (March 7<sup>th</sup>, 2016),
- Public Information Meeting Kelowna Public Library (March 30<sup>th</sup>, 2016),
- Second and Third Reading of DCC Bylaw by Council (May 2, 2016),
- Submission of DCC Bylaw and Supporting Documentation to Ministry of Community Services (May),
- Statutory approval from Inspector of Municipalities (TBD),
- Fourth Reading and adoption of DCC Bylaw by Council (June),
- Bylaw implementation

**Existing Policy:**

Development Cost Charge Bylaw 10515

**Financial/Budgetary Considerations:**

The City's 10-Year Capital Plan will be updated to reflect the revised project costs once the DCC Bylaw has been adopted by Council.

DCCs contribute to the initial capital cost of growth-related infrastructure, along with taxpayer contributions that account for the benefit of the new infrastructure to the existing community. The subsequent operation, maintenance, capital renewal and the eventual replacement of all infrastructures accrues to general taxation or utility rates.

**Personnel Implications:**

There are no personnel implications related to this proposed DCC Update.

**Considerations not applicable to this report:**

Communications Comments:

Alternate Recommendation:

**Submitted by:** J. Shaw, Manager, Infrastructure Planning

**Approved for inclusion:** A. Newcombe, Divisional Director, Infrastructure

cc:

Divisional Director, Community Planning & Real Estate

Divisional Director, Corporate & Protective Services

Legislative Coordinator

Director, Financial Services

Community Engagement Consultant



Financial Analyst, Infrastructure Planning

## Appendix – A

### Summary of DCC Program Costs and DCC Rates

2030 Major Services - Funding Sources (\$ Millions) - 2016 Update							
Major Service	Gov't Funded	Developer Funded		City Funded		2030 OCP	
	Grant	Developer Construct	DCC's	Taxation	Utility User Rates	2016 Totals	% Change from 2016 - 2011
Arterial Roads	37.9	63.3	209.1	151.1		461.4	15.3
Water Distribution		6.0	24.7		29.4	60.0	1.6
Wastewater Trunks		6.9	25.8		8.4	41.1	8.2
Wastewater Treatment			65.4		20.3	85.7	(0.5)
Parkland Acquisition	5.4		116.5	14.5		136.4	8.7
2016 Totals	43.3	76.0	441.5	165.6	58.1	784.7	10.7
2011 Totals	32.0	61.2	406.4	149.8	59.6	709.0	
% Change from 2016 - 2011	35.4	24.2	8.7	10.5	(2.6)	10.7	

Table 1 – Proposed compared to current DCC program costs and funding by service.

PROPOSED 2016 VERSUS 2011 DCC RATES (\$'s per Residential 1 Unit)						
	S.E. Kelowna	South Mission	NE of Inner City	North of Hwy 33	North of Inner City	Inner City
<b>Arterial Roads</b>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>I</u>
2011 Update	7,878	21,540	14,292	11,072	10,666	7,530
2016 Update	9,243	26,118	15,513	13,321	11,000	8,338
\$ Difference	1,365	4,578	1,220	2,249	333	807
% Change	17.3	21.3	8.5	20.3	3.1	10.7
<b>Parkland Acquisition</b>	<u>A</u>					
2011 Update	5,300					
2016 Update	5,795					
\$ Difference	495					
% Change	9.3					
<b>Wastewater Treatment</b>	<u>A</u>					
2011 Update	3,723					
2016 Update	3,645					
\$ Difference	(78)					
% Change	(2.1)					
<b>Wastewater Trunks</b>	<u>A</u>	<u>B</u>				
2011 Update	1,294	1,903				
2016 Update	1,541	1,379				
\$ Difference	247	(524)				
% Change	19.1	(27.5)				
<b>Water Distribution</b>	<u>A</u>	<u>B</u>	<u>D</u>			
2011 Update	998	679	3,552			
2016 Update	1,282	833	3,584			
\$ Difference	284	154	32			
% Change	28.5	22.7	0.9			
<b>Total All Services</b>	<u>S.E. Kelowna</u>	<u>South Mission</u>	<u>N.E. of Inner City</u>	<u>N. Highway 33</u>	<u>North of Inner City</u>	<u>City Centre</u>
2011 Update	13,178	33,145	24,609	21,389	20,983	18,845
2016 Update	15,038	37,769	26,494	24,302	21,981	20,601
\$ Difference	1,860	4,625	1,885	2,913	997	1,756
% Change	14.1	14.0	7.7	13.6	4.8	9.3

Figure 2. Proposed DCC rate per single family residential by sector and service.





## *Appendix – B*

### **DCC Open House Feedback**



## 2016 DCC Update Exit Survey

Please provide your comments on the proposed DCC Update:

There was not enough warning provided to the development community of this DCC increase. Some companies may have projects in the works but are not able to submit enough materials to fall under the 12 month legislative protection period. This could seriously jeopardize some projects that are now in the works with financing in place. Please provide some type of grace period (ie: 180 days) to allow developers to adjust to this change.

Name and Address:

Jennifer Dixon - UDI Okanagan



## 2016 DCC Update Exit Survey

Please provide your comments on the proposed DCC Update:

- ① NOT ENOUGH WARNING GIVEN BEFORE DCC INCREASE ANNOUNCEMENT. PROJECTS TAKE LONG LEAD TIMES TO REACH INVESTMENT DECISIONS TO COMMENCE AND THE LEAD TIME GIVEN SIMPLY NOT SUFFICIENT.
- ② SUGGEST A 6 MONTH IMPLEMENTATION PERIOD FOR PROJECTS IN STREAM OR 12 MONTHS FROM D.P.
- ③ INCREASED DCC'S DO NOT ASSIST IN MAKING HOUSING AFFORDABLE.

Name and Address:

PETER BRENNEMAN - VICTOR PROJECTS LTD / SANDHILL DR

## 2016 DCC Update Exit Survey

Please provide your comments on the proposed DCC Update:

- ① Not enough information provided re: minor vs. major DCC Review methodology
- ② Some further analysis on SW mission DCC rates vs. all other sectors.
- ③ Why have shared benefit arterial road allocations changed under minor review?
- ④ Do best practices allow for update for significant projects completed if unit rates (actual registered deducted from 2010) taken into consideration?

Name and Address:

Melody Santos, 1628 Kloppenburg Road

## 2016 DCC Update Exit Survey

Please provide your comments on the proposed DCC Update:

IS we are serious about being a city that supports active transportation, we should not be building any roads without sidewalks (minimum) & bike lines/<sup>multuse</sup> pathways (ideal). We are having to go into old neighborhoods and add these because we have an active transportation infrastructure debt. Let's not add to that debt. DCC should cover these costs, otherwise, maybe we should be developing in that area.

Name and Address:

Jocelyn Kelowna (downtown area)  
Smith

## 2016 DCC Update Exit Survey

Please provide your comments on the proposed DCC Update:

Has there been thought given or provisions for DCC credits for rental apartments or affordable housing units?

Have you considered phasing in the DCC charges to allow the industry and market to react slowly and avoid sudden increases to rental and housing costs?  
In some cases 10-14% increases is a huge burden to undertake as a developer who based a proforma on current rates, considering the DCC increases were just mentioned late last year.

Name and Address:

Jeff Gallant      jgallant@highstreetliving.ca  
702-1708 Dolphin Ave  
Kelowna BC



# DCC COST UPDATE & BYLAW AMENDMENT

May 2, 2016

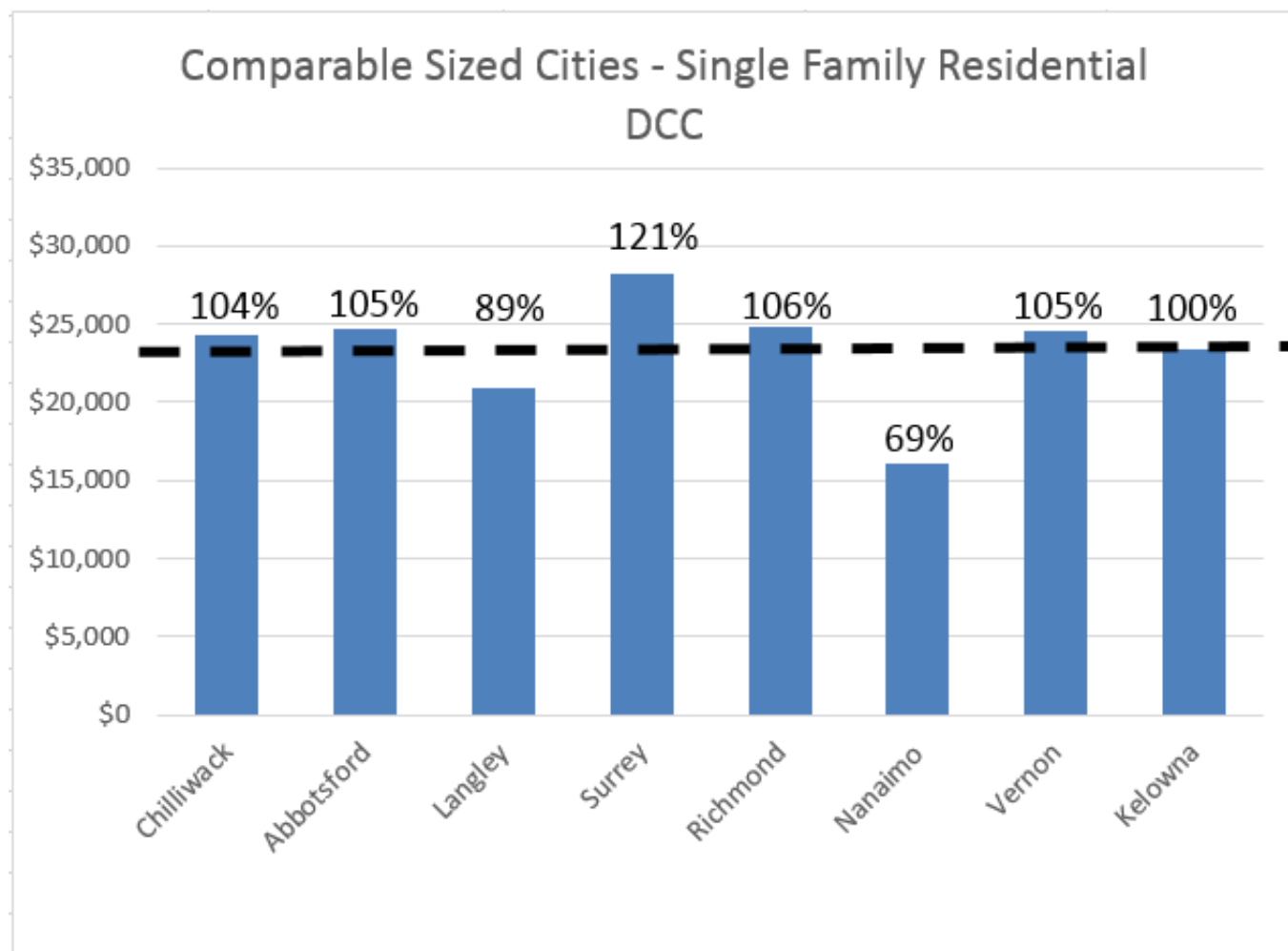


## PUBLIC OPEN HOUSE

- ▶ Public Library - March 30<sup>th</sup>, 2016
- ▶ Approximately 40 attended, 5 completed exit surveys,
- ▶ What we heard from exit surveys?
  - ▶ Not enough warning provide to development community about proposed rate increase.
  - ▶ Recommend phased approach to implementation.

# RATIONALE FOR MOVING FORWARD

- ▶ City will have provided 6-months notification by the time of bylaw adoption.
- ▶ One year “in-stream” protection for completed applications.
- ▶ Recommend the DCC Bylaw be amended annually to reflect current land and construction costs.
- ▶ Consider using an indexing model for construction and land costs.
- ▶ Developer funded portion of the program decreased by \$209 million (-30.9%) as part of last update in part to help stimulate a stagnate housing market.
- ▶ These lower rates have continued for the last 5 years but given the recent increase in both construction and land costs a DCC rate increase is required now to fund the infrastructure required to support growth in the future.
- ▶ The increased DCC rates are still comparable to like size communities in BC.



Rates for the City of Vernon include DCC charges for Parks and Water from the Regional District of the North Okanagan



## NEXT STEPS

- 1) Notified UDI of proposed DCC Rates - Dec 22<sup>nd</sup>
- 2) Stakeholder input (UDI/CHBA) - Jan 22<sup>nd</sup>
- 3) Report to Council - First Reading - Mar 7<sup>th</sup>
- 4) Public Open House -Public Library - Mar 30<sup>th</sup>
- 5) Report to Council - 2<sup>nd</sup> and 3<sup>rd</sup> Reading - May 2
- 6) Ministry Approval (~4-6 weeks) - June
- 7) Report to Council - Bylaw Adoption - June

*QUESTIONS?*

# CITY OF KELOWNA

## BYLAW NO. 11207

### Amendment No. 2 to Development Cost Charge Bylaw No. 10515

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The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Development Cost Charge Bylaw No. 10515 be amended as follows:

1. THAT Schedule A be deleted in its entirety and replaced with a new Schedule A as attached to and forming part of this bylaw.
2. This bylaw may be cited for all purposes as "Bylaw No. 11207, being Amendment No. 2 to Development Cost Charge Bylaw No. 10515."
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 7<sup>th</sup> day of March, 2016.

Read a second and third time by the Municipal Council this

Approved by the Inspector of Municipalities this

Adopted by the Municipal Council this

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Mayor

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City Clerk

## Schedule A

SERVICE AREA	Sector	Residential 1 To 15 Units/Hectare (Each Lot or Unit)	Residential 2 >15-30 Units/Hectare (Each Lot or Unit)	Residential 3 >30-45 Units/Hectare (Each Lot or Unit)	Residential 4 Greater Than 85 Units/Hectare (Each Lot or Unit)	Residential 5 Medium applied to 56 sq. mtrs. unit	Residential 6 Per Square Meter of habitable floor space applied to units 56 sq. mtrs. or less	Secondary Sales Per Unit	Commercial For 1st 93 sq. mtrs. of floor area or portion; 1/63rd the rate for per sq. mtr over 93	Commercial Per Square Meter	Seasonal Agricultural Commercial (See Commercial)	Institutional "A" For 1st 93 sq. mtrs. of floor area or portion; 1/63rd the rate for per sq. mtr over 93	Institutional "B" For 1st 93 sq. mtrs. of floor area or portion; 1/63rd the rate for per sq. mtr over 93	Industrial/ Campground Minimums	Industrial/ Campground Per Hectare over minimum Developable Land	Seasonal Agricultural/ Industrial See Industrial Minimums	Seasonal Agricultural/ Industrial Per Hectare over minimum
<b>ALL SERVICES (Note 4)</b>								2,500									
<b>ROADS</b>																	
SE Kelowna	R-A	9,243	8,888	6,193	5,823	4,529	81.3		2,843	30.6	1,422	2,843		9,243 - 1st .405 hctr/prtn	22,830	4,821	11,415
South Mission	R-B	26,118	24,550	17,489	16,454	12,789	229.7		8,034	86.5	4,017	8,034		26,118 - 1st .405 hctr/prtn	64,510	13,059	32,255
NE of Inner City	R-C	15,513	14,582	10,394	9,773	7,601	136.4		4,772	51.4	2,386	4,772		15,513 - 1st .405 hctr/prtn	38,317	7,756	19,159
North of Hwy 33	R-D	13,321	12,522	8,925	8,392	6,527	117.2		4,098	44.1	2,049	4,098		13,321 - 1st .405 hctr/prtn	32,903	6,861	16,451
North of Inner City	R-E	11,000	10,340	7,370	6,930	5,390	96.7		3,384	36.4	1,692	3,384		11,000 - 1st .405 hctr/prtn	27,169	5,500	13,584
Inner City - Note 1	R-I	8,338	7,838	5,586	5,253	4,086	73.3		2,565	27.6	1,282	2,565		8,338 - 1st .405 hctr/prtn	20,594	4,169	10,297
<b>WATER</b>																	
Inner City - Note 2	W-A	1,282	859	615	436	359	6.4		492	5.3	246	492		1,282 - 1st .15 hctr/prtn	8,871	641	4,436
South Mission	W-B	833	558	400	283	234	4.2		320	3.4	160	320		833 - 1st .15 hctr/prtn	5,764	417	2,882
Clifton/Glenmore	W-D	3,584	2,402	1,721	1,219	1,005	18.0		1,376	14.8	688	1,376		3,584 - 1st .15 hctr/prtn	24,804	1,792	12,402
<b>TRUNKS</b>																	
Inner City - Note 3	S-A	1,541	1,279	863	832	680	12.2		592	6.4	296	592		1,541 - 1st .15 hctr/prtn	10,666	771	5,333
South Mission	S-B	1,379	1,145	772	745	608	10.9		529	5.7	265	529		1,379 - 1st .15 hctr/prtn	9,543	690	4,771
<b>TREATMENT</b>																	
Inner City - Note 3 & South Mission	T-A	3,845	3,025	2,041	1,988	1,606	28.8		1,399	15.1	700	1,399		3,845 - 1st .15 hctr/prtn	25,223	1,823	12,612
<b>PARKS</b>																	
	P-A	5,795	5,795	5,795	5,795	5,795	104.0		Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt

### NOTES

1. Inner City, Dilworth Periphery, North Spec 7; South Spec 7; Central Mission, Clifton; Glenmore Highlands, Glenmore Valley, Rutland; South of Hwy 97; Sexsmith; Hall road
2. Inner City, Dilworth Periphery, North Spec 7; South Spec 7; Central Mission
3. Inner City, Dilworth Periphery, North Spec 7; South Spec 7; Central Mission, Clifton; Glenmore Highlands, Glenmore Valley, Rutland; South of Hwy 97; Sexsmith; Hall Road; NE Rutland; University South; S. McKinley, Bell Mountain, Gallagher Ridge.

Roads - Charges are Net of "Assist Factor" of 15%

Wastewater/Trunks/Treatment - Charges are Net of "Assist Factor" of 1%

Water - Charges are Net of "Assist Factor" of 1%

- Areas not noted above are provided water by suppliers other than the City

Parks - Charges are Net of "Assist Factor" of 8%

General - 1,000 square feet is considered to be the equivalent of 92.9 meters

- sector designations denote geographical areas as designated on attached Sector maps A1 to A5

4. DCC charges to be allocated proportionately by formula to each service

### Commercial or Institutional Calculation

The measurement unit for Commercial and Institutional development is square meters of floor area. The calculation of floor area of a commercial or institutional building is based on the gross floor area which is measured from the outside edge of all exterior walls, less the area used for parking of motor vehicles and bicycles in the building permit application.

### Industrial Calculation

The measurement unit for Industrial development is hectares of site area. The calculation of industrial site area is based on the gross area of the site that is proposed for development in a building permit application, including access, parking and loading and excludes landscaped areas and the undeveloped portion of the site that is being held in it's pre-developed state for future additional development (0.405 hectares minimum).



# Report to Council



**Date:** May 2, 2016  
**File:** 0710-40  
**To:** City Manager  
**From:** Ross Soward, Planner Specialist  
**Subject:** 2016 Rental Housing Grant Bylaws

---

## **Recommendation:**

THAT Council, receives, for information, the Report from the Planner Specialist dated May 2, 2016 recommending that Council adopt the following Housing Agreement bylaws for the six approved rental housing grants.

AND THAT Bylaw No. 11235 authorizing a Housing Agreement between the City of Kelowna and Society of Hope, which requires the owners to designate 78 dwelling units in a purpose-built rental housing for Lot 1, District Lot 128, ODYD, Plan EPP37196 located at 2065 Benvoulin Crt, Kelowna, BC be forwarded for reading consideration.

AND THAT Bylaw No. 11237 authorizing a Housing Agreement between the City of Kelowna and Okanagan Metis & Aboriginal Housing Society, which requires the owners to designate 78 dwelling units in a purpose-built rental housing for Parcel B (Plan B1566) of Lot 4, Sections 26 and 27, Township 26, ODYD, Plan 426, Except Plans 8449, 21711, 24898, KAP58053 and KAP58054 located at 1170 Highway 33, Kelowna, BC be forwarded for reading consideration.

AND THAT Bylaw No. 11236 authorizing a Housing Agreement between the City of Kelowna and Ki-Low-Na Friendship Society, which requires the owners to designate 86 dwelling units in a purpose-built rental housing for Lot 2, District Lot 139, ODYD, Plan KAP92715 Except Plan EPP40150 located at 1745 Chapman Place, Kelowna, BC be forwarded for reading consideration.

AND THAT Bylaw No. 11234 authorizing a Housing Agreement between the City of Kelowna and Unico One Developments Ltd, which requires the owners to designate 23 dwelling units in a purpose-built rental housing for Lot 1, Section 22, Township 26, ODYD, Plan EPP51775 located at 125 Dundas, Kelowna, BC be forwarded for reading consideration.

AND THAT Bylaw No. 11238 authorizing a Housing Agreement between the City of Kelowna and U Three - Mission Group Rentals Ltd, which requires the owners to designate 55 dwelling units in a purpose-built rental housing for Lot 1, Section 3 and 10, Township 23, ODYD, Plan EPP53793 located at 805 Academy Way, Kelowna, BC be forwarded for reading consideration.

AND THAT Bylaw No. 11239 authorizing a Housing Agreement between the City of Kelowna and Davara Holdings Ltd, which requires the owners to designate 9 dwelling units in a purpose-built rental housing for Lot 1, Section 27, Township 26, ODYD, Plan 18004 located at 305 Homer Road, Kelowna, BC be forwarded for reading consideration.

AND FURTHER THAT Mayor and City Clerk be authorized to execute the Housing Agreements on behalf of the City of Kelowna after adoption.

**Purpose:**

To consider Housing Agreements for the purpose-built rental housing projects that were approved for rental housing grants, in accordance with Council Policy No. 335.

**Background:**

On November 16, 2015 Council approved funding for six rental housing grants, supporting 329 rental housing units. Since receiving Council approval, staff has confirmed that all six projects intend to move forward to the building permit stage in 2016. In accordance with the City's Rental Housing Grants Policy all projects are required to enter into purpose-built rental housing agreements with the City to ensure the development of purpose-built rental housing on their respective sites. The housing agreements become bylaw upon approval from Council, ensuring all six projects will operate purpose-built rental housing for a minimum of ten years. After ten years, if a landowner intends to lift an agreement, Council approval is required along with repayment of any grant funding received from the City.

Three of the rental housing grant recipients are developing their projects in partnership with BC Housing. BC Housing is using a new strategy to reduce risk associated with non-profit housing projects. Under this approach a portion of the units are stratified and purchased by BC Housing and then operated by the local non-profit housing provider. To accommodate this approach, a modified housing agreement template was developed for projects when non-profit organizations are entering into agreements with BC Housing.

**Legal/Statutory Authority:**

Local Government Act, Section 483.

**Legal/Statutory Procedural Requirements:**

Housing Opportunities Reserve Fund By-law No. 8593

**Existing Policy:**

2030 Official Community Plan

Objective 10.3 Support the creation of affordable and safe rental, non-market and /or special needs housing

Policies 10.3.1, 10.3.2, 10.3.3 & 10.3.4

**Council Policy no. 355 - Rental Housing Grants**

Submitted by:  
Ross Soward, Planner Specialist

**Approved for inclusion:**



James Moore, Acting Department Manager, Policy & Planning

cc:  
Divisional Director, Community Planning and Real Estate  
Manager, Long Range Policy and Planning  
Manager, Urban Planning  
Department Manager, Community Planning  
Director, Financial Services

**Considerations not applicable to this report:**  
**Financial/Budgetary Considerations:**  
**Personnel Implications:**  
**External Agency/Public Comments:**  
**Communications Comments:**  
**Alternate Recommendation:**

# CITY OF KELOWNA

## BYLAW NO. 11234

### **Housing Agreement Authorization Bylaw - Unico One Developments Ltd., Inc. No. BC0990537 - 125 Dundas Road**

---

Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Unico One Developments Ltd., Inc. No. BC0990537 for the lands known as Lot 1, Section 22, Township 26, ODYD, Plan EPP51775 located on 125 Dundas Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



## Appendix "A"

Page 1

### PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 1 Section 22 Township 26 ODYD Plan EPP51775

("Land")

And is

**BETWEEN:** Unico One Developments Ltd., a business located at  
101 – 1865 Dilworth Drive, Suite #351, Kelowna, BC V1Y 9T1

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

#### GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose- built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 23 Dwelling Units as purpose-built rental housing;
- (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings to be sold independently of each other for a period of ten (10) years from the date of this agreement.

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified purpose- built rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
- (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.



- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other

breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

K. Brunet )  
Signature of Witness )

Kimberly Brunet )  
Print Name )

1435 Water St, Kelowna BC )  
Address )

Planning Technician )  
Occupation )

**KIMBERLY BRUNET**  
A COMMISSIONER FOR TAKING  
AFFIDAVITS FOR BRITISH COLUMBIA  
1435 Water Street, Kelowna, BC

"OWNER"  
by its authorized signatories:

PER: UNICO ONE DEVELOPMENTS LTD.  
DAVID HALLONQUIST  
Print Name:

Print Name:

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11235

### **Housing Agreement Authorization Bylaw - National Society of Hope, Inc. No. S0025475 - 2065 Benvoulin Court**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with National Society of Hope, Inc. No. S0025475 for the lands known as Lot 1, District Lot 128, ODYD, Plan EPP37196 located on 2065 Benvoulin Court, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



Appendix "A"

Page 1

**PURPOSE-BUILT RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Lot 1 District Lot 128, ODYD Plan EPP37196

("Land")

And is located at 2065 Benvoulin Court, Kelowna, B.C. V1W 2C7

**BETWEEN:**

National Society of Hope S-25475  
#101 – 2055 Benvoulin Court,  
Kelowna, B.C. V1W 2C7  
("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include Purpose-Built Rental Housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for Purpose-Built Rental Housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:



## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific



performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

### **2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 78 Dwelling Units as Purpose-Built Rental Housing;
- (c) No building on the Land may be subdivided by means of a strata plan for a period of ten (10) years from the date of this agreement.
- (d) Despite subsection (c), and with the prior approval of the City's Council under section 242 of the Strata Property Act in the case of a building that has been previously occupied, a building may be subdivided by a strata plan for the sole purpose of transferring the strata lots to the Provincial Rental Housing Corporation. Any such strata lot must be used and maintained as Purpose-Built Rental Housing in accordance with subsection (b)

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

### **3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not, other than as set out in section 2.0 (d) sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified Purpose-Built Rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

### **4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (c) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (d) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land; and the notice of housing agreement may not be released from title to the Land, and this Agreement may not be terminated, sooner than ten (10) years from the date of this Agreement;
- (d) repayment of any rental grant received from the City will be required if this Agreement is terminated and the notice of housing agreement is released from title to the Lands. Funds received would be directed to the Housing Opportunities Reserve Fund.

- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** –The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.

- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

Kim Brunet )  
Signature of Witness )

Kim Brunet )  
Print Name )

1435 Water St )  
Address )

Planning Technician )  
Occupation )

"OWNER"  
by its authorized signatories:

[Signature]

Lorne Gerber, President

Print Name:

[Signature]

Ken Zeitner, Chief Financial Officer

Print Name:

**KIMBERLY BRUNET**  
A COMMISSIONER FOR TAKING  
AFFIDAVITS FOR BRITISH COLUMBIA  
1435 Water Street, Kelowna, BC

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# CITY OF KELOWNA

## BYLAW NO. 11236

### **Housing Agreement Authorization Bylaw - Ki-Low-Na Friendship Society - 1745 Chapman Place**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Ki-Low-Na Friendship Society for the lands known as Lot 2, District Lot 139, ODYD, Plan KAP92715 Except Plan EPP40150 located on 1745 Chapman Place, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

## Appendix "A"

Page 1

### PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Parcel Identifier: 028-791-649, LOT 2, DISTRICT LOT 139, OSOYOOS DIVISION YALE  
DISTRICT PLAN KAP92715 EXCEPT PLAN EPP40150

("Land")

And is

#### BETWEEN:

**KI-LOW-NA FRIENDSHIP SOCIETY**, having its offices at 442 Leon Avenue, Kelowna,  
B.C. V1Y 6J3

("Owner")

#### AND:

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community  
Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

#### GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include Purpose-Built Rental Housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for Purpose-Built Rental Housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is

acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered leaseholder of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

**1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;



- (b) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

### **2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 86 Dwelling Units as Purpose-Built Rental Housing;
- (c) No building on the Land may be subdivided by means of a strata plan for a period of ten (10) years from the date of this agreement.
- (d) Despite subsection (c), and with the prior approval of the City's Council under section 242 of the Strata Property Act in the case of a building that has been previously occupied, a building may be subdivided by a strata plan for the sole purpose of transferring the strata lots to the Provincial Rental Housing Corporation. Any such strata lot must be used and maintained as Purpose-Built Rental Housing in accordance with subsection (b)

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

### **3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not, other than as set out in section 2.0 (d) sell or transfer, or agree to sell or transfer, any interest in any building containing Purpose-Built Rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified Purpose-Built Rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

### **4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (c) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (d) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land;
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land; and the notice of housing agreement may not be released from title to the Land, and this Agreement may not be terminated, sooner than ten (10) years from the date of this Agreement;
- (d) repayment of any rental grant received from the City will be required if this Agreement is terminated

and the notice of housing agreement is released from title to the Lands. Funds received would be directed to the Housing Opportunities Reserve Fund.

- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** –The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

Cam Martin )  
Signature of Witness )

CAMERON MARTIN )  
Print Name )

864 Sutherland Ave )  
Kelowna )  
Address )

Non-profit Manager )  
Occupation )

"OWNER"  
by its authorized signatories:

Edna M. Terbasket

Edna Terbasket  
Print Name:

Christina Verhagen

Christina Verhagen  
Print Name:

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# CITY OF KELOWNA

## BYLAW NO. 11237

### **Housing Agreement Authorization Bylaw - Okanagan Metis & Aboriginal Housing Society - 1170 Hwy 33 W**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Okanagan Metis & Aboriginal Housing Society for the lands known as Parcel B (Plan B1566) of Lot 4, Sections 26 and 27, Township 26, ODYD, Plan 426, Except Plans 8449, 21711, 24898, KAP58053 and KAP58054 located on 1170 Hwy 33 W, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk



## Appendix "A"

Page 1

### PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Parcel B (B1566) of Lot 4, Sections 26 and 27, Township 26, ODYD, Plan 426, Except Plans 8449, 21711, 24898, KAP58053 and KAP58054, PID: 012-394-131

And is

#### BETWEEN:

Okanagan Metis & Aboriginal Housing Society  
#240 - 1855 Kirschner Road, Kelowna, BC V1Y 4N7  
("Owner")

#### AND:

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4  
("City")

#### GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**



- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 72 Dwelling Units as purpose-built rental housing;
- (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings to be sold independently of each other for a period of ten (10) years from the date of this agreement.

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified purpose- built rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
- (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.

- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other

breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

MARDELLE CORBETT )  
Signature of Witness )

MARDELLE CORBETT )  
Print Name )

1435 WATER ST )  
Address KELOWNA BC )

DEVELOPMENT SERVICES )  
Occupation CO-ORDINATOR )

**MARDELLE A. CORBETT**  
A COMMISSIONER FOR TAKING  
AFFIDAVITS FOR BRITISH COLUMBIA  
1435 Water Street, Kelowna B.C.

"OWNER"  
by its authorized signatories:

A. Walker

Susan Walker  
Print Name:

\_\_\_\_\_  
Print Name:



**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11238

### **Housing Agreement Authorization Bylaw - U Three - Mission Group Rentals Ltd., Inc. No. BC1065198 - 805 Academy Way**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with U Three - Mission Group Rentals Ltd., Inc. No. BC1065198 for the lands known as Lot 1, Section 3 and 10, Township 23, ODYD, Plan EPP53793 located on 805 Academy Way, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

## Appendix "A"

Page 1

### PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_ affects:

#### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 1 Sections 3 & 10 Township 23 ODYD Plan EPP53793

("Land")

And is

#### BETWEEN:

U3 – Mission Group Rentals Ltd.

("Owner")

#### AND:

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

#### GIVEN THAT:

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose-built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:





## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement - The Owner and the City agree that:**

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 63 Dwelling Units as purpose-built rental housing;
- (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings to be sold independently of each other for a period of ten (10) years from the date of this agreement.

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified purpose- built rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
- (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.

- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other



breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

**IN WITNESS WHEREOF** the parties hereunto have executed this Agreement on the date and year first above written.

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

R. Hughes )  
Signature of Witness )

R. HUGHES )  
Print Name )

ROSE HUGHES )  
A COMMISSIONER FOR TAKING )  
AFFIDAVITS FOR BRITISH COLUMBIA )  
1435 Water Street, Kelowna, B.C. )  
Address )

\_\_\_\_\_  
Occupation

**"OWNER"**  
by its authorized signatories:

[Signature]

Randall Shier  
Print Name:

\_\_\_\_\_  
Print Name:

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11239

### **Housing Agreement Authorization Bylaw - Davara Holdings Ltd., Inc. No. BC0797640 - 305 Homer Road**

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Whereas pursuant to Section 483 of the *Local Government Act*, a local government may, by bylaw, enter into a housing agreement.

Therefore, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Municipal Council hereby authorizes the City of Kelowna to enter into a Housing Agreement with Davara Holdings Ltd., Inc. No. BC0797640 for the lands known as Lot 1, Section 27, Township 26, ODYD, Plan 18004 located on 305 Homer Road, Kelowna, B.C., a true copy of which is attached to and forms part of this bylaw as Appendix "A".
2. The Mayor and City Clerk are hereby authorized to execute the attached agreement as well as any conveyances, deeds, receipts or other documents in connection with the attached agreement.
3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

---

Mayor

---

City Clerk

## Appendix "A"



## PURPOSE-BUILT RENTAL HOUSING AGREEMENT

THIS AGREEMENT dated for reference \_\_\_\_\_

### LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:

Lot 1 Section 27 Township 26 Osoyoos Division Yale Plan 18004

("Land")

And is

**BETWEEN: Davara Holdings Ltd**, 1-911 Borden Ave, Kelowna B.C V1Y 6A5

("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include purpose-built rental housing units, as defined in this Agreement, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 483 of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for purpose- built rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 483 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 483 of the *Local Government Act*, as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions -**

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 10500, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Purpose-Built Rental Housing" means a self-contained building(s) containing five or more Dwelling Units that are intended to be used for rental housing and does not include buildings that are stratified; and

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*.

### **1.2 Interpretation - In this Agreement:**

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;
- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 482 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting

development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and

- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

## **ARTICLE 2 HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.0 Land Use Restrictions** - The Owner and the City hereby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a building or buildings providing 9 Dwelling Units as purpose-built rental housing;
- (c) The Owner acknowledges that the City will not support applications to stratify the building and allow the identified purpose-built rental dwellings to be sold independently of each other for a period of ten (10) years from the date of this agreement.

## **ARTICLE 3 HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing purpose built rental Dwelling Unit(s) on the Land other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified purpose-built rental Dwelling Unit(s) are available in accordance with this Agreement.

## **ARTICLE 4 GENERAL**

**4.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:

- (a) this Agreement constitutes a housing agreement entered into under s. 483 of the *Local Government Act*;
- (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land; and
- (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
- (d) should the owner request that the notice of this agreement be lifted from the title of the Land, ensuring that the request is made no sooner than ten (10) years from the date of this agreement, repayment of any rental grant received from the City will be required. Funds received would be directed to the Housing Opportunities Reserve Fund.



- 4.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 4.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Dwelling Units.
- 4.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 4.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.
- 4.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 4.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 4.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 4.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other

breach of this Agreement.

- 4.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 4.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 4.12 Equitable Remedies** - The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 4.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 4.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 4.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 4.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.

IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

M. Corbett )  
Signature of Witness )

MARDELLE CORBETT )  
Print Name )

1435 WATER ST )  
Address KELOWNA BC )

PLANNING TECHNICIAN )  
Occupation )

MARDELLE A. CORBETT  
A COMMISSIONER FOR TAKING  
AFFIDAVITS FOR BRITISH COLUMBIA  
1435 Water Street, Kelowna B.C.

"OWNER"  
by its authorized signatories:

[Signature]

David Sargent  
Print Name:

\_\_\_\_\_  
Print Name:

**SIGNED, SEALED & DELIVERED** in )  
the presence of: )  
 )  
 )  
\_\_\_\_\_)  
Signature of Witness )  
 )  
\_\_\_\_\_)  
Print Name )  
 )  
\_\_\_\_\_)  
Address )  
 )  
\_\_\_\_\_)  
Occupation )

**CITY OF KELOWNA**  
by its authorized signatories:  
  
\_\_\_\_\_) Mayor  
  
\_\_\_\_\_) City Clerk

# Report to Council



**Date:** May 2, 2016

**File:** 1140-551

**To:** City Manager

**From:** M. Olson, Manager, Property Management

**Subject:** CONCESSION OPERATION BID AWARDS - VARIOUS FOOD & ACTIVITY

*Report Prepared by: T. Abrahamson, Property Officer*

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## **Recommendation:**

THAT Council approves the City entering into a mobile food concession with Artisto Gelato to provide summer mobile food vending services at Stuart Park for a two (2) year term with two (2) one (1) year options to renew at the City's sole discretion, in the form attached to the Report of the Manager, Property Management, dated May 2, 2016;

AND THAT Council approves the City entering into a concession contract with Hot or Not Vending for three (3) downtown food vending locations at 266 Lawrence Avenue, 238 Leon Avenue and 275 Leon Avenue, to provide evening mobile food vending services for a three (3) year term with two (2) one (1) year options to renew at the City's sole discretion, in the form attached to the Report of the Manager, Property Management, dated May 2, 2016; and

AND THAT Council approves the City entering to an activity concession with Okanagan Beach Rentals to provide water activity concessions at Gyro Beach and Rotary Beach for a three (3) year term with two (2) one (1) year options to renew at the City's sole discretion, in the form attached to the Report of the Manager, Property Management, dated May 2, 2016;

AND FURTHER THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete the contracts.

## **Purpose:**

That Council endorse the award of food vendor contracts for Lawrence Avenue, Leon Avenue and Stuart Park; and a water activity concession contract for Gyro and Rotary Beaches.

## **Background:**

Food and activity vending concessions have flourished in Kelowna in recent years and the successful conclusion of contracts awarded in 2010 and 2011 resulted in these opportunities

becoming available for bid in 2016. Continuing the momentum established under these contracts, the City opened the bid process for the following concession opportunities:

Summer Mobile Food Concession  
Stuart Park

Evening Mobile Food Concessions  
266 Lawrence Avenue; 238 Leon Avenue; 275 Leon Avenue

Activity Concessions  
Gyro Beach; Rotary Beach

The bidding opportunities were advertised on the City's website, social media and local newspaper. Subsequent to optional information meetings held March 9 and 15, 2016, bids were accepted and reviewed by a committee comprised of Parks staff and evaluated based on benefit to the community, experience and qualifications, quality of service being offered, and value to the City.

Based on this criteria, the successful bidders were identified and are summarized below:

**Artisto Gelato** - summer mobile food vending services at Stuart Park from May 15<sup>th</sup> to September 15<sup>th</sup> annually. The vendor will focus on handcrafted locally sourced ingredients for offerings of gelato, sorbetto, and grilled paninis.

**Hot or Not Vending** - annual evening mobile food vendor servicing three downtown locations on Leon and Lawrence Avenues from Wednesday to Saturday, 9pm to 2am. Offerings include wraps, perogies, all beef hot dogs and smokies.

**Okanagan Beach Rentals** - summer water activity vendor servicing both Gyro and Rotary Beaches. Vendor will offer kayak, stand up paddleboard, peddle boat, aqua bike and canoe rentals. In addition, the City will be providing a beach wheelchair for each beach which the vendor will loan, free of charge, to guests requiring wheelchair access to enjoy the lakeshore.

#### **Financial/Budgetary Considerations:**

Stuart Park (summer) - Artisto Gelato

- \$5,000/year - 2-year total \$10,000
- Plus 5% of gross profits each year of the contract

Downtown Evening Vendor - Hot or Not Vending

- \$8,100/year - 3-year total \$24,300
- Plus 5% of gross profits each year of the contract

Gyro and Rotary Beaches - Okanagan Beach Rentals

- \$18,000/year - 3-year total \$54,000
- Plus 5% of gross profits each year of the contract



**Internal Circulation:**  
Parks Services Manager

**Considerations not applicable to this report:**

Legal/Statutory Authority:  
Legal/Statutory Procedural Requirements:  
Existing Policy:  
Personnel Implications:  
External Agency/Public Comments:  
Communications Comments:  
Alternate Recommendation:

**Submitted by:** M. Olson, Manager, Property Management

**Approved for inclusion:** D. Edstrom, Director, Real Estate

**Attachments:** 1. Schedule A - Contract, Artisto Gelato  
2. Schedule B - Contract, Hot or Not Vending  
3. Schedule C - Contract, Okanagan Beach Rentals  
4. Schedule D - PowerPoint

**cc:** I. Wilson, Parks Services Manager  
J. Gabriel, Divisional Director, Active Living & Culture  
G. Filafilo, Financial Projects Manager

## **LICENSE OF OCCUPATION**

### **ARTISTO GELATO Stuart Park - Summer Concession License (2016 - 2017)**

BETWEEN:

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia V1Y 1J4

(the "City")

OF THE FIRST PART

AND:

**ARTISTO GELATO**  
#114 - 2714 Hwy. 97 N  
Kelowna, British Columbia V1X 4J7

(the "Contractor")

OF THE SECOND PART

WHEREAS the City desires to appoint the services of the Contractor to provide Mobile Concession services (the "Services") at Stuart Park.

NOW THEREFORE this Agreement witnesses that the parties hereby covenant and agree with each other as follows:

#### **Services**

The Contractor shall provide services for the Works on the terms and conditions set out in this Agreement and are binding upon the parties.

#### **Appendices**

The following attached Appendices are a part of this Agreement:

- Appendix A - Insurance Requirements
- Appendix B - Scope of Services
- Appendix C - Fees - Schedule
- Appendix D - Exclusive Supplier Agreement
- Appendix E - Premise
- Appendix F - Fire Dept. Requirements
- Appendix G - Stuart Park - Summer Mobile Food Vending Concession Bid

If there is any inconsistency or conflict between the provisions of the Agreement and the Appendices, the Agreement shall govern and take precedence over all other Contract Documents.

## AGREEMENT TERMS AND CONDITIONS

### 1.0 Definitions (For purposes of this Agreement, the following terms shall have the meanings set forth below):

**“Agreement”** means the executed agreement between the City and the successful Contractor on the terms and conditions set out in this document;

**“Agreement Administrator”** refers to the individual appointed by the Manager, Property Management to administer this Agreement on behalf of the City, and any participating members and other authorized purchasers;

**“City’s Representative”** means the Manager, Property Management or his designate;

**“Department”** means the Real Estate & Building Services department of the City of Kelowna

**“Department Representative”** means the Manager, Property Management, who shall represent all City Departments for the purposes of this Agreement, or, such other person who may subsequently be appointed in writing by the Department Representative and notified to the Contractor;

**“Event of Default”** references Article 6.1(c);

**“Force Majeure”** shall mean failures which occur for reasons beyond the reasonable control of the non-performing party, which include acts of God, acts of any governmental authority, strikes, blacklisting, embargo, and lockouts or other industrial disturbances not related to that Party, acts of the public enemy, wars, blockades, insurrections, explosions, rebellions, revolutions, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, fires, high waters, washouts, orders or acts of civil or military authorities, or civil disturbances, but it shall not include: any inability to fulfill its financial obligations or financial difficulty or condition, insolvency, or any court protection from creditors or any other occurrence similar to those recited, which is beyond the reasonable control of the non-performing party;

**“G.S.T.”** means any Goods & Services Tax payable in connection with the goods and services pursuant to the Excise Tax Act of Canada and shall also include any sales, value added or like taxes as well as any capital tax adopted by any lawful authority as may be amended from time to time;

**“Term”** means the term as specified in Section 5.0;

**“Schedule”** means a schedule to this agreement;

## **2.0 Interpretations**

- (a) “Authorized”, “directed”, “required”, “requested”, “approved”, “ordered”, “sanctioned”, and “satisfactory” shall, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the City;
- (b) “Determination” shall mean the written documentation of a decision of the City’s Representative including findings of fact to support a decision. A Determination becomes part of the procurement file to which it pertains;
- (c) the Heading and Subheadings inserted in this Agreement are designed for convenience only and do not form a part of this Agreement nor are they intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any provision thereof;
- (d) the word “including”, when following any general statement, term or matter, shall not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as amended and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplement or superseding the same;
- (f) no approval, authorization, sanction or permission required to be provided hereunder shall be unreasonably or arbitrarily withheld or delayed by the party providing same; and
- (g) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural, and vice versa and words importing individuals shall include firms and corporations, and vice versa.

## **3.0 Representations of Contractor**

### **3.1 The Contractor covenants, represents and warrants to the City that:**

- (a) Contractor is a duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with



respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;

- (b) Contractor has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (c) all necessary proceedings have been taken to authorize Contractor to enter into this Agreement and to execute and deliver this Agreement;
- (d) this Agreement has been properly executed by Contractor and is enforceable against Contractor in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made furnished or given by Contractor, its directors, officers or anyone acting on behalf of Contractor, to the City in connection with this Agreement is materially correct and accurate;
- (f) Contractor has no knowledge of any fact that materially adversely affects or, so far as it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it or a default by it under any statute, regulation or bylaw of Canada or of the Province of British Columbia applicable to or binding on, its contracting documents, or any contract or agreement to which it is a party;
- (h) Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfill its obligations under this Agreement;
- (i) Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by Contractor under those laws as of the reference date of this Agreement;
- (j) Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (k) Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the City;



- (l) Contractor accepts the risks assigned within this Agreement identified as being borne by Contractor;
- (m) Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved sub-contractual agreements in place and available to enable it to fully perform the work;
- (n) Contractor pays punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- (o) Contractor has investigated and satisfied itself of every condition affecting the work including labour, equipment and material to be provided; but not limited to, the standards, responsibilities, task schedules and subsequent written instructions if any, all as prepared by the City;
- (p) Contractor acknowledges that it has the responsibility for informing itself of all aspects of the work and all information necessary to perform the work;
- (q) Contractor will comply with all the requirements of the Agreement and will perform all work and supply all labour, equipment and materials necessary to do so;
- (r) Contractor is an independent Contractor and not the servant, employee, partner, or agent of the City;
- (s) Contractor will not, in any manner whatsoever, commit or purport to commit the City to the payment of any money to any person;
- (t) no partnership, joint venture, or agency involving the City is created by this Agreement or under this Agreement;
- (u) the City may, from time to time, give such instructions to Contractor as the City considers necessary in connection with provision of the work, which instructions Contractor will comply with, but Contractor will not be subject to the control of City with respect to the manner in which such instructions are carried out;
- (v) all employees and sub-contractors employed by Contractor to provide the work are at all times the employees and sub-contractors of Contractor and not of the City. Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee, and
- (w) Contractor has independently reviewed all labour relations issues related to the performance of Contractor's obligations under this Agreement.

#### **4.0 General Obligations of Contractor**

##### **4.1 Contractor shall:**

- (a) offer Mobile Concession services, as set out in the Scope of Services attached as Appendix B;
- (b) perform and contract in its own name and for its sole account for all things necessary or desirable for the proper and efficient provision of Mobile Concession services during the term;
- (c) use its best endeavours to provide the services to the City in a timely manner and in accordance with the terms of the Contract;
- (d) ensure that all its employees engaged in this contract are suitably qualified and experienced, and act to the best of their skills and ability and in accordance with accepted Mobile Concession standards for persons having those qualifications and experience;
- (e) follow all instructions of the City's Manager, Property Management in respect of the performance by Contractor of its obligations under this contract and as set out in the Mobile Food Vending Concession Bid Package submitted by Artisto Gelato dated March 18, 2016, and attached as Appendix G and cooperate fully with the various departments and act in good faith towards the City;
- (f) comply with the terms of Fire Department requirements as set out in Appendix F;
- (g) maintain clear communication lines with staff in order to offer the best customer service;
- (h) comply with all laws; and
- (i) only use the facilities provided by the City for the purposes of this Contract.

#### **5.0 Term**

5.1 Collectively, the Initial Term and Renewal Term are referred to as the "Term".

##### **5.2 Initial Term**

The term of the "Agreement" shall be for a four (4) month period running from May 15<sup>th</sup> to September 15<sup>th</sup> in 2016, May 15<sup>th</sup> to September 15<sup>th</sup> in 2017, and will expire no later than September 15<sup>th</sup>, 2017, subject to specific termination rights in this document and subject to a first option to extend the Agreement at the sole and exclusive discretion of the Manager, Property Management.

### 5.3 Renewal Term

The City agrees that prior to entering into discussions with any third party with respect to the supply and/or advertising of a Mobile Concession for the period commencing after the end of the Initial Term, the City may in its sole discretion with respect to each renewal term renew this Agreement for an additional year to a maximum of two (2), one (1)-year renewals following the completion of the Initial Term.

No later than ninety (90) days prior to the start of the optional second consecutive term of the Agreement (**May 15<sup>th</sup>, 2018**), the City may exercise an option to renew for an additional season in 2019, provided the Contractor is in total compliance with all the terms and conditions of the Agreement.

The City of Kelowna shall notify the Contractor of its intentions to exercise the aforementioned option in writing.

### 6.0 Termination - City

#### 6.1 This Agreement will terminate:

- (a) at the expiration of the initial term, unless extended by mutual agreement; or
- (b) If at any time there occurs an Event of Default (defined below), the City may give written notice ("Notice of Complaint") to Contractor specifying in reasonable detail the Event of Default. If Contractor shall fail to perform or observe any covenant, condition or agreement to be performed or observed herein and such Event of Default continues unremedied for a period of seven (7) days after receiving the Notice of Complaint thereof from the City, then the City may, at its option, terminate this Agreement forthwith without prejudice to any other rights it may have in law or equity. If this Agreement is terminated by the City, Contractor shall be entitled to an immediate pro-rata refund of all unearned monies paid in advance to the City, as determined by mutual agreement.
- (c) For the purposes hereof, "Event of Default" shall mean any one or more of the following:
  - (i) if Contractor fails to observe, perform and keep each and every one of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by Contractor in this Agreement, or any agreement entered into pursuant to any such agreements;
  - (ii) if Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;



- (iii) if Contractor has made an assignment of the Agreement without the required consent of the City; and
  - (iv) if Contractor fails to provide Mobile Concession services as required under the terms of this Agreement.
- (d) The City may conduct inspections, audits, and assessments of Contractor's performance to verify that all duties, financial records, responsibilities and obligations of Contractor are being performed in accordance with the provisions of this Agreement and to the quality standards set out in this Agreement.

## 7.0 Dispute Resolution Procedures

The parties will make reasonable efforts to resolve any dispute, claim or controversy arising out of this agreement or related to this agreement ("Dispute") using the dispute resolution procedures set out in this section.

### (a) Negotiation

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

### (b) Mediation

If all or any portion of a dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Kelowna, British Columbia. Each party will equally bear the costs of the mediator and other out-of pocket costs and each party will bear its own costs of participating in the mediation.

## 8.0 Compensation to the City

- 8.1 The initial Agreement, with an optional renewal for the following years, will commence immediately upon authorization of an Agreement for Mobile Concession in the beach parks. **The Proponent will pay a monthly fee as detailed in Appendix C Fees Schedule.**

## 9.0 Independent Contractor

- 9.1 Nothing in this Agreement shall be construed as to constitute a partnership between the City and Contractor. The duties to be performed and the

obligations assumed by Contractor under this Agreement shall be performed and assumed by it as an independent Contractor and not an agent or in any other way a representative of the City. In no circumstances shall Contractor have any authority to represent or contract on behalf of or otherwise bind the City.

- 9.2 Contractor is and shall at all times during the performance of this Agreement be an independent Contractor, and at no time shall Contractor be considered an agent, servant, or partner of the City; and all persons employed by Contractor to perform its obligations under the Agreement shall be its employees or servants and not the employees, servant, or agents of the City.

9.3 Employees

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned, and shall devote only his best-qualified personnel to work on this project. Should the City deem anyone employed on the work incompetent or unfit for his duties, and so inform the Contractor, Contractor shall immediately remove such person from work under this contract and he/she shall not again, without written permission of the City, be assigned to work under this contract. All Contractor employees working in the City must complete and clear a criminal record check.

10.0 Liaison

- 10.1 Each party shall maintain liaison with the other party in accordance with their respective obligations under this Agreement. In particular:

- Contractor shall appoint a representative ("Contractor's Representative") who shall have the duty of instituting and maintaining liaison with the City as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of Contractor's Representative; and
- The City shall appoint a representative ("City's Representative") who shall have the duty of instituting and maintaining liaison with Contractor as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of the City's Representative.

- 10.2 Each party's representative shall have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party's obligations hereunder and each party's representative may be relied upon by the other party as the official representative of such party. Meetings between the Contractor Representative and the City's Representative may be held by telephone with the consent of all parties participating in such meetings. Each party may change their respective representative or alternative representative by written notice to the other.



## **11.0 Governing Law**

- 11.1 This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof. The courts of British Columbia shall have jurisdiction (but not exclusive jurisdiction) to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and shall have jurisdiction to hear and determine all questions as to the validity, existence or enforceability hereof. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the Contractor hereby irrevocably submits and attorns to the jurisdiction of the courts of British Columbia and acknowledges their competence and the convenience and propriety of the venue and agrees to be bound by any judgment thereof and not to seek, and hereby waives, any review of its merits by the courts of any jurisdiction.
- 11.2 Notwithstanding any provisions herein, the Contractor(s) shall in the performance of the contract comply with provisions of The Employment Standards Act and Regulations of British Columbia and City of Kelowna Policies and By-laws and Parks, Recreation and Cultural Services Policies and By-laws and any amendment thereto and without limiting the generality of the foregoing, the Contractor(s) shall pay all of the Contractor(s) employees as required by the Act and the regulations then in force.

## **12.0 Waiver - City**

- 12.1 Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 12.2 No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

## **13.0 Waiver - Contractor**

- 13.1 Any failure of the Contractor at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the Contractor at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 13.2 No action or want of action on the part of the Contractor at any time to exercise any rights or remedies conferred upon it under the Agreement shall be

deemed to be a waiver on the part of the Contractor of any of its said rights or remedies.

#### **14.0 Subcontractors**

- 14.1 Contractor shall not subcontract the whole of the work nor shall any part of the work be subcontracted without the prior written consent of the City's Representative, which consent may not be arbitrarily withheld in the City Representative's sole discretion.
- 14.2 The subcontracting of any of its duties, obligations or responsibilities of Contractor under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and Contractor shall be fully responsible for the acts, omissions and debts of its subcontractors.

#### **15.0 Amendments**

No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

#### **16.0 Survival of Covenants**

All obligations of each of the parties which expressly or by their nature survive termination or expiration or assignment of this Agreement including, without limitation, the indemnities in section 20.0 shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

#### **17.0 Confidentiality of Information**

The Contractor should be aware that the City of Kelowna is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

#### **18.0 Non Assignability**

This Agreement may not be assigned by Contractor without the prior written consent of the City. For the purpose of this Agreement, a change in the corporate control of Contractor, shall be deemed to be an assignment requiring the consent of the City pursuant to the terms hereof.

#### **19.0 Joint and Several**

If this Agreement is executed by more than one person, firm or Corporation, it is understood and agreed that all persons, firms or Corporations executing this Agreement are jointly and severally liable under and bound by this Agreement.

## **20.0 Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default arose out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule, (where provided).

## **21.0 Insurance & Indemnity**

### **21.1 Indemnity Save Harmless**

Contractor agrees to indemnify and save harmless the City, its elected officials, officers, employees and agents, from and against all claims, liabilities, demands, actions, proceedings, loss and expense (including legal costs) whatsoever for damage to or destruction or loss of property and loss of use thereof, and injury to or death of any person or persons arising directly or indirectly out of (i) the installation, operation, use, relocation, removal, maintenance and/or repair of any/all equipment or of property of Contractor (ii) the performance, purported performance or non-performance of this Agreement, or (iii) any act of negligence, willful misconduct or omission by Contractor, its employees subcontractors and agents except only where such death, injury to persons or damage to property is due to the sole negligence of the City.

### **21.2 Insurance**

The Contractor shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances in forms and amounts acceptable to the City as detailed in Appendix A

### **21.3 Compliance with Statutes, By-laws & Regulations**

The Contractor shall in the performance of the Agreement, comply with all applicable City By-laws, and all amendments thereto and The Consumer Protection Act, R.S.B.C. 1996, c.69, and any other applicable acts or regulations.

All equipment/vehicles used for the work outlined in the Agreement must comply with the Motor Vehicle Act, R.S.B.C. 1996, Chapter 318 and Regulations, as amended and the Commercial Transport Act, R.S.B.C. 1996, Chapter 58 and Regulations, as amended.



All principal vehicles of the Contractor will be identified with signs setting out its name and telephone number. Employee owned vehicles, which may be periodically used for company business, will not necessarily be marked.

## **22.0 Occupational Health and Safety**

- 22.1 The Contractor agrees that it is the Prime Contractor for the purposes of the *Workers Compensation Act*. The Contractor shall have an occupational health and safety program acceptable to the WorkSafe BC Board and shall ensure that all WorkSafe BC Health & Safety Regulations are observed during performance of this Contract, not only by the Contractor, but by all workers, subcontractors, employees, personnel, servants and others engaged in the performance of this Contract.
- 22.2 The Contractor and its workers, subcontractors, employees, personnel, servants and others engaged in the Services shall conform to all current occupational health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may, on twenty-four (24) hours written notice to the Contractor, suspend the Services hereunder immediately as a result of failure to install such devices or because the conditions of immediate danger exist that would be likely to result in injury to any person. Such suspension will continue until the default or failure is corrected.
- 22.3 Without limiting the generality of any other indemnities granted by the Contractor herein, the Contractor shall indemnify and save harmless the City against any loss or expense or penalty suffered or incurred by the City by reason of failure of the Contractor, its agents or employees, or any subcontractors of the Contractor, its agents or employees to comply or ensure compliance with the health and safety laws, by-laws and regulations mentioned above.

## **23.0 WorkSafe BC Coverage**

- 23.1 The Contractor agrees that it shall, at its own expense, procure and carry or cause to be procured and carried and paid for full WorkSafe BC coverage for itself and all workers, subcontractors, employees, personnel, servants and others engaged in or upon any Services. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafe BC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafe BC premiums, assessments or penalties in respect of the Services done or Services performed in fulfilling this Contract have been paid in full.
- 23.2 The Contractor shall provide the City with the Contractor's WorkSafe BC registration number and a letter from the WorkSafe BC confirming that the Contractor is registered in good standing with the WorkSafe BC and that all

assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Contract.

- 23.3 The Contractor shall indemnify and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafe BC assessments owing from any person or corporation engaged in the performance of this Contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafe BC, including penalties levied by WorkSafe BC.

#### **24.0 Conflict of Interest**

A council member or any employee of the City shall not have a direct or indirect interest in a Company or own a Company that is the successful Contractor.

The Contractor shall disclose to the City prior to accepting the contract, any potential conflict of interest. If such a conflict of interest does exist, the City may, at its sole discretion, withhold the contract from the Contractor until the matter is suitably resolved. And further, that if during the conduct of the contract, the Contractor is retained by another client giving cause to a potential conflict of interest, then the Contractor shall so inform the City. If a significant conflict of interest is deemed by the City to exist, then the Contractor shall refuse the contract or shall take such steps as are necessary to remove the conflict of interest.

Contractor shall disclose to the City Representative, prior to awarding of the Contract, any actual, potential or apparent conflict of interest. If such a conflict of interest does exist, the City may, at its discretion, withhold the Contract from the Contractor until the matter is resolved to the satisfaction of the City.

Contractor will upon request, provide all pertinent information regarding ownership of their company. This information to be supplied within forty-eight (48) hours after request.

#### **25.0 Non-liability of City Officials**

Under no circumstances shall any officer, employee, or agent of the City of Kelowna acting within the course and scope of his/her City responsibility be personally liable to the Contractor, or any party claim through or on behalf of the Contractor, with regards to the contract, including but not limited to its negotiation, execution, performance, or termination.

#### **26.0 Protection and Security**

- a) **Acknowledgment of Proprietary Materials/Limitations on Use.** Contractor acknowledges that the records are unpublished work for purposes of copyright law and embodies valuable confidential and secret information of the City. The Contractor will treat such information so received in confidence and will



not use, copy, disclose, nor permit any of its personnel to use, copy, or disclose the same for any purpose that is not specifically authorized under the Agreement. Notwithstanding the above, nothing herein shall prevent the Contractor from utilizing same or similar information, if it is independently provided by a third party or independently developed in-house.

- b) **Property Rights.** Each party acknowledges and agrees that the other party's products and all other material related thereto constitute valuable trade secrets of the party furnishing the products or materials, or proprietary and confidential information of such party, and title thereto remains in such party. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the products and related material are and remain in the party furnishing such products. All other aspects of the products and related material, including without limitation, technologies, procedures, programs, methods of processing, specific design and structure of individual programs and their interaction.

## **27.0 Business Licence**

The Contractor shall have or obtain a City of Kelowna Business License and shall keep the license current for the duration of the contract term.

## **28.0 Contractor Performance Review**

Contractor's performance will be evaluated by the City no less than annually on the following criteria:

- ❖ Volume of customer complaints.
- ❖ Service levels.
- ❖ Cleanliness of sites.
- ❖ Adherence to the terms and conditions of this agreement.

## **29.0 Business Review & Planning**

- 29.1 Contractor agrees to conduct annual business review meetings with Property Management Department Representatives if required.

## **30.0 Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

## **31.0 Service of Notices**

- 31.1 All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by (i) facsimile transmission, if the matter is urgent or immediate; (ii) personally delivered; or (iii) transmitted

by prepaid registered mail, to the party to whom such notice or communications is being given at the following address or fax number:

**(City Representative)**

Attention: Mike Olson

Manager, Property Management

City of Kelowna

1435 Water Street, Kelowna, British Columbia V1Y 1J4

Telephone: 250-469-8740 Fax No.: 250-862-3349

E-mail: molson@kelowna.ca

**(Contractor Representative)**

Nica Graziotto

Artisto Gelato

#114 - 2714 Hwy. 97 N., Kelowna, British Columbia V1X 4J7

Telephone: 250-870-6422

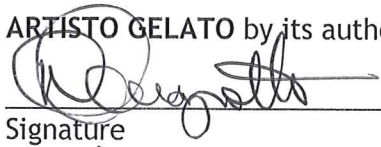
E-mail: nica@artistogelato.com

- 31.2 Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given (i) on the date of receipt if delivered personally, (ii) five (5) days after posting if transmitted by mail, or (iii) on the date of transmission if transmitted by fax (provided the sending machine gives confirmation that all pages have been transmitted to the fax number of the receiver without error), whichever shall be first.

IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Agreement to be executed on the day and year indicated below.

Accepted on behalf of:

ARTISTO GELATO by its authorized signatory:

  
\_\_\_\_\_  
Signature

Nica Guaziotto  
\_\_\_\_\_  
Print Name

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_

\_\_\_\_\_

Date Executed: \_\_\_\_\_

## Appendix A - Insurance Requirements

### 1.1 Insurance Requirements

#### 1. Contractor to Provide

The Contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless in connection with this lease agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this lease agreement until the date of termination of the lease agreement or such longer period as may be specified by the City.

#### 2. Insurance

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

##### 2.1 Comprehensive General Liability Insurance

- (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this lease agreement;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

#### 3. The City Named as Additional Insured

The policies required by section 2.1 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

#### 4. Certificates of Insurance

The Contractor agrees to submit a Certificate of Insurance, in the form of Schedule B-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of this lease agreement. Such a Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellation of any such policy or policies.

#### 5. Additional Insurance

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

#### 6. Insurance Companies

All insurance, which the Contractor is required to obtain with respect to this lease agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

#### 7. Failure to Provide

If the Contractor fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the City to deduct from any monies owing the Contractor, any monies owing by the Contractor to the City.



**8. Nonpayment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor shall not be held to waive or release the Contractor from any of the provisions of the Insurance Requirements or this lease agreement, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Contractor as stated in section 7.

**9. Hold Harmless and Indemnification**

The Contractor shall be responsible for all loss, costs, damages, and expenses whatsoever incurred or suffered by the city, its elected officials, officers, employees and agents (the indemnities) including but not limited to or loss of property and loss of use thereof, and injury to, or death of a person or persons resulting from or in conjunction with the performance, purported performance, or non-performance of this contract, excepting only where such loss, cost, damages and expenses are as a result of the sole negligence of the indemnities.

The Contractor shall defend, indemnify and hold harmless the indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the indemnities.



## APPENDIX A-1

City staff to complete prior to circulation

City Dept.: \_\_\_\_\_

Dept. Contact: \_\_\_\_\_

Project/Contract/Event: \_\_\_\_\_

This Certificate is issued to:

### CERTIFICATE OF INSURANCE

The City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

Insured

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Broker

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Location and nature of operation or contract to which this Certificate applies:

• Type of Insurance	Company & Policy Number	Policy Dates		• Limits of Liability/Amounts
		• Effective	• Expiry	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Date

## **APPENDIX B - SCOPE OF SERVICES**

### **General Scope of Services of the Contractor**

The Contractor will provide, equip and operate a mobile food concession within the designated area of Stuart Park for a two (2) year term, from May 15<sup>th</sup> to September 15<sup>th</sup> in each year of the Term, as follows:

1. The park is open from 8 am to 11 pm each day and the contractor will provide service at the park between 10 am and 8 pm (or dusk whichever is earlier), 7 days per week weather permitting, for the core season starting the last weekend of June until Labour Day in September; and during the shoulder season of May 15<sup>th</sup> - June 30<sup>th</sup> and Aug. 31<sup>st</sup> - Sept. 15<sup>th</sup>, the Contractor will supply concession service between the hours of 12:00pm to 4:00pm, 7 days per week, weather permitting.
2. The vehicle must be fully self-contained for water and sewage; a 30 amp 120/208 volt single-phase power stand is available for power and a reserved parking stall will be available.
3. The Contractor will pay all permits, taxes and licenses.
4. The Contractor will provide a menu of items that will be offered for sale at their concession. The Contractor must supply healthy food choices outlined in Appendix B-1.
5. The Contractor will clean and maintain the area surrounding the mobile unit to the satisfaction of the City, including clean-up of litter from the immediate area (a radius of 30 meters from the mobile concession unit.) All paper products used shall be clearly identifiable with the contractor's operation. The Contractor is responsible for the removal of all garbage associated with the concession.
6. The use of individual packaged condiments is prohibited.
7. The Contractor shall comply with all regulations regarding fire, traffic, safety and sanitation and shall acquire all necessary permits.
8. The Contractor will remove the vehicle from the site each day prior to the park closure.
9. The Contractor shall move the vehicle when requested by City staff to provide access to the skating rink and ancillary building.
10. The Contractor will have the exclusive right to operate a food concession within the designated site, subject only to the City maintaining the right to lease or otherwise permit operation of "other concessions" within the site for a maximum of five (5) days each season in conjunction with special events.
11. The Contractor must seek to minimize any conflict with adjacent property owners and any other users of the park.
12. The Contractor shall be allowed to display one professionally made sign at the space allotted. The sign is subject to City approval prior to posting.
13. No outside advertising will be permitted without the consent of the City.
14. The Contractor may not sublet, nor assign the contract without the written consent of the City which shall be at the City's sole discretion. The minimum

amount for such assignment shall be \$500.00 payable from the Contractor to the City.

15. The Contractor is required to supply a bid deposit in the form of a certified cheque payable to the City of Kelowna in the amount of \$1,000. The deposit of the successful Contractor will be retained as a “performance deposit” and the City will place it into an interest bearing account with the interest accruing to the depositor.
16. The Contractor must sign the License of Occupation Agreement.
17. Rent shall be received in monthly instalments due and payable in advance of the 15<sup>th</sup> day of each month of the said season.
18. The Contractor shall provide complete annual financial reports to the City, within 45 days of the end of the season and no later than December 1<sup>st</sup> of each contract year. The statements will reflect the entire operating season, and a payment in the amount of 5% of the gross profits of the concession will accompany the statements by December 1<sup>st</sup> of each contract year.
19. The Contractor will be responsible to communicate with the City of Kelowna outdoor Events Committee and review the Outdoor Events Calendar to determine the dates the park will be closed for special events, and as a result will also be closed for the concession operation, unless agreement can be reached with the event organizer.
20. During occasions when an event in the Park has enclosed ticketed events, the Proponent is not allowed to increase the scope of their operation without prior written consent of the City and the event organizer. Proponent must include in their proposal the amount they will pay for the concession leases during the initial term of the agreement and any extensions.
21. In the event that the City of Kelowna enters into an Exclusive Supplier Agreement with a third party for the provision of “Cold Beverage Products”, as described in Appendix D, in the City of Kelowna, the Contractor must, following a minimum of 60 days notice from the City of Kelowna, ensure compliance with the conditions of said agreement. In the event that the contractor is unable to comply with the conditions of the Exclusive Supplier Agreement, the contractor may choose to cancel this agreement without penalty.
22. All electrical equipment utilized in the Province of British Columbia must bear a recognized electrical certification prior to use. Application for approval may be made to the BC Safety Authority. All mobile food vendors must conform to the requirements of the Kelowna Fire Dept. Mobile Food Vending Requirements as set out in Schedule E.
23. Sale of alcoholic beverages is strictly prohibited.



## Appendix B-1

### Healthy Food Choices - Check mark system

Choose Most ✓✓	Choose Sometimes ✓	Choose Least	Not Recommended
Beverages 50% Foods 70% <sup>1</sup>		Beverages 50% Foods 30% <sup>2</sup>	
These items, including whole grain breads and fresh vegetables, tend to be the highest in nutrients, the lowest in unhealthy components, and the least processed.	These items include such things as fruit canned in light syrup, represent choices that are moderately salted, sweetened or processed.	These items including such things as fries tend to be low in key nutrients such as iron and calcium and highly salted, sweetened or processed.	These items, including candies and drinks where sugar is the first ingredient, or the second ingredient after water, tend to be highly processed, or have very high amounts of sweeteners, salt, fat, trans fat or calories relative to their nutritional value.

City of Kelowna staff will work closely with current concessionaires to achieve the above product proportions for packaged products as minimum standards. Percentages are based on BC School Guidelines for Healthy Food and Beverages and the Vancouver Coastal Health Policy.

<sup>1</sup> 70% of product choices from these categories with no more than 35% from the Choose Sometimes category

<sup>2</sup> 30% of products choices from these categories with no more than 15% from the Not Recommended category



## APPENDIX C - FEE SCHEDULE

### Initial Term

May 15<sup>th</sup> to Sept. 15<sup>th</sup> 2016

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$5,000.00 plus GST**. Payment will be on or before as follows:

		Total Instalment
June 1, 2016	\$1,250.00+ GST	= \$1,312.50
July 1, 2016	\$1,250.00+ GST	= \$1,312.50
August 1, 2016	\$1,250.00+ GST	= \$1,312.50
September 1, 2016	\$1,250.00+ GST	= \$1,312.50
December 1, 2016	5% of Gross Profits + GST	

May 15<sup>th</sup> to Sept. 15<sup>th</sup> 2017

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$5,000.00 plus GST**. Payment will be on or before as follows:

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September 1, 2017	\$1,250.00+ GST	= \$1,312.50
December 1, 2017	5% of Gross Profits + GST	

## APPENDIX D

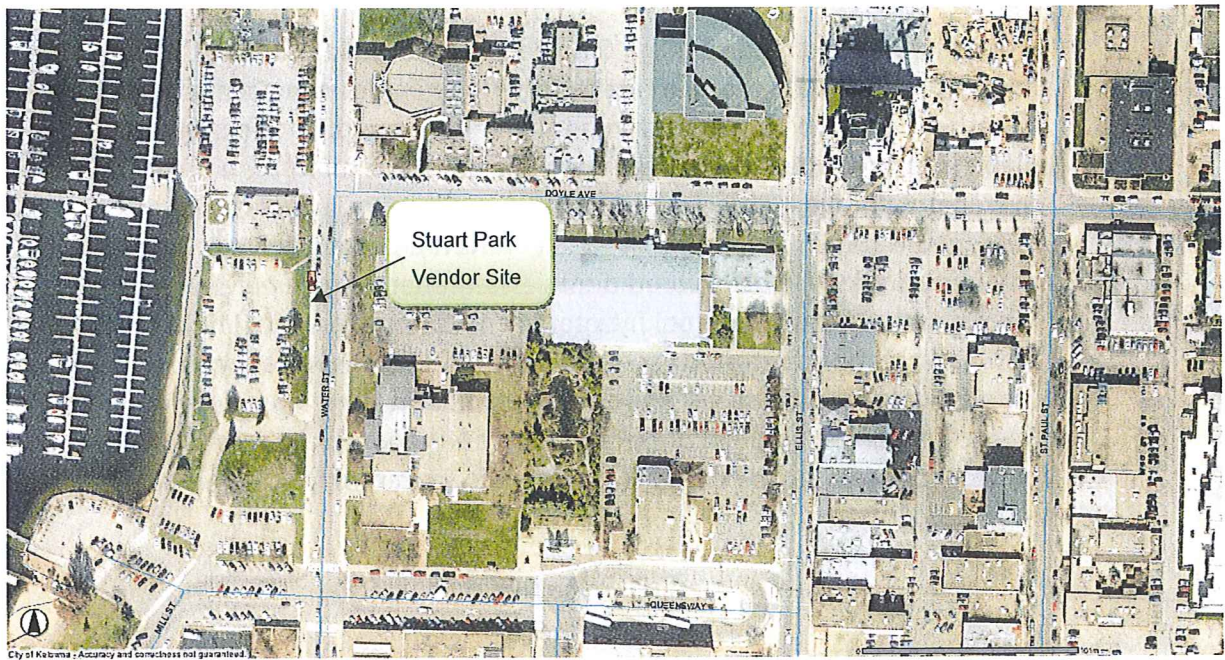
### Exclusive Supplier Agreement - Cold Beverage Products

For the purpose of this package, “Cold Beverage Products” means all carbonated and non-carbonated, natural or artificially-flavoured, non-alcoholic beverages, whether meant to be served at room temperature or colder, consumed independently or used as a mixer, including but not limited to: non-alcoholic beverages with nutritive or non-nutritive sweeteners; flavoured and / or sweetened water, naturally or artificially flavoured fruit juices; fruit juice-containing drinks, fruit-flavoured drinks (sweetened or unsweetened); fruit punches and aides; hypertonic, hypotonic and isotonic energy fluid replacement drinks (sometimes referred to as “sports drinks”), frozen carbonated beverages; bottled / canned carbonated and non-carbonated waters, and packaged cold teas and coffees; and all drink or beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which drinks and beverages are prepared:

#### BUT DOES NOT INCLUDE:

Dairy and dairy-like beverages including, without limitation, milk, milkshakes, flavoured milk, hot chocolate and cocoa and coffee beverages which are primarily (that is, more than 50% by volume) dairy based;  
Cold brewed unpackaged coffee or tea, hot coffee, hot tea, tea bags, loose tea, loose coffee grains, or beans, water packaged in bulk or water drawn from public water supply;

## APPENDIX E - PREMISE





## APPENDIX F - Kelowna Fire Department Requirements

The following is a list of local requirements for all mobile food vendors who wish to operate in the City of Kelowna. Vendors who are non-compliant with the following requirements will not be permitted to continue operation and are subject to the requirements of the Fire and Life Safety Bylaw, 10760. Vendors are subject to an annual inspection from the Kelowna Fire Department. Upon completion of the annual inspection, an inspection decal will be provided.

All vendors are subject to routine inspections from the Kelowna Fire Department.

1. The mobile vendor must have a valid City of Kelowna Business License or be approved by the inter community mobile license program or be a vendor at an event approved by the City of Kelowna Outdoor Events Committee.
2. The mobile vendor must be approved by the BC Safety Authority and ensure that all decals are visible.
3. All tents being in conjunction with the mobile vending must conform to NFPA 705 requirements. The tent must have a visible tag stating that it complies with this requirement.
4. Cooking and/or grilling shall not be conducted under tents. All cooking appliances must be at least 1 meter away from tent. Cooking is not permitted under tents.
5. Cooking appliances must be a minimum of 3 meters from any building.
6. A guard/barrier, not less than 1 meter high, must be provided to act as a barrier between the public and cooking appliances. This would not apply if the cooking appliances are located within an enclosed trailer.
7. All deep fryers must be approved commercial appliances. Residential grade deep fryers will not be accepted.
8. Minimum of one 2A10BC rated extinguisher shall be provided and shall be mounted in an acceptable location.
9. A type K fire extinguisher must be provided for all deep frying and/or hot oil cooking.
10. Fire extinguishers must be up to date. The extinguishers are required to be inspected annually by an approved agency. The cylinder must be pressurized and the safety pin must be in secured in place.
11. Enclosed cooking units, creating grease laden vapors, require a kitchen canopy and suppression system conforming to NFPA 96.
12. Enclosed cooking units with a kitchen canopy require a fixed suppression system to be installed within the unit. The fixed suppression system shall be serviced bi-annually by an approved technician.
13. Kitchen canopy has been cleaned from filter to fan in conformance with NFPA 96 requirements.
14. All spare propane bottles must be secured 3 meters from any cooking appliances or open flame.
15. All propane connections must be soap tested to ensure there are no leaks in conformance with BC Gas Code requirements.
16. Wood burning appliances are prohibited within the City of Kelowna.
17. All mobile vendors with trailers must provide wheel chocks to prevent trailer movement.



18. A current inspection decal from the Kelowna Fire Department must be displayed in a visible location.

If you have any questions pertaining to the Fire Department requirements, please contact the City of Kelowna Fire Prevention Officer at 250-469-8801.

KELOWNA FIRE DEPARTMENT STATION 1, 2255 Enterprise Way, Kelowna BC V1Y 8B

## APPENDIX G - ARTISTO GELATO



# artisto GELATO

*An Artisanal Experience in Food*

March 18, 2016

Tammy Abrahamson – Property Officer  
City of Kelowna  
1435 Water Street  
Kelowna, B.C. V1Y 1J4

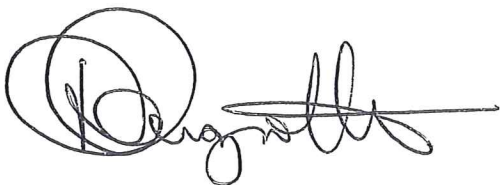
Dear Ms. Abrahamson,

Please accept this bid package for the Mobile Food Vending Concession proposal located at Stuart Park. Artisto Gelato is a Kelowna-based company that has been producing, selling and servicing clients in the Okanagan Valley since 2012. Our labeled products are carried by leading retailers throughout the Okanagan region. As well, Artisto Gelato products are served in leading hospitality and tourist venues in the Okanagan Valley.

We are currently implementing the next phase of our growth into mobile food trucks at various locations throughout the city. The City of Kelowna's bid request would be an ideal fit for the services we provide and look forward to working with the City should we be successful.

Should you have any questions regarding the products, proposal or our company, please do not hesitate to contact myself or Rob Graziotto.

Warm Regards,



Nica Graziotto



# artisto

## GELATO

*An Artisanal Experience in Food*

### About Artisto

Artisto is a family owned and operated business, our products are locally made using locally source ingredients and suppliers where possible. Based from our dedicated 2,000 square foot commissary/production facility in Kelowna, our menu items are handcrafted one batch at a time, using the highest quality ingredients. Our products were derived after searching for a better quality product that does not contain any artificial ingredients or preservatives and still provide and enjoyable and memorable food experience at a reasonable cost.

Our gelato is a dairy-based frozen dessert that originates from Italy and is known for its beautiful, artisan presentation and healthier, nutritional value. While considered similar to ice cream, the ingredients, production, nutrition and texture all differentiate it. Gelato is made uniquely; reducing the fat and calories significantly when compared to other frozen desserts. It is crafted more densely, with less air allowing it to have richer, more intense flavour. We also offer non-dairy frozen dessert called sorbetto in a variety of fruit flavours. Sorbetto's are dairy and lactose free as well as fat free.

Our products are made using locally sourced ingredients when we can. Our dairy ingredients are sourced from the North Okanagan, and our fruits are BC sourced. Our products are gluten-free and non-GMO. These points are very important, as there is a limited amount of available products for individuals with dietary challenges and food allergies. We feel we address the widest possible audience with our offerings.

Gelato and sorbetto introduces a unique and culturally diverse product into the community that has not been experienced to date with any amount of significance.

# artisto

## GELATO

*An Artisanal Experience in Food*

### **Experience and Success**

In the four years we have been serving product in the Kelowna market, we have consistently grown and supplied higher profile food outlets with fantastic reviews. Our products have been consistently referred to as “genuine” and “exactly as you would experience” in larger centers and in Europe. We currently have been featured in the Capital News Straight from DeHart section as a locally owned and family operated business and recently at Devour Kelowna 2016 Artisto won the Judge's Choice Best Pairing for our Double Chocolate infused with The View Pinotage Wine. We were also featured in Okanagan Magazine in conjunction with Granny's Fruit Stand, won a People's Choice award for best pairing with espresso at Devour Kelowna 2015, a culinary stage for Kelowna's best chefs, mixologists and purveyors of fine food and drink.

We currently have nine flavours available at your local grocer (flavours vary by retailer). You can find Artisto products at Peter's Your Independent Grocers, Quality Greens (all four locations), Urban Fare, Sunshine Market, and our newest retailers coming on board this season is Mediterranean Market, The Bench Market (Penticton) and Fratelli's Deli (Kamloops).

We have worked hard at refining our production and delivery capabilities not only at wholesale, but also to retail customers. This has given us a significant amount of experience at servicing the public with the highest standards. These standards include customer service, customer experience, food production safety and serving cleanliness.

### **Community Involvement**

We have continually participated in as many community events as possible. We regularly participate in customer appreciation events at retailers, sponsor fundraising activities at local schools and dance academies. We provided support to the Central Okanagan Hospice Association's Swinging with the Stars campaign, Viva Glam Gala, the Great Canadian Bacon Chase Kelowna and KGH Foundation's Giving Giggles campaign. As well, we donate product to the Gospel Mission and the Hospice House. We are one of the newest members of the Kelowna Chamber of Commerce and the Okanagan Chef's Association.

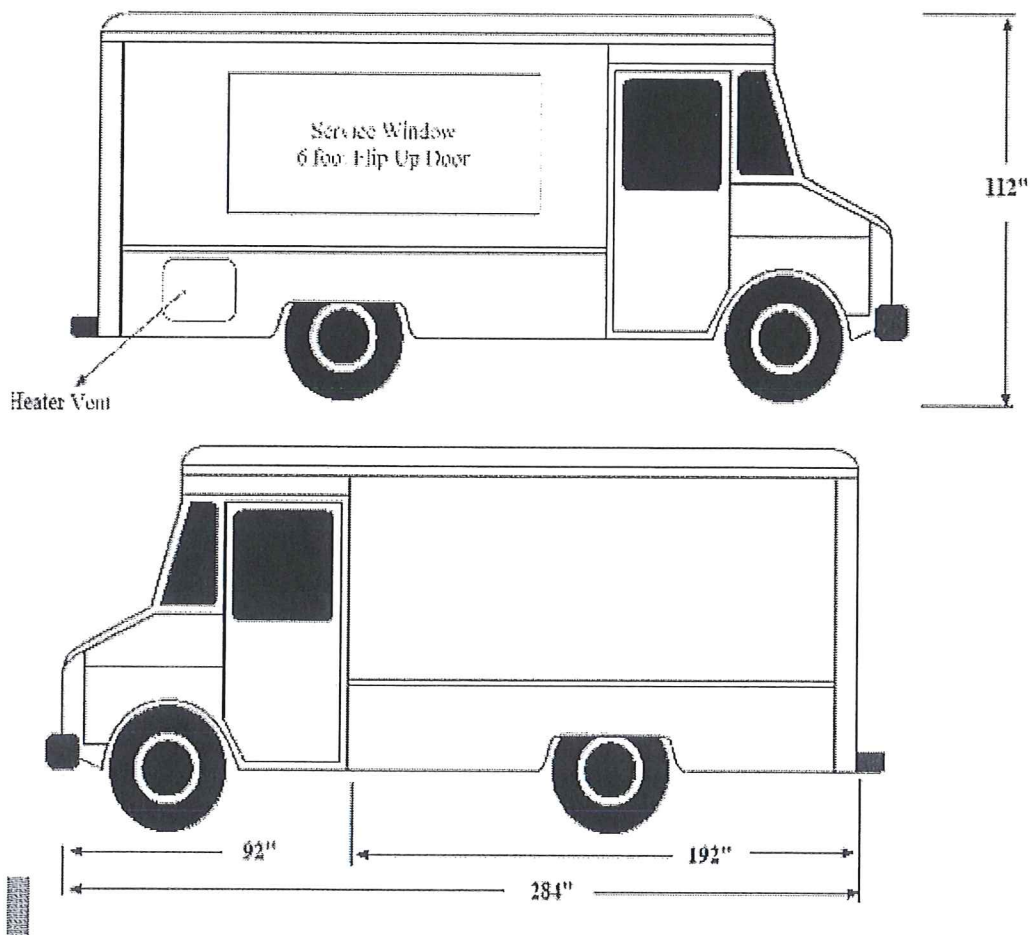
# artisto

## GELATO

*An Artisanal Experience in Food*

### Operational Details

Our mobile food concession is designed to meet and exceed all requirements set forth by Interior Health. All staff is required by us to be Food Safe-certified. The concession is also equipped with security cameras connected to our cellular communications network. Insurance policies are currently in place and would be updated to include the City of Kelowna upon being awarded. Health Inspections with both the Interior Health Authority and Center for Disease Control are in effect for 2016.



# artisto

## GELATO

*An Artisanal Experience in Food*

### Food Menu and Proposed Pricing

Our proposal is centered on Italian-themed, healthy offerings including freshly made panini, gelato and Sorbetto, as well as various beverages. Our offerings aim to provide a more diverse, healthy and delicious alternative to standard beach fare. Gelato is milk-based with approximately 50% less fat than standard mass produced ice cream. Sorbetto contain no dairy products and featuring a variety of fruit flavours. Our goal remains unchanged – deliver outstanding value and quality products that both tourists and locals can enjoy.

The market continues to be saturated with prepackaged products that not only create additional packaging waste; they are made outside of the local area (and British Columbia) and transported into the market. These products are mass-produced months in advance and enriched with preservatives and food colouring that create an unhealthy food choice for consumers. Our offerings are made fresh daily negating the use of anything artificial, yet still producing foods that are highly desirable, reasonably priced and do not impact the environment.

### Artisto Menu

#### *Grilled Panini*

<b>Tuscan Chicken</b>	6.00
Roasted Tuscan chicken, Provolone	
Marinara, pickled garden mix	

<b>Napolitano</b>	\$6.00
Prosciutto and Buffalo Mozzarella	

<b>Whole Wheat Portobello</b>	\$6.00
Portobello mushroom, smoked Gouda,	
roasted red pepper, gorgonzola	

#### *Drinks*

Bottled water	\$1.50
---------------	--------

Mineral water	\$2.00
---------------	--------

Italian sodas	\$2.00
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# artisto

## GELATO

*An Artisanal Experience in Food*

### ***Gelato and Sorbetto***

*Up to 36 handcrafted, fresh flavours*

Single \$6.00

Double \$7.00

Our menu continues to evolve as we progress. Given our high standards for food quality and the fact we use absolutely no artificial ingredients, we will continue to add products to complete our food offerings. We will also explore offering meal combinations / value offerings.

Note: all packaging and containers are made from recycled post-consumer materials and are biodegradable. We pride ourselves on being stewards of the environment and our corporate mission is to maintain a less than 0.5% waste factor.

### **Financial Proposal to the City**

Artisto proposes to offer the City of Kelowna the sum of \$5,000 per year for the right to operate a mobile food concession from May 15 to September 15 for a term of two (2) years starting May 15, 2016 – total of \$10,000 over the two-year term.

# artisto

## GELATO

*An Artisanal Experience in Food*

### Summary

Our goal in securing this bid opportunity is to bring a locally produced, new and fresh food concept to the City of Kelowna. We pride ourselves on the following attributes of our business:

1. Fresh food made from natural ingredients.
2. Real food products that we are comfortable in serving our children.
3. Utilizing local suppliers of food, fruit and dairy ingredients.
4. An authentic Italian food concept for locals and tourists visiting the Kelowna waterfront.
5. A food concept that does not directly compete with other vendors, but rather augments their offerings.
6. Driving community usage of the beaches and enticing citizens and tourists to visit our park and beaches.
7. Supporting local students and schools and the community through corporate support including donations and offering employment.

We sincerely hope you consider our proposal to bring a fresh, healthy, new and culturally diverse offering to the city that will support our local community.

Should you have any questions or require further information or clarification, please do not hesitate to call or email me.

Thank you!

Nica Graziotto  
250.870.6422  
nica@artistogelato.com







## ARTISTO GELATO

### *Why Gelato?*

Gelato is a frozen dessert that originates from Italy. It is known for its beautiful, artisanal presentation, rich flavour and healthy, fresh ingredients. While considered similar to ice cream, gelato's unique production method and ingredients significantly reduce both the fat and calories compared to other frozen desserts. The denser texture of gelato, with less air, allows it to have a truer, more intense flavour.

### *Why Artists?*

Our goal is to delight the discerning connoisseur with flavours that charm the palette. A richness that only handcrafted gelato can deliver. We use only the freshest ingredients, sourced as much as possible through local suppliers and combined with traditional Italian flavours to produce the highest quality and best possible gelato - carefully handcrafted one batch at a time.

### *Why You'll Love It?*

Made with no preservatives or artificial flavours and with half the fat and half the calories of traditional frozen desserts, gelato is the perfect indulgence without compromising flavour. It is said 'we eat with our eyes' and at Artisto Gelato we create a feast for your eyes and your palette. From our exceptional flavours to our decadent presentation, our gelato truly tastes as good as it looks!





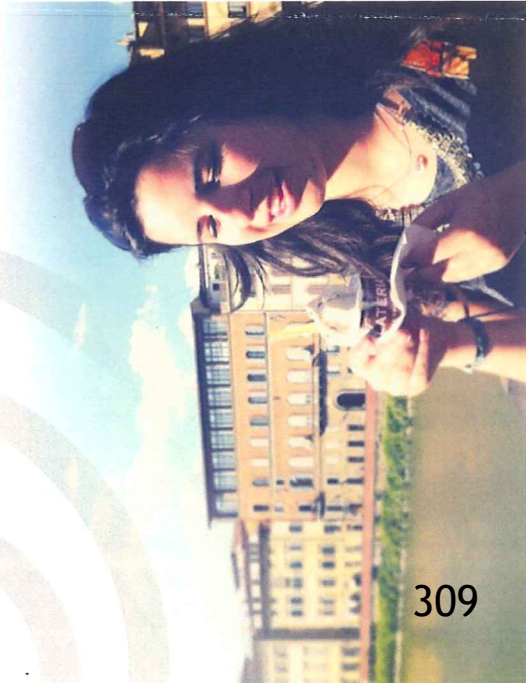


## Our Story

Gelato was our favorite thing growing up! It was something we could have more than once a day. It was fun, delicious and even healthy; considered much more than just a dessert in our Italian culture.

Starting Artisto reminded us of our roots where gelato is as much a staple as red wine, olives, prosciutto and pasta. And just as Italian's bring a lot to the table; Artisto brings a lot of traditional flavour and uniqueness to the Okanagan.

We never sacrifice on taste and do not hesitate to let the family taste each batch for quality control. We take pride in all that we do, we have fun making premium flavours, and we offer a real Italian experience in every scoop!



## Our Flavours



Double Chocolate  
Sea Salt Caramel  
Traditional Hazelnut



Sicilian Pistachio  
Tahitian Vanilla  
Espresso Bean  
Bacio ( Italian Kiss)  
Tiramisu Veneziano  
Italian Biscotto  
Creamy Coconut  
Cherry Cheesecake  
Cherry Mania



Fresh Lemon  
Wild Strawberry  
Mango Mania  
Forest Berries  
Pure Pineapple  
Ruby Raspberry  
White Peach  
Morello Cherry  
Key Lime



...and many more flavours,  
just ask [info@artistogelato.com](mailto:info@artistogelato.com)

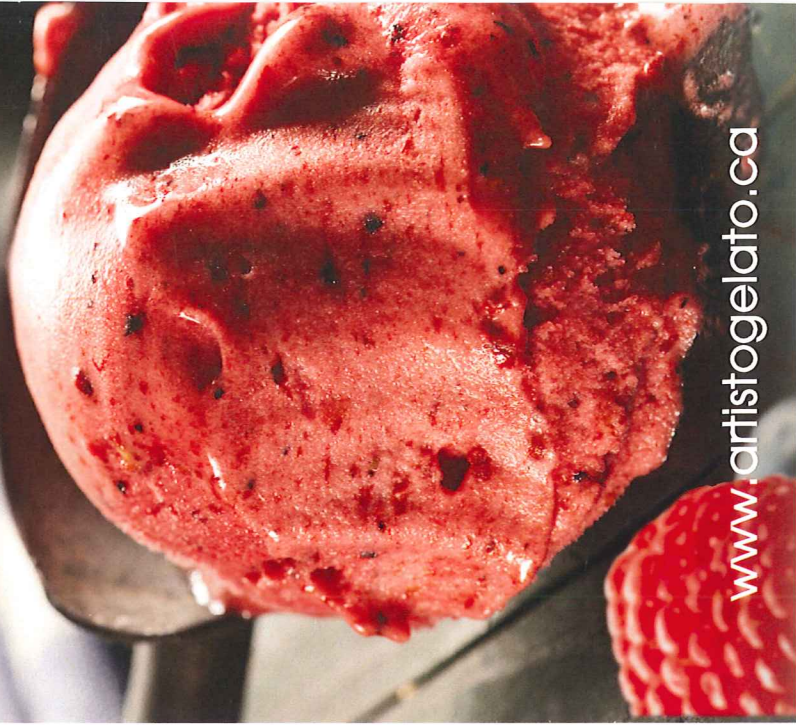


250.860.6255 • [info@artistogelato.com](mailto:info@artistogelato.com)  
[www.artistogelato.ca](http://www.artistogelato.ca) • Kelowna, BC



# ARTISTO GELATO

*An Artisanal  
Experience in Food*



**LICENSE OF OCCUPATION**  
**HOT OR NOT VENDING**  
**266 Lawrence Avenue Concession License**  
**(2016 - 2018)**

BETWEEN:

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia V1Y 1J4

(the "City")

OF THE FIRST PART

AND:

**HOT OR NOT VENDING**  
640 Cawston Avenue  
Kelowna, British Columbia V1Y 6Z4

(the "Contractor")

OF THE SECOND PART

WHEREAS the City desires to appoint the services of the Contractor to provide Mobile Concession services (the "Services") at 266 Lawrence Avenue, Kelowna, BC.

NOW THEREFORE this Agreement witnesses that the parties hereby covenant and agree with each other as follows:

**Services**

The Contractor shall provide services for the Works on the terms and conditions set out in this Agreement and are binding upon the parties.

**Appendices**

The following attached Appendices are a part of this Agreement:

- Appendix A - Insurance Requirements
- Appendix B - Scope of Services
- Appendix C - Fees - Schedule
- Appendix D - Exclusive Supplier Agreement
- Appendix E - Premise
- Appendix F - Fire Dept. Requirements
- Appendix G - 266 Lawrence Avenue Mobile Food Vending Concession Bid

If there is any inconsistency or conflict between the provisions of the Agreement and the Appendices, the Agreement shall govern and take precedence over all other Contract Documents.



## AGREEMENT TERMS AND CONDITIONS

### 1.0 Definitions (For purposes of this Agreement, the following terms shall have the meanings set forth below):

**“Agreement”** means the executed agreement between the City and the successful Contractor on the terms and conditions set out in this document;

**“Agreement Administrator”** refers to the individual appointed by the Manager, Property Management to administer this Agreement on behalf of the City, and any participating members and other authorized purchasers;

**“City’s Representative”** means the Manager, Property Management or his designate;

**“Department”** means the Real Estate & Building Services department of the City of Kelowna

**“Department Representative”** means the Manager, Property Management, who shall represent all City Departments for the purposes of this Agreement, or, such other person who may subsequently be appointed in writing by the Department Representative and notified to the Contractor;

**“Event of Default”** references Article 6.1(c);

**“Force Majeure”** shall mean failures which occur for reasons beyond the reasonable control of the non-performing party, which include acts of God, acts of any governmental authority, strikes, blacklisting, embargo, and lockouts or other industrial disturbances not related to that Party, acts of the public enemy, wars, blockades, insurrections, explosions, rebellions, revolutions, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, fires, high waters, washouts, orders or acts of civil or military authorities, or civil disturbances, but it shall not include: any inability to fulfill its financial obligations or financial difficulty or condition, insolvency, or any court protection from creditors or any other occurrence similar to those recited, which is beyond the reasonable control of the non-performing party;

**“G.S.T.”** means any Goods & Services Tax payable in connection with the goods and services pursuant to the Excise Tax Act of Canada and shall also include any sales, value added or like taxes as well as any capital tax adopted by any lawful authority as may be amended from time to time;

**“Term”** means the term as specified in Section 5.0;

**“Schedule”** means a schedule to this agreement;

## **2.0 Interpretations**

- (a) “Authorized”, “directed”, “required”, “requested”, “approved”, “ordered”, “sanctioned”, and “satisfactory” shall, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the City;
- (b) “Determination” shall mean the written documentation of a decision of the City’s Representative including findings of fact to support a decision. A Determination becomes part of the procurement file to which it pertains;
- (c) the Heading and Subheadings inserted in this Agreement are designed for convenience only and do not form a part of this Agreement nor are they intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any provision thereof;
- (d) the word “including”, when following any general statement, term or matter, shall not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as amended and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplement or superseding the same;
- (f) no approval, authorization, sanction or permission required to be provided hereunder shall be unreasonably or arbitrarily withheld or delayed by the party providing same; and
- (g) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural, and vice versa and words importing individuals shall include firms and corporations, and vice versa.

## **3.0 Representations of Contractor**

### **3.1 The Contractor covenants, represents and warrants to the City that:**

- (a) Contractor is a duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with



respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;

- (b) Contractor has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (c) all necessary proceedings have been taken to authorize Contractor to enter into this Agreement and to execute and deliver this Agreement;
- (d) this Agreement has been properly executed by Contractor and is enforceable against Contractor in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made furnished or given by Contractor, its directors, officers or anyone acting on behalf of Contractor, to the City in connection with this Agreement is materially correct and accurate;
- (f) Contractor has no knowledge of any fact that materially adversely affects or, so far as it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it or a default by it under any statute, regulation or bylaw of Canada or of the Province of British Columbia applicable to or binding on, its contracting documents, or any contract or agreement to which it is a party;
- (h) Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfill its obligations under this Agreement;
- (i) Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by Contractor under those laws as of the reference date of this Agreement;
- (j) Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (k) Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the City;

- (l) Contractor accepts the risks assigned within this Agreement identified as being borne by Contractor;
- (m) Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved sub-contractual agreements in place and available to enable it to fully perform the work;
- (n) Contractor pays punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- (o) Contractor has investigated and satisfied itself of every condition affecting the work including labour, equipment and material to be provided; but not limited to, the standards, responsibilities, task schedules and subsequent written instructions if any, all as prepared by the City;
- (p) Contractor acknowledges that it has the responsibility for informing itself of all aspects of the work and all information necessary to perform the work;
- (q) Contractor will comply with all the requirements of the Agreement and will perform all work and supply all labour, equipment and materials necessary to do so;
- (r) Contractor is an independent Contractor and not the servant, employee, partner, or agent of the City;
- (s) Contractor will not, in any manner whatsoever, commit or purport to commit the City to the payment of any money to any person;
- (t) no partnership, joint venture, or agency involving the City is created by this Agreement or under this Agreement;
- (u) the City may, from time to time, give such instructions to Contractor as the City considers necessary in connection with provision of the work, which instructions Contractor will comply with, but Contractor will not be subject to the control of City with respect to the manner in which such instructions are carried out;
- (v) all employees and sub-contractors employed by Contractor to provide the work are at all times the employees and sub-contractors of Contractor and not of the City. Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee, and
- (w) Contractor has independently reviewed all labour relations issues related to the performance of Contractor's obligations under this Agreement.

#### **4.0 General Obligations of Contractor**

##### **4.1 Contractor shall:**

- (a) offer Mobile Concession services, as set out in the Scope of Services attached as Appendix “B”;
- (b) perform and contract in its own name and for its sole account for all things necessary or desirable for the proper and efficient provision of Mobile Concession services during the term;
- (c) use its best endeavours to provide the services to the City in a timely manner and in accordance with the terms of the Contract;
- (d) ensure that all its employees engaged in this contract are suitably qualified and experienced, and act to the best of their skills and ability and in accordance with accepted Mobile Concession standards for persons having those qualifications and experience;
- (e) follow all instructions of the City’s Manager, Property Management in respect of the performance by Contractor of its obligations under this contract and as set out in the Mobile Food Vending Concession Bid Package submitted by Hot or Not Vending dated March 18, 2016, and attached as Appendix G and cooperate fully with the various departments and act in good faith towards the City;
- (f) comply with the terms of Fire Department requirements as set out in Appendix F;
- (g) maintain clear communication lines with staff in order to offer the best customer service;
- (h) comply with all laws; and
- (i) only use the facilities provided by the City for the purposes of this Contract.

#### **5.0 Term**

5.1 Collectively, the Initial Term and Renewal Term are referred to as the “Term”.

##### **5.2 Initial Term**

The term of the “Agreement” shall be for three (3) years commencing June 1<sup>st</sup>, 2016 and will expire no later than May 31<sup>st</sup>, 2019, subject to specific termination rights in this document and subject to a first option to extend the Agreement at the sole and exclusive discretion of the Manager, Property Management.



### 5.3 Renewal Term

The City agrees that prior to entering into discussions with any third party with respect to the supply and/or advertising of a Mobile Concession for the period commencing after the end of the Initial Term, the City may in its sole discretion with respect to each renewal term renew this Agreement for an additional year to a maximum of two (2), one (1)-year renewals following the completion of the Initial Term.

No later than ninety (90) days prior to the start of the optional second consecutive term of the Agreement (**May 15<sup>th</sup>, 2019**), the City may exercise an option to renew for an additional season in 2020, provided the Contractor is in total compliance with all the terms and conditions of the Agreement.

The City of Kelowna shall notify the Contractor of its intentions to exercise the aforementioned option in writing.

### 6.0 Termination - City

#### 6.1 This Agreement will terminate:

- (a) at the expiration of the initial term, unless extended by mutual agreement; or
- (b) If at any time there occurs an Event of Default (defined below), the City may give written notice ("Notice of Complaint") to Contractor specifying in reasonable detail the Event of Default. If Contractor shall fail to perform or observe any covenant, condition or agreement to be performed or observed herein and such Event of Default continues unremedied for a period of seven (7) days after receiving the Notice of Complaint thereof from the City, then the City may, at its option, terminate this Agreement forthwith without prejudice to any other rights it may have in law or equity. If this Agreement is terminated by the City, Contractor shall be entitled to an immediate pro-rata refund of all unearned monies paid in advance to the City, as determined by mutual agreement.
- (c) For the purposes hereof, "Event of Default" shall mean any one or more of the following:
  - (i) if Contractor fails to observe, perform and keep each and every one of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by Contractor in this Agreement, or any agreement entered into pursuant to any such agreements;
  - (ii) if Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;



- (iii) if Contractor has made an assignment of the Agreement without the required consent of the City; and
  - (iv) if Contractor fails to provide Mobile Concession services as required under the terms of this Agreement.
- (d) The City may conduct inspections, audits, and assessments of Contractor's performance to verify that all duties, financial records, responsibilities and obligations of Contractor are being performed in accordance with the provisions of this Agreement and to the quality standards set out in this Agreement.

## **7.0 Dispute Resolution Procedures**

The parties will make reasonable efforts to resolve any dispute, claim or controversy arising out of this agreement or related to this agreement ("Dispute") using the dispute resolution procedures set out in this section.

### **(a) Negotiation**

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

### **(b) Mediation**

If all or any portion of a dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Kelowna, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs and each party will bear its own costs of participating in the mediation.

## **8.0 Compensation to the City**

- 8.1 The initial Agreement, with an optional renewal for the following years, will commence immediately upon authorization of an Agreement for Mobile Concession in the beach parks. The Proponent will pay a monthly fee as detailed in Appendix C Fees Schedule.

## **9.0 Independent Contractor**

9.1 Nothing in this Agreement shall be construed as to constitute a partnership between the City and Contractor. The duties to be performed and the obligations assumed by Contractor under this Agreement shall be performed and assumed by it as an independent Contractor and not an agent or in any other way a representative of the City. In no circumstances shall Contractor have any authority to represent or contract on behalf of or otherwise bind the City.

9.2 Contractor is and shall at all times during the performance of this Agreement be an independent Contractor, and at no time shall Contractor be considered an agent, servant, or partner of the City; and all persons employed by Contractor to perform its obligations under the Agreement shall be its employees or servants and not the employees, servant, or agents of the City.

9.3 Employees

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned, and shall devote only his best-qualified personnel to work on this project. Should the City deem anyone employed on the work incompetent or unfit for his duties, and so inform the Contractor, Contractor shall immediately remove such person from work under this contract and he/she shall not again, without written permission of the City, be assigned to work under this contract. All Contractor employees working in the City must complete and clear a criminal record check.

10.0 Liaison

10.1 Each party shall maintain liaison with the other party in accordance with their respective obligations under this Agreement. In particular:

- Contractor shall appoint a representative ("Contractor's Representative") who shall have the duty of instituting and maintaining liaison with the City as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of Contractor's Representative; and
- The City shall appoint a representative ("City's Representative") who shall have the duty of instituting and maintaining liaison with Contractor as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of the City's Representative.

10.2 Each party's representative shall have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party's obligations hereunder and each party's representative may be relied upon by the other party as the official representative of such party. Meetings between the Contractor Representative and the City's Representative may be held by telephone with the consent of all parties participating in such meetings. Each party may change their respective representative or alternative representative by written notice to the other.

## **11.0 Governing Law**

- 11.1 This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof. The courts of British Columbia shall have jurisdiction (but not exclusive jurisdiction) to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and shall have jurisdiction to hear and determine all questions as to the validity, existence or enforceability hereof. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the Contractor hereby irrevocably submits and attorns to the jurisdiction of the courts of British Columbia and acknowledges their competence and the convenience and propriety of the venue and agrees to be bound by any judgment thereof and not to seek, and hereby waives, any review of its merits by the courts of any jurisdiction.
- 11.2 Notwithstanding any provisions herein, the Contractor(s) shall in the performance of the contract comply with provisions of The Employment Standards Act and Regulations of British Columbia and City of Kelowna Policies and By-laws and Parks, Recreation and Cultural Services Policies and By-laws and any amendment thereto and without limiting the generality of the foregoing, the Contractor(s) shall pay all of the Contractor(s) employees as required by the Act and the regulations then in force.

## **12.0 Waiver - City**

- 12.1 Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 12.2 No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

## **13.0 Waiver - Contractor**

- 13.1 Any failure of the Contractor at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the Contractor at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.



- 13.2 No action or want of action on the part of the Contractor at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the Contractor of any of its said rights or remedies.

#### **14.0 Subcontractors**

- 14.1 Contractor shall not subcontract the whole of the work nor shall any part of the work be subcontracted without the prior written consent of the City's Representative, which consent may not be arbitrarily withheld in the City Representative's sole discretion.
- 14.2 The subcontracting of any of its duties, obligations or responsibilities of Contractor under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and Contractor shall be fully responsible for the acts, omissions and debts of its subcontractors.

#### **15.0 Amendments**

No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

#### **16.0 Survival of Covenants**

All obligations of each of the parties which expressly or by their nature survive termination or expiration or assignment of this Agreement including, without limitation, the indemnities in section 20.0 shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

#### **17.0 Confidentiality of Information**

The Contractor should be aware that the City of Kelowna is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

#### **18.0 Non Assignability**

This Agreement may not be assigned by Contractor without the prior written consent of the City. For the purpose of this Agreement, a change in the corporate control of Contractor, shall be deemed to be an assignment requiring the consent of the City pursuant to the terms hereof.



## **19.0 Joint and Several**

If this Agreement is executed by more than one person, firm or Corporation, it is understood and agreed that all persons, firms or Corporations executing this Agreement are jointly and severally liable under and bound by this Agreement.

## **20.0 Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default arose out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule, (where provided).

## **21.0 Insurance & Indemnity**

### **21.1 Indemnity Save Harmless**

Contractor agrees to indemnify and save harmless the City, its elected officials, officers, employees and agents, from and against all claims, liabilities, demands, actions, proceedings, loss and expense (including legal costs) whatsoever for damage to or destruction or loss of property and loss of use thereof, and injury to or death of any person or persons arising directly or indirectly out of (i) the installation, operation, use, relocation, removal, maintenance and/or repair of any/all equipment or of property of Contractor (ii) the performance, purported performance or non-performance of this Agreement, or (iii) any act of negligence, willful misconduct or omission by Contractor, its employees subcontractors and agents except only where such death, injury to persons or damage to property is due to the sole negligence of the City.

### **21.2 Insurance**

The Contractor shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances in forms and amounts acceptable to the City as detailed in Appendix A

### 21.3 Compliance with Statutes, By-laws & Regulations

The Contractor shall in the performance of the Agreement, comply with all applicable City By-laws, and all amendments thereto and The Consumer Protection Act, R.S.B.C. 1996, c.69, and any other applicable acts or regulations.

All equipment/vehicles used for the work outlined in the Agreement must comply with the Motor Vehicle Act, R.S.B.C. 1996, Chapter 318 and Regulations, as amended and the Commercial Transport Act, R.S.B.C. 1996, Chapter 58 and Regulations, as amended.

All principal vehicles of the Contractor will be identified with signs setting out its name and telephone number. Employee owned vehicles, which may be periodically used for company business, will not necessarily be marked.

### 22.0 Occupational Health and Safety

22.1 The Contractor agrees that it is the Prime Contractor for the purposes of the *Workers Compensation Act*. The Contractor shall have an occupational health and safety program acceptable to the WorkSafe BC Board and shall ensure that all WorkSafe BC Health & Safety Regulations are observed during performance of this Contract, not only by the Contractor, but by all workers, subcontractors, employees, personnel, servants and others engaged in the performance of this Contract.

22.2 The Contractor and its workers, subcontractors, employees, personnel, servants and others engaged in the Services shall conform to all current occupational health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may, on twenty-four (24) hours written notice to the Contractor, suspend the Services hereunder immediately as a result of failure to install such devices or because the conditions of immediate danger exist that would be likely to result in injury to any person. Such suspension will continue until the default or failure is corrected.

22.3 Without limiting the generality of any other indemnities granted by the Contractor herein, the Contractor shall indemnify and save harmless the City against any loss or expense or penalty suffered or incurred by the City by reason of failure of the Contractor, its agents or employees, or any subcontractors of the Contractor, its agents or employees to comply or ensure compliance with the health and safety laws, by-laws and regulations mentioned above.

### 23.0 WorkSafe BC Coverage

23.1 The Contractor agrees that it shall, at its own expense, procure and carry or cause to be procured and carried and paid for full WorkSafe BC coverage for itself and all workers, subcontractors, employees, personnel, servants and others engaged in or upon any Services. The Contractor agrees that the City

has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafe BC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafe BC premiums, assessments or penalties in respect of the Services done or Services performed in fulfilling this Contract have been paid in full.

23.2 The Contractor shall provide the City with the Contractor's WorkSafe BC registration number and a letter from the WorkSafe BC confirming that the Contractor is registered in good standing with the WorkSafe BC and that all assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Contract.

23.3 The Contractor shall indemnify and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafe BC assessments owing from any person or corporation engaged in the performance of this Contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafe BC, including penalties levied by WorkSafe BC.

#### **24.0 Conflict of Interest**

A council member or any employee of the City shall not have a direct or indirect interest in a Company or own a Company that is the successful Contractor.

The Contractor shall disclose to the City prior to accepting the contract, any potential conflict of interest. If such a conflict of interest does exist, the City may, at its sole discretion, withhold the contract from the Contractor until the matter is suitably resolved. And further, that if during the conduct of the contract, the Contractor is retained by another client giving cause to a potential conflict of interest, then the Contractor shall so inform the City. If a significant conflict of interest is deemed by the City to exist, then the Contractor shall refuse the contract or shall take such steps as are necessary to remove the conflict of interest.

Contractor shall disclose to the City Representative, prior to awarding of the Contract, any actual, potential or apparent conflict of interest. If such a conflict of interest does exist, the City may, at its discretion, withhold the Contract from the Contractor until the matter is resolved to the satisfaction of the City.

Contractor will upon request, provide all pertinent information regarding ownership of their company. This information to be supplied within forty-eight (48) hours after request.

#### **25.0 Non-liability of City Officials**

Under no circumstances shall any officer, employee, or agent of the City of Kelowna acting within the course and scope of his/her City responsibility be



personally liable to the Contractor, or any party claim through or on behalf of the Contractor, with regards to the contract, including but not limited to its negotiation, execution, performance, or termination.

## **26.0 Protection and Security**

- a) **Acknowledgment of Proprietary Materials/Limitations on Use.** Contractor acknowledges that the records are unpublished work for purposes of copyright law and embodies valuable confidential and secret information of the City. The Contractor will treat such information so received in confidence and will not use, copy, disclose, nor permit any of its personnel to use, copy, or disclose the same for any purpose that is not specifically authorized under the Agreement. Notwithstanding the above, nothing herein shall prevent the Contractor from utilizing same or similar information, if it is independently provided by a third party or independently developed in-house.
- b) **Property Rights.** Each party acknowledges and agrees that the other party's products and all other material related thereto constitute valuable trade secrets of the party furnishing the products or materials, or proprietary and confidential information of such party, and title thereto remains in such party. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the products and related material are and remain in the party furnishing such products. All other aspects of the products and related material, including without limitation, technologies, procedures, programs, methods of processing, specific design and structure of individual programs and their interaction.

## **27.0 Business Licence**

The Contractor shall have or obtain a City of Kelowna Business License and shall keep the license current for the duration of the contract term.

## **28.0 Contractor Performance Review**

Contractor's performance will be evaluated by the City no less than annually on the following criteria:

- ❖ Volume of customer complaints.
- ❖ Service levels.
- ❖ Cleanliness of sites.
- ❖ Adherence to the terms and conditions of this agreement.

## **29.0 Business Review & Planning**

- 29.1 Contractor agrees to conduct annual business review meetings with Property Management Department Representatives if required.



### 30.0 Enurement

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

### 31.0 Service of Notices

- 31.1 All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by (i) facsimile transmission, if the matter is urgent or immediate; (ii) personally delivered; or (iii) transmitted by prepaid registered mail, to the party to whom such notice or communications is being given at the following address or fax number:

**(City Representative)**

Attention: Mike Olson  
Manager, Property Management  
City of Kelowna  
1435 Water Street, Kelowna, British Columbia V1Y 1J4  
Telephone: 250-469-8740 Fax No.: 250-862-3349  
E-mail: molson@kelowna.ca

**(Contractor Representative)**

Nica Graziotto  
Artisto Gelato  
#114 - 2714 Hwy. 97 N., Kelowna, British Columbia V1X 4J7  
Telephone: 250-870-6422  
E-mail: nica@artistogelato.com

- 31.2 Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given (i) on the date of receipt if delivered personally, (ii) five (5) days after posting if transmitted by mail, or (iii) on the date of transmission if transmitted by fax (provided the sending machine gives confirmation that all pages have been transmitted to the fax number of the receiver without error), whichever shall be first.

IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Agreement to be executed on the day and year indicated below.

Accepted on behalf of:

HOT OR NOT VENDING its authorized signatory:

Keri Robertson  
Signature

KERI ROBERTSON  
Print Name

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_

\_\_\_\_\_

Date Executed: \_\_\_\_\_

## Appendix A - Insurance Requirements

### 1.1 Insurance Requirements

#### 1. Contractor to Provide

The Contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless in connection with this lease agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this lease agreement until the date of termination of the lease agreement or such longer period as may be specified by the City.

#### 2. Insurance

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

##### 2.1 Comprehensive General Liability Insurance

- (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this lease agreement;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

#### 3. The City Named as Additional Insured

The policies required by section 2.1 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

#### 4. Certificates of Insurance

The Contractor agrees to submit a Certificate of Insurance, in the form of Schedule B-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of this lease agreement. Such a Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellation of any such policy or policies.

#### 5. Additional Insurance

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

#### 6. Insurance Companies

All insurance, which the Contractor is required to obtain with respect to this lease agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

#### 7. Failure to Provide

If the Contractor fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the City to deduct from any monies owing the Contractor, any monies owing by the Contractor to the City.

**8. Nonpayment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor shall not be held to waive or release the Contractor from any of the provisions of the Insurance Requirements or this lease agreement, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Contractor as stated in section 7.

**9. Hold Harmless and Indemnification**

The Contractor shall be responsible for all loss, costs, damages, and expenses whatsoever incurred or suffered by the city, its elected officials, officers, employees and agents (the indemnities) including but not limited to or loss of property and loss of use thereof, and injury to, or death of a person or persons resulting from or in conjunction with the performance, purported performance, or non-performance of this contract, excepting only where such loss, cost, damages and expenses are as a result of the sole negligence of the indemnities.

The Contractor shall defend, indemnify and hold harmless the indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the indemnities.



## APPENDIX A-1

City staff to complete prior to circulation

City Dept.: \_\_\_\_\_

Dept. Contact: \_\_\_\_\_

Project/Contract/Event: \_\_\_\_\_

### CERTIFICATE OF INSURANCE

This Certificate is issued to:

The City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

Insured

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Broker

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Location and nature of operation or contract to which this Certificate applies:

• <i>Type of Insurance</i>	Company & Policy Number	Policy Dates		• Limits of Liability/Amounts
		• <i>Effective</i>	• <i>Expiry</i>	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Date

## APPENDIX B - SCOPE OF SERVICES

### General Scope of Services of the Contractor

The Contractor will provide, equip and operate a mobile food concession within the designated area of the Premises during the period June 1<sup>st</sup> to May 31<sup>st</sup> of each contract year, from 9:00pm to 2:00am, Wednesday to Saturday, weather permitting.

The Contractor is to supply this service for a three (3) year period with the option of extending for two additional (2) one (1) year terms at the sole discretion of the City.

1. The vehicle(s) must be fully self-contained.
2. There is no access to water or power at these locations.
3. The Contractor will pay all permits, taxes and licenses
4. The Contractor will pay utility charges, if any.
5. The Contractor will provide a menu of items that will be offered for sale at their concession. The Contractor must supply healthy food choices as outlined in Appendix B-1.
6. The Contractor will clean and maintain the area surrounding the mobile unit to the satisfaction of the City, including clean-up of litter from the immediate area (a radius of 30 meters from the mobile concession unit.) All paper products used shall be clearly identifiable with the contractor's operation. The Contractor is responsible for the removal of all garbage associated with the concession.
7. The Contractor shall comply with all regulations regarding fire, traffic, safety and sanitation and shall acquire all necessary permits.
8. The Contractor will remove the vehicle from the site each day.
9. The Contractor shall move the vehicle when requested by City staff.
10. The Contractor shall be allowed to display one professionally made sign at the space allotted. The sign is subject to City approval prior to posting.
11. No outside advertising will be permitted without the consent of the City.
12. The use of individual packaged condiments is prohibited.
13. The Contractor will have the exclusive right to operate a food concession within the designated sites, subject only to the City maintaining the right to lease or otherwise permit operation of "other concessions" within the individual sites for a maximum of five (5) days each season in conjunction with special events.
14. The Contractor must seek to minimize any conflict with adjacent property owners.
15. The Contractor may not sublet, nor assign the contract without the written consent of the City which shall be at the City's sole discretion. The minimum amount for such assignment shall be \$500.00 payable from the Contractor to the City.
16. The Contractor is required to supply a bid deposit in the form of a certified cheque payable to the City of Kelowna in the amount of \$1,000. The deposit of

the successful Contractor will be retained as a “performance deposit” and the City will place it into an interest bearing account with the interest accruing to the depositor.

17. The Contractor must sign the License of Occupation Agreement.
18. Rent shall be received in monthly instalments due and payable in advance of the 15<sup>th</sup> day of each month of the said season.
19. The Contractor shall provide complete annual financial reports to the City, within 45 days of the end of the season and no later than December 1<sup>st</sup> of each contract year. The statements will reflect the entire operating season, and a payment in the amount of 5% of the gross profits of the concession will accompany the statements by December 1<sup>st</sup> of each contract year.
20. The Contractor will be responsible to communicate with the City of Kelowna outdoor Events Committee and review the Outdoor Events Calendar to determine the dates the park will be closed for special events, and as a result will also be closed for the concession operation, unless agreement can be reached with the event organizer.
21. In the event that the City of Kelowna enters into an Exclusive Supplier Agreement with a third party for the provision of “Cold Beverage Products”, as described in Appendix D, in the City of Kelowna, the Contractor must, following a minimum of 60 day’s notice from the City of Kelowna, ensure compliance with the conditions of said agreement. In the event that the contractor is unable to comply with the conditions of the Exclusive Supplier Agreement, the contractor may choose to cancel this agreement without penalty.
22. All electrical equipment utilized in the Province of British Columbia must bear a recognized electrical certification prior to use. Application for approval may be made to the BC Safety Authority. All mobile food vendors must conform to the requirements of the Kelowna Fire Dept. Mobile Food Vending Requirements as set out in Appendix F.
23. Sale of alcoholic beverages is strictly prohibited.



## Appendix B-1

### Healthy Food Choices - Check mark system

Choose Most ✓✓	Choose Sometimes ✓	Choose Least	Not Recommended
Beverages 50% Foods 70% <sup>1</sup>		Beverages 50% Foods 30% <sup>2</sup>	
These items, including whole grain breads and fresh vegetables, tend to be the highest in nutrients, the lowest in unhealthy components, and the least processed.	These items include such things as fruit canned in light syrup, represent choices that are moderately salted, sweetened or processed.	These items including such things as fries tend to be low in key nutrients such as iron and calcium and highly salted, sweetened or processed.	These items, including candies and drinks where sugar is the first ingredient, or the second ingredient after water, tend to be highly processed, or have very high amounts of sweeteners, salt, fat, trans fat or calories relative to their nutritional value.

City of Kelowna staff will work closely with current concessionaires to achieve the above product proportions for packaged products as minimum standards. Percentages are based on BC School Guidelines for Healthy Food and Beverages and the Vancouver Coastal Health Policy.

<sup>1</sup> 70% of product choices from these categories with no more than 35% from the Choose Sometimes category

<sup>2</sup> 30% of products choices from these categories with no more than 15% from the Not Recommended category



**APPENDIX C - FEE SCHEDULE**

**Initial Term**

**June 1<sup>st</sup> 2016 to May 31<sup>st</sup> 2018**

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of \$3,300.00 plus GST per annum. Payment will be monthly on or before as follows:

		<b>Total Instalment</b>
June 1, 2016 to May 31, 2018	\$275.00 GST	<b>= \$288.75</b>
December 1, 2016, 2017 & 2018	5% of Gross Profits + GST	

## APPENDIX D

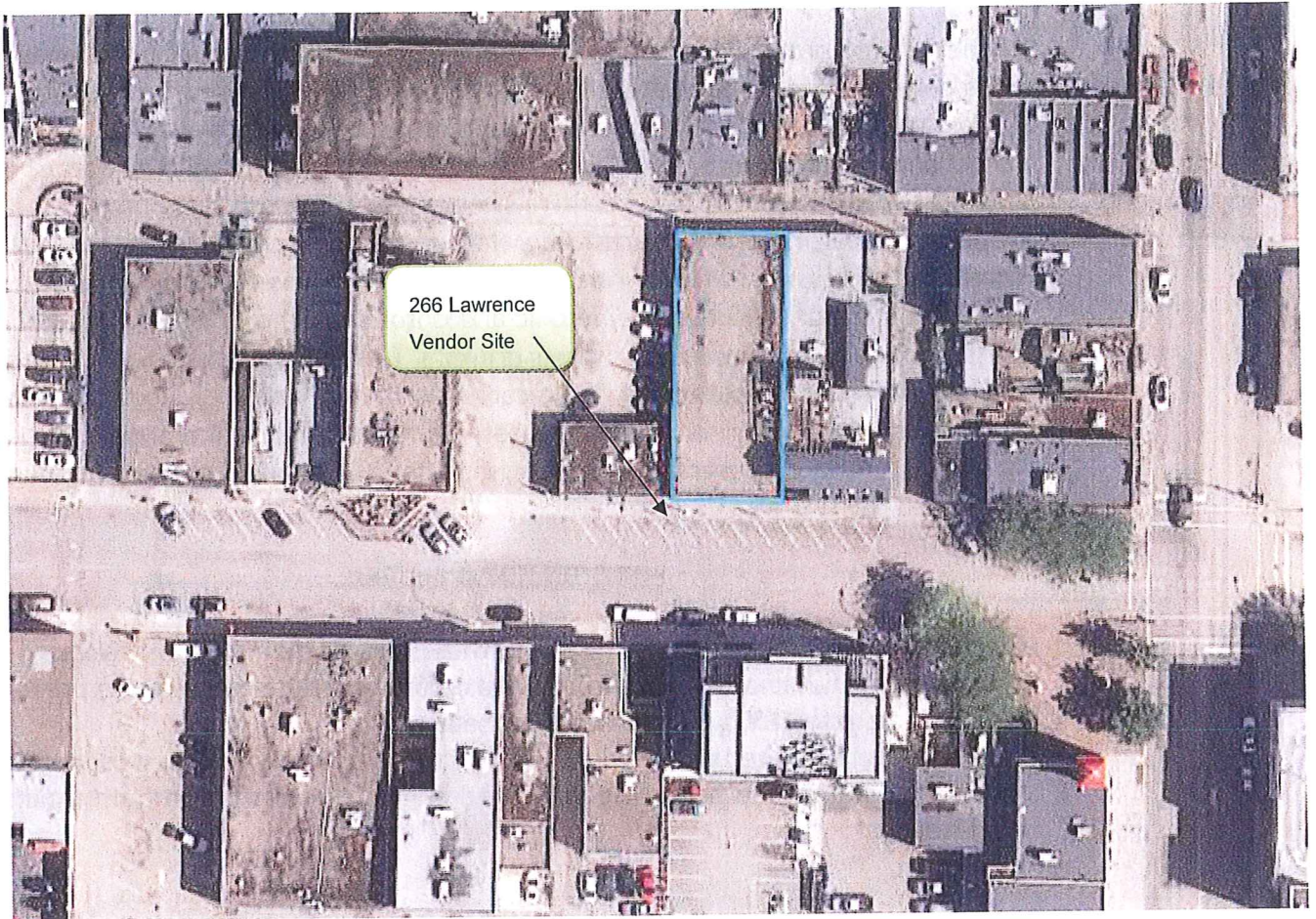
### Exclusive Supplier Agreement - Cold Beverage Products

For the purpose of this package, “Cold Beverage Products” means all carbonated and non-carbonated, natural or artificially-flavoured, non-alcoholic beverages, whether meant to be served at room temperature or colder, consumed independently or used as a mixer, including but not limited to: non-alcoholic beverages with nutritive or non-nutritive sweeteners; flavoured and / or sweetened water, naturally or artificially flavoured fruit juices; fruit juice-containing drinks, fruit-flavoured drinks (sweetened or unsweetened); fruit punches and aides; hypertonic, hypotonic and isotonic energy fluid replacement drinks (sometimes referred to as “sports drinks”), frozen carbonated beverages; bottled / canned carbonated and non-carbonated waters, and packaged cold teas and coffees; and all drink or beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which drinks and beverages are prepared:

#### BUT DOES NOT INCLUDE:

Dairy and dairy-like beverages including, without limitation, milk, milkshakes, flavoured milk, hot chocolate and cocoa and coffee beverages which are primarily (that is, more than 50% by volume) dairy based;  
Cold brewed unpackaged coffee or tea, hot coffee, hot tea, tea bags, loose tea, loose coffee grains, or beans, water packaged in bulk or water drawn from public water supply;

## APPENDIX E - PREMISE





## APPENDIX F - Kelowna Fire Department Requirements

The following is a list of local requirements for all mobile food vendors who wish to operate in the City of Kelowna. Vendors who are non-compliant with the following requirements will not be permitted to continue operation and are subject to the requirements of the Fire and Life Safety Bylaw, 10760. Vendors are subject to an annual inspection from the Kelowna Fire Department. Upon completion of the annual inspection, an inspection decal will be provided.

All vendors are subject to routine inspections from the Kelowna Fire Department.

1. The mobile vendor must have a valid City of Kelowna Business License or be approved by the inter community mobile license program or be a vendor at an event approved by the City of Kelowna Outdoor Events Committee.
2. The mobile vendor must be approved by the BC Safety Authority and ensure that all decals are visible.
3. All tents being in conjunction with the mobile vending must conform to NFPA 705 requirements. The tent must have a visible tag stating that it complies with this requirement.
4. Cooking and/or grilling shall not be conducted under tents. All cooking appliances must be at least 1 meter away from tent. Cooking is not permitted under tents.
5. Cooking appliances must be a minimum of 3 meters from any building.
6. A guard/barrier, not less than 1 meter high, must be provided to act as a barrier between the public and cooking appliances. This would not apply if the cooking appliances are located within an enclosed trailer.
7. All deep fryers must be approved commercial appliances. Residential grade deep fryers will not be accepted.
8. Minimum of one 2A10BC rated extinguisher shall be provided and shall be mounted in an acceptable location.
9. A type K fire extinguisher must be provided for all deep frying and/or hot oil cooking.
10. Fire extinguishers must be up to date. The extinguishers are required to be inspected annually by an approved agency. The cylinder must be pressurized and the safety pin must be in secured in place.
11. Enclosed cooking units, creating grease laden vapors, require a kitchen canopy and suppression system conforming to NFPA 96.
12. Enclosed cooking units with a kitchen canopy require a fixed suppression system to be installed within the unit. The fixed suppression system shall be serviced bi-annually by an approved technician.
13. Kitchen canopy has been cleaned from filter to fan in conformance with NFPA 96 requirements.
14. All spare propane bottles must be secured 3 meters from any cooking appliances or open flame.
15. All propane connections must be soap tested to ensure there are no leaks in conformance with BC Gas Code requirements.
16. Wood burning appliances are prohibited within the City of Kelowna.
17. All mobile vendors with trailers must provide wheel chocks to prevent trailer movement.



18. A current inspection decal from the Kelowna Fire Department must be displayed in a visible location.

If you have any questions pertaining to the Fire Department requirements, please contact the City of Kelowna Fire Prevention Officer at 250-469-8801.

KELOWNA FIRE DEPARTMENT STATION 1, 2255 Enterprise Way, Kelowna BC V1Y 8B

APPENDIX G - HOT OR NOT VENDING (266 LAWRENCE AVE.)



**Hot or Not Vending**  
**Keri Robertson**  
**250.864.5596**  
**City of Kelowna**  
**275 Leon Avenue Proposal**  
**(2016 - 2018)**

**1.0 Overview**

**2.0 Objective**

**3.0 Personal Profile**

**4.0 Company History**

**5.0 Equipment**

**6.0 Menu**

**Supporting Documents:**

**Appendix B: Cart Photos**



### 1.0 Overview

I have been born and raised in Kelowna . I've owned and operated Hot or Not Vending for the past 5years have built a solid reputation with Kelowna's Community

I have three completely self contained mobile vending carts that run on propane and batteries that will have a variety of healthy Hot or Not food choices.

I am prepared to accept all the terms and conditions outlined in the City of Kelowna Mobile Food Vendor or Concession Bid Package. I have already paid \$1000 certified cheque damage deposit for each spot x3.

I have paid the licenses, permits and taxes up to date and are good for the year as well I have included the menu items at the end of this proposal.

### 2.0 Objective

I would like to obtain the three evening spots in Kelowna. Please accept this proposal for the two locations on Leon and one on Lawrence Avenue.

I am willing to pay \$275 for spot A liquid zoo and \$200 for spot B Sapphire. Spot C \$200 Level.

### 3.0 Personal Profile

I am part of the CF Foundation as a Volunteer; I have participated in many community events such as The Fat Cat Festival, Mardi Gras, Canada Day, Boyd's Auto Body Charity Events, Father's Day Car Show and more.

Volunteered as an Ambassador for Kelowna.

I have had three successful spots downtown Kelowna for the last 8 years which have allowed me to expand my business. I am a Kelowna home owner I live only a couple short blocks away from each location at 640 Cawston Ave.

Hot or not Vending Employs locally and offers local products

I will be donating \$700 and challenging others to match or beat me to find a cure for Cystic Fibrosis.

I am also working with Designated Dads which is an organization that helps prevent people from driving while under the influence.

Working with the John Howard Society and the local homeless people giving out food and swimming passes for helping to keep the streets clean around the carts.

We have completed a Work BC program for employment opportunities

Prior to running hot or not vending I have worked for the ok coral for two and a half years

#### 4.0 Company History

I have been in business in Kelowna for over eight years and have built a solid reputation with Kelowna's business community I also have made many new friends along the way and gained a lot of experience and knowledge in order to be able to succeed.

Prior to running Hot or Not vending, I have worked for the Ok Coral for two and a half years, Cheetahs for six months, the Superstore for four years as their hotdog vender (Hot or Not vending). As well as four years at Roses pub

Working these locations has taken years of practise, training and experience, it can be a very high paced, environment dealing with many different types of people under the influence of alcohol or drugs, being a humanitarian is part of the professional work ethic it takes to be a downtown bar scene vendor.

Working closely with the staff of the local nightclubs the kelowna R.C.M.P and designated dads, we are all working together to keep the city clean and safe.

The fully self contained consession carts are helpful safety feature in the crowd last call closing time which can be very chaotic and dangerous.

I have fully trained food safe staff that will help to accommodate all situations.

Over the last 10 years of running Hot or Not vendors we have poured everything into our business including relocating downtown as a home owner and proud longstanding member of the community, being so close to these nighttime locations has been an essential growth and development process.

#### Certificates

- Food Safe
- Serving it right
- Hosting it right
- Health Approval for each cart / Food Insurance / Insurance for each cart
- Most Enthusiastic Player Award (BC Summer Games)

- Work BC Employment training
- Level 1<sup>st</sup> aid + CPR

## 5.0 Equipment

- Five fully enclosed self contained carts
- Dump trailer
- 1996 mini van to tow the carts
- Professional Ice machine
- Storage shed
- Pressure washer
- 3 fridges
- 2 deep freezers
- 10 coolers / 10 umbrella / 20 propane tanks / 10 storage bins
- Office and supply room
- Generous parking / loading zones

## 6.0 Menu

All of our quality food choices come from locally owned and operated business Bonanza meats, Illichmans deli, Quality greens produce and Winfield bakery, these food products contain no animal bi-products, no MSG and no GMO.

- All food is choose most

**Hot dogs** are 100% all beef include fried onions, grated cheese and all condiments \$5

**Smokies** are 100% all beef include fried onions, grated cheese and all condiments \$6

**Buns** are nine grains

**Perogies** (vegetarian option) Include fried onions, grated cheese and all condiments \$7

**Wraps** (Vegetarian option) Include fried onions, grated cheese and all condiments \$5

**Toppings** Fried onions, Sauerkraut, grated cheese, lettuce, onions, black forest ham, sour cream,  
plain yogourt,

**Fruit & Nut bars** \$1

**H20 / Pop** \$1













**LICENSE OF OCCUPATION**  
**HOT OR NOT VENDING**  
**275 Leon Avenue Concession License**  
**(2016 - 2018)**

BETWEEN:

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia V1Y 1J4  
  
(the "City")

OF THE FIRST PART

AND:

**HOT OR NOT VENDING**  
640 Cawston Avenue  
Kelowna, British Columbia V1Y 6Z4  
  
(the "Contractor")

OF THE SECOND PART

WHEREAS the City desires to appoint the services of the Contractor to provide Mobile Concession services (the "Services") at 275 Leon Avenue, Kelowna, BC.

NOW THEREFORE this Agreement witnesses that the parties hereby covenant and agree with each other as follows:

**Services**

The Contractor shall provide services for the Works on the terms and conditions set out in this Agreement and are binding upon the parties.

**Appendices**

The following attached Appendices are a part of this Agreement:

- Appendix A - Insurance Requirements
- Appendix B - Scope of Services
- Appendix C - Fees - Schedule
- Appendix D - Exclusive Supplier Agreement
- Appendix E - Premise
- Appendix F - Fire Dept. Requirements
- Appendix G - 275 Leon Avenue Mobile Food Vending Concession Bid

If there is any inconsistency or conflict between the provisions of the Agreement and the Appendices, the Agreement shall govern and take precedence over all other Contract Documents.



## AGREEMENT TERMS AND CONDITIONS

### 1.0 Definitions (For purposes of this Agreement, the following terms shall have the meanings set forth below):

**“Agreement”** means the executed agreement between the City and the successful Contractor on the terms and conditions set out in this document;

**“Agreement Administrator”** refers to the individual appointed by the Manager, Property Management to administer this Agreement on behalf of the City, and any participating members and other authorized purchasers;

**“City’s Representative”** means the Manager, Property Management or his designate;

**“Department”** means the Real Estate & Building Services department of the City of Kelowna

**“Department Representative”** means the Manager, Property Management, who shall represent all City Departments for the purposes of this Agreement, or, such other person who may subsequently be appointed in writing by the Department Representative and notified to the Contractor;

**“Event of Default”** references Article 6.1(c);

**“Force Majeure”** shall mean failures which occur for reasons beyond the reasonable control of the non-performing party, which include acts of God, acts of any governmental authority, strikes, blacklisting, embargo, and lockouts or other industrial disturbances not related to that Party, acts of the public enemy, wars, blockades, insurrections, explosions, rebellions, revolutions, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, fires, high waters, washouts, orders or acts of civil or military authorities, or civil disturbances, but it shall not include: any inability to fulfill its financial obligations or financial difficulty or condition, insolvency, or any court protection from creditors or any other occurrence similar to those recited, which is beyond the reasonable control of the non-performing party;

**“G.S.T.”** means any Goods & Services Tax payable in connection with the goods and services pursuant to the Excise Tax Act of Canada and shall also include any sales, value added or like taxes as well as any capital tax adopted by any lawful authority as may be amended from time to time;

**“Term”** means the term as specified in Section 5.0;

**“Schedule”** means a schedule to this agreement;

## **2.0 Interpretations**

- (a) “Authorized”, “directed”, “required”, “requested”, “approved”, “ordered”, “sanctioned”, and “satisfactory” shall, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the City;
- (b) “Determination” shall mean the written documentation of a decision of the City’s Representative including findings of fact to support a decision. A Determination becomes part of the procurement file to which it pertains;
- (c) the Heading and Subheadings inserted in this Agreement are designed for convenience only and do not form a part of this Agreement nor are they intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any provision thereof;
- (d) the word “including”, when following any general statement, term or matter, shall not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as amended and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplement or superseding the same;
- (f) no approval, authorization, sanction or permission required to be provided hereunder shall be unreasonably or arbitrarily withheld or delayed by the party providing same; and
- (g) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural, and vice versa and words importing individuals shall include firms and corporations, and vice versa.

## **3.0 Representations of Contractor**

### **3.1 The Contractor covenants, represents and warrants to the City that:**

- (a) Contractor is a duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with

respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;

- (b) Contractor has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (c) all necessary proceedings have been taken to authorize Contractor to enter into this Agreement and to execute and deliver this Agreement;
- (d) this Agreement has been properly executed by Contractor and is enforceable against Contractor in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made furnished or given by Contractor, its directors, officers or anyone acting on behalf of Contractor, to the City in connection with this Agreement is materially correct and accurate;
- (f) Contractor has no knowledge of any fact that materially adversely affects or, so far as it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it or a default by it under any statute, regulation or bylaw of Canada or of the Province of British Columbia applicable to or binding on, its contracting documents, or any contract or agreement to which it is a party;
- (h) Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfill its obligations under this Agreement;
- (i) Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by Contractor under those laws as of the reference date of this Agreement;
- (j) Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (k) Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the City;



- (l) Contractor accepts the risks assigned within this Agreement identified as being borne by Contractor;
- (m) Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved sub-contractual agreements in place and available to enable it to fully perform the work;
- (n) Contractor pays punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- (o) Contractor has investigated and satisfied itself of every condition affecting the work including labour, equipment and material to be provided; but not limited to, the standards, responsibilities, task schedules and subsequent written instructions if any, all as prepared by the City;
- (p) Contractor acknowledges that it has the responsibility for informing itself of all aspects of the work and all information necessary to perform the work;
- (q) Contractor will comply with all the requirements of the Agreement and will perform all work and supply all labour, equipment and materials necessary to do so;
- (r) Contractor is an independent Contractor and not the servant, employee, partner, or agent of the City;
- (s) Contractor will not, in any manner whatsoever, commit or purport to commit the City to the payment of any money to any person;
- (t) no partnership, joint venture, or agency involving the City is created by this Agreement or under this Agreement;
- (u) the City may, from time to time, give such instructions to Contractor as the City considers necessary in connection with provision of the work, which instructions Contractor will comply with, but Contractor will not be subject to the control of City with respect to the manner in which such instructions are carried out;
- (v) all employees and sub-contractors employed by Contractor to provide the work are at all times the employees and sub-contractors of Contractor and not of the City. Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee, and
- (w) Contractor has independently reviewed all labour relations issues related to the performance of Contractor's obligations under this Agreement.



#### **4.0 General Obligations of Contractor**

##### **4.1 Contractor shall:**

- (a) offer Mobile Concession services, as set out in the Scope of Services attached as Appendix “B”;
- (b) perform and contract in its own name and for its sole account for all things necessary or desirable for the proper and efficient provision of Mobile Concession services during the term;
- (c) use its best endeavours to provide the services to the City in a timely manner and in accordance with the terms of the Contract;
- (d) ensure that all its employees engaged in this contract are suitably qualified and experienced, and act to the best of their skills and ability and in accordance with accepted Mobile Concession standards for persons having those qualifications and experience;
- (e) follow all instructions of the City’s Manager, Property Management in respect of the performance by Contractor of its obligations under this contract and as set out in the Mobile Food Vending Concession Bid Package submitted by Hot or Not Vending dated March 18, 2016, and attached as Appendix G and cooperate fully with the various departments and act in good faith towards the City;
- (f) comply with the terms of Fire Department requirements as set out in Appendix F;
- (g) maintain clear communication lines with staff in order to offer the best customer service;
- (h) comply with all laws; and
- (i) only use the facilities provided by the City for the purposes of this Contract.

#### **5.0 Term**

5.1 Collectively, the Initial Term and Renewal Term are referred to as the “Term”.

##### **5.2 Initial Term**

The term of the “Agreement” shall be for three (3) years commencing June 1<sup>st</sup>, 2016 and will expire no later than May 31<sup>st</sup>, 2019, subject to specific termination rights in this document and subject to a first option to extend the Agreement at the sole and exclusive discretion of the Manager, Property Management.

### 5.3 Renewal Term

The City agrees that prior to entering into discussions with any third party with respect to the supply and/or advertising of a Mobile Concession for the period commencing after the end of the Initial Term, the City may in its sole discretion with respect to each renewal term renew this Agreement for an additional year to a maximum of two (2), one (1)-year renewals following the completion of the Initial Term.

No later than ninety (90) days prior to the start of the optional second consecutive term of the Agreement (**May 15<sup>th</sup>, 2019**), the City may exercise an option to renew for an additional season in 2020, provided the Contractor is in total compliance with all the terms and conditions of the Agreement.

The City of Kelowna shall notify the Contractor of its intentions to exercise the aforementioned option in writing.

### 6.0 Termination - City

#### 6.1 This Agreement will terminate:

- (a) at the expiration of the initial term, unless extended by mutual agreement; or
- (b) If at any time there occurs an Event of Default (defined below), the City may give written notice ("Notice of Complaint") to Contractor specifying in reasonable detail the Event of Default. If Contractor shall fail to perform or observe any covenant, condition or agreement to be performed or observed herein and such Event of Default continues unremedied for a period of seven (7) days after receiving the Notice of Complaint thereof from the City, then the City may, at its option, terminate this Agreement forthwith without prejudice to any other rights it may have in law or equity. If this Agreement is terminated by the City, Contractor shall be entitled to an immediate pro-rata refund of all unearned monies paid in advance to the City, as determined by mutual agreement.
- (c) For the purposes hereof, "Event of Default" shall mean any one or more of the following:
  - (i) if Contractor fails to observe, perform and keep each and every one of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by Contractor in this Agreement, or any agreement entered into pursuant to any such agreements;
  - (ii) if Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;

- (iii) if Contractor has made an assignment of the Agreement without the required consent of the City; and
  - (iv) if Contractor fails to provide Mobile Concession services as required under the terms of this Agreement.
- (d) The City may conduct inspections, audits, and assessments of Contractor's performance to verify that all duties, financial records, responsibilities and obligations of Contractor are being performed in accordance with the provisions of this Agreement and to the quality standards set out in this Agreement.

## **7.0 Dispute Resolution Procedures**

The parties will make reasonable efforts to resolve any dispute, claim or controversy arising out of this agreement or related to this agreement ("**Dispute**") using the dispute resolution procedures set out in this section.

### **(a) Negotiation**

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

### **(b) Mediation**

If all or any portion of a dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Kelowna, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs and each party will bear its own costs of participating in the mediation.

## **8.0 Compensation to the City**

- 8.1 The initial Agreement, with an optional renewal for the following years, will commence immediately upon authorization of an Agreement for Mobile Concession in the beach parks. **The Proponent will pay a monthly fee as detailed in Appendix C Fees Schedule.**

## **9.0 Independent Contractor**

- 9.1 Nothing in this Agreement shall be construed as to constitute a partnership between the City and Contractor. The duties to be performed and the



obligations assumed by Contractor under this Agreement shall be performed and assumed by it as an independent Contractor and not an agent or in any other way a representative of the City. In no circumstances shall Contractor have any authority to represent or contract on behalf of or otherwise bind the City.

- 9.2 Contractor is and shall at all times during the performance of this Agreement be an independent Contractor, and at no time shall Contractor be considered an agent, servant, or partner of the City; and all persons employed by Contractor to perform its obligations under the Agreement shall be its employees or servants and not the employees, servant, or agents of the City.

9.3 Employees

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned, and shall devote only his best-qualified personnel to work on this project. Should the City deem anyone employed on the work incompetent or unfit for his duties, and so inform the Contractor, Contractor shall immediately remove such person from work under this contract and he/she shall not again, without written permission of the City, be assigned to work under this contract. All Contractor employees working in the City must complete and clear a criminal record check.

10.0 Liaison

- 10.1 Each party shall maintain liaison with the other party in accordance with their respective obligations under this Agreement. In particular:

- Contractor shall appoint a representative ("Contractor's Representative") who shall have the duty of instituting and maintaining liaison with the City as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of Contractor's Representative; and
- The City shall appoint a representative ("City's Representative") who shall have the duty of instituting and maintaining liaison with Contractor as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of the City's Representative.

- 10.2 Each party's representative shall have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party's obligations hereunder and each party's representative may be relied upon by the other party as the official representative of such party. Meetings between the Contractor Representative and the City's Representative may be held by telephone with the consent of all parties participating in such meetings. Each party may change their respective representative or alternative representative by written notice to the other.



## **11.0 Governing Law**

- 11.1 This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof. The courts of British Columbia shall have jurisdiction (but not exclusive jurisdiction) to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and shall have jurisdiction to hear and determine all questions as to the validity, existence or enforceability hereof. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the Contractor hereby irrevocably submits and attorns to the jurisdiction of the courts of British Columbia and acknowledges their competence and the convenience and propriety of the venue and agrees to be bound by any judgment thereof and not to seek, and hereby waives, any review of its merits by the courts of any jurisdiction.
- 11.2 Notwithstanding any provisions herein, the Contractor(s) shall in the performance of the contract comply with provisions of The Employment Standards Act and Regulations of British Columbia and City of Kelowna Policies and By-laws and Parks, Recreation and Cultural Services Policies and By-laws and any amendment thereto and without limiting the generality of the foregoing, the Contractor(s) shall pay all of the Contractor(s) employees as required by the Act and the regulations then in force.

## **12.0 Waiver - City**

- 12.1 Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 12.2 No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

## **13.0 Waiver - Contractor**

- 13.1 Any failure of the Contractor at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the Contractor at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 13.2 No action or want of action on the part of the Contractor at any time to exercise any rights or remedies conferred upon it under the Agreement shall be

deemed to be a waiver on the part of the Contractor of any of its said rights or remedies.

#### **14.0 Subcontractors**

14.1 Contractor shall not subcontract the whole of the work nor shall any part of the work be subcontracted without the prior written consent of the City's Representative, which consent may not be arbitrarily withheld in the City Representative's sole discretion.

14.2 The subcontracting of any of its duties, obligations or responsibilities of Contractor under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and Contractor shall be fully responsible for the acts, omissions and debts of its subcontractors.

#### **15.0 Amendments**

No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

#### **16.0 Survival of Covenants**

All obligations of each of the parties which expressly or by their nature survive termination or expiration or assignment of this Agreement including, without limitation, the indemnities in section 20.0 shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

#### **17.0 Confidentiality of Information**

The Contractor should be aware that the City of Kelowna is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

#### **18.0 Non Assignability**

This Agreement may not be assigned by Contractor without the prior written consent of the City. For the purpose of this Agreement, a change in the corporate control of Contractor, shall be deemed to be an assignment requiring the consent of the City pursuant to the terms hereof.

#### **19.0 Joint and Several**

If this Agreement is executed by more than one person, firm or Corporation, it is understood and agreed that all persons, firms or Corporations executing this Agreement are jointly and severally liable under and bound by this Agreement.

## **20.0 Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default arose out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule, (where provided).

## **21.0 Insurance & Indemnity**

### **21.1 Indemnity Save Harmless**

Contractor agrees to indemnify and save harmless the City, its elected officials, officers, employees and agents, from and against all claims, liabilities, demands, actions, proceedings, loss and expense (including legal costs) whatsoever for damage to or destruction or loss of property and loss of use thereof, and injury to or death of any person or persons arising directly or indirectly out of (i) the installation, operation, use, relocation, removal, maintenance and/or repair of any/all equipment or of property of Contractor (ii) the performance, purported performance or non-performance of this Agreement, or (iii) any act of negligence, willful misconduct or omission by Contractor, its employees subcontractors and agents except only where such death, injury to persons or damage to property is due to the sole negligence of the City.

### **21.2 Insurance**

The Contractor shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances in forms and amounts acceptable to the City as detailed in Appendix A

### **21.3 Compliance with Statutes, By-laws & Regulations**

The Contractor shall in the performance of the Agreement, comply with all applicable City By-laws, and all amendments thereto and The Consumer Protection Act, R.S.B.C. 1996, c.69, and any other applicable acts or regulations.

All equipment/vehicles used for the work outlined in the Agreement must comply with the Motor Vehicle Act, R.S.B.C. 1996, Chapter 318 and Regulations, as amended and the Commercial Transport Act, R.S.B.C. 1996, Chapter 58 and Regulations, as amended.



All principal vehicles of the Contractor will be identified with signs setting out its name and telephone number. Employee owned vehicles, which may be periodically used for company business, will not necessarily be marked.

## **22.0 Occupational Health and Safety**

- 22.1 The Contractor agrees that it is the Prime Contractor for the purposes of the *Workers Compensation Act*. The Contractor shall have an occupational health and safety program acceptable to the WorkSafe BC Board and shall ensure that all WorkSafe BC Health & Safety Regulations are observed during performance of this Contract, not only by the Contractor, but by all workers, subcontractors, employees, personnel, servants and others engaged in the performance of this Contract.
- 22.2 The Contractor and its workers, subcontractors, employees, personnel, servants and others engaged in the Services shall conform to all current occupational health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may, on twenty-four (24) hours written notice to the Contractor, suspend the Services hereunder immediately as a result of failure to install such devices or because the conditions of immediate danger exist that would be likely to result in injury to any person. Such suspension will continue until the default or failure is corrected.
- 22.3 Without limiting the generality of any other indemnities granted by the Contractor herein, the Contractor shall indemnify and save harmless the City against any loss or expense or penalty suffered or incurred by the City by reason of failure of the Contractor, its agents or employees, or any subcontractors of the Contractor, its agents or employees to comply or ensure compliance with the health and safety laws, by-laws and regulations mentioned above.

## **23.0 WorkSafe BC Coverage**

- 23.1 The Contractor agrees that it shall, at its own expense, procure and carry or cause to be procured and carried and paid for full WorkSafe BC coverage for itself and all workers, subcontractors, employees, personnel, servants and others engaged in or upon any Services. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafe BC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafe BC premiums, assessments or penalties in respect of the Services done or Services performed in fulfilling this Contract have been paid in full.
- 23.2 The Contractor shall provide the City with the Contractor's WorkSafe BC registration number and a letter from the WorkSafe BC confirming that the Contractor is registered in good standing with the WorkSafe BC and that all



assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Contract.

- 23.3 The Contractor shall indemnify and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafe BC assessments owing from any person or corporation engaged in the performance of this Contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafe BC, including penalties levied by WorkSafe BC.

#### **24.0 Conflict of Interest**

A council member or any employee of the City shall not have a direct or indirect interest in a Company or own a Company that is the successful Contractor.

The Contractor shall disclose to the City prior to accepting the contract, any potential conflict of interest. If such a conflict of interest does exist, the City may, at its sole discretion, withhold the contract from the Contractor until the matter is suitably resolved. And further, that if during the conduct of the contract, the Contractor is retained by another client giving cause to a potential conflict of interest, then the Contractor shall so inform the City. If a significant conflict of interest is deemed by the City to exist, then the Contractor shall refuse the contract or shall take such steps as are necessary to remove the conflict of interest.

Contractor shall disclose to the City Representative, prior to awarding of the Contract, any actual, potential or apparent conflict of interest. If such a conflict of interest does exist, the City may, at its discretion, withhold the Contract from the Contractor until the matter is resolved to the satisfaction of the City.

Contractor will upon request, provide all pertinent information regarding ownership of their company. This information to be supplied within forty-eight (48) hours after request.

#### **25.0 Non-liability of City Officials**

Under no circumstances shall any officer, employee, or agent of the City of Kelowna acting within the course and scope of his/her City responsibility be personally liable to the Contractor, or any party claim through or on behalf of the Contractor, with regards to the contract, including but not limited to its negotiation, execution, performance, or termination.

#### **26.0 Protection and Security**

- a) **Acknowledgment of Proprietary Materials/Limitations on Use.** Contractor acknowledges that the records are unpublished work for purposes of copyright law and embodies valuable confidential and secret information of the City. The Contractor will treat such information so received in confidence and will

not use, copy, disclose, nor permit any of its personnel to use, copy, or disclose the same for any purpose that is not specifically authorized under the Agreement. Notwithstanding the above, nothing herein shall prevent the Contractor from utilizing same or similar information, if it is independently provided by a third party or independently developed in-house.

- b) **Property Rights.** Each party acknowledges and agrees that the other party's products and all other material related thereto constitute valuable trade secrets of the party furnishing the products or materials, or proprietary and confidential information of such party, and title thereto remains in such party. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the products and related material are and remain in the party furnishing such products. All other aspects of the products and related material, including without limitation, technologies, procedures, programs, methods of processing, specific design and structure of individual programs and their interaction.

## **27.0 Business Licence**

The Contractor shall have or obtain a City of Kelowna Business License and shall keep the license current for the duration of the contract term.

## **28.0 Contractor Performance Review**

Contractor's performance will be evaluated by the City no less than annually on the following criteria:

- ❖ Volume of customer complaints.
- ❖ Service levels.
- ❖ Cleanliness of sites.
- ❖ Adherence to the terms and conditions of this agreement.

## **29.0 Business Review & Planning**

- 29.1 Contractor agrees to conduct annual business review meetings with Property Management Department Representatives if required.

## **30.0 Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

## **31.0 Service of Notices**

- 31.1 All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by (i) facsimile transmission, if the matter is urgent or immediate; (ii) personally delivered; or (iii) transmitted

by prepaid registered mail, to the party to whom such notice or communications is being given at the following address or fax number:

**(City Representative)**

Attention: Mike Olson  
Manager, Property Management  
City of Kelowna  
1435 Water Street, Kelowna, British Columbia V1Y 1J4  
Telephone: 250-469-8740 Fax No.: 250-862-3349  
E-mail: molson@kelowna.ca

**(Contractor Representative)**

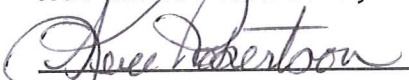
Keri Robertson  
Hot or Not Vending  
640 Cawson Avenue, Kelowna, British Columbia V1Y 6Z4  
Telephone: 250-864-5536  
E-mail: [dmarsden@live.com](mailto:dmarsden@live.com) (Dean Marsden ph: 778-484-2906)

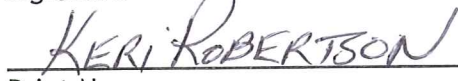
- 31.2 Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given (i) on the date of receipt if delivered personally, (ii) five (5) days after posting if transmitted by mail, or (iii) on the date of transmission if transmitted by fax (provided the sending machine gives confirmation that all pages have been transmitted to the fax number of the receiver without error), whichever shall be first.

IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Agreement to be executed on the day and year indicated below.

Accepted on behalf of:

HOT OR NOT VENDING by its authorized signatory:

  
Signature

  
Print Name

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_  
\_\_\_\_\_

Date Executed: \_\_\_\_\_



## Appendix A - Insurance Requirements

### 1.1 Insurance Requirements

#### 1. Contractor to Provide

The Contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless in connection with this lease agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this lease agreement until the date of termination of the lease agreement or such longer period as may be specified by the City.

#### 2. Insurance

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

##### 2.1 Comprehensive General Liability Insurance

- (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this lease agreement;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

#### 3. The City Named as Additional Insured

The policies required by section 2.1 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

#### 4. Certificates of Insurance

The Contractor agrees to submit a Certificate of Insurance, in the form of Schedule B-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of this lease agreement. Such a Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellation of any such policy or policies.

#### 5. Additional Insurance

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

#### 6. Insurance Companies

All insurance, which the Contractor is required to obtain with respect to this lease agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

#### 7. Failure to Provide

If the Contractor fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the City to deduct from any monies owing the Contractor, any monies owing by the Contractor to the City.



**8. Nonpayment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor shall not be held to waive or release the Contractor from any of the provisions of the Insurance Requirements or this lease agreement, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Contractor as stated in section 7.

**9. Hold Harmless and Indemnification**

The Contractor shall be responsible for all loss, costs, damages, and expenses whatsoever incurred or suffered by the city, its elected officials, officers, employees and agents (the indemnities) including but not limited to or loss of property and loss of use thereof, and injury to, or death of a person or persons resulting from or in conjunction with the performance, purported performance, or non-performance of this contract, excepting only where such loss, cost, damages and expenses are as a result of the sole negligence of the indemnities.

The Contractor shall defend, indemnify and hold harmless the indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the indemnities.

## APPENDIX A-1

City staff to complete prior to circulation

City Dept.: \_\_\_\_\_

Dept. Contact: \_\_\_\_\_

Project/Contract/Event: \_\_\_\_\_

### CERTIFICATE OF INSURANCE

This Certificate is issued to:

The City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

**Insured**

Name: _____
Address: _____

**Broker**

Name: _____
Address: _____

**Location and nature of operation or contract to which this Certificate applies:**

--

• <i>Type of Insurance</i>	Company & Policy Number	Policy Dates		• Limits of Liability/Amounts
		• <i>Effective</i>	• <i>Expiry</i>	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage  \$ <b>2,000,000</b> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage \$ <b>2,000,000</b> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Date

## APPENDIX B - SCOPE OF SERVICES

### General Scope of Services of the Contractor

The Contractor will provide, equip and operate a mobile food concession within the designated area of the Premises during the period June 1<sup>st</sup> to May 31<sup>st</sup> of each contract year, from 9:00pm to 2:00am, Wednesday to Saturday, weather permitting.

The Contractor is to supply this service for a three (3) year period with the option of extending for two additional (2) one (1) year terms at the sole discretion of the City.

1. The vehicle(s) must be fully self-contained.
2. There is no access to water or power at these locations.
3. The Contractor will pay all permits, taxes and licenses
4. The Contractor will pay utility charges, if any.
5. The Contractor will provide a menu of items that will be offered for sale at their concession. The Contractor must supply healthy food choices as outlined in Appendix B-1.
6. The Contractor will clean and maintain the area surrounding the mobile unit to the satisfaction of the City, including clean-up of litter from the immediate area (a radius of 30 meters from the mobile concession unit.) All paper products used shall be clearly identifiable with the contractor's operation. The Contractor is responsible for the removal of all garbage associated with the concession.
7. The Contractor shall comply with all regulations regarding fire, traffic, safety and sanitation and shall acquire all necessary permits.
8. The Contractor will remove the vehicle from the site each day.
9. The Contractor shall move the vehicle when requested by City staff.
10. The Contractor shall be allowed to display one professionally made sign at the space allotted. The sign is subject to City approval prior to posting.
11. No outside advertising will be permitted without the consent of the City.
12. The use of individual packaged condiments is prohibited.
13. The Contractor will have the exclusive right to operate a food concession within the designated sites, subject only to the City maintaining the right to lease or otherwise permit operation of "other concessions" within the individual sites for a maximum of five (5) days each season in conjunction with special events.
14. The Contractor must seek to minimize any conflict with adjacent property owners.
15. The Contractor may not sublet, nor assign the contract without the written consent of the City which shall be at the City's sole discretion. The minimum amount for such assignment shall be \$500.00 payable from the Contractor to the City.
16. The Contractor is required to supply a bid deposit in the form of a certified cheque payable to the City of Kelowna in the amount of \$1,000. The deposit of



the successful Contractor will be retained as a “performance deposit” and the City will place it into an interest bearing account with the interest accruing to the depositor.

17. The Contractor must sign the License of Occupation Agreement.
18. Rent shall be received in monthly instalments due and payable in advance of the 15<sup>th</sup> day of each month of the said season.
19. The Contractor shall provide complete annual financial reports to the City, within 45 days of the end of the season and no later than December 1<sup>st</sup> of each contract year. The statements will reflect the entire operating season, and a payment in the amount of 5% of the gross profits of the concession will accompany the statements by December 1<sup>st</sup> of each contract year.
20. The Contractor will be responsible to communicate with the City of Kelowna outdoor Events Committee and review the Outdoor Events Calendar to determine the dates the park will be closed for special events, and as a result will also be closed for the concession operation, unless agreement can be reached with the event organizer.
21. In the event that the City of Kelowna enters into an Exclusive Supplier Agreement with a third party for the provision of “Cold Beverage Products”, as described in Appendix D, in the City of Kelowna, the Contractor must, following a minimum of 60 day’s notice from the City of Kelowna, ensure compliance with the conditions of said agreement. In the event that the contractor is unable to comply with the conditions of the Exclusive Supplier Agreement, the contractor may choose to cancel this agreement without penalty.
22. All electrical equipment utilized in the Province of British Columbia must bear a recognized electrical certification prior to use. Application for approval may be made to the BC Safety Authority. All mobile food vendors must conform to the requirements of the Kelowna Fire Dept. Mobile Food Vending Requirements as set out in Appendix F.
23. Sale of alcoholic beverages is strictly prohibited.



## Appendix B-1

### Healthy Food Choices - Check mark system

Choose Most ✓✓	Choose Sometimes ✓	Choose Least	Not Recommended
Beverages 50% Foods 70% <sup>1</sup>		Beverages 50% Foods 30% <sup>2</sup>	
These items, including whole grain breads and fresh vegetables, tend to be the highest in nutrients, the lowest in unhealthy components, and the least processed.	These items include such things as fruit canned in light syrup, represent choices that are moderately salted, sweetened or processed.	These items including such things as fries tend to be low in key nutrients such as iron and calcium and highly salted, sweetened or processed.	These items, including candies and drinks where sugar is the first ingredient, or the second ingredient after water, tend to be highly processed, or have very high amounts of sweeteners, salt, fat, trans fat or calories relative to their nutritional value.

City of Kelowna staff will work closely with current concessionaires to achieve the above product proportions for packaged products as minimum standards. Percentages are based on BC School Guidelines for Healthy Food and Beverages and the Vancouver Coastal Health Policy.

<sup>1</sup> 70% of product choices from these categories with no more than 35% from the Choose Sometimes category

<sup>2</sup> 30% of products choices from these categories with no more than 15% from the Not Recommended category

## APPENDIX C - FEE SCHEDULE

### Initial Term

June 1<sup>st</sup> 2016 to May 31<sup>st</sup> 2018

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$2,400.00 plus GST per annum**. Payment will be monthly on or before as follows:

June 1, 2016 to May 31, 2018	\$200.00 GST	<b>Total Instalment/Month</b>
December 1, 2016, 2017 & 2018	5% of Gross Profits + GST	<b>= \$210.00</b>

## APPENDIX D

### Exclusive Supplier Agreement - Cold Beverage Products

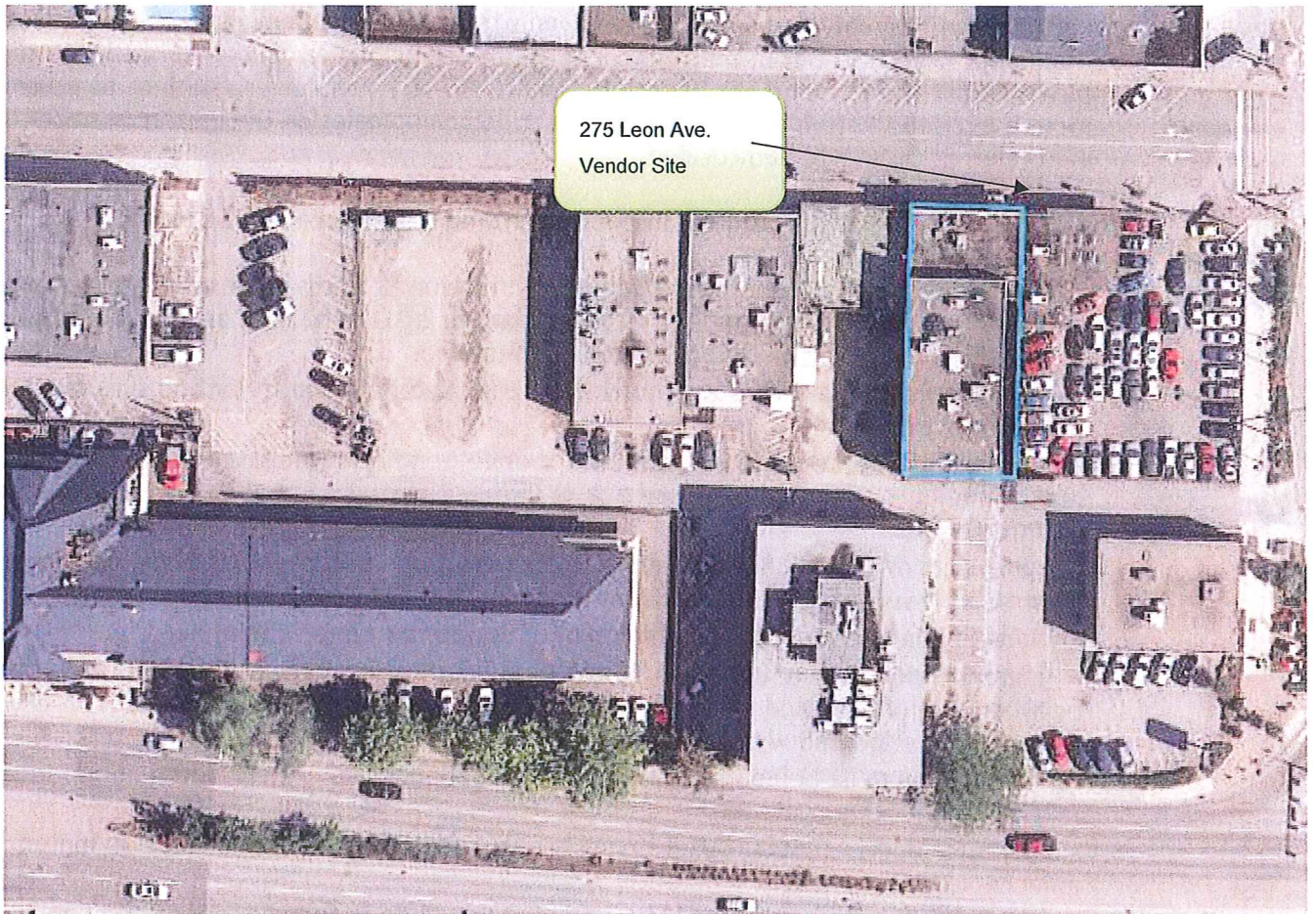
For the purpose of this package, “Cold Beverage Products” means all carbonated and non-carbonated, natural or artificially-flavoured, non-alcoholic beverages, whether meant to be served at room temperature or colder, consumed independently or used as a mixer, including but not limited to: non-alcoholic beverages with nutritive or non-nutritive sweeteners; flavoured and / or sweetened water, naturally or artificially flavoured fruit juices; fruit juice-containing drinks, fruit-flavoured drinks (sweetened or unsweetened); fruit punches and aides; hypertonic, hypotonic and isotonic energy fluid replacement drinks (sometimes referred to as “sports drinks”), frozen carbonated beverages; bottled / canned carbonated and non-carbonated waters, and packaged cold teas and coffees; and all drink or beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which drinks and beverages are prepared:

#### BUT DOES NOT INCLUDE:

Dairy and dairy-like beverages including, without limitation, milk, milkshakes, flavoured milk, hot chocolate and cocoa and coffee beverages which are primarily (that is, more than 50% by volume) dairy based;  
Cold brewed unpackaged coffee or tea, hot coffee, hot tea, tea bags, loose tea, loose coffee grains, or beans, water packaged in bulk or water drawn from public water supply;



## APPENDIX E - PREMISE





## APPENDIX F - Kelowna Fire Department Requirements

The following is a list of local requirements for all mobile food vendors who wish to operate in the City of Kelowna. Vendors who are non-compliant with the following requirements will not be permitted to continue operation and are subject to the requirements of the Fire and Life Safety Bylaw, 10760. Vendors are subject to an annual inspection from the Kelowna Fire Department. Upon completion of the annual inspection, an inspection decal will be provided.

All vendors are subject to routine inspections from the Kelowna Fire Department.

1. The mobile vendor must have a valid City of Kelowna Business License or be approved by the inter community mobile license program or be a vendor at an event approved by the City of Kelowna Outdoor Events Committee.
2. The mobile vendor must be approved by the BC Safety Authority and ensure that all decals are visible.
3. All tents being in conjunction with the mobile vending must conform to NFPA 705 requirements. The tent must have a visible tag stating that it complies with this requirement.
4. Cooking and/or grilling shall not be conducted under tents. All cooking appliances must be at least 1 meter away from tent. Cooking is not permitted under tents.
5. Cooking appliances must be a minimum of 3 meters from any building.
6. A guard/barrier, not less than 1 meter high, must be provided to act as a barrier between the public and cooking appliances. This would not apply if the cooking appliances are located within an enclosed trailer.
7. All deep fryers must be approved commercial appliances. Residential grade deep fryers will not be accepted.
8. Minimum of one 2A10BC rated extinguisher shall be provided and shall be mounted in an acceptable location.
9. A type K fire extinguisher must be provided for all deep frying and/or hot oil cooking.
10. Fire extinguishers must be up to date. The extinguishers are required to be inspected annually by an approved agency. The cylinder must be pressurized and the safety pin must be in secured in place.
11. Enclosed cooking units, creating grease laden vapors, require a kitchen canopy and suppression system conforming to NFPA 96.
12. Enclosed cooking units with a kitchen canopy require a fixed suppression system to be installed within the unit. The fixed suppression system shall be serviced bi-annually by an approved technician.
13. Kitchen canopy has been cleaned from filter to fan in conformance with NFPA 96 requirements.
14. All spare propane bottles must be secured 3 meters from any cooking appliances or open flame.
15. All propane connections must be soap tested to ensure there are no leaks in conformance with BC Gas Code requirements.
16. Wood burning appliances are prohibited within the City of Kelowna.
17. All mobile vendors with trailers must provide wheel chocks to prevent trailer movement.

18. A current inspection decal from the Kelowna Fire Department must be displayed in a visible location.

If you have any questions pertaining to the Fire Department requirements, please contact the City of Kelowna Fire Prevention Officer at 250-469-8801.

KELOWNA FIRE DEPARTMENT STATION 1, 2255 Enterprise Way, Kelowna BC V1Y 8B

## APPENDIX G - HOT OR NOT VENDING (275 LEON AVENUE)

**Hot or Not Vending**  
**Keri Robertson**  
**250.864.5596**  
**City of Kelowna**  
**275 Leon Avenue Proposal**  
**(2016 - 2018)**

**1.0 Overview**

**2.0 Objective**

**3.0 Personal Profile**

**4.0 Company History**

**5.0 Equipment**

**6.0 Menu**

**Supporting Documents:**

**Appendix B: Cart Photos**



### 1.0 Overview

I have been born and raised in Kelowna . I've owned and operated Hot or Not Vending for the past 5years have built a solid reputation with Kelowna's Community

I have three completely self contained mobile vending carts that run on propane and batteries that will have a variety of healthy Hot or Not food choices.

I am prepared to accept all the terms and conditions outlined in the City of Kelowna Mobie Food Vendor or Concession Bid Package. I have already paid \$1000 certified cheque damage deposit for each spot x3.

I have paid the licenses, permits and taxes up to date and are good for the year as well I have included the menu items at the end of this proposal.

### 2.0 Objective

I would like to obtain the three evening spots in Kelowna. Please accept this proposal for the two locations on Leon and one on Lawrence Avenue.

I am willing to pay \$275 for spot A liquid zoo and \$200 for spot B Sapphire. Spot C \$200 Level.

### 3.0 Personal Profile

I am part of the CF Foundation as a Volunteer; I have participated in many community events such as The Fat Cat Festival, Mardi Gras, Canada Day, Boyd's Auto Body Charity Events, Father's Day Car Show and more.

Volunteered as an Ambassador for Kelowna.

I have had three successful spots downtown Kelowna for the last 8 years which have allowed me to expand my business. I am a Kelowna home owner I live only a couple short blocks away from each location at 640 Cawston Ave.

Hot or not Vending Employs locally and offers local products

I will be donating \$700 and challenging others to match or beat me to find a cure for Cystic Fibrosis.

I am also working with Designated Dads which is an organization that helps prevent people from driving while under the influence.

Working with the John Howard Society and the local homeless people giving out food and swimming passes for helping to keep the streets clean around the carts.

We have completed a Work BC program for employment opportunities

Prior to running hot or not vending I have worked for the ok coral for two and a half years

#### 4.0 Company History

I have been in business in Kelowna for over eight years and have built a solid reputation with Kelowna's business community I also have made many new friends along the way and gained a lot of experience and knowledge in order to be able to succeed.

Prior to running Hot or Not vending, I have worked for the Ok Coral for two and a half years, Cheetahs for six months, the Superstore for four years as their hotdog vender (Hot or Not vending). As well as four years at Roses pub

Working these locations has taken years of practise, training and experience, it can be a very high paced, environment dealing with many different types of people under the influence of alcohol or drugs, being a humanitarian is part of the professional work ethic it takes to be a downtown bar scene vendor.

Working closely with the staff of the local nightclubs the kelowna R.C.M.P and designated dads, we are all working together to keep the city clean and safe.

The fully self contained consession carts are helpful safety feature in the crowded last call closing time which can be very chaotic and dangerous.

I have fully trained food safe staff that will help to accommodate all situations.

Over the last 10 years of running Hot or Not vendors we have poured everything into our business including relocating downtown as a home owner and proud longstanding member of the community, being so close to these nighttime locations has been an essential growth and development process.

#### Certificates

- Food Safe
- Serving it right
- Hosting it right
- Health Approval for each cart / Food Insurance / Insurance for each cart
- Most Enthusiastic Player Award (BC Summer Games)

- Work BC Employment training
- Level 1<sup>st</sup> aid + CPR

## 5.0 Equipment

- Five fully enclosed self contained carts
- Dump trailer
- 1996 mini van to tow the carts
- Professional Ice machine
- Storage shed
- Pressure washer
- 3 fridges
- 2 deep freezers
- 10 coolers / 10 umbrella / 20 propane tanks / 10 storage bins
- Office and supply room
- Generous parking / loading zones

## 6.0 Menu

All of our quality food choices come from locally owned and operated business Bonanza meats, Illichmans deli, Quality greens produce and Winfield bakery, these food products contain no animal by-products, no MSG and no GMO.

- All food is choose most

**Hot dogs** are 100% all beef include fried onions, grated cheese and all condiments \$5

**Smokies** are 100% all beef include fried onions, grated cheese and all condiments \$6

**Buns** are nine grains

**Perogies** (vegetarian option) Include fried onions, grated cheese and all condiments \$7

**Wraps** (Vegetarian option) Include fried onions, grated cheese and all condiments \$5

**Toppings** Fried onions, Sauerkraut, grated cheese, lettuce, onions, black forest ham, sour cream,  
plain yogourt,

**Fruit & Nut bars** \$1

**H2O / Pop** \$1













**LICENSE OF OCCUPATION**  
**HOT OR NOT VENDING**  
**238 Leon Avenue Concession License**  
**(2016 - 2018)**

BETWEEN:

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia V1Y 1J4

(the "City")

OF THE FIRST PART

AND:

**HOT OR NOT VENDING**  
640 Cawston Avenue  
Kelowna, British Columbia V1Y 6Z4

(the "Contractor")

OF THE SECOND PART

WHEREAS the City desires to appoint the services of the Contractor to provide Mobile Concession services (the "Services") at 238 Leon Avenue, Kelowna, BC.

NOW THEREFORE this Agreement witnesses that the parties hereby covenant and agree with each other as follows:

**Services**

The Contractor shall provide services for the Works on the terms and conditions set out in this Agreement and are binding upon the parties.

**Appendices**

The following attached Appendices are a part of this Agreement:

- Appendix A - Insurance Requirements
- Appendix B - Scope of Services
- Appendix C - Fees - Schedule
- Appendix D - Exclusive Supplier Agreement
- Appendix E - Premise
- Appendix F - Fire Dept. Requirements
- Appendix G - 238 Leon Avenue Mobile Food Vending Concession Bid

If there is any inconsistency or conflict between the provisions of the Agreement and the Appendices, the Agreement shall govern and take precedence over all other Contract Documents.



## AGREEMENT TERMS AND CONDITIONS

### 1.0 Definitions (For purposes of this Agreement, the following terms shall have the meanings set forth below):

**“Agreement”** means the executed agreement between the City and the successful Contractor on the terms and conditions set out in this document;

**“Agreement Administrator”** refers to the individual appointed by the Manager, Property Management to administer this Agreement on behalf of the City, and any participating members and other authorized purchasers;

**“City’s Representative”** means the Manager, Property Management or his designate;

**“Department”** means the Real Estate & Building Services department of the City of Kelowna

**“Department Representative”** means the Manager, Property Management, who shall represent all City Departments for the purposes of this Agreement, or, such other person who may subsequently be appointed in writing by the Department Representative and notified to the Contractor;

**“Event of Default”** references Article 6.1(c);

**“Force Majeure”** shall mean failures which occur for reasons beyond the reasonable control of the non-performing party, which include acts of God, acts of any governmental authority, strikes, blacklisting, embargo, and lockouts or other industrial disturbances not related to that Party, acts of the public enemy, wars, blockades, insurrections, explosions, rebellions, revolutions, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, fires, high waters, washouts, orders or acts of civil or military authorities, or civil disturbances, but it shall not include: any inability to fulfill its financial obligations or financial difficulty or condition, insolvency, or any court protection from creditors or any other occurrence similar to those recited, which is beyond the reasonable control of the non-performing party;

**“G.S.T.”** means any Goods & Services Tax payable in connection with the goods and services pursuant to the Excise Tax Act of Canada and shall also include any sales, value added or like taxes as well as any capital tax adopted by any lawful authority as may be amended from time to time;

**“Term”** means the term as specified in Section 5.0;

**“Schedule”** means a schedule to this agreement;

## **2.0 Interpretations**

- (a) “Authorized”, “directed”, “required”, “requested”, “approved”, “ordered”, “sanctioned”, and “satisfactory” shall, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the City;
- (b) “Determination” shall mean the written documentation of a decision of the City’s Representative including findings of fact to support a decision. A Determination becomes part of the procurement file to which it pertains;
- (c) the Heading and Subheadings inserted in this Agreement are designed for convenience only and do not form a part of this Agreement nor are they intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any provision thereof;
- (d) the word “including”, when following any general statement, term or matter, shall not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as amended and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplement or superseding the same;
- (f) no approval, authorization, sanction or permission required to be provided hereunder shall be unreasonably or arbitrarily withheld or delayed by the party providing same; and
- (g) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural, and vice versa and words importing individuals shall include firms and corporations, and vice versa.

## **3.0 Representations of Contractor**

### **3.1 The Contractor covenants, represents and warrants to the City that:**

- (a) Contractor is a duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with

respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;

- (b) Contractor has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (c) all necessary proceedings have been taken to authorize Contractor to enter into this Agreement and to execute and deliver this Agreement;
- (d) this Agreement has been properly executed by Contractor and is enforceable against Contractor in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made furnished or given by Contractor, its directors, officers or anyone acting on behalf of Contractor, to the City in connection with this Agreement is materially correct and accurate;
- (f) Contractor has no knowledge of any fact that materially adversely affects or, so far as it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it or a default by it under any statute, regulation or bylaw of Canada or of the Province of British Columbia applicable to or binding on, its contracting documents, or any contract or agreement to which it is a party;
- (h) Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfill its obligations under this Agreement;
- (i) Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by Contractor under those laws as of the reference date of this Agreement;
- (j) Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (k) Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the City;



- (l) Contractor accepts the risks assigned within this Agreement identified as being borne by Contractor;
- (m) Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved sub-contractual agreements in place and available to enable it to fully perform the work;
- (n) Contractor pays punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- (o) Contractor has investigated and satisfied itself of every condition affecting the work including labour, equipment and material to be provided; but not limited to, the standards, responsibilities, task schedules and subsequent written instructions if any, all as prepared by the City;
- (p) Contractor acknowledges that it has the responsibility for informing itself of all aspects of the work and all information necessary to perform the work;
- (q) Contractor will comply with all the requirements of the Agreement and will perform all work and supply all labour, equipment and materials necessary to do so;
- (r) Contractor is an independent Contractor and not the servant, employee, partner, or agent of the City;
- (s) Contractor will not, in any manner whatsoever, commit or purport to commit the City to the payment of any money to any person;
- (t) no partnership, joint venture, or agency involving the City is created by this Agreement or under this Agreement;
- (u) the City may, from time to time, give such instructions to Contractor as the City considers necessary in connection with provision of the work, which instructions Contractor will comply with, but Contractor will not be subject to the control of City with respect to the manner in which such instructions are carried out;
- (v) all employees and sub-contractors employed by Contractor to provide the work are at all times the employees and sub-contractors of Contractor and not of the City. Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee, and
- (w) Contractor has independently reviewed all labour relations issues related to the performance of Contractor's obligations under this Agreement.



#### **4.0 General Obligations of Contractor**

##### **4.1 Contractor shall:**

- (a) offer Mobile Concession services, as set out in the Scope of Services attached as Appendix “B”;
- (b) perform and contract in its own name and for its sole account for all things necessary or desirable for the proper and efficient provision of Mobile Concession services during the term;
- (c) use its best endeavours to provide the services to the City in a timely manner and in accordance with the terms of the Contract;
- (d) ensure that all its employees engaged in this contract are suitably qualified and experienced, and act to the best of their skills and ability and in accordance with accepted Mobile Concession standards for persons having those qualifications and experience;
- (e) follow all instructions of the City’s Manager, Property Management in respect of the performance by Contractor of its obligations under this contract and as set out in the Mobile Food Vending Concession Bid Package submitted by Hot or Not Vending dated March 18, 2016, and attached as Appendix G and cooperate fully with the various departments and act in good faith towards the City;
- (f) comply with the terms of Fire Department requirements as set out in Appendix F;
- (g) maintain clear communication lines with staff in order to offer the best customer service;
- (h) comply with all laws; and
- (i) only use the facilities provided by the City for the purposes of this Contract.

#### **5.0 Term**

5.1 Collectively, the Initial Term and Renewal Term are referred to as the “Term”.

##### **5.2 Initial Term**

The term of the “Agreement” shall be for three (3) years commencing June 1<sup>st</sup>, 2016 and will expire no later than May 31<sup>st</sup>, 2019, subject to specific termination rights in this document and subject to a first option to extend the Agreement at the sole and exclusive discretion of the Manager, Property Management.

### 5.3 Renewal Term

The City agrees that prior to entering into discussions with any third party with respect to the supply and/or advertising of a Mobile Concession for the period commencing after the end of the Initial Term, the City may in its sole discretion with respect to each renewal term renew this Agreement for an additional year to a maximum of two (2), one (1)-year renewals following the completion of the Initial Term.

No later than ninety (90) days prior to the start of the optional second consecutive term of the Agreement (**May 15<sup>th</sup>, 2019**), the City may exercise an option to renew for an additional season in 2020, provided the Contractor is in total compliance with all the terms and conditions of the Agreement.

The City of Kelowna shall notify the Contractor of its intentions to exercise the aforementioned option in writing.

### 6.0 Termination - City

#### 6.1 This Agreement will terminate:

- (a) at the expiration of the initial term, unless extended by mutual agreement; or
- (b) If at any time there occurs an Event of Default (defined below), the City may give written notice ("Notice of Complaint") to Contractor specifying in reasonable detail the Event of Default. If Contractor shall fail to perform or observe any covenant, condition or agreement to be performed or observed herein and such Event of Default continues unremedied for a period of seven (7) days after receiving the Notice of Complaint thereof from the City, then the City may, at its option, terminate this Agreement forthwith without prejudice to any other rights it may have in law or equity. If this Agreement is terminated by the City, Contractor shall be entitled to an immediate pro-rata refund of all unearned monies paid in advance to the City, as determined by mutual agreement.
- (c) For the purposes hereof, "Event of Default" shall mean any one or more of the following:
  - (i) if Contractor fails to observe, perform and keep each and every one of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by Contractor in this Agreement, or any agreement entered into pursuant to any such agreements;
  - (ii) if Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;

- (iii) if Contractor has made an assignment of the Agreement without the required consent of the City; and
  - (iv) if Contractor fails to provide Mobile Concession services as required under the terms of this Agreement.
- (d) The City may conduct inspections, audits, and assessments of Contractor's performance to verify that all duties, financial records, responsibilities and obligations of Contractor are being performed in accordance with the provisions of this Agreement and to the quality standards set out in this Agreement.

## **7.0 Dispute Resolution Procedures**

The parties will make reasonable efforts to resolve any dispute, claim or controversy arising out of this agreement or related to this agreement ("Dispute") using the dispute resolution procedures set out in this section.

### **(a) Negotiation**

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

### **(b) Mediation**

If all or any portion of a dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Kelowna, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs and each party will bear its own costs of participating in the mediation.

## **8.0 Compensation to the City**

- 8.1 The initial Agreement, with an optional renewal for the following years, will commence immediately upon authorization of an Agreement for Mobile Concession in the beach parks. **The Proponent will pay a monthly fee as detailed in Appendix C Fees Schedule.**

## **9.0 Independent Contractor**

- 9.1 Nothing in this Agreement shall be construed as to constitute a partnership between the City and Contractor. The duties to be performed and the



obligations assumed by Contractor under this Agreement shall be performed and assumed by it as an independent Contractor and not an agent or in any other way a representative of the City. In no circumstances shall Contractor have any authority to represent or contract on behalf of or otherwise bind the City.

- 9.2 Contractor is and shall at all times during the performance of this Agreement be an independent Contractor, and at no time shall Contractor be considered an agent, servant, or partner of the City; and all persons employed by Contractor to perform its obligations under the Agreement shall be its employees or servants and not the employees, servant, or agents of the City.

9.3 Employees

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned, and shall devote only his best-qualified personnel to work on this project. Should the City deem anyone employed on the work incompetent or unfit for his duties, and so inform the Contractor, Contractor shall immediately remove such person from work under this contract and he/she shall not again, without written permission of the City, be assigned to work under this contract. All Contractor employees working in the City must complete and clear a criminal record check.

10.0 Liaison

- 10.1 Each party shall maintain liaison with the other party in accordance with their respective obligations under this Agreement. In particular:
- Contractor shall appoint a representative ("Contractor's Representative") who shall have the duty of instituting and maintaining liaison with the City as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of Contractor's Representative; and
  - The City shall appoint a representative ("City's Representative") who shall have the duty of instituting and maintaining liaison with Contractor as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of the City's Representative.
- 10.2 Each party's representative shall have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party's obligations hereunder and each party's representative may be relied upon by the other party as the official representative of such party. Meetings between the Contractor Representative and the City's Representative may be held by telephone with the consent of all parties participating in such meetings. Each party may change their respective representative or alternative representative by written notice to the other.



## **11.0 Governing Law**

- 11.1 This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof. The courts of British Columbia shall have jurisdiction (but not exclusive jurisdiction) to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and shall have jurisdiction to hear and determine all questions as to the validity, existence or enforceability hereof. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the Contractor hereby irrevocably submits and attorns to the jurisdiction of the courts of British Columbia and acknowledges their competence and the convenience and propriety of the venue and agrees to be bound by any judgment thereof and not to seek, and hereby waives, any review of its merits by the courts of any jurisdiction.
- 11.2 Notwithstanding any provisions herein, the Contractor(s) shall in the performance of the contract comply with provisions of The Employment Standards Act and Regulations of British Columbia and City of Kelowna Policies and By-laws and Parks, Recreation and Cultural Services Policies and By-laws and any amendment thereto and without limiting the generality of the foregoing, the Contractor(s) shall pay all of the Contractor(s) employees as required by the Act and the regulations then in force.

## **12.0 Waiver - City**

- 12.1 Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 12.2 No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

## **13.0 Waiver - Contractor**

- 13.1 Any failure of the Contractor at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the Contractor at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 13.2 No action or want of action on the part of the Contractor at any time to exercise any rights or remedies conferred upon it under the Agreement shall be

deemed to be a waiver on the part of the Contractor of any of its said rights or remedies.

#### **14.0 Subcontractors**

- 14.1 Contractor shall not subcontract the whole of the work nor shall any part of the work be subcontracted without the prior written consent of the City's Representative, which consent may not be arbitrarily withheld in the City Representative's sole discretion.
- 14.2 The subcontracting of any of its duties, obligations or responsibilities of Contractor under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and Contractor shall be fully responsible for the acts, omissions and debts of its subcontractors.

#### **15.0 Amendments**

No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

#### **16.0 Survival of Covenants**

All obligations of each of the parties which expressly or by their nature survive termination or expiration or assignment of this Agreement including, without limitation, the indemnities in section 20.0 shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

#### **17.0 Confidentiality of Information**

The Contractor should be aware that the City of Kelowna is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

#### **18.0 Non Assignability**

This Agreement may not be assigned by Contractor without the prior written consent of the City. For the purpose of this Agreement, a change in the corporate control of Contractor, shall be deemed to be an assignment requiring the consent of the City pursuant to the terms hereof.

#### **19.0 Joint and Several**

If this Agreement is executed by more than one person, firm or Corporation, it is understood and agreed that all persons, firms or Corporations executing this Agreement are jointly and severally liable under and bound by this Agreement.

## **20.0 Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default arose out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule, (where provided).

## **21.0 Insurance & Indemnity**

### **21.1 Indemnity Save Harmless**

Contractor agrees to indemnify and save harmless the City, its elected officials, officers, employees and agents, from and against all claims, liabilities, demands, actions, proceedings, loss and expense (including legal costs) whatsoever for damage to or destruction or loss of property and loss of use thereof, and injury to or death of any person or persons arising directly or indirectly out of (i) the installation, operation, use, relocation, removal, maintenance and/or repair of any/all equipment or of property of Contractor (ii) the performance, purported performance or non-performance of this Agreement, or (iii) any act of negligence, willful misconduct or omission by Contractor, its employees subcontractors and agents except only where such death, injury to persons or damage to property is due to the sole negligence of the City.

### **21.2 Insurance**

The Contractor shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances in forms and amounts acceptable to the City as detailed in Appendix A

### **21.3 Compliance with Statutes, By-laws & Regulations**

The Contractor shall in the performance of the Agreement, comply with all applicable City By-laws, and all amendments thereto and The Consumer Protection Act, R.S.B.C. 1996, c.69, and any other applicable acts or regulations.

All equipment/vehicles used for the work outlined in the Agreement must comply with the Motor Vehicle Act, R.S.B.C. 1996, Chapter 318 and Regulations, as amended and the Commercial Transport Act, R.S.B.C. 1996, Chapter 58 and Regulations, as amended.



All principal vehicles of the Contractor will be identified with signs setting out its name and telephone number. Employee owned vehicles, which may be periodically used for company business, will not necessarily be marked.

## **22.0 Occupational Health and Safety**

- 22.1 The Contractor agrees that it is the Prime Contractor for the purposes of the *Workers Compensation Act*. The Contractor shall have an occupational health and safety program acceptable to the WorkSafe BC Board and shall ensure that all WorkSafe BC Health & Safety Regulations are observed during performance of this Contract, not only by the Contractor, but by all workers, subcontractors, employees, personnel, servants and others engaged in the performance of this Contract.
- 22.2 The Contractor and its workers, subcontractors, employees, personnel, servants and others engaged in the Services shall conform to all current occupational health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may, on twenty-four (24) hours written notice to the Contractor, suspend the Services hereunder immediately as a result of failure to install such devices or because the conditions of immediate danger exist that would be likely to result in injury to any person. Such suspension will continue until the default or failure is corrected.
- 22.3 Without limiting the generality of any other indemnities granted by the Contractor herein, the Contractor shall indemnify and save harmless the City against any loss or expense or penalty suffered or incurred by the City by reason of failure of the Contractor, its agents or employees, or any subcontractors of the Contractor, its agents or employees to comply or ensure compliance with the health and safety laws, by-laws and regulations mentioned above.

## **23.0 WorkSafe BC Coverage**

- 23.1 The Contractor agrees that it shall, at its own expense, procure and carry or cause to be procured and carried and paid for full WorkSafe BC coverage for itself and all workers, subcontractors, employees, personnel, servants and others engaged in or upon any Services. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafe BC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafe BC premiums, assessments or penalties in respect of the Services done or Services performed in fulfilling this Contract have been paid in full.
- 23.2 The Contractor shall provide the City with the Contractor's WorkSafe BC registration number and a letter from the WorkSafe BC confirming that the Contractor is registered in good standing with the WorkSafe BC and that all



assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Contract.

- 23.3 The Contractor shall indemnify and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafe BC assessments owing from any person or corporation engaged in the performance of this Contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafe BC, including penalties levied by WorkSafe BC.

#### **24.0 Conflict of Interest**

A council member or any employee of the City shall not have a direct or indirect interest in a Company or own a Company that is the successful Contractor.

The Contractor shall disclose to the City prior to accepting the contract, any potential conflict of interest. If such a conflict of interest does exist, the City may, at its sole discretion, withhold the contract from the Contractor until the matter is suitably resolved. And further, that if during the conduct of the contract, the Contractor is retained by another client giving cause to a potential conflict of interest, then the Contractor shall so inform the City. If a significant conflict of interest is deemed by the City to exist, then the Contractor shall refuse the contract or shall take such steps as are necessary to remove the conflict of interest.

Contractor shall disclose to the City Representative, prior to awarding of the Contract, any actual, potential or apparent conflict of interest. If such a conflict of interest does exist, the City may, at its discretion, withhold the Contract from the Contractor until the matter is resolved to the satisfaction of the City.

Contractor will upon request, provide all pertinent information regarding ownership of their company. This information to be supplied within forty-eight (48) hours after request.

#### **25.0 Non-liability of City Officials**

Under no circumstances shall any officer, employee, or agent of the City of Kelowna acting within the course and scope of his/her City responsibility be personally liable to the Contractor, or any party claim through or on behalf of the Contractor, with regards to the contract, including but not limited to its negotiation, execution, performance, or termination.

#### **26.0 Protection and Security**

- a) **Acknowledgment of Proprietary Materials/Limitations on Use.** Contractor acknowledges that the records are unpublished work for purposes of copyright law and embodies valuable confidential and secret information of the City. The Contractor will treat such information so received in confidence and will

not use, copy, disclose, nor permit any of its personnel to use, copy, or disclose the same for any purpose that is not specifically authorized under the Agreement. Notwithstanding the above, nothing herein shall prevent the Contractor from utilizing same or similar information, if it is independently provided by a third party or independently developed in-house.

- b) **Property Rights.** Each party acknowledges and agrees that the other party's products and all other material related thereto constitute valuable trade secrets of the party furnishing the products or materials, or proprietary and confidential information of such party, and title thereto remains in such party. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the products and related material are and remain in the party furnishing such products. All other aspects of the products and related material, including without limitation, technologies, procedures, programs, methods of processing, specific design and structure of individual programs and their interaction.

## **27.0 Business Licence**

The Contractor shall have or obtain a City of Kelowna Business License and shall keep the license current for the duration of the contract term.

## **28.0 Contractor Performance Review**

Contractor's performance will be evaluated by the City no less than annually on the following criteria:

- ❖ Volume of customer complaints.
- ❖ Service levels.
- ❖ Cleanliness of sites.
- ❖ Adherence to the terms and conditions of this agreement.

## **29.0 Business Review & Planning**

- 29.1 Contractor agrees to conduct annual business review meetings with Property Management Department Representatives if required.

## **30.0 Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

## **31.0 Service of Notices**

- 31.1 All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by (i) facsimile transmission, if the matter is urgent or immediate; (ii) personally delivered; or (iii) transmitted

by prepaid registered mail, to the party to whom such notice or communications is being given at the following address or fax number:

**(City Representative)**

Attention: Mike Olson  
Manager, Property Management  
City of Kelowna  
1435 Water Street, Kelowna, British Columbia V1Y 1J4  
Telephone: 250-469-8740 Fax No.: 250-862-3349  
E-mail: molson@kelowna.ca

**(Contractor Representative)**

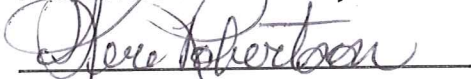
Keri Robertson  
Hot or Not Vending  
640 Cawson Avenue, Kelowna, British Columbia V1Y 6Z4  
Telephone: 250-864-5536  
E-mail: [dmarsden@live.com](mailto:dmarsden@live.com) (Dean Marsden ph: 778-484-2906)

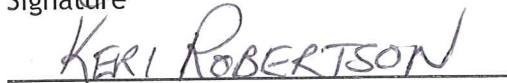
- 31.2 Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given (i) on the date of receipt if delivered personally, (ii) five (5) days after posting if transmitted by mail, or (iii) on the date of transmission if transmitted by fax (provided the sending machine gives confirmation that all pages have been transmitted to the fax number of the receiver without error), whichever shall be first.

IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Agreement to be executed on the day and year indicated below.

Accepted on behalf of:

HOT OR NOT VENDING by its authorized signatory:

  
Signature

  
Print Name

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_  
\_\_\_\_\_

Date Executed: \_\_\_\_\_



## Appendix A - Insurance Requirements

### 1.1 Insurance Requirements

#### 1. Contractor to Provide

The Contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless in connection with this lease agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this lease agreement until the date of termination of the lease agreement or such longer period as may be specified by the City.

#### 2. Insurance

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

##### 2.1 Comprehensive General Liability Insurance

- (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this lease agreement;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

#### 3. The City Named as Additional Insured

The policies required by section 2.1 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

#### 4. Certificates of Insurance

The Contractor agrees to submit a Certificate of Insurance, in the form of Schedule B-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of this lease agreement. Such a Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellation of any such policy or policies.

#### 5. Additional Insurance

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

#### 6. Insurance Companies

All insurance, which the Contractor is required to obtain with respect to this lease agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

#### 7. Failure to Provide

If the Contractor fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the City to deduct from any monies owing the Contractor, any monies owing by the Contractor to the City.



**8. Nonpayment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor shall not be held to waive or release the Contractor from any of the provisions of the Insurance Requirements or this lease agreement, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Contractor as stated in section 7.

**9. Hold Harmless and Indemnification**

The Contractor shall be responsible for all loss, costs, damages, and expenses whatsoever incurred or suffered by the city, its elected officials, officers, employees and agents (the indemnities) including but not limited to or loss of property and loss of use thereof, and injury to, or death of a person or persons resulting from or in conjunction with the performance, purported performance, or non-performance of this contract, excepting only where such loss, cost, damages and expenses are as a result of the sole negligence of the indemnities.

The Contractor shall defend, indemnify and hold harmless the indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the indemnities.

## APPENDIX A-1

City staff to complete prior to circulation

City Dept.: \_\_\_\_\_

Dept. Contact: \_\_\_\_\_

Project/Contract/Event: \_\_\_\_\_

This Certificate is issued to:

### CERTIFICATE OF INSURANCE

The City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

**Insured**

Name: _____
Address: _____

**Broker**

Name: _____
Address: _____

**Location and nature of operation or contract to which this Certificate applies:**

--

• <i>Type of Insurance</i>	Company & Policy Number	Policy Dates		• Limits of Liability/Amounts
		• <i>Effective</i>	• <i>Expiry</i>	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage  \$ <u>2,000,000</u> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
2. The City of Kelowna is named as an Additional Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Date

## APPENDIX B - SCOPE OF SERVICES

### General Scope of Services of the Contractor

The Contractor will provide, equip and operate a mobile food concession within the designated area of the Premises during the period June 1<sup>st</sup> to May 31<sup>st</sup> of each contract year, from 9:00pm to 2:00am, Wednesday to Saturday, weather permitting.

The Contractor is to supply this service for a three (3) year period with the option of extending for two additional (2) one (1) year terms at the sole discretion of the City.

1. The vehicle(s) must be fully self-contained.
2. There is no access to water or power at these locations.
3. The Contractor will pay all permits, taxes and licenses
4. The Contractor will pay utility charges, if any.
5. The Contractor will provide a menu of items that will be offered for sale at their concession. The Contractor must supply healthy food choices as outlined in Appendix B-1.
6. The Contractor will clean and maintain the area surrounding the mobile unit to the satisfaction of the City, including clean-up of litter from the immediate area (a radius of 30 meters from the mobile concession unit.) All paper products used shall be clearly identifiable with the contractor's operation. The Contractor is responsible for the removal of all garbage associated with the concession.
7. The Contractor shall comply with all regulations regarding fire, traffic, safety and sanitation and shall acquire all necessary permits.
8. The Contractor will remove the vehicle from the site each day.
9. The Contractor shall move the vehicle when requested by City staff.
10. The Contractor shall be allowed to display one professionally made sign at the space allotted. The sign is subject to City approval prior to posting.
11. No outside advertising will be permitted without the consent of the City.
12. The use of individual packaged condiments is prohibited.
13. The Contractor will have the exclusive right to operate a food concession within the designated sites, subject only to the City maintaining the right to lease or otherwise permit operation of "other concessions" within the individual sites for a maximum of five (5) days each season in conjunction with special events.
14. The Contractor must seek to minimize any conflict with adjacent property owners.
15. The Contractor may not sublet, nor assign the contract without the written consent of the City which shall be at the City's sole discretion. The minimum amount for such assignment shall be \$500.00 payable from the Contractor to the City.
16. The Contractor is required to supply a bid deposit in the form of a certified cheque payable to the City of Kelowna in the amount of \$1,000. The deposit of



the successful Contractor will be retained as a “performance deposit” and the City will place it into an interest bearing account with the interest accruing to the depositor.

17. The Contractor must sign the License of Occupation Agreement.
18. Rent shall be received in monthly instalments due and payable in advance of the 15<sup>th</sup> day of each month of the said season.
19. The Contractor shall provide complete annual financial reports to the City, within 45 days of the end of the season and no later than December 1<sup>st</sup> of each contract year. The statements will reflect the entire operating season, and a payment in the amount of 5% of the gross profits of the concession will accompany the statements by December 1<sup>st</sup> of each contract year.
20. The Contractor will be responsible to communicate with the City of Kelowna outdoor Events Committee and review the Outdoor Events Calendar to determine the dates the park will be closed for special events, and as a result will also be closed for the concession operation, unless agreement can be reached with the event organizer.
21. In the event that the City of Kelowna enters into an Exclusive Supplier Agreement with a third party for the provision of “Cold Beverage Products”, as described in Appendix D, in the City of Kelowna, the Contractor must, following a minimum of 60 day’s notice from the City of Kelowna, ensure compliance with the conditions of said agreement. In the event that the contractor is unable to comply with the conditions of the Exclusive Supplier Agreement, the contractor may choose to cancel this agreement without penalty.
22. All electrical equipment utilized in the Province of British Columbia must bear a recognized electrical certification prior to use. Application for approval may be made to the BC Safety Authority. All mobile food vendors must conform to the requirements of the Kelowna Fire Dept. Mobile Food Vending Requirements as set out in Appendix F.
23. Sale of alcoholic beverages is strictly prohibited.



## Appendix B-1

### Healthy Food Choices - Check mark system

Choose Most ✓✓	Choose Sometimes ✓	Choose Least	Not Recommended
Beverages 50% Foods 70% <sup>1</sup>		Beverages 50% Foods 30% <sup>2</sup>	
These items, including whole grain breads and fresh vegetables, tend to be the highest in nutrients, the lowest in unhealthy components, and the least processed.	These items include such things as fruit canned in light syrup, represent choices that are moderately salted, sweetened or processed.	These items including such things as fries tend to be low in key nutrients such as iron and calcium and highly salted, sweetened or processed.	These items, including candies and drinks where sugar is the first ingredient, or the second ingredient after water, tend to be highly processed, or have very high amounts of sweeteners, salt, fat, trans fat or calories relative to their nutritional value.

City of Kelowna staff will work closely with current concessionaires to achieve the above product proportions for packaged products as minimum standards. Percentages are based on BC School Guidelines for Healthy Food and Beverages and the Vancouver Coastal Health Policy.

<sup>1</sup> 70% of product choices from these categories with no more than 35% from the Choose Sometimes category

<sup>2</sup> 30% of products choices from these categories with no more than 15% from the Not Recommended category

## APPENDIX C - FEE SCHEDULE

### Initial Term

June 1<sup>st</sup> 2016 to May 31<sup>st</sup> 2018

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of \$2,400.00 plus GST per annum. Payment will be monthly on or before as follows:

June 1, 2016 to May 31, 2018	\$200.00 GST	Total Instalment
December 1, 2016, 2017 & 2018	5% of Gross Profits + GST	= \$210.00

## APPENDIX D

### Exclusive Supplier Agreement - Cold Beverage Products

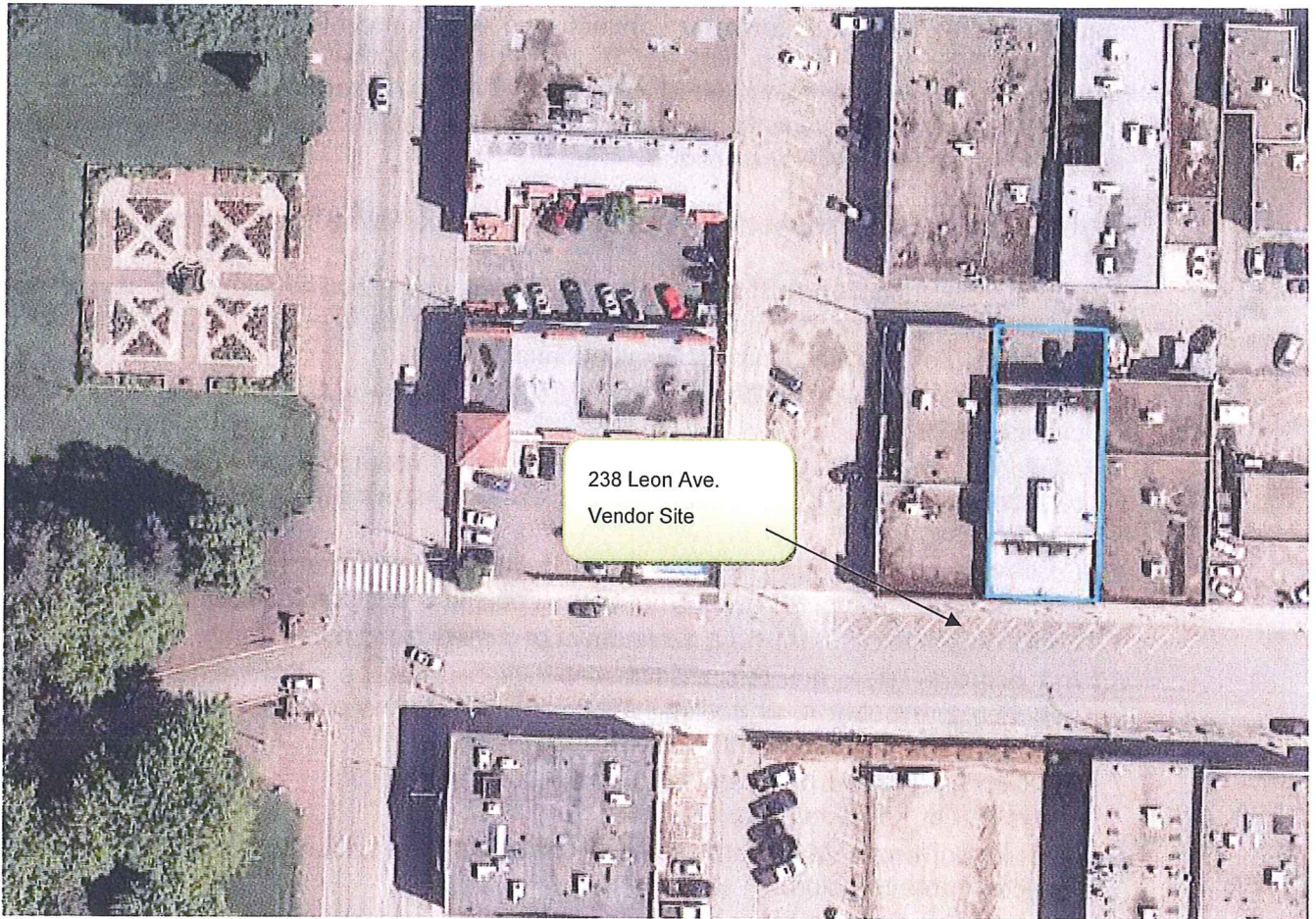
For the purpose of this package, “Cold Beverage Products” means all carbonated and non-carbonated, natural or artificially-flavoured, non-alcoholic beverages, whether meant to be served at room temperature or colder, consumed independently or used as a mixer, including but not limited to: non-alcoholic beverages with nutritive or non-nutritive sweeteners; flavoured and / or sweetened water, naturally or artificially flavoured fruit juices; fruit juice-containing drinks, fruit-flavoured drinks (sweetened or unsweetened); fruit punches and aides; hypertonic, hypotonic and isotonic energy fluid replacement drinks (sometimes referred to as “sports drinks”), frozen carbonated beverages; bottled / canned carbonated and non-carbonated waters, and packaged cold teas and coffees; and all drink or beverage bases, whether in the form of syrups, powders, crystals, concentrates or otherwise, from which drinks and beverages are prepared:

#### BUT DOES NOT INCLUDE:

Dairy and dairy-like beverages including, without limitation, milk, milkshakes, flavoured milk, hot chocolate and cocoa and coffee beverages which are primarily (that is, more than 50% by volume) dairy based;  
Cold brewed unpackaged coffee or tea, hot coffee, hot tea, tea bags, loose tea, loose coffee grains, or beans, water packaged in bulk or water drawn from public water supply;



## APPENDIX E - PREMISE





## APPENDIX F - Kelowna Fire Department Requirements

The following is a list of local requirements for all mobile food vendors who wish to operate in the City of Kelowna. Vendors who are non-compliant with the following requirements will not be permitted to continue operation and are subject to the requirements of the Fire and Life Safety Bylaw, 10760. Vendors are subject to an annual inspection from the Kelowna Fire Department. Upon completion of the annual inspection, an inspection decal will be provided.

All vendors are subject to routine inspections from the Kelowna Fire Department.

1. The mobile vendor must have a valid City of Kelowna Business License or be approved by the inter community mobile license program or be a vendor at an event approved by the City of Kelowna Outdoor Events Committee.
2. The mobile vendor must be approved by the BC Safety Authority and ensure that all decals are visible.
3. All tents being in conjunction with the mobile vending must conform to NFPA 705 requirements. The tent must have a visible tag stating that it complies with this requirement.
4. Cooking and/or grilling shall not be conducted under tents. All cooking appliances must be at least 1 meter away from tent. Cooking is not permitted under tents.
5. Cooking appliances must be a minimum of 3 meters from any building.
6. A guard/barrier, not less than 1 meter high, must be provided to act as a barrier between the public and cooking appliances. This would not apply if the cooking appliances are located within an enclosed trailer.
7. All deep fryers must be approved commercial appliances. Residential grade deep fryers will not be accepted.
8. Minimum of one 2A10BC rated extinguisher shall be provided and shall be mounted in an acceptable location.
9. A type K fire extinguisher must be provided for all deep frying and/or hot oil cooking.
10. Fire extinguishers must be up to date. The extinguishers are required to be inspected annually by an approved agency. The cylinder must be pressurized and the safety pin must be in secured in place.
11. Enclosed cooking units, creating grease laden vapors, require a kitchen canopy and suppression system conforming to NFPA 96.
12. Enclosed cooking units with a kitchen canopy require a fixed suppression system to be installed within the unit. The fixed suppression system shall be serviced bi-annually by an approved technician.
13. Kitchen canopy has been cleaned from filter to fan in conformance with NFPA 96 requirements.
14. All spare propane bottles must be secured 3 meters from any cooking appliances or open flame.
15. All propane connections must be soap tested to ensure there are no leaks in conformance with BC Gas Code requirements.
16. Wood burning appliances are prohibited within the City of Kelowna.
17. All mobile vendors with trailers must provide wheel chocks to prevent trailer movement.

18. A current inspection decal from the Kelowna Fire Department must be displayed in a visible location.

If you have any questions pertaining to the Fire Department requirements, please contact the City of Kelowna Fire Prevention Officer at 250-469-8801.

KELOWNA FIRE DEPARTMENT STATION 1, 2255 Enterprise Way, Kelowna BC V1Y 8B

APPENDIX G - HOT OR NOT VENDING (238 LEON AVENUE)

# **Hot or Not Vending**

**Keri Robertson**

**250.864.5596**

**City of Kelowna**

**275 Leon Avenue Proposal**

**(2016 - 2018)**

**1.0 Overview**

**2.0 Objective**

**3.0 Personal Profile**

**4.0 Company History**

**5.0 Equipment**

**6.0 Menu**

**Supporting Documents:**

**Appendix B: Cart Photos**



### 1.0 Overview

I have been born and raised in Kelowna . I've owned and operated Hot or Not Vending for the past 5years have built a solid reputation with Kelowna's Community

I have three completely self contained mobile vending carts that run on propane and batteries that will have a variety of healthy Hot or Not food choices.

I am prepared to accept all the terms and conditions outlined in the City of Kelowna Mobie Food Vendor or Concession Bid Package. I have already paid \$1000 certified cheque damage deposit for each spot x3.

I have paid the licenses, permits and taxes up to date and are good for the year as well I have included the menu items at the end of this proposal.

### 2.0 Objective

I would like to obtain the three evening spots in Kelowna. Please accept this proposal for the two locations on Leon and one on Lawrence Avenue.

I am willing to pay \$275 for spot A liquid zoo and \$200 for spot B Sapphire. Spot C \$200 Level.

### 3.0 Personal Profile

I am part of the CF Foundation as a Volunteer; I have participated in many community events such as The Fat Cat Festival, Mardi Gras, Canada Day, Boyd's Auto Body Charity Events, Father's Day Car Show and more.

Volunteered as an Ambassador for Kelowna.

I have had three successful spots downtown Kelowna for the last 8 years which have allowed me to expand my business. I am a Kelowna home owner I live only a couple short blocks away from each location at 640 Cawston Ave.

Hot or not Vending Employs locally and offers local products

I will be donating \$700 and challenging others to match or beat me to find a cure for Cystic Fibrosis.

I am also working with Designated Dads which is an organization that helps prevent people from driving while under the influence.

Working with the John Howard Society and the local homeless people giving out food and swimming passes for helping to keep the streets clean around the carts.

We have completed a Work BC program for employment opportunities

Prior to running hot or not vending I have worked for the ok coral for two and a half years

#### 4.0 Company History

I have been in business in Kelowna for over eight years and have built a solid reputation with Kelowna's business community I also have made many new friends along the way and gained a lot of experience and knowledge in order to be able to succeed.

Prior to running Hot or Not vending, I have worked for the Ok Coral for two and a half years, Cheetahs for six months, the Superstore for four years as their hotdog vender (Hot or Not vending). As well as four years at Roses pub

Working these locations has taken years of practise, training and experience, it can be a very high paced, environment dealing with many different types of people under the influence of alcohol or drugs, being a humanitarian is part of the professional work ethic it takes to be a downtown bar scene vendor.

Working closely with the staff of the local nightclubs the kelowna R.C.M.P and designated dads, we are all working together to keep the city clean and safe.

The fully self contained consession carts are helpful saftey feature in the crowed last call closing time which can be very chaotic and dangerous.

I have fully trained food safe staff that will help to accomodate all situations.

Over the last 10 years of running Hot or Not vendors we have poured everything into our business including relocating downtown as a home owner and proud longstanding member of the community, being so close to these nighttime locations has been an essential growth and developoment process.

#### Certificates

- Food Safe
- Serving it right
- Hosting it right
- Health Approval for each cart / Food Insurance / Insurance for each cart
- Most Enthusiastic Player Award (BC Summer Games)

- Work BC Employment training
- Level 1<sup>st</sup> aid + CPR

## 5.0 Equipment

- Five fully enclosed self contained carts
- Dump trailer
- 1996 mini van to tow the carts
- Professional Ice machine
- Storage shed
- Pressure washer
- 3 fridges
- 2 deep freezers
- 10 coolers / 10 umbrella / 20 propane tanks / 10 storage bins
- Office and supply room
- Generous parking / loading zones

## 6.0 Menu

All of our quality food choices come from locally owned and operated business Bonanza meats, Illichmans deli, Quality greens produce and Winfield bakery, these food products contain no animal bi-products, no MSG and no GMO.

- All food is choose most

**Hot dogs** are 100% all beef include fried onions, grated cheese and all condiments \$5

**Smokies** are 100% all beef include fried onions, grated cheese and all condiments \$6

**Buns** are nine grains

**Perogies** (vegetarian option) Include fried onions, grated cheese and all condiments \$7

**Wraps** (Vegetarian option) Include fried onions, grated cheese and all condiments \$5

Toppings Fried onions, Sauerkraut, grated cheese, lettuce, onions, black forest ham, sour cream, plain yogourt,

Fruit & Nut bars \$1

H2O / Pop \$1

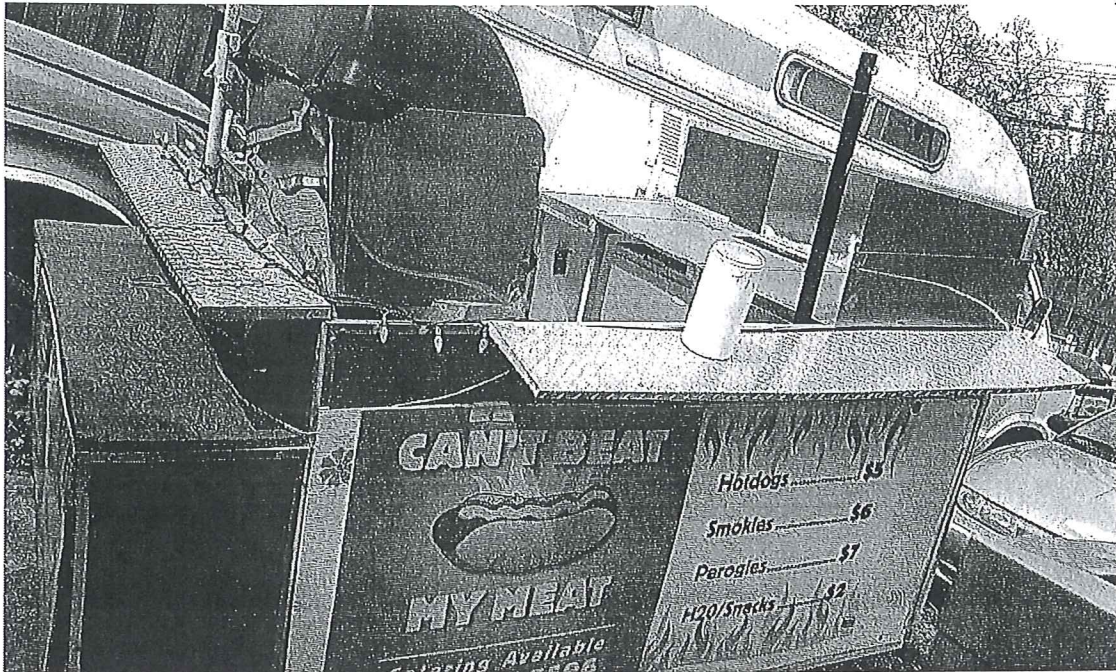












## **LICENSE OF OCCUPATION**

### **GYRO & ROTARY BEACHES WATER ACTIVITY CONCESSIONS 2016 - 2018**

BETWEEN:

**CITY OF KELOWNA**  
1435 Water Street  
Kelowna, British Columbia V1Y 1J4

("the City")

OF THE FIRST PART

AND:

**OKANAGAN BEACH RENTALS**  
#1 - 1386 Parkinson Road  
Kelowna, British Columbia V1Z 3M6

(the "Contractor")

OF THE SECOND PART

WHEREAS the City desires to appoint the services of the Contractor to provide Mobile Concession services (the "Services") at Gyro Beach at 3400 Lakeshore Road, and Rotary Beach at 3696 Lakeshore Road.

NOW THEREFORE this Agreement witnesses that the parties hereby covenant and agree with each other as follows:

#### **Services**

The Contractor shall provide services for the Works on the terms and conditions set out in this Agreement and are binding upon the parties.

#### **Appendices**

The following attached Appendices are a part of this Agreement:

- Appendix A - Insurance Requirements
- Appendix B - Scope of Services
- Appendix C - Fees - Schedule
- Appendix D - Premise -Gyro Beach
- Appendix E - Premise - Rotary Beach
- Appendix F -Gyro & Rotary Beach Water Activity Concession Bid
- Appendix G - Prime Contractor Agreement

If there is any inconsistency or conflict between the provisions of the Agreement and the Appendices, the Agreement shall govern and take precedence over all other Contract Documents.



## AGREEMENT TERMS AND CONDITIONS

### 1.0 Definitions (For purposes of this Agreement, the following terms shall have the meanings set forth below):

**“Agreement”** means the executed agreement between the City and the successful Contractor on the terms and conditions set out in this document;

**“Agreement Administrator”** refers to the individual appointed by the Manager, Property Management to administer this Agreement on behalf of the City, and any participating members and other authorized purchasers;

**“City’s Representative”** means the Manager, Property Management or his designate;

**“Department”** means the Real Estate & Building Services department of the City of Kelowna

**“Department Representative”** means the Manager, Property Management, who shall represent all City Departments for the purposes of this Agreement, or, such other person who may subsequently be appointed in writing by the Department Representative and notified to the Contractor;

**“Event of Default”** references Article 6.1(c);

**“Force Majeure”** shall mean failures which occur for reasons beyond the reasonable control of the non-performing party, which include acts of God, acts of any governmental authority, strikes, blacklisting, embargo, and lockouts or other industrial disturbances not related to that Party, acts of the public enemy, wars, blockades, insurrections, explosions, rebellions, revolutions, riots, epidemics, landslides, lightning, earthquakes, storms, subsidence, floods, fires, high waters, washouts, orders or acts of civil or military authorities, or civil disturbances, but it shall not include: any inability to fulfill its financial obligations or financial difficulty or condition, insolvency, or any court protection from creditors or any other occurrence similar to those recited, which is beyond the reasonable control of the non-performing party;

**“G.S.T.”** means any Goods & Services Tax payable in connection with the goods and services pursuant to the Excise Tax Act of Canada and shall also include any sales, value added or like taxes as well as any capital tax adopted by any lawful authority as may be amended from time to time;

**“Prime Contractor Agreement”** means the Prime Contract Agreement, Contractor Coordination Program Guide, Prime Contractor Designation Form and Application for Safety Pre-Qualification documents;

**“Term”** means the term as specified in Section 5.0;

**“Schedule”** means a schedule to this agreement;

## 2.0 Interpretations

- (a) “Authorized”, “directed”, “required”, “requested”, “approved”, “ordered”, “sanctioned”, and “satisfactory” shall, unless some other meaning is obvious from the context, respectively mean authorized, directed, required, requested, approved, ordered or sanctioned by, or satisfactory to, the City;
- (b) “Determination” shall mean the written documentation of a decision of the City’s Representative including findings of fact to support a decision. A Determination becomes part of the procurement file to which it pertains;
- (c) the Heading and Subheadings inserted in this Agreement are designed for convenience only and do not form a part of this Agreement nor are they intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any provision thereof;
- (d) the word “including”, when following any general statement, term or matter, shall not be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;
- (e) any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as amended and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplement or superseding the same;
- (f) no approval, authorization, sanction or permission required to be provided hereunder shall be unreasonably or arbitrarily withheld or delayed by the party providing same; and
- (g) words importing the masculine gender include the feminine or neuter gender and words in the singular include the plural, and vice versa and words importing individuals shall include firms and corporations, and vice versa.

## 3.0 Representations of Contractor

### 3.1 The Contractor covenants, represents and warrants to the City that:

- (a) Contractor is a duly organized, validly existing and legally entitled to carry on business in British Columbia and is in good standing with

respect to filings of annual reports according to the records of the Registrar of Companies of British Columbia;

- (b) Contractor has the power and capacity to enter into this Agreement and to comply with every term and condition of this Agreement;
- (c) all necessary proceedings have been taken to authorize Contractor to enter into this Agreement and to execute and deliver this Agreement;
- (d) this Agreement has been properly executed by Contractor and is enforceable against Contractor in accordance with its terms;
- (e) any statement, representation or information, whether oral or written, made furnished or given by Contractor, its directors, officers or anyone acting on behalf of Contractor, to the City in connection with this Agreement is materially correct and accurate;
- (f) Contractor has no knowledge of any fact that materially adversely affects or, so far as it can be foreseen, might materially adversely affect either its financial condition or its ability to fulfill its obligations under this Agreement;
- (g) the observance and performance of the terms and conditions of this Agreement will not constitute a breach by it or a default by it under any statute, regulation or bylaw of Canada or of the Province of British Columbia applicable to or binding on, its contracting documents, or any contract or agreement to which it is a party;
- (h) Contractor is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfill its obligations under this Agreement;
- (i) Contractor has filed all tax, corporate information and other returns required to be filed by the laws of British Columbia and Canada, and has complied with all Workers' Compensation legislation and other similar legislation to which it is subject and has paid all taxes, fees and assessments due by Contractor under those laws as of the reference date of this Agreement;
- (j) Contractor holds all permits, licenses, consents and authorities issued by any level of government, or any agency of any level of government, that are required by law to conduct its business;
- (k) Contractor's investigation has been based on its own examination, knowledge, information and judgment and not upon any statement, representation or information made or given by or on behalf of the City;



- (l) Contractor accepts the risks assigned within this Agreement identified as being borne by Contractor;
- (m) Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved sub-contractual agreements in place and available to enable it to fully perform the work;
- (n) Contractor pays punctually as they become due, all accounts, expenses, wages, salaries, taxes, rates, fees and assessments required to be paid by it on any of its undertakings;
- (o) Contractor has investigated and satisfied itself of every condition affecting the work including labour, equipment and material to be provided; but not limited to, the standards, responsibilities, task schedules and subsequent written instructions if any, all as prepared by the City;
- (p) Contractor acknowledges that it has the responsibility for informing itself of all aspects of the work and all information necessary to perform the work;
- (q) Contractor will comply with all the requirements of the Agreement and will perform all work and supply all labour, equipment and materials necessary to do so;
- (r) Contractor is an independent Contractor and not the servant, employee, partner, or agent of the City;
- (s) Contractor will not, in any manner whatsoever, commit or purport to commit the City to the payment of any money to any person;
- (t) no partnership, joint venture, or agency involving the City is created by this Agreement or under this Agreement;
- (u) the City may, from time to time, give such instructions to Contractor as the City considers necessary in connection with provision of the work, which instructions Contractor will comply with, but Contractor will not be subject to the control of City with respect to the manner in which such instructions are carried out;
- (v) all employees and sub-contractors employed by Contractor to provide the work are at all times the employees and sub-contractors of Contractor and not of the City. Contractor is solely responsible for arranging all matters arising out of the relationship of employer and employee, and
- (w) Contractor has independently reviewed all labour relations issues related to the performance of Contractor's obligations under this Agreement.



#### **4.0 General Obligations of Contractor**

##### **4.1 Contractor shall:**

- (a) offer Mobile Concession services, as set out in the Scope of Services attached as Appendix B;
- (b) perform and contract in its own name and for its sole account for all things necessary or desirable for the proper and efficient provision of Mobile Concession services during the term;
- (c) use its best endeavours to provide the services to the City in a timely manner and in accordance with the terms of the Contract;
- (d) ensure that all its employees engaged in this contract are suitably qualified and experienced, and act to the best of their skills and ability and in accordance with accepted Mobile Concession standards for persons having those qualifications and experience;
- (e) follow all instructions of the City's Manager, Property Management in respect of the performance by Contractor of its obligations under this contract and as set out in the Mobile Food Vending Concession Bid Package submitted by Okanagan Beach Rentals dated March 24, 2016, and attached as Appendix F and cooperate fully with the various departments and act in good faith towards the City;
- (f) maintain clear communication lines with staff in order to offer the best customer service;
- (g) comply with all laws; and
- (h) only use the facilities provided by the City for the purposes of this Contract.

#### **5.0 Term**

5.1 Collectively, the Initial Term and Renewal Term are referred to as the "Term".

##### **5.2 Initial Term**

The term of the "Agreement" shall be for a four (4) month period running from May 15<sup>th</sup> to September 15<sup>th</sup> in 2016, May 15<sup>th</sup> to September 15<sup>th</sup>, in 2017 and May 15<sup>th</sup> to September 15<sup>th</sup>, in 2018, and will expire no later than September 15<sup>th</sup>, 2018, subject to specific termination rights in this document and subject to a first option to extend the Agreement at the sole and exclusive discretion of the Manager, Property Management.

### 5.3 Renewal Term

The City agrees that prior to entering into discussions with any third party with respect to the supply and/or advertising of a Mobile Concession for the period commencing after the end of the Initial Term, the City may in its sole discretion with respect to each renewal term renew this Agreement for an additional year to a maximum of two (2), one (1)-year renewals following the completion of the Initial Term.

No later than ninety (90) days prior to the start of the optional second consecutive term of the Agreement (**May 15<sup>th</sup>, 2019**), the City may exercise an option to renew for an additional season in 2020, provided the Contractor is in total compliance with all the terms and conditions of the Agreement.

The City of Kelowna shall notify the Contractor of its intentions to exercise the aforementioned option in writing.

### 6.0 Termination - City

#### 6.1 This Agreement will terminate:

- (a) at the expiration of the initial term, unless extended by mutual agreement; or
- (b) If at any time there occurs an Event of Default (defined below), the City may give written notice ("Notice of Complaint") to Contractor specifying in reasonable detail the Event of Default. If Contractor shall fail to perform or observe any covenant, condition or agreement to be performed or observed herein and such Event of Default continues unremedied for a period of seven (7) days after receiving the Notice of Complaint thereof from the City, then the City may, at its option, terminate this Agreement forthwith without prejudice to any other rights it may have in law or equity. If this Agreement is terminated by the City, Contractor shall be entitled to an immediate pro-rata refund of all unearned monies paid in advance to the City, as determined by mutual agreement.
- (c) For the purposes hereof, "Event of Default" shall mean any one or more of the following:
  - (i) if Contractor fails to observe, perform and keep each and every one of the covenants, agreements, provisions, stipulations and conditions to be observed, performed and kept by Contractor in this Agreement, or any agreement entered into pursuant to any such agreements;
  - (ii) if Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency;

- (iii) if Contractor has made an assignment of the Agreement without the required consent of the City; and
  - (iv) if Contractor fails to provide Mobile Concession services as required under the terms of this Agreement.
- (d) The City may conduct inspections, audits, and assessments of Contractor's performance to verify that all duties, financial records, responsibilities and obligations of Contractor are being performed in accordance with the provisions of this Agreement and to the quality standards set out in this Agreement.

## **7.0 Dispute Resolution Procedures**

The parties will make reasonable efforts to resolve any dispute, claim or controversy arising out of this agreement or related to this agreement ("**Dispute**") using the dispute resolution procedures set out in this section.

### **(a) Negotiation**

The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.

### **(b) Mediation**

If all or any portion of a dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Kelowna, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs and each party will bear its own costs of participating in the mediation.

## **8.0 Compensation to the City**

- 8.1 The initial Agreement, with an optional renewal for the following years, will commence immediately upon authorization of an Agreement for Mobile Concession in the beach parks. **The Proponent will pay a monthly fee as detailed in Appendix C Fees Schedule.**

## **9.0 Independent Contractor**

- 9.1 Nothing in this Agreement shall be construed as to constitute a partnership between the City and Contractor. The duties to be performed and the



obligations assumed by Contractor under this Agreement shall be performed and assumed by it as an independent Contractor and not an agent or in any other way a representative of the City. In no circumstances shall Contractor have any authority to represent or contract on behalf of or otherwise bind the City.

- 9.2 Contractor is and shall at all times during the performance of this Agreement be an independent Contractor, and at no time shall Contractor be considered an agent, servant, or partner of the City; and all persons employed by Contractor to perform its obligations under the Agreement shall be its employees or servants and not the employees, servant, or agents of the City.

9.3 Employees

The Contractor shall not employ on the work any unfit person or anyone not skilled in the work assigned, and shall devote only his best-qualified personnel to work on this project. Should the City deem anyone employed on the work incompetent or unfit for his duties, and so inform the Contractor, Contractor shall immediately remove such person from work under this contract and he/she shall not again, without written permission of the City, be assigned to work under this contract. All Contractor employees working in the City must complete and clear a criminal record check.

10.0 Liaison

- 10.1 Each party shall maintain liaison with the other party in accordance with their respective obligations under this Agreement. In particular:

- Contractor shall appoint a representative (“Contractor’s Representative”) who shall have the duty of instituting and maintaining liaison with the City as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of Contractor’s Representative; and
- The City shall appoint a representative (“City’s Representative”) who shall have the duty of instituting and maintaining liaison with Contractor as to the requirements of this Agreement, plus an alternative representative to so act in the absence or inability to act of the City’s Representative.

- 10.2 Each party’s representative shall have the full power and authority to act on behalf of and to bind such party in all administrative issues and to carry out such party’s obligations hereunder and each party’s representative may be relied upon by the other party as the official representative of such party. Meetings between the Contractor Representative and the City’s Representative may be held by telephone with the consent of all parties participating in such meetings. Each party may change their respective representative or alternative representative by written notice to the other.



## **11.0 Governing Law**

- 11.1 This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia, which shall be deemed to be the proper law hereof. The courts of British Columbia shall have jurisdiction (but not exclusive jurisdiction) to entertain and determine all disputes and claims, whether for specific performance, injunction, declaration or otherwise arising out of or in any way connected with the construction, breach, or alleged, threatened or anticipated breach of this Contract and shall have jurisdiction to hear and determine all questions as to the validity, existence or enforceability hereof. For the purposes of any legal actions or proceedings brought by the City in respect of this Contract, the Contractor hereby irrevocably submits and attorns to the jurisdiction of the courts of British Columbia and acknowledges their competence and the convenience and propriety of the venue and agrees to be bound by any judgment thereof and not to seek, and hereby waives, any review of its merits by the courts of any jurisdiction.
- 11.2 Notwithstanding any provisions herein, the Contractor(s) shall in the performance of the contract comply with provisions of The Employment Standards Act and Regulations of British Columbia and City of Kelowna Policies and By-laws and Parks, Recreation and Cultural Services Policies and By-laws and any amendment thereto and without limiting the generality of the foregoing, the Contractor(s) shall pay all of the Contractor(s) employees as required by the Act and the regulations then in force.

## **12.0 Waiver - City**

- 12.1 Any failure of the City at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the City at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 12.2 No action or want of action on the part of the City at any time to exercise any rights or remedies conferred upon it under the Agreement shall be deemed to be a waiver on the part of the City of any of its said rights or remedies.

## **13.0 Waiver - Contractor**

- 13.1 Any failure of the Contractor at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Agreement, shall not constitute a waiver of such terms or conditions and shall not affect or impair any terms or conditions in any way or the right of the Contractor at any time to avail itself of such remedies as it may have for any breach of such terms or conditions.
- 13.2 No action or want of action on the part of the Contractor at any time to exercise any rights or remedies conferred upon it under the Agreement shall be

deemed to be a waiver on the part of the Contractor of any of its said rights or remedies.

#### **14.0 Subcontractors**

14.1 Contractor shall not subcontract the whole of the work nor shall any part of the work be subcontracted without the prior written consent of the City's Representative, which consent may not be arbitrarily withheld in the City Representative's sole discretion.

14.2 The subcontracting of any of its duties, obligations or responsibilities of Contractor under this Agreement shall not relieve it of the responsibility for the proper commencement, execution or completion of the duties, obligations or responsibilities as set out herein and Contractor shall be fully responsible for the acts, omissions and debts of its subcontractors.

#### **15.0 Amendments**

No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

#### **16.0 Survival of Covenants**

All obligations of each of the parties which expressly or by their nature survive termination or expiration or assignment of this Agreement including, without limitation, the indemnities in section 20.0 shall continue in full force and effect subsequent to and notwithstanding such termination or expiration or assignment and until they are satisfied or by their nature expire.

#### **17.0 Confidentiality of Information**

The Contractor should be aware that the City of Kelowna is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia.

#### **18.0 Non Assignability**

This Agreement may not be assigned by Contractor without the prior written consent of the City. For the purpose of this Agreement, a change in the corporate control of Contractor, shall be deemed to be an assignment requiring the consent of the City pursuant to the terms hereof.

#### **19.0 Joint and Several**

If this Agreement is executed by more than one person, firm or Corporation, it is understood and agreed that all persons, firms or Corporations executing this Agreement are jointly and severally liable under and bound by this Agreement.

## **20.0 Force Majeure**

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disasters, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by Contractor arises out of a default of its subcontractor, and if such default arose out of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor shall not be liable for damages of such delay or failure, unless the products or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required performance schedule, (where provided).

## **21.0 Insurance & Indemnity**

### **21.1 Indemnity Save Harmless**

Contractor agrees to indemnify and save harmless the City, its elected officials, officers, employees and agents, from and against all claims, liabilities, demands, actions, proceedings, loss and expense (including legal costs) whatsoever for damage to or destruction or loss of property and loss of use thereof, and injury to or death of any person or persons arising directly or indirectly out of (i) the installation, operation, use, relocation, removal, maintenance and/or repair of any/all equipment or of property of Contractor (ii) the performance, purported performance or non-performance of this Agreement, or (iii) any act of negligence, willful misconduct or omission by Contractor, its employees subcontractors and agents except only where such death, injury to persons or damage to property is due to the sole negligence of the City.

### **21.2 Insurance**

The Contractor shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances in forms and amounts acceptable to the City as detailed in Appendix A.

### **21.3 Compliance with Statutes, By-laws & Regulations**

The Contractor shall in the performance of the Agreement, comply with all applicable City By-laws, and all amendments thereto and The Consumer Protection Act, R.S.B.C. 1996, c.69, and any other applicable acts or regulations.

All equipment/vehicles used for the work outlined in the Agreement must comply with the Motor Vehicle Act, R.S.B.C. 1996, Chapter 318 and Regulations, as amended and the Commercial Transport Act, R.S.B.C. 1996, Chapter 58 and Regulations, as amended.



All principal vehicles of the Contractor will be identified with signs setting out its name and telephone number. Employee owned vehicles, which may be periodically used for company business, will not necessarily be marked.

## **22.0 Occupational Health and Safety**

- 22.1 The Contractor agrees that it is the Prime Contractor for the purposes of the *Workers Compensation Act*. The Contractor shall have an occupational health and safety program acceptable to the WorkSafe BC Board and shall ensure that all WorkSafe BC Health & Safety Regulations are observed during performance of this Contract, not only by the Contractor, but by all workers, subcontractors, employees, personnel, servants and others engaged in the performance of this Contract.
- 22.2 The Contractor and its workers, subcontractors, employees, personnel, servants and others engaged in the Services shall conform to all current occupational health and safety laws, by-laws, or regulations of the Province of British Columbia including any regulations requiring installation or adoption of safety devices or appliances. The City may, on twenty-four (24) hours written notice to the Contractor, suspend the Services hereunder immediately as a result of failure to install such devices or because the conditions of immediate danger exist that would be likely to result in injury to any person. Such suspension will continue until the default or failure is corrected.
- 22.3 Without limiting the generality of any other indemnities granted by the Contractor herein, the Contractor shall indemnify and save harmless the City against any loss or expense or penalty suffered or incurred by the City by reason of failure of the Contractor, its agents or employees, or any subcontractors of the Contractor, its agents or employees to comply or ensure compliance with the health and safety laws, by-laws and regulations mentioned above.

## **23.0 WorkSafe BC Coverage**

- 23.1 The Contractor agrees that it shall, at its own expense, procure and carry or cause to be procured and carried and paid for full WorkSafe BC coverage for itself and all workers, subcontractors, employees, personnel, servants and others engaged in or upon any Services. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such WorkSafe BC coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this Contract until the WorkSafe BC premiums, assessments or penalties in respect of the Services done or Services performed in fulfilling this Contract have been paid in full.
- 23.2 The Contractor shall provide the City with the Contractor's WorkSafe BC registration number and a letter from the WorkSafe BC confirming that the Contractor is registered in good standing with the WorkSafe BC and that all



assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Contract.

- 23.3 The Contractor shall indemnify and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid WorkSafe BC assessments owing from any person or corporation engaged in the performance of this Contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of WorkSafe BC, including penalties levied by WorkSafe BC.

#### **24.0 Conflict of Interest**

A council member or any employee of the City shall not have a direct or indirect interest in a Company or own a Company that is the successful Contractor.

The Contractor shall disclose to the City prior to accepting the contract, any potential conflict of interest. If such a conflict of interest does exist, the City may, at its sole discretion, withhold the contract from the Contractor until the matter is suitably resolved. And further, that if during the conduct of the contract, the Contractor is retained by another client giving cause to a potential conflict of interest, then the Contractor shall so inform the City. If a significant conflict of interest is deemed by the City to exist, then the Contractor shall refuse the contract or shall take such steps as are necessary to remove the conflict of interest.

Contractor shall disclose to the City Representative, prior to awarding of the Contract, any actual, potential or apparent conflict of interest. If such a conflict of interest does exist, the City may, at its discretion, withhold the Contract from the Contractor until the matter is resolved to the satisfaction of the City.

Contractor will upon request, provide all pertinent information regarding ownership of their company. This information to be supplied within forty-eight (48) hours after request.

#### **25.0 Non-liability of City Officials**

Under no circumstances shall any officer, employee, or agent of the City of Kelowna acting within the course and scope of his/her City responsibility be personally liable to the Contractor, or any party claim through or on behalf of the Contractor, with regards to the contract, including but not limited to its negotiation, execution, performance, or termination.

#### **26.0 Protection and Security**

- a) **Acknowledgment of Proprietary Materials/Limitations on Use.** Contractor acknowledges that the records are unpublished work for purposes of copyright law and embodies valuable confidential and secret information of the City. The Contractor will treat such information so received in confidence and will

not use, copy, disclose, nor permit any of its personnel to use, copy, or disclose the same for any purpose that is not specifically authorized under the Agreement. Notwithstanding the above, nothing herein shall prevent the Contractor from utilizing same or similar information, if it is independently provided by a third party or independently developed in-house.

- b) **Property Rights.** Each party acknowledges and agrees that the other party's products and all other material related thereto constitute valuable trade secrets of the party furnishing the products or materials, or proprietary and confidential information of such party, and title thereto remains in such party. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the products and related material are and remain in the party furnishing such products. All other aspects of the products and related material, including without limitation, technologies, procedures, programs, methods of processing, specific design and structure of individual programs and their interaction.

## **27.0 Business Licence**

The Contractor shall have or obtain a City of Kelowna Business License and shall keep the license current for the duration of the contract term.

## **28.0 Contractor Performance Review**

Contractor's performance will be evaluated by the City no less than annually on the following criteria:

- ❖ Volume of customer complaints.
- ❖ Service levels.
- ❖ Cleanliness of sites.
- ❖ Adherence to the terms and conditions of this agreement.

## **29.0 Business Review & Planning**

- 29.1 Contractor agrees to conduct annual business review meetings with Property Management Department Representatives if required.

## **30.0 Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

## **31.0 Service of Notices**

- 31.1 All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by (i) facsimile transmission, if the matter is urgent or immediate; (ii) personally delivered; or (iii) transmitted

by prepaid registered mail, to the party to whom such notice or communications is being given at the following address or fax number:

**City Representative**

Attention: Mike Olson, Manager, Property Management  
City of Kelowna  
1435 Water Street, Kelowna, British Columbia V1Y 1J4  
Telephone: 250-469-8740 Fax No.: 250-862-3349  
E-mail: molson@kelowna.ca

**Contractor Representative**


Barry & Kellie Planedin  
Okanagan Beach Rentals  
#1 - 1386 Parkinson Road, Kelowna, British Columbia V1Z 3M6  
Ph: 250-862-6191  
E-mail: okanaganeachrentals@shaw.ca

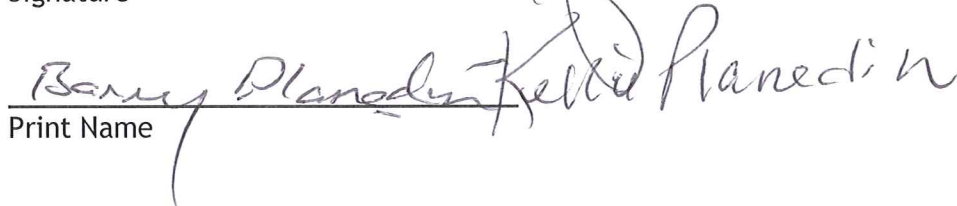
- 31.2 Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given (i) on the date of receipt if delivered personally, (ii) five (5) days after posting if transmitted by mail, or (iii) on the date of transmission if transmitted by fax (provided the sending machine gives confirmation that all pages have been transmitted to the fax number of the receiver without error), whichever shall be first.

IN WITNESS WHEREOF the parties hereto, by their respective representatives duly authorized in that behalf, have caused this Agreement to be executed on the day and year indicated below.

Accepted on behalf of:

OKANAGAN BEACH RENTALS by its authorized signatory

  
Signature

  
Print Name

CITY OF KELOWNA by its authorized signatories:

\_\_\_\_\_  
\_\_\_\_\_

Date Executed: \_\_\_\_\_



## **Appendix A - Insurance Requirements**

### **1. Contractor to Provide**

The Contractor shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless in connection with this lease agreement, the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this lease agreement until the date of termination of the lease agreement or such longer period as may be specified by the City.

### **2. Insurance**

As a minimum, the Contractor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

#### **2.1 Comprehensive General Liability Insurance**

- (i) providing for an inclusive limit of not less than \$5,000,000 for each occurrence or accident;
- (ii) providing for all sums which the Contractor shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this lease agreement;
- (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability.
- (iv) Including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other insured hereunder, in respect to any claim, demand, suit or judgment made against any other Insured.

### **3. The City Named as Additional Insured**

The policies required by section 2.1 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

### **4. Certificates of Insurance**

The Contractor agrees to submit a Certificate of Insurance, in the form of Schedule B-1, attached hereto and made a part hereof, to the Risk Management Department of the City prior to the commencement date of this lease agreement. Such a Certificate shall provide that 30 days' written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellation of any such policy or policies.

**5. Additional Insurance**

The Contractor may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City.

**6. Insurance Companies**

All insurance, which the Contractor is required to obtain with respect to this lease agreement, shall be with insurance companies registered in and licensed to underwrite such insurance in the province of British Columbia.

**7. Failure to Provide**

If the Contractor fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to effect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Contractor. The Contractor expressly authorizes the City to deduct from any monies owing the Contractor, any monies owing by the Contractor to the City.

**8. Nonpayment of Losses**

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Contractor shall not be held to waive or release the Contractor from any of the provisions of the Insurance Requirements or this lease agreement, with respect to the liability of the Contractor otherwise. Any insurance deductible maintained by the Contractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Contractor as stated in section 7.

**9. Hold Harmless and Indemnification**

The Contractor shall be responsible for all loss, costs, damages, and expenses whatsoever incurred or suffered by the city, its elected officials, officers, employees and agents (the indemnities) including but not limited to or loss of property and loss of use thereof, and injury to, or death of a person or persons resulting from or in conjunction with the performance, purported performance, or non-performance of this contract, excepting only where such loss, cost, damages and expenses are as a result of the sole negligence of the indemnities.

The Contractor shall defend, indemnify and hold harmless the indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the indemnities.

City staff to complete prior to circulation

City Dept.: \_\_\_\_\_

Dept. Contact: \_\_\_\_\_

Project/Contract/Event: \_\_\_\_\_

**CERTIFICATE OF INSURANCE**

This Certificate is issued to:

The City of Kelowna  
1435 Water Street  
Kelowna, BC V1Y 1J4

**Insured**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

**Broker**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Location and nature of operation or contract to which this Certificate applies:

1. Type of Insurance	Company & Policy Number	Policy Dates		4. Limits of Liability/Amounts
		2. Effective	3. Expiry	
<b>Section 1</b> Comprehensive General Liability including: <ul style="list-style-type: none"> <li>• Products/Completed Operations;</li> <li>• Blanket Contractual;</li> <li>• Contractor's Protective;</li> <li>• Personal Injury;</li> <li>• Contingent Employer's Liability;</li> <li>• Broad Form Property Damage;</li> <li>• Non-Owned Automobile;</li> <li>• Cross Liability Clause.</li> </ul>				Bodily Injury and Property Damage \$ <b>5,000,000</b> Inclusive \$ _____ Aggregate \$ _____ Deductible
<b>Section 2</b> Automobile Liability				Bodily Injury and Property Damage \$ <b>5,000,000</b> Inclusive

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

- Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
- The City of Kelowna is named as an Additional Insured.
- 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company (Insurer or Broker)

\_\_\_\_\_  
Signature of Authorized Signatory



## APPENDIX B - SCOPE OF SERVICES

### General Scope of Services of the Contractor

The Contractor will provide, equip and operate a water activity concession within the designated areas of Gyro and Rotary Beaches. Detailed maps of the locations are attached as Appendix E.

1. The Contractor will provide for use by the public watercraft propelled through the water by human power and can include but is not limited to paddleboards, canoes, kayaks, leg powered paddle boats etc. No inflatable structures will be permitted in the water lot. During the course of the contract any changes in the types or numbers of watercraft that are available or stored at the site must be approved by the City in advance.
2. The City will purchase and maintain one (1) beach wheelchair for the non-profit use of beach patrons with disabilities at each of Gyro and Rotary beaches. The Contractor will be required to store and secure the equipment for the term of the contract. There is to be no cost to the patron for the use of such beach wheelchairs.
3. The Contractor shall maintain all equipment to such standards as will ensure safety for operators.
4. The Contractor shall ensure that no persons too young to operate the boats are permitted to use them, and shall ensure that no persons operating boats do so in an unsafe manner or endanger persons swimming at Gyro & Rotary Park Beaches.
5. Any anchoring system proposed must be fully within the City of Kelowna water lot area as noted in the attached map and must be approved by authorities having jurisdiction.
6. The Contractor shall ensure that all participants wear personal floatation devices.
7. Operation of watercraft within the area delineated by swim buoys is prohibited under the Parks Bylaw. The Contractor will be responsible to inform patrons and gain their agreement that the watercraft must not be used in the swim buoy area. Patrons will only be allowed to enter and exit directly through the swim area as long as the watercraft is used responsibly and the area is clear of swimmers, but must not spend any length of time paddling within the swimming area.
8. The Contractor shall operate during the period of May 15<sup>th</sup> to September 15<sup>th</sup> of each year beginning May 15, 2016.
9. The park is open from 6 am to 11 pm each day and the contractor will provide service in the parks between 10 am and 8 pm (or dusk whichever is earlier), 7 days per week weather permitting, for the core season starting the last weekend of



June until Labour Day in September. During the shoulder season the Contractor will supply concession service between the hours of 12:00pm to 4:00pm, 7 days per week, weather permitting.

10. The term of the contract will be for three (3) years with an option to renew for two (2) additional one (1) year terms at the City's sole discretion:
  - a. Any extension, if offered, will retain all of the terms and conditions of the original contract or subsequent extension;
  - b. such option period will be negotiated at the sole option of the City on the basis of the rental rate not being less than the rent bid for 2016.
11. The Contractor will pay permits, taxes and licenses.
12. The Contractor will clean and maintain the area surrounding the concession to the satisfaction of the City, including clean-up of litter from immediate area (a radius of 30 meters from the concession.)
13. The Contractor shall comply with all regulations regarding fire, traffic, safety and shall acquire all necessary permits.
14. The Contractor shall be allowed to display one professionally made sign at the space allotted. The sign is subject to City approval prior to posting.
15. No outside advertising will be permitted without the consent of the City.
16. The City leases a food concession in the same park therefore no food or beverage sales will be permitted.
17. The Contractor will be responsible to communicate with the City of Kelowna Outdoor Events Committee and review the Outdoor Events Calendar to determine the dates the park will be closed for special events, and as a result closed for the concession, unless agreement can be reached with the event organizer.
18. There is an existing structure at Gyro Beach which may remain in the current location. The structure may not be moved or enlarged. There is no structure provided at Rotary Beach. If the Contractor wishes to provide a structure the Contractor will be required to meet all regulations and Bylaws and the design must be approved by the City's Infrastructure Planning and the Parks Dept.
19. There will be no power available; however, the City is open to extending power to the concession space at the vendor's expense and at the City's discretion.
20. Prior to awarding the bid to the successful Proponent, the Proponent must prove to the City ownership of the activity equipment listed in the proposal.
21. The City will not provide on-site parking for the Contractor's vehicle and towing equipment.

22. The Contractor will be required to enter into a Prime Contractor Agreement with the City which is comprised of a Contractor Coordination Program Guide, Prime Contractor Designation Form and Application for Safety Pre-Qualification, as set out in Appendix G.
23. The Contractor will be required to follow Canadian Life Saving Society Standards for operation and supervision of the area.
24. The Contractor will be responsible for all additional swim/marker buoys to be installed in the lake to ensure a safe swimming area.
25. The Contractor must keep any promenades clear at all times.
26. On event days, the load in/load out of concession related equipment must be scheduled outside of event times so the promenade is clear and safe for participants.
27. The Contractor may not sublet, nor assign the contract without the written consent of the City. The minimum amount for such assignment shall be \$500.00.
28. The Contractor is required to supply a bid deposit in the form of a certified cheque payable to the City of Kelowna in the amount of \$1,000. The deposit of the successful Contractor will be retained as a "performance deposit".
29. The Contractor shall provide complete annual financial reports to the City within 45 days of the end of the season and no later than December 1<sup>st</sup> of each contract year. The statements will reflect the entire operating season, and a payment in the amount of 5% of the gross profits of the concession operating season will accompany the statements by December 1<sup>st</sup> of each contract year. For clarity, the gross profit payment is in addition to the bid contract price submitted by the Contractor.

## APPENDIX C - FEE SCHEDULE

### Initial Term - 2016

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$18,000.00 per annum for May 15<sup>th</sup> to September 15<sup>th</sup>, 2016 plus GST**. Payment will be on or before as follows:

		Total Instalment
June 1, 2016	\$4,500.00 + GST	= \$4,725.00
July 1, 2016	\$4,500.00 + GST	= \$4,725.00
August 1, 2016	\$4,500.00 + GST	= \$4,725.00
September 1, 2016	\$4,500.00 + GST	= \$4,725.00
December 1, 2016	5% of gross profits + 5% tax	= \$

### Initial Term - 2017

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$18,000.00 per annum for May 15<sup>th</sup> to September 15<sup>th</sup>, 2017 plus GST**. Payment will be on or before as follows:

		Total Instalment
June 1, 2017	\$4,500.00 + GST	= \$4,725.00
July 1, 2017	\$4,500.00 + GST	= \$4,725.00
August 1, 2017	\$4,500.00 + GST	= \$4,725.00
September 1, 2017	\$4,500.00 + GST	= \$4,725.00
December 1, 2017	5% of gross profits + 5% tax	= \$

### Initial Term - 2018

The contractor acknowledges and agrees to pay to the City of Kelowna the total sum of **\$18,000.00 per annum for May 15<sup>th</sup> to September 15<sup>th</sup>, 2018 plus GST**. Payment will be on or before as follows:

		Total Instalment
June 1, 2018	\$4,500.00 + GST	= \$4,725.00
July 1, 2018	\$4,500.00 + GST	= \$4,725.00
August 1, 2018	\$4,500.00 + GST	= \$4,725.00
September 1, 2018	\$4,500.00 + GST	= \$4,725.00
December 1, 2018	5% of gross profits + 5% tax	= \$



## APPENDIX D - PREMISE

### Gyro Beach

The premises are those lands legally described as that portion of land, located at 3400 Lakeshore Road, Kelowna, BC



The existing building will remain in place for the term of the new contract. The building may not be expanded or moved.



## APPENDIX E - PREMISE

### Rotary Beach

The premises are those lands legally described as that portion of land, located at 3696 - 3726 Lakeshore Road, Kelowna, BC



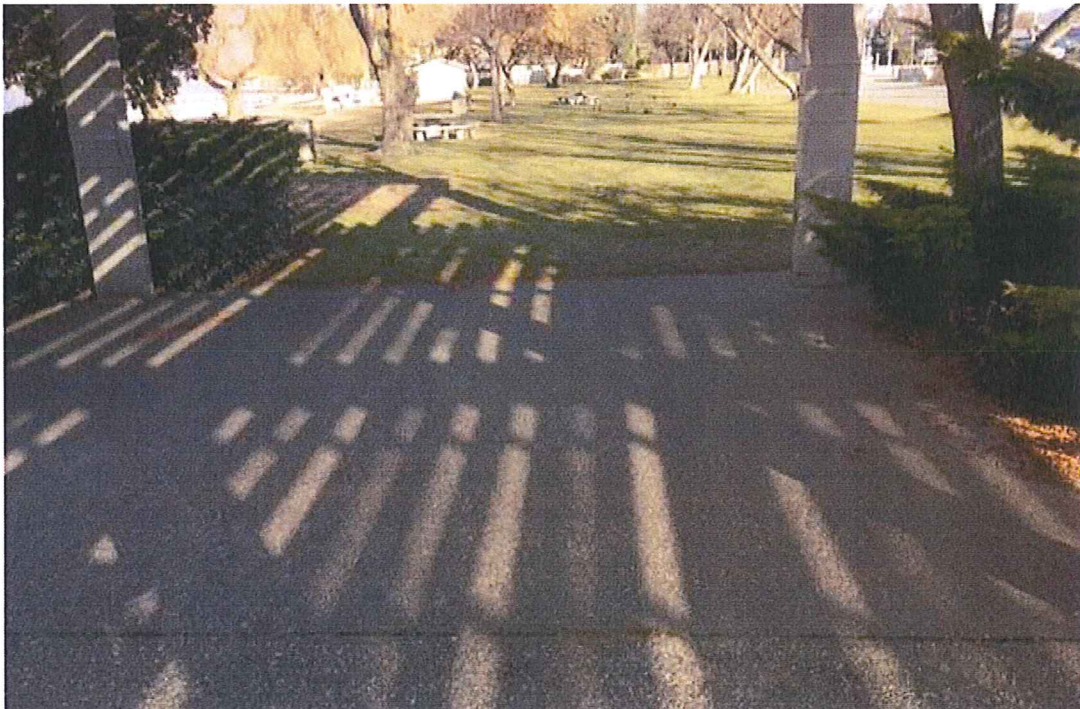


## Rotary Beach

New location for the concession operation



New location for the water activity concession is the concrete pad located at the north end of the gazebo area  
*(junipers and shrubs around this area will be removed to make the area more visible)*



**APPENDIX F - OKANAGAN BEACH RENTALS WATER ACTIVITY CONCESSION  
(GYRO & ROTARY BEACHES)**



# GYRO & ROTARY BEACH WATER ACTIVITY CONCESSIONS 2016 - Proposal



**OKANAGAN**  
**BEACH RENTALS**  
watercraft **FUN!** for the whole family



Submitted by: Barry & Kellie Planedin, Owner Operators  
[okanaganbeachrentals@shaw.ca](mailto:okanaganbeachrentals@shaw.ca) (250) 862-6191



## Introduction

Thank you for the opportunity to submit our proposal for the Water Activity Concessions at Gyro and Rotary Beaches. We are happy to accept all terms and conditions outlined in the bid package including entering into a Prime Contractor Agreement with the City and following the Canadian Lifesaving Society Standards for the area.

Owned by Barry and Kellie Planedin, Okanagan Beach Rentals is a family business providing fun recreational people-powered watercraft locally for over a decade. Our years of experience, coupled with our backgrounds in customer service and operational management has helped us to develop our proven systems for ensuring that renters are served properly, educated about safety and given clear instruction on the use of their chosen piece of equipment while still having their experience be upbeat and enjoyable. Our motto is “Watercraft Fun for the Whole Family” and our wide range of equipment ensures that anyone can enjoy getting out on the lake, be it for a quick distance tour in a kayak or a leisurely float in a pedal boat. Our commitment is to provide good, safe, recreational fun coupled with great service and value.

We know that our little family business can have a big impact on a visitor’s experience of Kelowna. We make sure we do it right so that our customers have great memories, not only of our rentals but of the Kelowna area as well. We see ourselves as ambassadors for our Valley and feel we are privileged to share our love of the Okanagan with visitors and locals as we are reminded daily to see our beautiful area with “tourist eyes”.

We have always maintained high safety standards and first aid preparedness for our customers, staff and the general public. We are qualified paddlers, swimmers and First Aid, CPR and AED Certified. As “Water-Smart” operators we have kept binoculars and an industrial first aid kit on hand and are ready to respond quickly if needed. Staff are pro-active in maintaining safety, are trained in our operational procedures and are also required to have their first aid certification (though we’ve never had an incident).

All equipment receives regular maintenance to ensure that customers are safe while having a great experience. We have always carried appropriate liability insurance and have never needed to use it which we believe is due to our high operational standards, safety protocols and the safe and stable nature of our equipment. Each renter must sign a waiver, which helps to ensure that those too young to operate equipment are not permitted to do so. We provide clear instruction and will also communicate to all renters, verbally and with signs, that they are required to enjoy our equipment outside of the swim areas, ensure the safety of swimmers and other beach users, and wear the PFDs provided.

We pride ourselves on being responsible operators, caring stewards of the beach and park, and have always maintained our concession areas in a tidy manner. We can often be found raking the grass and the shoreline after a storm to ensure the area meets ours and our customers’ standards. We believe in being a good example for our staff and the young park users, and in creating a community of care.

## Staff, Community, Programs and Classes

We're proud of the development of our staff over the years. Some of our crew of ten have been with us for the full five years at Rotary Beach, moving from mid-teens into their early twenties. They have gained leadership skills and a great work ethic while enjoying sun, sand and working with the public. We believe it's our responsibility as business owners to help coach our staff as they grow into adulthood and would be thrilled to be able to provide them with employment over the next five years as they help to lead our new crew and grow their management skills. Our team members earn \$12.00 – \$12.50 per hour and the shift leaders this year will be starting at \$13 per hour. We recognize that ensuring safety and enjoyment for our customers means we must invest in the training, development and wages of our crew while compensating them for their hard work and commitment. Last year we paid out nearly \$20,000 in wages that was then put toward education, travel and spent in the local community. Many of our staff are pursuing post secondary education in the Okanagan and their jobs with us help them to pay their way through school.

We have always found it important to help support our local charities when possible. Okanagan Beach Rentals provided equipment, services and the Grand Prize for the First Annual Brain Trust Paddle for Prevention fund raiser held in the park last summer, which we will continue to support going forward as well. We've also provided substantially discounted watercraft fleets for non-profit organizations to assist in their recreation programs and for School Programs to help young people experience the joy of being on the water. Of course, we will continue giving back to our community by supporting the various charities, sporting events and recreation programs using our parks by contributing, educating and providing equipment & services.

Over the years we've seen a steady increase in water activities participation amongst seniors. This year we are adding a seniors program (half price rentals weekdays from 10:00 to noon) as we have had great feedback regarding our ability to provide support and instruction along with our very stable and user friendly watercraft. It's always our goal to ensure a safe and successful outing plus provide the support that some seniors need to get in and out of the boats. Regular paddling and pedaling can help our seniors maintain flexibility, strength and muscle tone while enjoying a social time with friends and family.

We have also established programs designed to encourage gaining and developing paddling skills. Our very popular twice-weekly SUP Discovery Classes have allowed many nervous paddlers to go from new to confident in just one session. Also available are Kayak Discovery Classes, SUP Fitness and SUP Lessons for skill development as well as customized classes as needed.

Encouraging regular fitness, we offer Frequency Use Packages for kayak and SUP rentals that can be shared, as well as Family Packs which allow for discounted use of any of our watercraft. We also encourage outdoor adventure with our party package "Pedal, Paddle and Play" which provides a custom selection of equipment and instruction at a discounted rate.



## Equipment, Safety and Operation

Our 'get-on-and-go' water equipment model provides a great cross section of activity for everyone! We have developed this diverse fleet over our years of experience in offering safe, fun and easy to operate 'people powered' recreational watercraft. Our kayaks and SUPs are designed to be beginner friendly while also satisfying the seasoned paddler. They are easy to use first time while still being fun once a new paddler has developed their skills.

Of course, all of our rental equipment includes the appropriate safety gear. All customers using our equipment are provided with, and are told they are required to wear the PFDs supplied and to enjoy the equipment outside of the swim areas. Instruction is always included for both safety and the successful operation of watercraft thereby creating happy customers who really benefit from their rental experience.

Each year starts with a new SUP fleet as we find that keeping our equipment *and* area in tip-top condition encourages customers to take care of the boards and to be mindful of their surroundings while using the equipment. Many people have commented on how they prefer renting our fleet as it's cleanliness and condition makes for a more pleasant experience while the performance of the equipment encourages the development of skills beyond the beginner level. Additionally, rarely do we ask for monetary deposits, relying instead on customer connection, and in over a decade of operating we have never had a customer abuse this.

Being sensitive to the concerns that the City has regarding the envelope used by the rental fleets at both parks we are trimming our fleet for this proposal, removing some of the larger equipment and reducing quantities of others. In addition, we have developed new systems to reduce our operational envelope by focusing on equipment that can stack, hang and rack when we're open. We want to be clear that we are happy to adjust fleet items and quantities if needed to ensure that we are working with the City and the Parks Department so that everyone is happy.



## Kayak Rentals

Our wide range of recreational kayaks are super easy to operate, very stable, comfortable and fun! We offer both sit-in and sit-on-top single and tandem kayaks in a variety of lengths allowing us to pair riders to their perfect boat.

### Kayak Rental Rates:

#### Single Kayaks 9' to 14'

(sit-in or sit-on-top)

1 hour \$23.81 + gst = \$25

2 hours \$38.10 + gst = \$40

#### Tandem Kayaks 13' to 15'

(sit-in or sit-on-top)

1 hour \$33.33 + gst = \$35

2 hours \$52.38 + gst = \$55

#### Kids Kayaks 6'

(sit on top)

1 hour \$14.29 + gst = \$15.00



## SUP Rentals

We specialize in Stand Up Paddling! Matching the best board for rider ability and skill level, and providing detailed instruction with our demonstration. Our great selection of SUPs from 8' boards for the kids, right on up to 12' all-rounders for larger riders means that everyone can get on and go, stand up and paddle! Novice to experienced, young to old, everyone loves the ride!!

### Stand Up Paddleboard Rental Rates:

#### All Round Boards.

(will carry one adult and a child)

1 hour \$23.81 + gst = \$25

2 hours \$42.86 + gst = \$45

#### Boards for Kids.

(will carry two kids)

1 hour \$19.05 + gst = \$20

2 hours \$33.33 + gst = \$35





## Pedal Boat Rentals

Our three pedal boats sizes can accommodate up to five for a leisurely trip along our pristine shoreline. Stable, safe and easy to operate, these boats are a favorite with visitors who want to get out on the water without getting wet! Terrific for playing Bumper-Boats too!

### Pedal Boat Rental Rates:

Will seat up to 2 adults + 3 kids.

1 hour \$20.95 + gst = \$22  
2 hours \$33.33 + gst = \$35  
Half Day \$52.38 + gst = \$55

### Canopied Boats:

1 hour \$23.81 + gst = \$25  
2 hours \$38.10 + gst = \$40  
Half Day \$57.14 + gst = \$60



## Aqua Bike Rentals

Stable, safe, silly and fun!! Those looking for splashes and giggles just love our floating water bikes! Popular with the little ones and even more so with the young at heart! These bikes have been a staple on Kelowna Mission beaches for over 25 years and are often rented by parents who want to share their memories of riding them with the next generation.

### Aqua Bike Rental Rates:

Will seat 2 + toddler.

1 hour \$20.95 + gst = \$22  
2 hours \$33.33 + gst = \$35  
Half Day \$52.38 + gst = \$55



## Canoe Rentals

We're proud to provide a true Canadian experience to be enjoyed by our visiting voyageurs. Take a traditional lake paddle in the wide open comfort of a recreational canoe. Our canoes are stable, comfortable and green.

### Canoe Rental Rates:

3 Seat Canoe 16'  
(keel or flat bottom)  
Will seat 2 + child.

1 hour \$33.33 + gst = \$35  
2 hours \$52.38 + gst = \$55  
Half Day \$71.43 + gst = \$75



## Beach Stuff

For anyone who forgot to bring their gear or didn't know they'd end up on the beach, no worries... we've got it covered!

We have chairs, umbrellas, frisbees, volleyballs, soccer balls, footballs, bocce balls, and more!

Per hour \$1.90 + gst = \$2.00



Marilyn W  
West Kelowna, BC

Level 4 Contributor



43 reviews



11 attraction reviews



17 helpful votes

### *"Kayaking IS for Everyone"*

Reviewed 23 August 2015

We enjoyed our first ever kayak experience at Rotary Beach in Kelowna, BC. The staff are friendly and helpful; they assured us that there were always enough kayaks or boards available, and we were signed up and off! It is well located for paddling along the shoreline in either direction for as long as you choose. The gear was clean and well maintained.

We found the views from the water give a different perspective of the lake and surrounding mountains. (We live overlooking the lake, so it was interesting to see this ) The kayaks are simple to steer and propel, and very stable. Can't wait to go again!

Visited July 2015

## Equipment List and Footprint

We've taken a good look at our fleet, paring it down to the most flexible and utilized pieces. Then we focussed on reducing our operational footprint. We've chosen kayaks that can stack or hang, boards we can rack or stack, and reduced the number of aqua bikes to use up less space. We feel that the number and quantity of items chosen are the best for meeting customer's needs, but are happy to adjust the fleet if requested.

### Rotary Beach

#### Kayaks

- 2 - 6' kids sit-on-top kayaks (solo)
- 2 - 10' teen sit-on-top kayaks (fury)
- 2 - 12' sit-on-top single kayaks (tetra)
- 3 - 13'6 sit-on-top tandem kayaks (tribe)
- 4 - 14' sit-in single kayaks (pursuit)
- 2 - 13'6 sit-in tandem kayaks (twin otter)
- 1 - 15'6 sit-in tandem kayak (twin otter)

#### Stand Up Paddleboards (SUP)

- 2 - 8' kids SUP
- 2 - 10' teen/small adult SUP
- 8 - 11'6 adult SUP
- 4 - 12' large adult SUP

- 4 - inflatable SUP (overflow reserve)

#### Pedal Power

- 6 - pedal boats
- 3 - aqua bikes

#### Canoes

- 1 x 16' Canoe  
(available for both locations)

### Gyro Beach

#### Kayaks

- 2 - 6' kids sit-on-top kayaks (solo)
- 2 - 9' teen sit-on-top kayaks (jazz)
- 2 - 13' sit-on-top tandem kayaks (tribe)
- 4 - 13' sit-in kayaks (conduit)
- 2 - 13' sit-in tandem kayaks (twin otter)

#### Stand Up Paddleboards (SUP)

- 2 - 8' kids SUP
- 2 - 10' teen/small adult SUP
- 6 - 11'6 adult SUP
- 2 - 12' large adult SUP
- 4 - inflatable SUP (overflow reserve)

#### Pedal Power

- 6 - pedal boats
- 3 - aqua bikes

#### Canoes

- 1 x 16' Canoe  
(available for both locations)

We will have radios at each location so that we can check for available equipment, satisfy groups, and share safety information. Due to the restricted storage we will have both Canoes available for both locations. Both locations will have the City provided wheelchairs which we will store, care for and administer at no cost to the clients or the City.



## Operational Envelope

### Rotary Beach

At Rotary Beach we have substantially reduced the operational envelope to 150 m<sup>2</sup>, as illustrated on provided map (p. 10). We are proposing that our closed envelope will consist of a structure plus approximately 14 m<sup>2</sup> outside for pedal boats and aqua bikes.

The proposed structure at Rotary Beach will serve as the concession building and will house our accessories, fleet, and the City provided beach wheelchair. Access in and out of the building would be located on the north side and a concession window for serving customers would face the lake. This will also allow for optimal visibility of renters on the water and have the least impact to those using the picnic tables under the south side of the pergola. Gaining approval of both the Parks and Planning Departments, this concession building would be designed to compliment the existing washroom building, fitting nicely under the pergola and placed directly onto the east portion of the concrete pad provided. This would allow for maintaining public access to the pergola from the north end and also provide easy removal of the structure at a later date if needed. Outdoor storage for pedal boats and aqua bikes would be either on the sand in front of the existing cedars or against the concession building.

We understand that shrubs, junipers and possibly cedars will be removed to allow a better visual of the operation but hope that we could have some input in hopes of preserving some of the mature landscaping in the area and the existing cedars next to the beach.

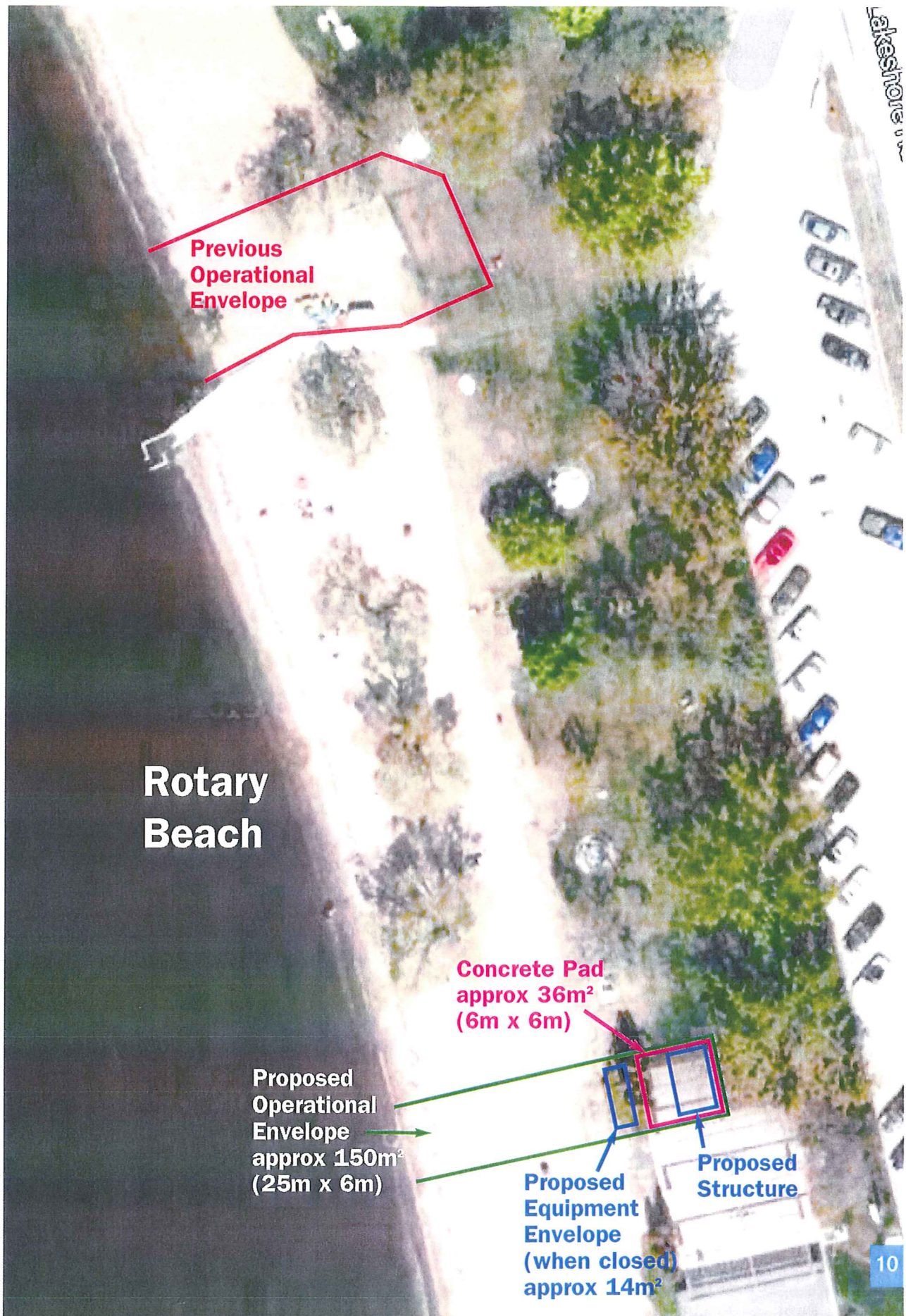
### Gyro Beach

The Gyro Beach operational envelope, in our proposal, has also been substantially reduced to 150 m<sup>2</sup> as shown on the map provided (p.11). The closed envelope will consist of the existing building plus approximately 14 m<sup>2</sup> outside for pedal boats and aqua bikes.

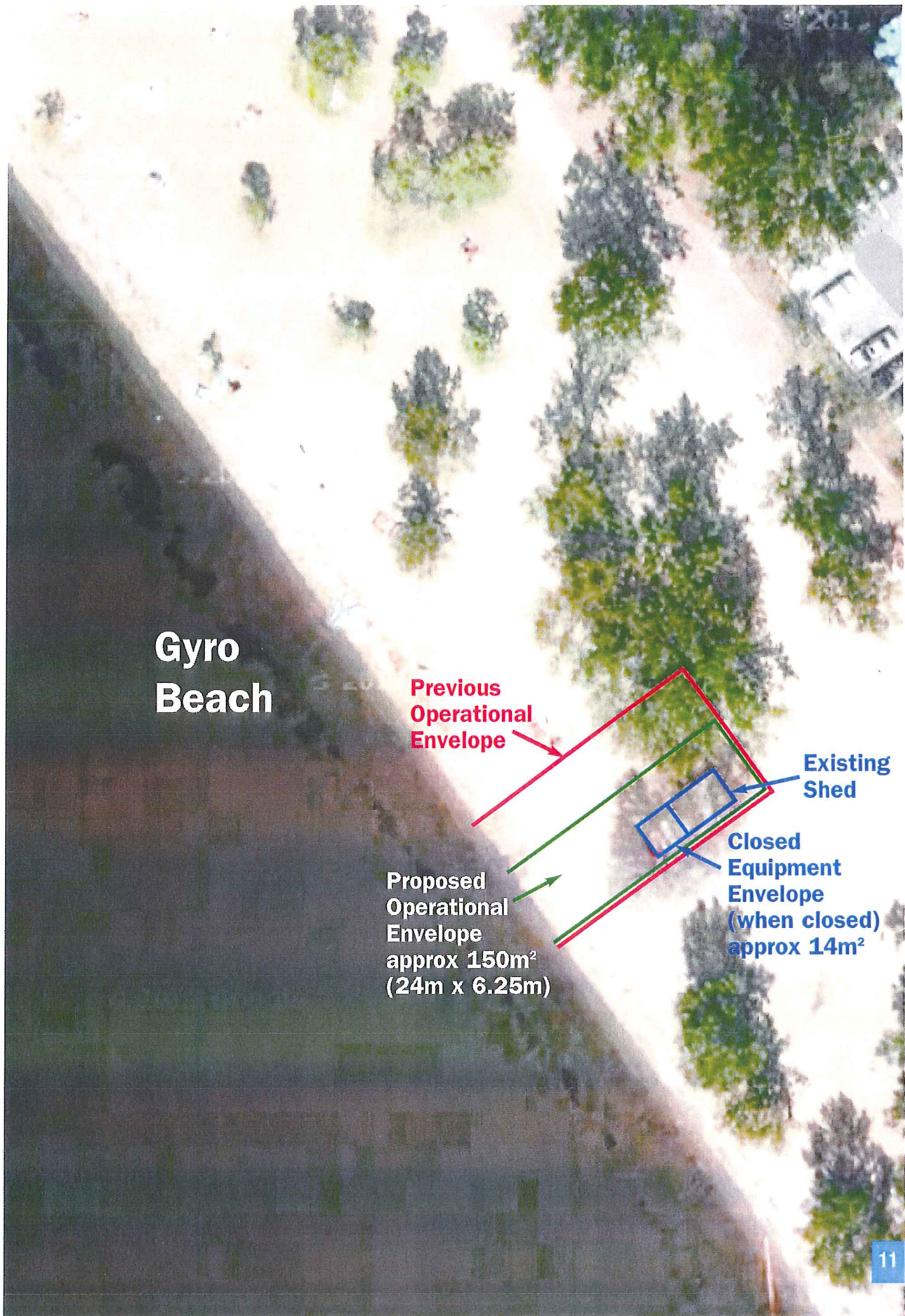
The concession structure at Gyro is very familiar to us as we owned it six years ago, selling it to the last operators for \$400 at the beginning of their first season. Should they be so kind as to return the favour, we would commit to the following improvements: Spring of 2016 we would clean up and paint out the structure and trim. Fall of 2016 we would replace the currently sagging roof with a new low slope roof to compliment the proposed Rotary building, strengthen the structure by replacing all the siding with new exterior panels and trim as well as adding structural support within the building. Of course the grandfathered building footprint would not be enlarged or moved.

Should we be unable to acquire/purchase the concession building we would therefore need to bring our equipment in daily. We would still store the pedal boats and aqua bikes onsite but could trailer in everything else, including the wheelchair provided by the City. Of course this would create logistic challenges that, although manageable, would certainly be less than ideal.



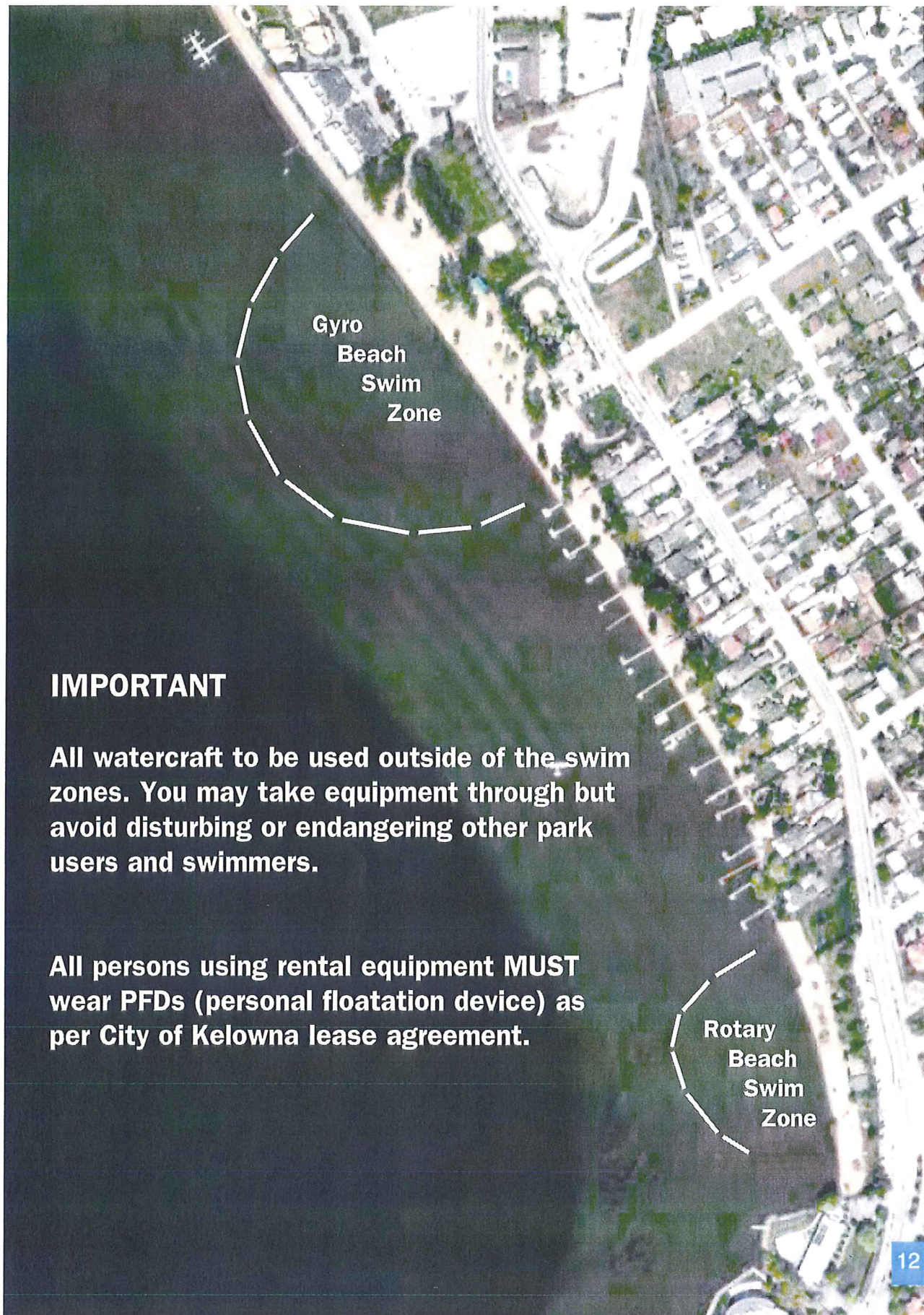








Example of sign posted at both Concession windows.





## Bid, Commitments & Assurances

Along with our bid of \$18,000 per year for the concession and the 5% of our gross profits we would also like to offer to you the following commitments and assurances:

We commit to maintaining our operational size as outlined in this proposal. We have taken the steps needed to ensure that we can operate with terrific equipment in a smaller envelope while still satisfying our customers. If required, we will bring in small cone soccer markers to help define the operational space and anchored floats to create a lane-way through the swim zone which we would remove off-season. We would, of course, consult with the Parks Department for authorization and placement of any such markers and/or floats.

We commit to maintaining the cleanliness of our area in the same manner we have for the last decade. We have consistently cleaned up our area by raking grass, sand and shoreline, often going beyond our perimeter to help clear the beach for park users. We have dealt with the log-jam outflow from Mission Creek, clearing the shoreline daily until nature moves the rest along. We have pulled garbage and glass from the lake in front of our operation and from further when paddling. We always clean up goose droppings from grass and sand as no-one likes to encounter it. Our commitment to cleanliness includes our equipment and buildings, when opened and closed. We have always kept both in good form, operationally and visually. Although we have never been tagged, we keep paint on hand in case of graffiti and will paint over it as soon as discovered.

We commit to continued safety for our customers and other beach users. We have always been proactive in ensuring that customers are fitted to the right equipment for their size and skill level, that they understand clearly how to safely operate it, that they are informed about any safety concerns like expected winds, and that they respect the safety of others. We will verbally and with signs, like the ones attached, delineate the swim areas and expected use of PFDs.

We offer our assurance that we are financially able to take on this Concession. We have most of the equipment listed already in our possession and are able to take care of any new expenses like building sheds and purchasing any equipment shortfalls. We have been in this business for many years and understand the pattern of cash flow with a seasonal business. We are homeowners with the same address for over 25 years.

Finally we want to offer our assurance that we will work with the City, Parks Department, Planning and Real Estate to ensure that your expectations are being met. We are flexible in our proposal, happy to adjust our fleet items, quantity and footprint if needed. We see ourselves as an asset to the city and hope that you do as well.

Thank you again for the opportunity to bid on this concession. Looking forward to seeing you on the beach.

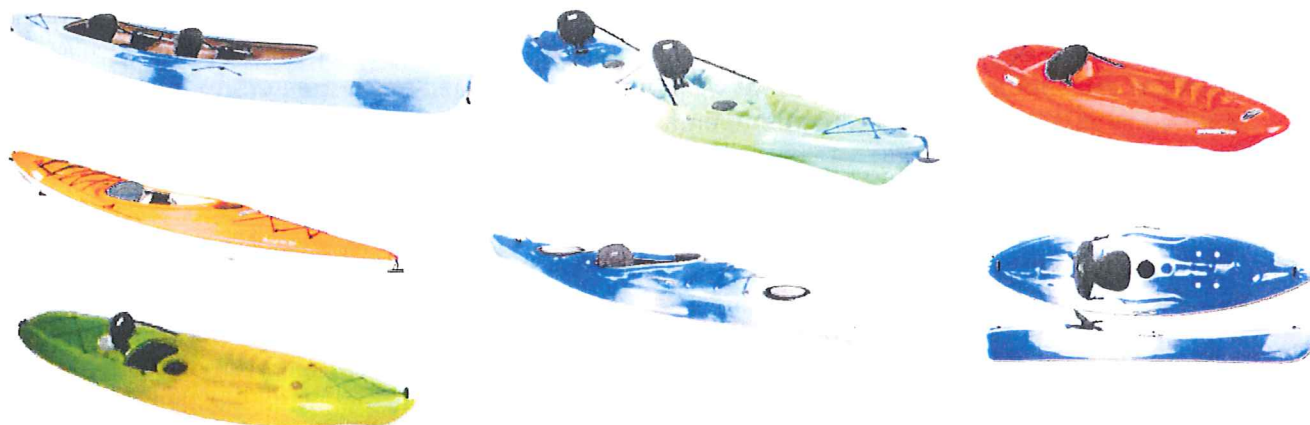
Sincerely,

Barry and Kellie Planedin



## Equipment Images

### Kayaks



### Stand Up Paddleboards



### Pedal Boats



### Aqua Bikes and Canoes



**APPENDIX G - PRIME CONTRACTOR DESIGNATION**



# Contractor Coordination Program Guide

Certificate of Recognition - Element 4

August 2012





## POLICY

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To ensure that workers of The City of Kelowna and other employers who are working at The City of Kelowna workplaces are not placed at risk because of a lack of knowledge of workplace hazards, or a lack of coordination of workplace safety.

The City of Kelowna will do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with the Workers Compensation Amendment Act and the WCB OH&S Regulations at all workplaces within the City of Kelowna.

The City of Kelowna will ensure that all employers and workers at the City of Kelowna workplaces are aware of any pre-existing workplace hazards.

The City of Kelowna will ensure co-ordination of occupational health and safety activities on all multiple employer workplaces, or ensure that a Prime Contractor does so.

## SCOPE

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This program applies to every situation where workers other than City of Kelowna workers are performing their job duties at a City of Kelowna workplace.

### Exception for Short Term Workplace Visits

The WCB Prevention Manual offers the following guidance on workplace visits: "Virtually all workplaces will be visited by workers of other employers. For example, workers may deliver or pick up mail, goods, and materials or enter to inspect premises. Short term visits of this type, even if regular, do not make the workplace a "multiple-employer workplace" for the purposes of section 118(1)."

## DEFINITIONS

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<b>Construction Project:</b>	Any erection, alteration, repair, dismantling, demolition, structural or routine maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, concreting, the installation of any machinery or any other work deemed to be construction by the WCB. (WCB OH&S Regulation Section 20.1)
<b>Contractor:</b>	Includes a contractor, subcontractor, utility company, government agency or a service company providing/assigning workers and/or services/equipment within the workplace.
<b>Contractor Safety Program:</b>	A contractor's Occupational Health and Safety program as required by WCB OH&S Regulation.  Multiple employer workplaces are created when workers of two or more employers are working at the same location.
<b>Multiple Employer Workplace:</b>	In this type of workplace workers of one employer do not actually have to come into contact with the workers of the other employer. They do not even have to be in the same place at the same time. What is important is whether or not the workers' activities could affect the health and safety of another employer's workers. This is true even if the workers on the workplace are workers of City of Kelowna and a contractor.  Short term visits by couriers, inspectors, and suppliers etc. are not regarded as workers at the workplace.

<b>Notice of Project:</b>	The Notice of Construction Project given by the Prime Contractor, or Owner, to the Workers' Compensation Board as defined in and required by Section 20.2 (2) and (3) of the WCB OH&S Regulation.
<b>Prime Contractor:</b>	In relation to a multiple-employer municipal workplace, the contractor, employer or other person who enters into a written agreement with the City of Kelowna to be the Prime Contractor.
<b>Qualified Co-ordinator:</b>	Applies where a Prime Contractor has been designated. On a construction workplace, means the person appointed by a Prime Contractor to co-ordinate occupational health and safety activities within the workplace.
<b>Qualified Person:</b>	Applies to every contractor hired whether it is a single employer workplace or a multi-employer workplace. On a construction workplace, means a person designated by a contractor (other than the Prime Contractor) to be responsible for that employer's health and safety activities and responsibilities.
<b>Single Employer Workplace:</b>	A defined area in which there are workers of only one employer.
<b>Contract Administrator:</b>	Applies where a Prime Contractor has not been designated and the City of Kelowna assumes Prime Contractor Status. There will be a person designated by City of Kelowna to co-ordinate workplace safety on multiple employer workplaces and to receive/review a contractor's safety program, records, documentation, safety performance, etc.
<b>Contract Liaison:</b>	Applies where a Prime Contractor has been designated. The person designated by the City of Kelowna to inspect, and be the City contact person for the Prime Contractor. The Contract Liaison will alert and explain any pre-existing hazards to the Prime Contractor and receive/review a contractor's safety program, records, documentation, etc.

## CO-ORDINATION - OVERVIEW

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City of Kelowna can decide to coordinate safety activities at a multiple employer workplace or to designate this responsibility, in writing, to a Prime Contractor to perform the duties of coordination.

### On a multiple employer workplace:

The Contract Administrator/Prime Contractor (Qualified Coordinator) must also:

- Ensure that all of the workers at the workplace are aware of any pre-existing hazards on the workplace.
- Identify any hazards on the workplace that are created by the work.
- Have a workplace drawing that shows where first aid is located, emergency transportation system for injured workers, and evacuation marshaling points.
- Have written procedures outlining safe work procedures to be followed by all workers at the workplace.
- Have a workplace drawing showing where all employers at the workplace are working, where first aid is located, emergency transportation system for injured workers, and evacuation marshaling points.



## RESPONSIBILITIES

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City of Kelowna is responsible to determine whether a workplace includes the workers of other employers and whether this is a multiple employer workplace or a single employer workplace.

### **Responsibilities: Single Employer Workplace, City of Kelowna**

City of Kelowna is responsible to ensure that the contractor at the workplace is aware of all pre-existing workplace hazards and has the information on how to eliminate or control the hazards.

### **Contract Administrators:**

Contract Administrators are responsible to ensure the following Pre-Qualification Items are filled out by the potential contractor:

- Conduct the Pre-Qualification questionnaire that includes items such as WCB Coverage, Liability Insurance, Proof of Safety Program (Policy, Risk Assessments, Inspections, Incident Reporting, Qualifications, etc)
- Decide whether the contractor should be designated, in writing, as a Prime Contractor or falls under the City of Kelowna's Health & Safety Management System

Contract Administrators are responsible to ensure the following Contractor Coordination occurs after completing the Contractor Pre-Qualification and have been awarded contract:

- Designate the Prime Contractor (Sign off on Prime Contractor Status Form)
- Hold pre-job conferences to confirm contractor understanding of compliance with safety requirements and awareness of the City of Kelowna specific hazards, and to review job plan of hazardous work.
- Meet with the contractor and explain any hazards peculiar to the City of Kelowna worksites the contractor is likely to encounter while performing the work. Establish that work must be done safely in accordance with WCB and City of Kelowna standards. (Standard contract documents identify the contractor is responsible for the enforcement of regulations).
- Ask the contractor if he/she has any questions related to the safety of the work or what is expected during the contract period.
- Reinforce the point that the contractor is responsible for the health and safety of his/her workers and for ensuring compliance by his workers with the City of Kelowna Occupational Health and Safety Program and WCB regulations.
- Monitor contractor safety performance (Observations of contractor's work procedures, finished products, etc. Should be diarized by noting the contractor's name, date, time, and location and briefly noting observations. Follow up action can be based on these diaries.
- Check that contractor has copies of required safety information and supplementary instructions covering the work to be performed (provide if necessary).
- Monitor contractor safety performance through regular inspections or audits, as appropriate. Doing so without directing work on site otherwise Prime Contractor will revert back to the owner and in this case that would be the City of Kelowna.
- Document inspections of contractor performance.
- If necessary, coordinate safety on multiple employer sites.

### **Contractor:**

Note: Applies to a contractor to City of Kelowna and to service providers such as BC Hydro or gas distribution companies.

The contractor is responsible to ensure the safety of his/her workers. The contractor must inspect his worksites in accordance with WCB requirements to ensure compliance with WCB and City of Kelowna regulations.

The contractor is responsible for:

- Reviewing the City of Kelowna's Contractor Pre-Qualification and submitting all relevant documentation for this program.



- Review and sign off on the City of Kelowna's Prime Contractor Designation Form. If the contractor is not capable of assuming prime they will fall under the City of Kelowna's Health & Safety Management System and be required to attend a contractor orientation that will explain all of the relevant forms and processes that are expected from the contractor.
- Ensuring compliance with the Workers Compensation Act and the WCB OH&S Regulation.

**City of Kelowna Supervisors:**

Supervisors must:

- Ensure that all workers know that a contractor has been designated for projects in their areas.
- If during the normal site visits for contract administration, a City of Kelowna employee observes the work being done by the contractor and hazards are observed, corrective action must follow.
- Ensure they do not assign duties, which take City of Kelowna workers into the contractors work area.
- Contact the Contract Administrator if any worker reports that they must enter the contractor's work site to do their job.

**City of Kelowna Workers:**

All workers are responsible to ensure that their duties do not take them into the single employer workplace. If they must enter the workplace, they must inform their supervisor.

**Other Contractors (Sub-Contractors or Multiple Contractors at same site):**

Other contractors are responsible to deliver to the Prime Contractor's Qualified Coordinator the name of the person who supervises their workers.

On a construction workplace, the contractors must designate a Qualified Person to be responsible for that contractor's health and safety activities. That contractor must give the name of this Qualified Person to the Prime Contractor.

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**PROGRAM DETAILS**

This program is designed to help ensure that when contractors are working at a City of Kelowna workplace, the work is performed safely and there is no unnecessary increase in liability for City of Kelowna as a result of their actions.

**Situation Identification**

There are two types of situations where workers of another employer are performing duties at a City of Kelowna workplace.

The first of these, and most difficult for the organization to control, are workers who are not performing contract work for City of Kelowna. They may include the workers of a utility company, a government agency or Service Company. The typical example might be workers of a gas utility company who have set up traffic control to do repair work on the gas distribution system. They are at a workplace, and City of Kelowna workers may be working on the same workplace.

It is the responsibility of City of Kelowna to ensure that the workplace is safe and that all workers, including contractors and their employees, are aware of the workplace hazards of which the organization has knowledge as owners of the workplace. As long as there are no interactions, or overlap between workplaces that would create hazards for the workers of the contractor or for the workers of City of Kelowna there is no further action required.

The second situation is one that the organization is most familiar with. This is a situation where a contractor has come onto a workplace to perform work for City of Kelowna. In this situation, there is still the responsibility to ensure that the workplace is safe, and that the contractor is aware of pre-existing hazards.

Any other workplace hazards must also be identified.

Providing methods to eliminate or control workplace hazards will include providing the contractor with the City of Kelowna safety program and procedures. If the contractor is going to do work that is not covered by the safety program, it is important that once the hazards are identified, the contractor provides the written procedures for the work.

### **Multiple Employer Workplaces**

Multiple employer workplaces are created when the workers of two or more employers are working at the same location. They do not have to both been working all of the time.

If they are both at the workplace and the activities of either employer can affect the health and safety of workers of the other employer, then the workplace becomes a multiple employer workplace. This is true even if the workers on the workplace are workers of the contractor and City of Kelowna.

When City of Kelowna has contractors on a multiple employer workplace; there is a requirement for coordination of activities.

The Contract Administrator can fulfill this coordination role, or it can be delegated to a contractor, who is designated as Prime Contractor in writing.

Contractors must give Contract Administrator or the Prime Contractor the names of the individuals who will be supervising their workers.

### **Prime Contractor Designation**

In the past contracted work was much simpler than it is today. A project was developed and put out to bid. The successful bidder hired other contractors. These contractors were subcontractors to the successful bidder. In these cases the successful bidder was usually referred to as the "Principal" or "Prime Contractor".

As a result of amendments to the Workers Compensation Amendment Act and the WCB OHS Regulation, it is now very important that City of Kelowna carefully decides whether to designate a contractor in writing as the Prime Contractor. The decision on whether to designate a Prime Contractor rests with Contract Administrator otherwise the City of Kelowna assumes Prime contractor Status and all contractors would then be mandated to follow the City of Kelowna's Health & Safety Management System.

The responsibility for coordination of activities at the workplace, and for ensuring compliance with the Workers Compensation Amendment Act and the WCB OHS Regulation will rest with the Prime Contractor.

It is also very important that these contractors are made aware of all of the pre-existing workplace hazards that might put their workers at risk. They must also be given the information that they need on how to eliminate or control those hazards.

If the City of Kelowna appoints a Prime Contractor the affected contractor(s) will be given written notice in the form of the Prime Contractor Designate Form.

## **WORKPLACE SAFETY REQUIREMENTS**

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The Prime Contractor has the responsibility to:

- Ensure work is done in a safe manner that complies with all regulatory requirements.
- Direct and co-ordinate the work activities related to the health and safety of all contractors and any other workers on the workplace.
- Have a supervisor readily available at the workplace. This supervisor will have the necessary skills, qualifications and experience to co-ordinate the health and safety activities of the workers.
- Obtain from the organization written information on hazards and conditions and the methods to address the hazards and conditions and will circulate this information.



- Ensure first aid facilities are provided and maintained on the workplace in accordance with Part 33 of the WCB OHS Regulation.
- Take all reasonable steps to ensure that the occupational health and safety activities of all Contractors and their workers comply with the WCB OHS Regulation.
- Immediately give Contract Administrator the name of any contractor who does not co-operate, assist or do what the qualified co-ordinator requires regarding co-ordination of health and safety activities within the workplace.

#### **All Contractors:**

Prior to starting any work at the workplace, the Contractor must:

- Have its own Safety Program or follow the City of Kelowna's Health & Safety Management System.
- Ensure the safety program meets the requirements of Part 3 of the Workers' Compensation Act and Part 3 of the WCB OHS Regulation.
- Ensure there is a supervisor at the workplace that has the necessary skills and experience to run the Contractor's Safety Program.
- At the start of work, the Contractor will provide Contract Administrator or Contract Liaison in writing, the names of all supervisors.
- Contract Administrator or Prime Contractor, must be immediately informed of any changes.

The Contractor must:

- Ensure that a Joint Health and Safety (JHS) Committee is formed for the workplace if required by the Workers Compensation Amendment Act, and that the activities of the JHS Committee meet the requirements of the of the Workers Compensation Act.
- Advise Contract Administrator or the Prime Contractor, of any accidents or incidents at the workplace that must be reported to the Workers' Compensation Board.
- Inform all persons working on the workplace of the health and safety requirements at the workplace.
- At all times the contractor will ensure that its workers and subcontractors, and all other workers coming onto the workplace will:
- Comply with the Workers Compensation Amendment Act and the WCB OHS Regulation.
- Comply with the contractor's safety program or the City of Kelowna's Health & Safety Management Program
- Comply with Contract Administrator (or Prime Contractor's) safety requirements for the work activities within the workplace.
- Provide occupational health and safety records and documentation to Contract Administrator or Prime Contractor.
- Follow the directions of Contract Administrator or the Prime Contractor on all matters relating to occupational health and safety.
- Inform Contract Administrator or the Prime Contractor of any information that they require to co-ordinate each employer's work activities within the workplace.

#### **PRIME CONTRACTOR'S HEALTH AND SAFETY RECORDS**

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The Prime Contractor must:

- Maintain all occupational health and safety documentation at one location at or near the workplace and make these documents available to Contract Administrator or Contract Liaison.
- Ensure that its Qualified Co-ordinator collects records of all JHS Committee proceedings at the workplace and distributes them to other qualified persons working within the workplace and to the WCB.
- In the event of an accident that requires notification to the Workers' Compensation Board, at the same time, notify Contract Administrator or Contract Liaison about the accident.
- If requested, provide information on the progress of the investigation and co-ordinate all responses to requests for information with City of Kelowna.

**Contract Liaison**

If a Prime Contractor is appointed, Contract Liaison will be the City of Kelowna workplace representative and have duties and responsibilities that include but are not limited to the following:

- To ensure all contractors are informed of appointment of the Prime Contractor.
- To inform the Prime Contractor that they must be copied in all communications.
- To monitor the Prime Contractor's compliance with the safety requirements of the contract.
- To ensure that City of Kelowna workers do not direct or supervise any contractor's workers on the workplace.
- To receive and/or distribute all necessary documentation.
- To ensure that all pre-existing hazards of the workplace and procedures for addressing the hazards are conveyed to the Prime Contractor.

If there is no designated Prime Contractor on a multiple employer workplace the responsibility to coordinate the activities of all employers at the workplace lies with Contract Administrator which is the City of Kelowna.

Contract Administrator will also watch for situations where the work of one contractor or a worker of City of Kelowna could cause a hazard to the workers of another contractor. It is Contract Administrator's responsibility to ensure that these situations are controlled.

Contract Administrator will ensure that contractors coming onto the workplace bring with them their written procedures. If the contractors do not bring written procedures, Contract Administrator must develop those procedures.

**TRAINING REQUIREMENTS**

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**Goal**

To ensure that no workers will be put at risk and no liability will accrue to the organization as a result of workers of another employer performing duties on a workplace owned by the organization.

**Objectives**

As a result of this training, workers and supervisors will:

- Understand the organization's policy on contractor coordination including the pre-qualification, designation of prime contractor status and potential for the city of Kelowna to be the prime contractor
- Know what their responsibilities are, and understand the responsibilities of other people.

**Summary of Training**

- Why workplace safety coordination is necessary.
- The responsibilities for workplace safety coordination.
- How to determine if workplace coordination is required.
- The effects of the Workers' Compensation Amendment Act on contractor coordination.
- The definitions used in the contractor coordination program.
- When to designate a Prime Contractor or for the City to assume prime themselves.
- Typical hazards that must be addressed.
- How to complete forms and documentation.
- Correct responses to typical situations.

**PROGRAM MAINTENANCE**

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Annual review of this program will focus on the number of situations when other employers were on the organization's workplace, and whether any liability accrued to the organization as a result.



## DOCUMENTATION

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The documentation for this program includes:

- Contract template that includes language concerning Prime Contractor.
- Safety program with names or positions of those responsible for coordination.
- Completed reviews of contractor safety programs.
- Documentation of discussions with contractors regarding supervision.

PRIME CONTRACTOR DESIGNATION FORM

PRIME CONTRACTOR APPLICATION FOR SAFETY-PRE-QUALIFICATION

# Prime Contractor Designation Form

COR - Element 4

## PROJECT

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After the City of Kelowna has awarded tender/contract it is necessary to see if the contractor can assume the Prime Contractor role. If the municipality must be deemed the prime contractor they will cover all safety related items with a City of Kelowna orientation. This orientation will cover all city requirements with OH&S regulations as a minimum.

This process will ensure that all contractors are suitably qualified to manage health and safety issues on complex work sites that involve multi-employer relationships. Financial strength, bonding, insurance, technical ability, and expertise will also be taken into consideration. This process is intended to be the Municipality's designation of Prime Contractor status, where appropriate.

### Coordination at multiple-employer workplaces

118

(1) In this section:

"multiple-employer workplace" means a workplace where workers of 2 or more employers are working at the same time;

"prime contractor" means, in relation to a multiple-employer workplace,

(a) the directing contractor, employer or other person who enters into a written agreement with the owner of that workplace to be the prime contractor for the purposes of this Part, or

(b) if there is no agreement referred to in paragraph (a), the owner of the workplace.

(2) The prime contractor of a multiple-employer workplace must

(a) ensure that the activities of employers, workers and other persons at the workplace relating to occupational health and safety are coordinated, and

(b) do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Part and the regulations in respect of the workplace.

(3) Each employer of workers at a multiple-employer workplace must give to the prime contractor the name of the person the employer has designated to supervise the employer's workers at that workplace.

## DESIGNATION OF PRIME CONTRACTOR STATUS

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The City of Kelowna recognizes that some organizations may not meet requirements necessary to be designated as a prime contractor. Organizations that do not meet these conditions will be given a City of Kelowna orientation and the City will act as the Prime Contractor.

The preferred qualifications for designation of Prime Contractor status are:

- ☐ C O R
- ☐ Prime Contractor Training Course
- ☐ Construction Safety Training System



**PRIME CONTRACTOR PROCEDURE**

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Please provide the following items:

History

- A. A list of current projects in which your organization has been designated as Prime Contractor.
- B. A list of past projects in which your organization has acted as Prime Contractor.

**PRIME CONTRACTOR ACCEPTANCE**

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THE UNDERSIGNED further states that they have carefully read the foregoing agreement (Contractor Coordination Program Guide) and know the contents thereof, and by signing same as accept the designation of Prime Contractor.

Dated at ....., B.C., this .....day of....., 2013

Prime Contractor

City of Kelowna Representative (Witness)

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

PRIME CONTRACTOR APPLICATION FOR SAFETY-PRE-QUALIFICATION





Occupational Health & Safety Branch

# Application for Safety Pre-Qualification

COR - Element 4

## APPLICATION FOR SAFETY PRE-QUALIFICATION

### Submissions, Program Content and Inquiries:

Contractors are invited to apply for Safety Pre-Qualification by completing and submitting the "City of Kelowna Application for Safety Pre-Qualification."

### 1. COMPANY IDENTIFICATION

Business Name: \_\_\_\_\_

Full Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

(if different)

Phone: \_\_\_\_\_

(Office/Cell)

Fax: \_\_\_\_\_

The Company is:

☐ Sole Proprietorship

☐ Partnership

☐ Limited Company

Number of years in business: \_\_\_\_\_

### 2. INSURANCE & WORKERS COMPENSATION

- a) Attach documents demonstrating your coverage for damages to and incidents involving their parties including general liability insurance, automotive, umbrella policies, etc.
- b) Is your company in good standing under the workers compensation board or authority of each jurisdiction in which it performs work? ☐ YES or ☐ NO

If YES provide clearance letter to substantiate, if NO please explain.

### 3. SAFETY PROGRAM

- a) Does your company have a written Health & Safety Policy signed by Management?  
☐ YES or ☐ NO

If YES please submit with questionnaire.

- b) Does your company have written safety policies and procedures including clearly defined safety responsibilities for managers, supervisors and workers? ☐ YES or ☐ NO

If YES please submit with questionnaire.

- c) How do you communicate your Safety Policies and Procedures?

- d) How often do managers/executives visit the worksite? Provide details.



**4. ATTACHMENTS**

- 1) Please submit a description of your on-site inspection program, including how often inspections are conducted, what they cover and who conducts them.
- 2) Please attach a description of your risk assessment procedures and form(s)
- 3) Please attach a description of your incident reporting and investigation procedures, including how near misses are reported.
- 4) Please attach a list of names and qualifications of all supervisors that you use to oversee work.
- 5) Do you provide on the job training to all workers? ☐ YES OR ☐ NO

Please attach a description of your health and safety training program, including how often training is provided, in what format, topics covered and who provides the training? If easier submit certificates of staff rather than list.

- 6) Please attach a description of how you notify workers of job specific hazards.
- 7) Do you discipline workers for committing health and safety violations? ☐ YES OR ☐ NO  
Please describe:

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- 8) Please attach a description of your health and safety committee/representative (or an explanation as to why you don't have one), including its activities, frequency of meetings, etc.
- 9) Do you have a preventative maintenance program for tools and machinery? ☐ YES OR ☐ NO  
Please describe:

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- 10) Please attach a description of how you incorporate subcontractors' workers into your health and safety training and other programs.
- 11) Please attach a description of other programs, activities or information that you believe demonstrates that your company carries out its projects safely and in accordance with all health and safety requirements.

**5. SAFETY PERFORMANCE**

Please complete the following charts current to the last 3 years)

Year	Hrs	F	LTI	TR	TRF

**Sub-Contractors (Combined Total)**

Year	Hrs	F	LTI	TR	TRF

**Safety Performance Calculation Instructions:**

<b>HRS =</b> Total hours worked	<b>F = Fatalities</b>	<b>LTI =</b> Lost time injuries, loss by a worker at least 1 day of work	<b>LTF =</b> Lost time frequency Number of incidents x 200,000 divided by hours worked.	<b>TR= Total</b> recordables Medical aid +restricted duty+ LTI	<b>TRF= Total</b> recordable frequency Number of recordable incidents x 200,000, divided by hours worked
---------------------------------------	-----------------------	---	--	--	---

Has your company received any Occupational Health & Safety stop-work orders, charges, convictions or fines in the last 3 years? ☐ YES OR ☐ NO

Please describe:

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Name of Contractor's  
Safety Coordinator:

Contact Information:

Date:

Signature:

**6. DECLARATION:**

I, the undersigned, in application for Safety Pre-Qualification with the City of Kelowna for construction work and / or other duties, do hereby certify that all information contained in this application is accurate to the best of my knowledge.

Print Name:

Position:

Signature:

Date:



# 2016 CONCESSION BID AWARDS

Various - Food & Activity

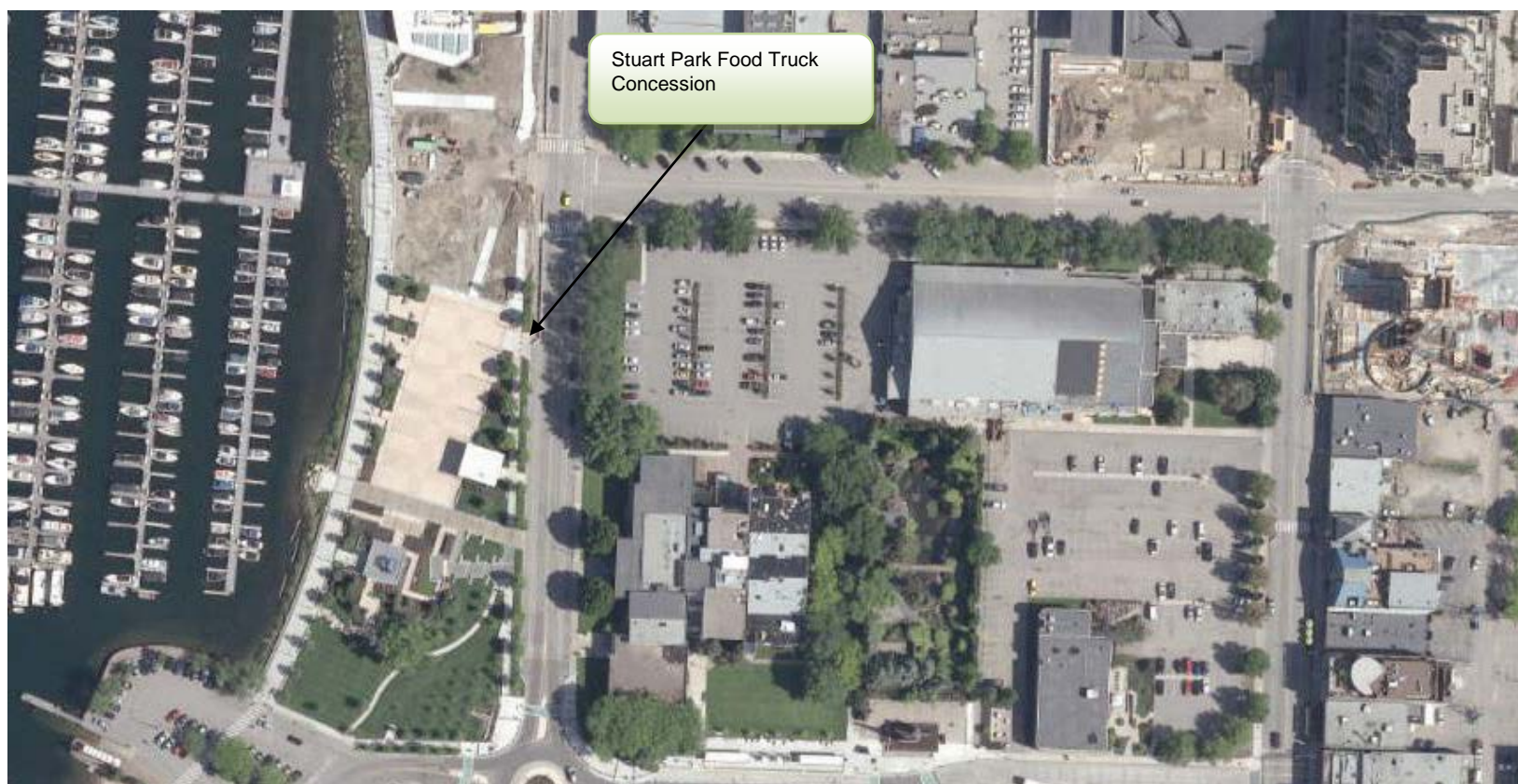




# STUART PARK MOBILE FOOD CONCESSION BID DETAILS

- ▶ Operates from May 15<sup>th</sup> to Sept 15<sup>th</sup>
- ▶ Two year term with a 1-year renewal option
- ▶ Vehicle must be fully self-contained
- ▶ Healthy food choices required
- ▶ Contractor to provide annual financial reports to City Staff

# STUART PARK CONCESSION LOCATION



# ARTISTO GELATO

- Locally sourced ingredients
- Gluten-free and non-GMO
- Healthy food choices in line with Canada Food Guide
- Gelato, sorbetto, grilled paninis and beverages
- Competitive bid: \$5,000/ann (+5% gross)

artista  
GELATO

# MOBILE FOOD CONCESSION BID DETAILS

- ▶ Evening downtown mobile food concessions
- ▶ Operate evenings Weds to Sat, 9pm to 2am
- ▶ Three year term with two 1-year renewal options
- ▶ Healthy food choices required
- ▶ Contractor to provide annual financial reports to City Staff



# DOWNTOWN LOCATIONS



# HOT OR NOT VENDING

- Experienced operator – holds existing contract
- Offerings include wraps, perogies, all beef hot dogs and smokies
- Healthy food choices in line with Canada Food Guide
- Competitive bid: \$8,100/ann (+5% gross)

# ACTIVITY CONCESSION BID DETAILS

- ▶ Activity concessions located at Gyro & Rotary Beach's
- ▶ Non-motorized water activity concessions
- ▶ Operate from May 15<sup>th</sup> to Sept 15<sup>th</sup>
- ▶ Three year term with two 1-year renewal options
- ▶ Contractor to provide annual financial reports to City Staff

# ACTIVITY CONCESSION LOCATIONS





# ACTIVITY CONCESSION LOCATIONS



## OKANAGAN BEACH RENTALS

- Experienced operator;
  - Held Rotary Beach contract for last 5 years
  - Also held Gyro Beach contract in the past
- Offering to include;
  - Kayaks, stand up paddleboards (SUP), peddle boats, aqua bike and canoe rentals and lessons.
  - City to provide beach wheelchairs
- Competitive bid: \$18,000/ann (+5% gross)

# CITY OF KELOWNA

## BYLAW NO. 11210

### A Bylaw to Rename a Portion of Rutland Road North

---

WHEREAS the Municipal Council of the City of Kelowna deems it desirable for a portion of Rutland Road North to be renamed Rutland Court in the City of Kelowna;

AND WHEREAS the Municipal Council of the City of Kelowna deems it desirable for an unnamed Road portion of road be named Rutland Road North in the City of Kelowna;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT the name of a portion of Rutland Road North to be renamed Rutland Court as outlined in Map "A" attached to and forming part of this bylaw;
2. AND THAT the unnamed Road portion of road be named Rutland Road North as outlined in Map "A" attached to and forming part of this bylaw;
3. This bylaw may be cited for all purposes as the "Renaming a Portion of Rutland Road North to Rutland Court Name Change Bylaw No. 11210".

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

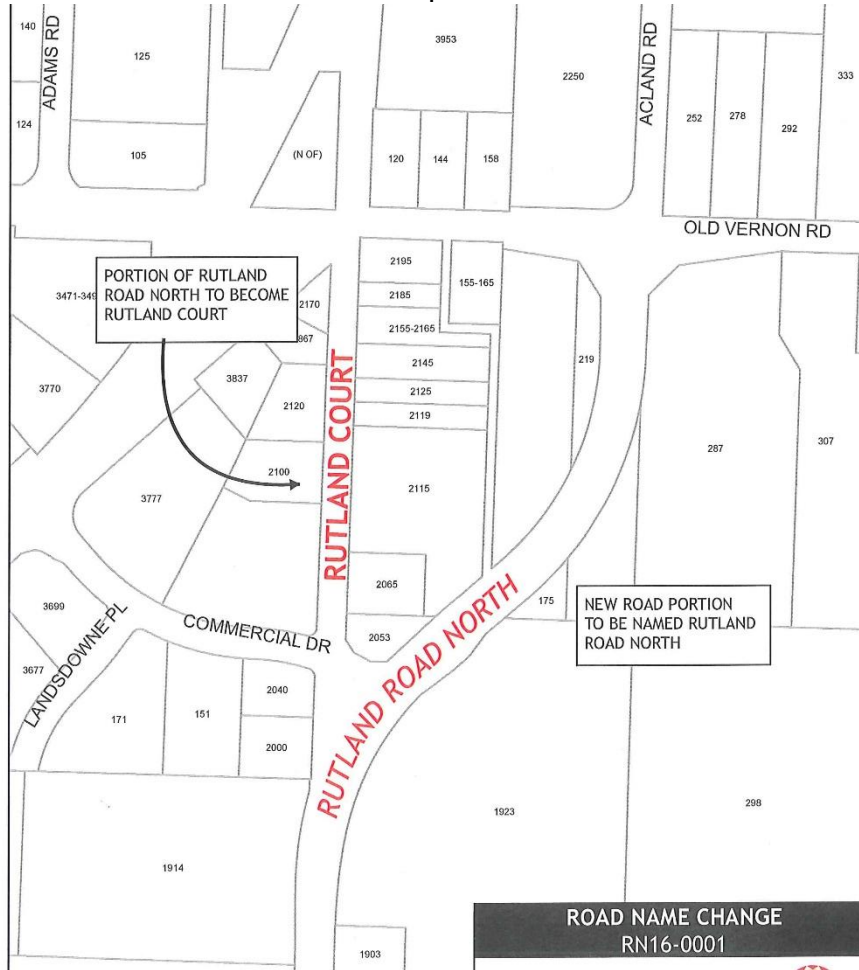
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Mayor

---

City Clerk

Map "A"





# CITY OF KELOWNA

## BYLAW NO. 11223

### Sterile Insect Release Program Parcel Tax Bylaw 2016

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A bylaw pursuant to Section 200 of the *Community Charter* to impose and levy a Parcel Tax upon the owners of land or real property within the City of Kelowna being served by the Sterile Insect Release Program.

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. A Parcel Tax shall be and is hereby imposed and levied upon the owners of land or real property as shown on Schedule "A" attached to and forming part of this bylaw, being served by the Sterile Insect Release Program.
2. The Parcel Tax shall be levied for the 2016 tax year on each parcel of land aforementioned, and the amount of such Parcel Tax shall be One Hundred and Thirty-Nine Dollars and Twenty-Six Cents (\$139.26) per assessed acre.
3. This bylaw shall be known for all purposes as the "Sterile Insect Release Program Parcel Tax Bylaw 2016 No. 11223".

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	03108.010	1355 LATTA RD	LOT 10, PLAN KAP1611, SEC 1, TWP 23, 41	6.39	889.87
217	03121.000	2355 MCKENZIE RD	LOT A, PLAN KAP15859, SEC 1, TWP 23, 41	6.37	887.09
217	03121.010	2295 MCKENZIE RD	LOT 2, PLAN KAP33255, SEC 1, TWP 23, 41	20.40	2840.90
217	03186.100	2685 SEXSMITH RD	LOT 1, PLAN KAP45492, SEC 3, TWP 23, 41	9.02	1256.13
217	03210.125	2517 SEXSMITH RD	LOT 10, PLAN KAP21431, SEC 3&4, TWP 23, 41	8.18	1139.15
217	03210.210	705 VALLEY RD	LOT B, PLAN KAP31659, SEC 3, TWP 23, 41	3.70	515.26
217	03255.321	1982 UNION RD	LOT A, PLAN KAP75150, SEC 4, TWP 23, 41	1.00	139.26
217	03255.322	1980 UNION RD	LOT B, PLAN KAP75150, SEC 4, TWP 23, 41	1.00	139.26
217	03262.000	2389 LONGHILL RD	LOT 13, PLAN KAP1068, SEC 4, TWP 23, 41	6.00	835.56
217	03263.000	2206 LONGHILL RD	LOT 2, PLAN KAP1068, SEC 4&34, TWP 23, 41	7.33	1020.78
217	03264.000	185 VALLEY RD	LOT 3, PLAN KAP1068, SEC 4&34, TWP 23, 41	3.77	525.01
217	03266.000	143 1 VALLEY RD	LOT 5, PLAN KAP1068, SEC 4, TWP 23, 41	3.84	534.76
217	03267.000	127 1 VALLEY RD	LOT 6, PLAN KAP1068, SEC 4, TWP 23, 41	9.27	1290.94
217	03268.000	2214 BONN RD	LOT 7, PLAN KAP1068, SEC 4, TWP 23, 41	4.51	628.06
217	03269.000	115 VALLEY RD N	LOT 8, PLAN KAP1068, SEC 4, TWP 23, 41	10.13	1410.70
217	03270.000	2547 SEXSMITH RD	LOT 11, PLAN KAP1068, SEC 3&4, TWP 23, 41	1.90	264.59
217	03271.000	220 MAIL RD	LOT 12, PLAN KAP1068, SEC 4, TWP 23, 41	8.46	1178.14
217	03272.000	180 MAIL RD	LOT 13, PLAN KAP1068, SEC 4, TWP 23, 41	7.01	976.21
217	03274.000	135 VALLEY RD N	LOT H, PLAN KAP1636, SEC 4, TWP 23, 41	4.97	692.12
217	03278.000	800 PACKINGHOUSE RD	LOT 3, PLAN KAP1884, SEC 4&9, TWP 23, 41	1.00	139.26
217	03279.000	2160 SCENIC RD	LOT 4, PLAN KAP1884, SEC 4&9, TWP 23, 41	4.44	618.31
217	03337.532	770 PACKINGHOUSE RD	LOT A, PLAN KAP35054, SEC 4, TWP 23, 41	3.86	537.54
217	03395.000	531 GLENMORE RD N	LOT 29, PLAN KAP896, SEC 9, TWP 23, 41	6.39	889.87
217	03645.000	2434 GALE RD	LOT 2, PLAN KAP1453, SEC 23, TWP 23, 41	1.77	246.49
217	03646.000	2504 GALE RD	LOT 3, PLAN KAP1453, SEC 23, TWP 23, 41	4.17	580.71
217	03650.000	2801 DRY VALLEY RD	LOT 7, PLAN KAP1453, SEC 23, TWP 23, 41	2.88	401.07
217	03664.000	2155 PIER MAC WAY	LOT 1, PLAN KAP2257, SEC 23, TWP 23, 41	2.33	324.48
217	03664.514	2855 DRY VALLEY RD	LOT A, PLAN KAP37471, SEC 23, TWP 23, 41	1.85	257.63
217	03664.516	2849 DRY VALLEY RD	LOT B, PLAN KAP37471, SEC 23, TWP 23, 41	10.67	1485.90
217	03884.000	3310 MATHEWS RD	LOT 63, PLAN KAP1247, SEC 3&34, TWP 26, 41	9.56	1331.33
217	03899.000	3260 MATHEWS RD	LOT 109, PLAN KAP1247, SEC 3, TWP 26, 41	3.12	434.49
217	03905.001	4232 SPIERS RD	LOT 117, PLAN KAP1247, SEC 3, TWP 26, 41	7.16	997.10
217	03905.104	4236 SPIERS RD	LOT B, PLAN KAP92871, SEC 3, TWP 26, 41	4.45	619.71
217	03906.000	4233 SPIERS RD	LOT 119, PLAN KAP1247, SEC 3, TWP 26, 41	5.01	697.69

<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	03907.000	4221 SPIERS RD	LOT 120, PLAN KAP1247, SEC 3, TWP 26, 41	11.20	1559.71
217	03908.000	4215 SPIERS RD	LOT 121, PLAN KAP1247, SEC 3, TWP 26, 41	1.00	139.26
217	03912.000	3030 GRIEVE RD	LOT 125, PLAN KAP1247, SEC 3, TWP 26, 41	6.13	853.66
217	03913.001	3015 GRIEVE RD	LOT 126, PLAN KAP1247, SEC 3, TWP 26, 41	9.88	1375.89
217	03913.101	3145 1 GULLEY RD	LOT 127, PLAN KAP1247, SEC , TWP , 41	9.20	1281.19
217	03949.320	4280 SPIERS RD	LOT B, PLAN KAP34609, SEC 3, TWP 26, 41	9.95	1385.64
217	03949.340	4207 SPIERS RD	LOT B, PLAN KAP47098, SEC 3, TWP 26, 41	3.07	427.53
217	03949.390	3480 WATER RD	LOT A, PLAN KAP71707, SEC 3, TWP 26, 41	6.46	899.62
217	03950.000	3965 TODD RD	LOT , PLAN KAP1247, SEC 4, TWP 26, 41	8.67	1207.38
217	03952.062	3865 SPIERS RD	LOT 138, PLAN KAP1247, SEC 4, TWP 26, 41	6.75	940.01
217	03953.000	3895 SPIERS RD	LOT 139, PLAN KAP1247, SEC 4, TWP 26, 41	4.71	655.91
217	03955.000	2809 GRIEVE RD	LOT 141, PLAN KAP1247, SEC 4, TWP 26, 41	11.94	1662.76
217	03956.000	4201 SPIERS RD	LOT 142, PLAN KAP1247, SEC 4, TWP 26, 41	6.18	860.63
217	03960.000	2699 SAUCIER RD	LOT 145, PLAN KAP1247, SEC 4, TWP 26, 41	3.76	523.62
217	03965.000	4175 TODD RD	LOT 150, PLAN KAP1247, SEC 4, TWP 26, 41	8.33	1160.04
217	03968.000	4067 TODD RD	LOT 153, PLAN KAP1247, SEC 4, TWP 26, 41	6.43	895.44
217	03971.503	2287 WARD RD	LOT B, PLAN KAP78689, SEC 4, TWP 26, 41	35.86	4993.86
217	03973.000	3980 TODD RD	LOT 159, PLAN KAP1247, SEC 4, TWP 26, 41	2.41	335.62
217	03979.000	2715 HEWLETT RD	LOT 3, PLAN KAP1656, SEC 4, TWP 26, 41	8.31	1157.25
217	03981.000	2570 SAUCIER RD	LOT , PLAN KAP6018B, SEC 4, TWP 26, 41	1.18	164.33
217	03985.000	2675 HEWLETT RD	LOT A, PLAN KAP12142, SEC 4, TWP 26, 41	4.83	672.63
217	03990.002	3950 SPIERS RD	LOT E, PLAN KAP12142, SEC 4, TWP 26, 41	2.52	350.94
217	03995.027	3920 TODD RD	LOT B, PLAN KAP21140, SEC 4, TWP 26, 41	1.00	139.26
217	03995.159	3955 SPIERS RD	LOT A, PLAN KAP56989, SEC 4, TWP 26, 41	1.33	185.22
217	03995.172	2620 HEWLETT RD	LOT 2, PLAN KAP92520, SEC 4, TWP 26, 41	8.49	1182.32
217	03997.000	1591 SAUCIER RD	LOT 237, PLAN KAP1247, SEC 5, TWP 26, 41	7.78	1083.44
217	04008.001	4025 CASORSO RD	LOT A, PLAN KAP91004, SEC 5, TWP 26, 41	2.83	394.11
217	04008.002	4029 CASORSO RD	LOT B, PLAN KAP91004, SEC 5, TWP 26, 41	3.15	438.67
217	04014.004	3896A CASORSO RD	LOT A, PLAN KAP92331, SEC 5, TWP 26, 41	8.06	1122.44
217	04016.000	3877 CASORSO RD	LOT 4, PLAN KAP2243, SEC 5, TWP 26, 41	1.51	210.28
217	04021.000	3995 CASORSO RD	LOT 8, PLAN KAP2243, SEC 5, TWP 26, 41	5.70	793.78
217	04023.000	1989 WARD RD	LOT 10, PLAN KAP2243, SEC 5, TWP 26, 41	9.33	1299.30
217	04029.000	4153 BEDFORD RD	LOT 1, PLAN KAP15793, SEC 5, TWP 26, 41	5.77	803.53
217	04031.000	4122 BEDFORD RD	LOT 4, PLAN KAP15793, SEC 5, TWP 26, 41	1.88	261.81

<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	04032.158	3860 CASORSO RD	LOT 2, PLAN KAP89549, SEC 5, TWP 26, 41	1.00	139.26
217	04118.205	1950 WARD RD	LOT A, PLAN KAP48946, SEC 8, TWP 12, 41	12.85	1789.49
217	04118.215	1990 1 WARD RD	LOT B, PLAN KAP48946, SEC 8, TWP 12, 41	2.49	346.76
217	04121.000	3677 SPIERS RD	LOT 1, PLAN KAP1072, SEC 9, TWP 26, 41	7.01	976.21
217	04127.000	3663 SPIERS RD	LOT 2, PLAN KAP1765, SEC 9, TWP 26, 41	7.48	1041.66
217	04151.030	3769 SPIERS RD	LOT 1, PLAN KAP23684, SEC 9, TWP 26, 41	3.54	492.98
217	04151.105	2190 GULLEY RD	LOT A, PLAN KAP26008, SEC 9, TWP 26, 41	7.36	1024.95
217	04151.125	2568 K.L.O. RD	LOT B, PLAN KAP26528, SEC 9, TWP 26, 41	3.53	491.59
217	04151.140	3664 SPIERS RD	LOT A, PLAN KAP28797, SEC 9, TWP 26, 41	13.98	1946.85
217	04151.150	3668 SPIERS RD	LOT B, PLAN KAP28797, SEC 9, TWP 26, 41	1.00	139.26
217	04151.155	3678 SPIERS RD	LOT C, PLAN KAP28797, SEC 9, TWP 26, 41	6.92	963.68
217	04151.192	2777 K.L.O. RD	LOT A, PLAN KAP43297, SEC 9&10, TWP 26, 41	9.58	1334.11
217	04151.195	3740 HART RD	LOT 6, PLAN KAP29282, SEC 9, TWP 26, 41	13.22	1841.02
217	04151.200	2452 GULLEY RD	LOT 7, PLAN KAP29282, SEC 9, TWP 26, 41	21.88	3047.01
217	04151.210	2725 K.L.O. RD	LOT A, PLAN KAP45934, SEC , TWP 26, 41	28.73	4000.94
217	04151.260	2295 K.L.O. RD	LOT 2, PLAN KAP33463, SEC 9, TWP 26, 41	8.62	1200.42
217	04151.265	3551 SPIERS RD	LOT 3, PLAN KAP33463, SEC 9, TWP 26, 41	3.28	456.77
217	04151.292	2202 GULLEY RD	LOT A, PLAN KAP44147, SEC 9, TWP 26, 41	21.08	2935.60
217	04151.300	3671 SPIERS RD	LOT A, PLAN KAP70726, SEC 9, TWP 26, 41	1.23	171.29
217	04152.000	3690 POOLEY RD	LOT , PLAN , SEC 10, TWP 26, 41	16.99	2366.03
217	04154.000	3400 REEKIE RD	LOT 3, PLAN KAP355, SEC 10, TWP 26, 41	8.73	1215.74
217	04156.000	3455 ROSE RD	LOT 4, PLAN KAP355, SEC 10, TWP 26, 41	16.80	2339.57
217	04157.051	3480 FITZGERALD RD	LOT 5, PLAN KAP355, SEC 10, TWP 26, 41	10.07	1402.35
217	04158.000	3201 ROSE RD	LOT 3, PLAN KAP790, SEC 10, TWP 26, 41	16.21	2257.40
217	04160.001	3090 MCCULLOCH RD	LOT 5, PLAN KAP790, SEC 10, TWP 26, 41	5.65	786.82
217	04161.000	3641 HART RD	LOT 7, PLAN KAP790, SEC 10, TWP 26, 41	6.80	946.97
217	04166.000	3274 MCCULLOCH RD	LOT 2, PLAN KAP978, SEC 10, TWP 26, 41	9.20	1281.19
217	04167.000	3286 MCCULLOCH RD	LOT 3, PLAN KAP978, SEC 10, TWP 26, 41	6.58	916.33
217	04168.000	3296 1 MCCULLOCH RD	LOT 4, PLAN KAP978, SEC 10, TWP 26, 41	4.11	572.36
217	04170.000	3041 POOLEY RD	LOT 3, PLAN KAP1517, SEC 10, TWP 26, 41	2.40	334.22
217	04171.000	3131 POOLEY RD	LOT 2, PLAN KAP1517, SEC 10, TWP 26, 41	1.00	139.26
217	04174.002	3099 MCCULLOCH RD	LOT B, PLAN KAP71621, SEC 10, TWP 26, 41	2.91	405.25
217	04176.000	3591 HART RD	LOT 3, PLAN KAP1589, SEC 10, TWP 26, 41	3.33	463.74
217	04179.000	3635 REEKIE RD	LOT A, PLAN KAP2038, SEC 10, TWP 26, 41	15.68	2183.60



<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	04180.000	3695 FITZGERALD RD	LOT B, PLAN KAP2038, SEC 10, TWP 26, 41	25.21	3510.74
217	04181.000	3520 REEKIE RD	LOT 1, PLAN KAP2398, SEC 10, TWP 26, 41	3.96	551.47
217	04183.000	3680 REEKIE RD	LOT 2, PLAN KAP2398, SEC 10, TWP 26, 41	10.94	1523.50
217	04194.000	3275 MCCULLOCH RD	LOT 1, PLAN KAP6530, SEC 10, TWP 26, 41	12.18	1696.19
217	04198.000	3524 ROSE RD	LOT A, PLAN KAP11840, SEC 10, TWP 26, 41	9.17	1277.01
217	04199.100	3564 ROSE RD	LOT A, PLAN KAP18708, SEC 10, TWP 26, 41	11.84	1648.84
217	04199.156	3269 MCCULLOCH RD	LOT 2, PLAN KAP90496, SEC 10, TWP 26, 41	2.06	286.88
217	04199.180	3301 MCCULLOCH RD	LOT 2, PLAN KAP28811, SEC 3&10, TWP 26, 41	14.83	2065.23
217	04199.252	3630 FITZGERALD RD	LOT B, PLAN KAP30817, SEC 10, TWP 26, 41	10.10	1406.53
217	04199.254	3505 FITZGERALD RD	LOT 1, PLAN KAP30818, SEC 10, TWP 26, 41	20.43	2845.08
217	04199.278	3565 ROSE RD	LOT A, PLAN KAP38325, SEC 10, TWP 26, 41	7.88	1097.37
217	04199.280	3248 MCCULLOCH RD	LOT B, PLAN KAP38325, SEC 10, TWP 26, 41	1.00	139.26
217	04199.302	3665 HART RD	LOT 2, PLAN KAP48949, SEC 10, TWP 26, 41	11.10	1545.79
217	04199.303	3255 MCCULLOCH RD	LOT A, PLAN KAP63291, SEC 10, TWP 26, 41	1.00	139.26
217	04199.306	3671 HART RD	LOT B, PLAN KAP92586, SEC 10, TWP 26, 41	3.71	516.65
217	04208.000	2604 A BELGO RD	LOT 5, PLAN KAP1380, SEC 11, TWP 26, 41	7.07	984.57
217	04209.000	2502 BELGO RD	LOT 6, PLAN KAP1380, SEC 11, TWP 26, 41	10.75	1497.05
217	04210.000	2550 WALBURN RD	LOT 7, PLAN KAP1380, SEC , TWP 26, 41	3.35	466.52
217	04214.000	2605 BELGO RD	LOT 3, PLAN KAP1380, SEC 11, TWP 26, 41	8.55	1190.67
217	04215.000	2505 BELGO RD	LOT 4, PLAN KAP1380, SEC 11, TWP 26, 41	8.76	1219.92
217	04220.000	3950 BORLAND RD	LOT , PLAN KAP1862B, SEC 11, TWP 26, 41	2.92	406.64
217	04222.000	3527 BEMROSE RD	LOT 2, PLAN KAP2005, SEC 11, TWP 26, 41	3.17	441.45
217	04223.000	3835 BORLAND RD	LOT A, PLAN KAP2645, SEC 11, TWP 26, 41	4.07	566.79
217	04225.000	3553 BEMROSE RD	LOT 1, PLAN KAP4332, SEC 11, TWP 26, 41	4.37	608.57
217	04226.000	3571 BEMROSE RD	LOT 2, PLAN KAP4332, SEC 11, TWP 26, 41	4.96	690.73
217	04227.000	3587 BEMROSE RD	LOT 3, PLAN KAP4332, SEC 11, TWP 26, 41	5.38	749.22
217	04228.000	3625 BEMROSE RD	LOT A, PLAN KAP4553, SEC 11, TWP 26, 41	7.95	1107.12
217	04232.000	3647 BEMROSE RD	LOT 1, PLAN KAP5787, SEC 11, TWP 26, 41	6.28	874.55
217	04234.000	4010 SENGER RD	LOT A, PLAN KAP6005, SEC 11, TWP 26, 41	25.24	3514.92
217	04235.000	3975 SENGER RD	LOT A, PLAN KAP6633, SEC 11, TWP 26, 41	2.62	364.86
217	04237.120	2149 BELGO RD	LOT 1, PLAN KAP31521, SEC , TWP 26, 41	10.04	1398.17
217	04237.130	2327 BELGO RD	LOT 1, PLAN KAP33009, SEC 11, TWP 26, 41	9.35	1302.08
217	04237.137	3547 BEMROSE RD	LOT 1, PLAN KAP71097, SEC 26, TWP 11, 41	1.00	139.26
217	04237.138	2547 BELGO RD	LOT A, PLAN KAP76995, SEC 11, TWP 26, 41	1.00	139.26

<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	04240.000	2260 GARNER RD	LOT 1, PLAN KAP1380, SEC , TWP 26, 41	8.53	1187.89
217	04243.000	2455 WALBURN RD	LOT B, PLAN KAP3238B, SEC 12, TWP 26, 41	7.40	1030.52
217	04245.051	2601 WALBURN RD	LOT 2, PLAN KAP62978, SEC 12, TWP 26, 41	7.63	1062.55
217	04247.000	1190 LEWIS RD	LOT 9, PLAN KAP1380, SEC 13, TWP 26, 41	8.08	1125.22
217	04248.000	2290 GARNER RD	LOT 2, PLAN KAP1380, SEC 13, TWP 26, 41	7.52	1047.24
217	04249.000	2148 WALBURN RD	LOT 4, PLAN KAP1380, SEC 13, TWP 26, 41	10.45	1455.27
217	04254.000	1093 TEASDALE RD	LOT 8, PLAN KAP1380, SEC , TWP 26, 41	5.17	719.97
217	04256.000	1320 BELGO RD	LOT 1, PLAN KAP1926, SEC 13, TWP 26, 41	6.20	863.41
217	04258.000	1404 LEWIS RD	LOT 2, PLAN KAP1926, SEC 13, TWP 26, 41	10.26	1428.81
217	04261.000	1839 WALBURN RD	LOT 7, PLAN KAP1926, SEC 13, TWP 26, 41	5.61	781.25
217	04269.002	2091 WALBURN RD	LOT 2, PLAN KAP4119, SEC 13, TWP 26, 41	3.52	490.20
217	04270.003	1959 WALBURN RD	LOT B, PLAN KAP91170, SEC 13, TWP 26, 41	1.00	139.26
217	04293.000	1181 LEWIS RD	LOT A, PLAN KAP11265, SEC 13, TWP 26, 41	1.24	172.68
217	04315.000	3855 EAST KELOWNA RD	LOT 13, PLAN KAP665, SEC 14, TWP 26, 41	2.30	320.30
217	04317.000	2075 BELGO RD	LOT 9, PLAN KAP1380, SEC 14, TWP 26, 41	4.20	584.89
217	04318.001	1865 BELGO RD	LOT 11, PLAN KAP1380, SEC 14, TWP 26, 41	9.21	1282.58
217	04319.000	2280 HOLLYWOOD RD S	LOT 12, PLAN KAP1380, SEC 14, TWP 26, 41	3.98	554.25
217	04323.000	1725 TEASDALE RD	LOT 2, PLAN KAP1380, SEC 14, TWP 26, 41	2.82	392.71
217	04324.000	1650 GEEN RD	LOT 3, PLAN KAP1380, SEC 14, TWP 26, 41	1.87	260.42
217	04325.001	1390 GEEN RD	LOT A, PLAN KAP90868, SEC 14, TWP 26, 41	5.28	735.29
217	04325.005	1552 GEEN RD	LOT 1, PLAN EPP34425, SEC 14, TWP 26, 41	1.92	267.38
217	04326.000	1699 TEASDALE RD	LOT 5, PLAN KAP1380, SEC 14, TWP 26, 41	3.93	547.29
217	04327.004	1595 TEASDALE RD	LOT B, PLAN EPP32484, SEC 14, TWP 26, 41	5.70	793.78
217	04329.000	1409 TEASDALE RD	LOT 8, PLAN KAP1380, SEC 14, TWP 26, 41	3.20	445.63
217	04330.000	1555 TEASDALE RD	LOT 10, PLAN KAP1380, SEC 14, TWP 26, 41	1.04	144.83
217	04333.000	1375 GEEN RD	LOT 5, PLAN KAP1380, SEC 13, TWP 26, 41	1.00	139.26
217	04334.001	1225 TEASDALE RD	LOT 6, PLAN KAP1380, SEC 14, TWP 26, 41	3.96	551.47
217	04335.000	1103 TEASDALE RD	LOT 7, PLAN KAP1380, SEC 14, TWP 26, 41	2.17	302.19
217	04336.000	3810 EAST KELOWNA RD	LOT 15, PLAN KAP187, SEC 14, TWP 26, 41	1.00	139.26
217	04343.000	2270 HOLLYWOOD RD S	LOT A, PLAN KAP1845, SEC 14, TWP 26, 41	1.00	139.26
217	04344.000	2015 BELGO RD	LOT B, PLAN KAP1845, SEC 14, TWP 26, 41	8.86	1233.84
217	04346.001	1565 2 BELGO RD	LOT B, PLAN KAP1846, SEC , TWP , 41	5.12	713.01
217	04350.000	1469 TEASDALE RD	LOT 1, PLAN KAP4384, SEC 14, TWP 26, 41	7.52	1047.24
217	04351.000	1429 TEASDALE RD	LOT 2, PLAN KAP4384, SEC 14, TWP 26, 41	1.96	272.95

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217	04353.000	3675 EAST KELOWNA RD	LOT A, PLAN KAP76792, SEC 15, TWP 26, 41	1.00	139.26
217	04354.000	3223 REID RD	LOT B, PLAN KAP76792, SEC 15, TWP 26, 41	3.12	434.49
217	04360.093	3754 EAST KELOWNA RD	LOT B, PLAN KAP84170, SEC 14, TWP 26, 41	6.90	960.89
217	04360.267	1708 GEEN RD	LOT 1, PLAN KAP82075, SEC 14, TWP 26, 41	5.27	733.90
217	04360.268	1605 GEEN RD	LOT 2, PLAN KAP82075, SEC 14, TWP 26, 41	7.44	1036.09
217	04360.354	1950 BELGO RD	LOT 2, PLAN KAP25528, SEC 14, TWP 26, 41	14.27	1987.24
217	04360.527	3795 EAST KELOWNA RD	LOT A, PLAN KAP58793, SEC 14, TWP 26, 41	4.06	565.40
217	04364.000	2995 DUNSTER RD	LOT 6, PLAN KAP187, SEC 15, TWP 26, 41	1.46	203.32
217	04365.000	3098 EAST KELOWNA RD	LOT 6, PLAN KAP187, SEC 15, TWP 26, 41	9.89	1377.28
217	04366.000	3002 EAST KELOWNA RD	LOT 6, PLAN KAP187, SEC 15, TWP 26, 41	3.43	477.66
217	04367.000	2855 DUNSTER RD	LOT 7, PLAN KAP187, SEC 15, TWP 26, 41	15.96	2222.59
217	04368.000	3152 EAST KELOWNA RD	LOT 7, PLAN KAP187, SEC 15, TWP 26, 41	16.35	2276.90
217	04369.000	2795 DUNSTER RD	LOT 8, PLAN KAP187, SEC 15, TWP 26, 41	17.25	2402.24
217	04370.000	3250 EAST KELOWNA RD	LOT 8, PLAN KAP187, SEC 15, TWP 26, 41	14.36	1999.77
217	04372.000	3208 REID RD	LOT 18, PLAN KAP187, SEC 15, TWP 26, 41	7.63	1062.55
217	04375.000	3350 POOLEY RD	LOT 20, PLAN KAP187, SEC 15, TWP 26, 41	7.89	1098.76
217	04379.004	3063 DUNSTER RD	LOT 12, PLAN KAP665, SEC 16, TWP 26, 41	6.28	874.55
217	04380.000	3502 EAST KELOWNA RD	LOT 11, PLAN KAP187, SEC 15, TWP 26, 41	8.40	1169.78
217	04381.000	2947 EAST KELOWNA RD	LOT 1, PLAN KAP736, SEC 15, TWP 26, 41	8.00	1114.08
217	04382.000	2981 EAST KELOWNA RD	LOT 2, PLAN KAP736, SEC 15, TWP 26, 41	6.57	914.94
217	04385.000	3072 EAST KELOWNA RD	LOT 6, PLAN KAP821B, SEC 15, TWP 26, 41	3.50	487.41
217	04386.001	3622 EAST KELOWNA RD	LOT 12, PLAN KAP187, SEC 15, TWP 26, 41	4.19	583.50
217	04386.002	3652 EAST KELOWNA RD	LOT 12, PLAN KAP187, SEC 15, TWP 26, 41	1.06	147.62
217	04387.000	3183 DUNSTER RD	LOT , PLAN KAP187, SEC 15, TWP 26, 41	4.78	665.66
217	04394.000	3582 EAST KELOWNA RD	LOT B, PLAN KAP1670, SEC 15, TWP 26, 41	3.89	541.72
217	04396.000	2960 MCCULLOCH RD	LOT B, PLAN KAP1703, SEC 15, TWP 26, 41	4.41	614.14
217	04400.000	3430 POOLEY RD	LOT B, PLAN KAP1725, SEC 15, TWP 26, 41	11.76	1637.70
217	04402.000	3251 EAST KELOWNA RD	LOT 1, PLAN KAP3379, SEC 15, TWP 26, 41	3.89	541.72
217	04403.000	3240 POOLEY RD	LOT 2, PLAN KAP3379, SEC 15, TWP 26, 41	2.22	309.16
217	04404.000	3260 POOLEY RD	LOT 3, PLAN KAP3379, SEC 15, TWP 26, 41	11.19	1558.32
217	04406.000	3420 EAST KELOWNA RD	LOT 1, PLAN KAP3380, SEC 15, TWP 26, 41	11.75	1636.31
217	04407.000	3490 EAST KELOWNA RD	LOT 2, PLAN KAP3380, SEC 15, TWP 26, 41	8.94	1244.98
217	04412.000	3288 REID RD	LOT A, PLAN KAP4618, SEC 15, TWP 26, 41	14.02	1952.43
217	04416.000	3329 EAST KELOWNA RD	LOT 1, PLAN KAP5512, SEC 15, TWP 26, 41	6.69	931.65

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217	04418.000	3375 DALL RD	LOT 1, PLAN KAP6585, SEC 15, TWP 26, 41	5.07	706.05
217	04420.000	3060 POOLEY RD	LOT 2, PLAN KAP6585, SEC 15, TWP 26, 41	2.15	299.41
217	04423.190	3350 EAST KELOWNA RD	LOT 1, PLAN KAP30593, SEC 15, TWP 26, 41	1.00	139.26
217	04423.192	3310 EAST KELOWNA RD	LOT 2, PLAN KAP30593, SEC 15, TWP 26, 41	13.31	1853.55
217	04423.194	3410 POOLEY RD	LOT A, PLAN KAP34483, SEC 15, TWP 26, 41	4.50	626.67
217	04423.198	3120 POOLEY RD	LOT B, PLAN KAP34888, SEC 15, TWP 26, 41	9.08	1264.48
217	04423.205	3480 POOLEY RD	LOT A, PLAN KAP53451, SEC 15, TWP 26, 41	1.00	139.26
217	04423.207	3367 REID RD	LOT B, PLAN KAP55650, SEC 15, TWP 26, 41	1.85	257.63
217	04423.208	3390 REID RD	LOT 1, PLAN KAP56635, SEC 15, TWP 26, 41	1.00	139.26
217	04423.209	3360 REID RD	LOT 2, PLAN KAP56635, SEC 15, TWP 26, 41	7.32	1019.38
217	04428.000	3395 NEID RD	LOT 26, PLAN KAP187, SEC 16, TWP 26, 41	4.35	605.78
217	04432.000	3194 DUNSTER RD	LOT 5, PLAN KAP665, SEC 16, TWP 26, 41	1.94	270.16
217	04433.000	3172 DUNSTER RD	LOT 6, PLAN KAP665, SEC 16, TWP 26, 41	2.39	332.83
217	04436.000	3042 1 DUNSTER RD	LOT 9, PLAN KAP665, SEC 16, TWP 26, 41	1.66	231.17
217	04525.125	2830 EAST KELOWNA RD	LOT A, PLAN KAP32982, SEC 16, TWP 26, 41	3.89	541.72
217	04525.228	2877 EAST KELOWNA RD	LOT B, PLAN KAP33697, SEC 16, TWP 26, 41	6.38	888.48
217	04525.503	2690 BEWLAY RD	LOT 1, PLAN KAP56199, SEC 16, TWP 26, 41	3.20	445.63
217	04591.000	2934 DUNSTER RD	LOT C, PLAN KAP1700, SEC 22, TWP 26, 41	7.89	1098.76
217	04805.214	2960 DUNSTER RD	LOT 1, PLAN KAP73437, SEC 22, TWP 26, 41	12.95	1803.42
217	04814.000	1250 BELGO RD	LOT 3, PLAN KAP2128, SEC , TWP 26, 41	5.94	827.20
217	04824.000	1205 BELGO RD	LOT 2, PLAN KAP2329, SEC 23, TWP 26, 41	3.57	497.16
217	04825.001	1368 3 TEASDALE RD	LOT 3, PLAN KAP2329, SEC 23, TWP 26, 41	17.58	2448.19
217	04837.000	1454 TEASDALE RD	LOT A, PLAN KAP4697, SEC 23, TWP 26, 41	1.92	267.38
217	04884.000	1255 BELGO RD	LOT 2, PLAN KAP5620B, SEC , TWP 26, 41	14.91	2076.37
217	04898.000	879 HIGHWAY 33 E	LOT 3, PLAN KAP9679, SEC , TWP 26, 41	8.94	1244.98
217	05479.000	3363 SPRINGFIELD RD	LOT 5, PLAN KAP1802, SEC 24, TWP 26, 41	12.14	1690.62
217	05482.001	700 HIGHWAY 33 E	LOT A, PLAN EPP7145, SEC 24, TWP 26, 41	1.00	139.26
217	05502.130	811 HIGHWAY 33 E	LOT A, PLAN KAP23321, SEC 24, TWP 26, 41	1.93	268.77
217	05502.305	1151 LEWIS RD	LOT A, PLAN KAP33567, SEC 24, TWP 26, 41	5.39	750.61
217	05502.310	881 HIGHWAY 33 E	LOT B, PLAN KAP33567, SEC 24, TWP 26, 41	8.89	1238.02
217	05503.001	751 HARTMAN RD	LOT , PLAN KAP264, SEC 25, TWP 26, 41	8.85	1232.45
217	05510.000	920 HARTMAN RD	LOT 3, PLAN KAP731, SEC 25, TWP 26, 41	6.38	888.48
217	05511.000	1130 HARTMAN RD	LOT 4, PLAN KAP731, SEC 25, TWP 26, 41	5.37	747.83
217	05513.002	1080 GIBSON RD	LOT A, PLAN EPP11757, SEC 25, TWP 26, 41	1.00	139.26



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217	05513.004	1120 GIBSON RD	LOT B, PLAN EPP11757, SEC 25, TWP 26, 41	6.28	874.55
217	05514.000	1145 MORRISON RD	LOT 2, PLAN KAP1515, SEC 25, TWP 26, 41	2.51	349.54
217	05516.000	712 MCCURDY RD E	LOT 4, PLAN KAP1515, SEC 25, TWP 26, 41	6.83	951.15
217	05517.000	375 GIBSON RD	LOT 4, PLAN KAP1760, SEC 25, TWP 26, 41	3.72	518.05
217	05519.002	1610 SWAINSON RD	LOT 1, PLAN KAP77945, SEC , TWP 26, 41	10.86	1512.36
217	05524.000	1308 MCKENZIE RD	LOT 12, PLAN KAP1760, SEC 25, TWP 26, 41	6.55	912.15
217	05529.000	1795 MCCURDY RD E	LOT 1, PLAN KAP77943, SEC , TWP 26, 41	13.14	1829.88
217	05530.000	1550 SWAINSON RD	LOT 1, PLAN KAP77944, SEC , TWP 26, 41	14.76	2055.48
217	05548.000	1090 MCKENZIE RD	LOT 2, PLAN KAP4586, SEC 25, TWP 26, 41	26.74	3723.81
217	05561.000	690 HARTMAN RD	LOT A, PLAN KAP5499, SEC 25, TWP 26, 41	16.60	2311.72
217	05579.575	839 HARTMAN RD	LOT 2, PLAN KAP29183, SEC 25, TWP 26, 41	17.85	2485.79
217	05579.684	837 HARTMAN RD	LOT A, PLAN KAP35135, SEC 25, TWP 26, 41	2.66	370.43
217	06403.001	711 VALLEY RD	LOT 1, PLAN KAP71444, SEC 29, TWP 26, 41	3.47	483.23
217	06471.000	463 VALLEY RD	LOT 2, PLAN KAP896, SEC , TWP 26, 41	2.03	282.70
217	06499.001	445 VALLEY RD	LOT 3, PLAN KAP896, SEC 33, TWP 26, 41	5.41	753.40
217	06501.000	2224 ROJEM RD	LOT 4, PLAN KAP896, SEC 33, TWP 26, 41	2.06	286.88
217	06502.000	389 VALLEY RD	LOT 5, PLAN KAP896, SEC 33, TWP 26, 41	7.83	1090.41
217	06507.000	2429 LONGHILL RD	LOT 14, PLAN KAP1068, SEC 33, TWP 26, 41	11.55	1608.45
217	06508.000	2449 LONGHILL RD	LOT 15, PLAN KAP1068, SEC 33, TWP 26, 41	1.28	178.25
217	06510.000	120 MAIL RD	LOT 15, PLAN KAP1068, SEC , TWP 26, 41	7.95	1107.12
217	06511.000	102 MAIL RD	LOT 16, PLAN KAP1068, SEC , TWP 26, 41	8.75	1218.53
217	06524.000	2300 30 SILVER PL	LOT 8, PLAN KAP1249, SEC 33, TWP 26, 41	3.43	477.66
217	06525.000	2227 ROJEM RD	LOT 9, PLAN KAP1249, SEC 33, TWP 26, 41	2.10	292.45
217	06527.000	2255 ROJEM RD	LOT 11, PLAN KAP1249, SEC 33, TWP 26, 41	4.42	615.53
217	06528.000	2309 ROJEM RD	LOT 12, PLAN KAP1249, SEC 33, TWP 26, 41	4.36	607.17
217	06529.000	2323 ROJEM RD	LOT 13, PLAN KAP1249, SEC 33, TWP 26, 41	2.78	387.14
217	06533.000	2379 ROJEM RD	LOT 17, PLAN KAP1249, SEC 33, TWP 26, 41	1.96	272.95
217	06541.000	330 VALLEY RD	LOT 2, PLAN KAP4043, SEC 33, TWP 26, 41	1.00	139.26
217	06554.120	2389 2 ROJEM RD	LOT A, PLAN KAP26223, SEC 33, TWP 26, 41	4.91	683.77
217	06554.140	2400 LONGHILL RD	LOT A, PLAN KAP26592, SEC 4&33, TWP 23, 41	2.41	335.62
217	06554.160	2461 LONGHILL RD	LOT A, PLAN KAP28623, SEC 33, TWP 26, 41	6.07	845.31
217	06554.195	2350 SILVER PL	LOT 1, PLAN KAP33461, SEC 33, TWP 26, 41	3.52	490.20
217	06554.197	2489 LONGHILL RD	LOT 2, PLAN KAP33461, SEC 33, TWP 26, 41	4.13	575.14
217	06554.199	574 RIFLE RD	LOT 3, PLAN KAP33461, SEC 33, TWP 26, 41	3.39	472.09

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217	06554.238	2351 ROJEM RD	LOT C, PLAN KAP61113, SEC 33, TWP 26, 41	4.45	619.71
217	06557.002	2710 LONGHILL RD	LOT B, PLAN KAP88097, SEC 34, TWP 26, 41	1.00	139.26
217	06612.470	2512 LONGHILL RD	LOT A, PLAN KAP26258, SEC , TWP 26, 41	13.50	1880.01
217	06646.000	625 CORNISH RD	LOT 27, PLAN KAP425, SEC , TWP 26, 41	1.00	139.26
217	06647.000	610 CORNISH RD	LOT 28, PLAN KAP425, SEC 35, TWP 26, 41	6.11	850.88
217	06650.001	550 CORNISH RD	LOT 31, PLAN KAP425, SEC 3526, TWP , 41	1.00	139.26
217	06658.000	355 CORNISH RD	LOT 41, PLAN KAP425, SEC 35, TWP 26, 41	3.51	488.80
217	06773.003	1685 RUTLAND RD N	LOT 3, PLAN KAP18313, SEC 35, TWP 26, 41	2.05	285.48
217	06776.850	2105 MORRISON RD	LOT 1, PLAN KAP425, SEC 36, TWP 26, 41	1.00	139.26
217	06776.900	1990 MCKENZIE RD	LOT 2, PLAN KAP425, SEC 36, TWP 26, 41	12.07	1680.87
217	06777.000	1900 MCKENZIE RD	LOT 3, PLAN KAP425, SEC 36, TWP 26, 41	5.78	804.92
217	06778.000	1893 MORRISON RD	LOT 3, PLAN KAP425, SEC 36, TWP 26, 41	2.57	357.90
217	06788.000	1304 MORRISON RD	LOT 10, PLAN KAP425, SEC 36, TWP 26, 41	7.58	1055.59
217	06793.000	2104 1 MORRISON RD	LOT 15, PLAN KAP425, SEC , TWP 26, 41	2.02	281.31
217	06794.000	685 2 OLD VERNON RD	LOT 16, PLAN KAP425, SEC , TWP 26, 41	7.70	1072.30
217	06796.000	745 CORNISH RD	LOT 18, PLAN KAP425, SEC , TWP 26, 41	6.35	884.30
217	06799.510	1425 MORRISON RD	LOT B, PLAN EPP15301, SEC 36, TWP 26, 41	7.31	1017.99
217	06803.000	1350 HORNING RD	LOT 20, PLAN KAP1760, SEC 36, TWP 26, 41	14.64	2038.77
217	06805.005	1920 MCCURDY RD E	LOT 3, PLAN KAP91486, SEC 31, TWP 27, 41	14.58	2030.41
217	06806.000	1431 LATTA RD	LOT 24, PLAN KAP1760, SEC , TWP 26, 41	2.65	369.04
217	06807.001	1305 LATTA RD	LOT 25, PLAN KAP1760, SEC 36, TWP 26, 41	12.99	1808.99
217	06810.002	1341 LATTA RD	LOT 28, PLAN KAP1760, SEC 36, TWP 26, 41	5.53	770.11
217	06814.005	1380 LATTA RD	LOT 1, PLAN KAP91485, SEC 31, TWP 27, 41	12.59	1753.28
217	06814.006	1400 LATTA RD	LOT 2, PLAN KAP91485, SEC 31, TWP 27, 41	10.47	1458.05
217	06814.007	1448 LATTA RD	LOT 3, PLAN KAP91485, SEC 31, TWP 27, 41	17.22	2398.06
217	06817.001	1331 MCCURDY RD E	LOT 1, PLAN KAP4060, SEC 36, TWP 26, 41	19.57	2725.32
217	06819.000	1545 MCCURDY RD E	LOT 3, PLAN KAP4060, SEC 36, TWP 26, 41	15.90	2214.23
217	06820.000	1445 LATTA RD	LOT 25, PLAN KAP4218B, SEC 36, TWP 26, 41	12.24	1704.54
217	06828.490	1761 MORRISON RD	LOT A, PLAN KAP25654, SEC 36, TWP 26, 41	3.97	552.86
217	06828.500	1750 MCKENZIE RD	LOT B, PLAN KAP25654, SEC 36, TWP 26, 41	10.23	1424.63
217	06828.524	1700 MCKENZIE RD	LOT D, PLAN KAP25654, SEC 36, TWP 26, 41	7.37	1026.35
217	06828.618	1301 LATTA RD	LOT 1, PLAN KAP33998, SEC 36, TWP 26, 41	1.00	139.26
217	06828.642	837 MCCURDY RD E	LOT 2, PLAN EPP14181, SEC 36, TWP 26, 41	1.00	139.26
217	06828.644	833 MCCURDY RD E	LOT 3, PLAN EPP14181, SEC 36, TWP 26, 41	1.00	139.26

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217	06886.003	2025 1 TREETOP RD	LOT 1, PLAN KAP1760, SEC , TWP 27, 41	9.81	1366.14
217	06960.185	5681 LAKESHORE RD	LOT 1, PLAN EPP37698, SEC 16, TWP 28, 54	1.00	139.26
217	07143.000	559 BARNABY RD	LOT 3, PLAN KAP1743, SEC 25, TWP 28, 54	1.00	139.26
217	07161.000	4856 LAKESHORE RD	LOT , PLAN KAP1722, SEC 25, TWP 29, 41	3.73	519.44
217	07264.002	1456 DEHART RD	LOT 1, PLAN KAP1837, SEC , TWP 29, 41	11.58	1612.63
217	07269.000	999 CRAWFORD RD	LOT 1, PLAN KAP13170, SEC 31, TWP 29, 41	11.85	1650.23
217	07270.072	1265 CRAWFORD RD	LOT 2, PLAN KAP21104, SEC 31, TWP 29, 41	1.00	139.26
217	07270.074	1285 CRAWFORD RD	LOT 3, PLAN KAP21104, SEC , TWP 29, 41	1.00	139.26
217	07278.000	4551 STEWART RD W	LOT 220, PLAN KAP1247, SEC 32, TWP 29, 41	2.89	402.46
217	07280.000	4480 STEWART RD E	LOT 222, PLAN KAP1247, SEC 32, TWP 29, 41	1.00	139.26
217	07284.000	1933 SAUCIER RD	LOT 226, PLAN KAP1247, SEC 32, TWP 29, 41	1.00	139.26
217	07286.000	1690 SAUCIER RD	LOT 228, PLAN KAP1247, SEC 32, TWP 29, 41	1.00	139.26
217	07287.000	1670 SAUCIER RD	LOT 229, PLAN KAP1247, SEC 32, TWP 29, 41	6.61	920.51
217	07290.000	1650 SAUCIER RD	LOT 232, PLAN KAP1247, SEC 32, TWP 29, 41	6.69	931.65
217	07291.000	4202 BEDFORD RD	LOT 233, PLAN KAP1247, SEC 32, TWP 29, 41	9.74	1356.39
217	07293.000	1601 SAUCIER RD	LOT 238, PLAN KAP1247, SEC 32, TWP 29, 41	1.62	225.60
217	07296.000	1475 DEHART RD	LOT 246, PLAN KAP1247, SEC 32, TWP 29, 41	1.00	139.26
217	07304.000	4132 BEDFORD RD	LOT 3, PLAN KAP15793, SEC 32, TWP 29, 41	6.38	888.48
217	07304.010	1485 DEHART RD	LOT 1, PLAN KAP20969, SEC 32, TWP 29, 41	1.21	168.50
217	07351.000	4305 JAUD RD	LOT 5, PLAN KAP6171, SEC 34, TWP 29, 41	17.35	2416.16
217	09532.000	2527 GALE RD	LOT 1, PLAN KAP10810, SEC , TWP , 41	1.00	139.26
217	09533.000	2517 GALE RD	LOT 2, PLAN KAP10810, SEC , TWP , 41	6.10	849.49
217	09533.051	2545 GALE RD	LOT B, PLAN KAP19044, SEC , TWP , 41	1.00	139.26
217	09533.052	2499 GALE RD	LOT C, PLAN KAP19044, SEC , TWP , 41	1.00	139.26
217	09533.054	2449 GALE RD	LOT E, PLAN KAP19044, SEC , TWP , 41	1.00	139.26
217	09533.055	2427 GALE RD	LOT F, PLAN KAP19044, SEC , TWP , 41	1.00	139.26
217	10393.000	2050 BYRNS RD	LOT 1, PLAN KAP2830, SEC 17, TWP 26, 41	20.34	2832.55
217	10394.001	2190 COOPER RD	LOT A, PLAN KAP80629, SEC , TWP , 41	6.70	933.04
217	10410.000	1756 BYRNS RD	LOT 23, PLAN KAP415, SEC , TWP , 41	11.40	1587.56
217	10411.000	1890 BYRNS RD	LOT 23, PLAN KAP415, SEC 19, TWP 26, 41	4.35	605.78
217	10414.000	1756 BYRNS RD	LOT 26, PLAN KAP415, SEC , TWP , 41	15.50	2158.53
217	10518.000	1650 BYRNS RD	LOT 2, PLAN KAP78759, SEC , TWP , 41	3.61	502.73
217	10519.852	2225 SPALL RD	LOT B, PLAN KAP40808, SEC , TWP , 41	13.45	1873.05
217	10519.854	1980 BYRNS RD	LOT C, PLAN KAP40808, SEC , TWP , 41	10.91	1519.33

<b>Jurisdiction</b>	<b>Folio</b>	<b>Grower Address</b>	<b>Legal Description</b>	<b>Adj. Acres</b>	<b>x139.26</b>
217	10519.856	1990 BYRNS RD	LOT D, PLAN KAP40808, SEC , TWP , 41	1.00	139.26
217	10531.000	1909 BYRNS RD	LOT 15, PLAN KAP415, SEC , TWP , 41	10.05	1399.56
217	10543.001	2589 BENVOLIN RD	LOT 1, PLAN KAP3357, SEC , TWP , 41	5.67	789.60
217	10549.000	2029 BYRNS RD	LOT 2, PLAN KAP8615, SEC , TWP , 41	8.21	1143.32
217	10589.113	1909 BYRNS RD	LOT B, PLAN KAP67173, SEC , TWP , 41	19.68	2740.64
217	10756.035	1394 LADNER RD	LOT 1, PLAN KAP73438, SEC , TWP , 41	1.00	139.26
217	11501.711	4345 HOBSON RD	LOT 25, PLAN KAP27559, SEC , TWP , 41	1.00	139.26
217	11502.309	4340 HOBSON RD	LOT A, PLAN KAP69885, SEC , TWP , 41	1.00	139.26
217	12185.840	2450 SAUCIER RD	LOT 166, PLAN KAP1247, SEC 33, TWP 29, 41	3.68	512.48
217	12185.870	2225 SAUCIER RD	LOT 180, PLAN KAP1247, SEC 33, TWP 29, 41	1.00	139.26
217	12191.000	4400 JAUD RD	LOT 3, PLAN KAP1734, SEC 33, TWP 29, 41	14.10	1963.57
217	12199.072	4499 WALLACE HILL RD	LOT A, PLAN KAP35213, SEC , TWP , 41	2.06	286.88
217	12199.082	4380 WALLACE HILL RD	LOT 2, PLAN KAP39632, SEC , TWP , 41	4.70	654.52
217	12199.103	2740 HARVARD RD	LOT 14, PLAN KAP62784, SEC , TWP , 41	3.11	433.10
217	12199.105	4300 WALLACE HILL RD	LOT B, PLAN KAP62482, SEC , TWP , 41	15.82	2203.09
217	30100.320	3850 32 SENGER RD	LOT , PLAN , SEC , TWP , 41	5.55	772.89
				2367.91	329755.15



# CITY OF KELOWNA

## BYLAW NO. 11227

### Five Year Financial Plan 2016-2020

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The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. Schedule "A" attached hereto and forming part of this bylaw is hereby declared to be the Five Year Financial Plan of the City of Kelowna for the period January 1<sup>st</sup>, 2016 to and including December 31<sup>st</sup>, 2020.
2. Schedule "B" attached hereto and forming part of this bylaw is hereby declared to be the Statement of Objectives and Policies in accordance with Section 165 (3.1) of the *Community Charter*.
3. This bylaw may be cited for all purposes as the "Five Year Financial Plan Bylaw, 2016-2020, No. 11227".

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

**Schedule A**  
**Financial Plan 2016 - 2020**

	2016	2017	2018	2019	2020	2021-2030
<b>REVENUE</b>						
PROPERTY VALUE TAX	119,879,430	126,418,833	133,163,297	139,873,658	146,621,819	1,793,646,313
LIBRARY REQUISITION	5,756,024	5,888,413	6,023,846	6,162,394	6,304,130	71,592,421
PARCEL TAXES	3,223,783	3,263,441	3,286,590	3,310,106	3,315,787	34,332,234
FEES AND CHARGES	106,746,093	109,734,726	111,367,172	113,311,918	115,947,582	1,299,290,083
BORROWING PROCEEDS	55,276,560	-	-	-	-	89,000,000
OTHER SOURCES	62,694,808	52,235,708	45,043,983	52,334,027	50,601,845	570,088,175
	353,576,698	297,541,121	298,884,887.43	314,992,103.06	322,791,163.99	3,857,949,226
<b>TRANSFERS BETWEEN FUNDS</b>						
RESERVE FUNDS	3,426,636	2,231,501	2,231,303	2,231,094	1,631,594	13,341,983
DCC FUNDS	13,119,310	19,154,057	21,400,501	21,053,485	31,223,270	163,065,700
SURPLUS/RESERVE ACCOUNTS	102,079,775	56,433,187	57,312,956	36,826,288	56,966,588	264,442,430
	118,625,721	77,818,744	80,944,760	60,110,867	89,821,452	440,850,113
<b>TOTAL REVENUE</b>	<b>472,202,419</b>	<b>375,359,865</b>	<b>379,829,648</b>	<b>375,102,970</b>	<b>412,612,616</b>	<b>4,298,799,338</b>
<b>EXPENDITURES</b>						
MUNICIPAL DEBT						
DEBT INTEREST	11,664,060	12,238,919	12,214,879	8,853,533	7,662,060	66,518,128
DEBT PRINCIPAL	13,498,254	13,391,604	14,699,076	11,565,938	8,463,806	64,128,675
CAPITAL EXPENDITURES	190,827,480	91,589,675	88,270,800	74,820,189	109,768,109	826,484,594
OTHER MUNICIPAL PURPOSES						
GENERAL GOVERNMENT	27,170,244	27,711,268	28,594,708	29,466,037	30,327,549	328,757,898
PLANNING, DEVELOPMENT &						
BUILDING SERVICES	24,216,452	22,678,943	23,952,392	24,779,277	25,647,455	275,606,795
COMMUNITY SERVICES	79,025,868	79,657,865	81,936,252	84,647,345	87,606,264	1,056,070,646
PROTECTIVE SERVICES	51,283,115	54,584,686	57,528,149	60,542,825	64,195,225	783,164,488
UTILITIES	19,375,599	19,908,841	20,575,440	21,110,667	21,687,027	251,344,398
AIRPORT	12,684,609	12,902,556	13,418,237	13,882,225	14,364,189	172,458,732
	429,745,681	334,664,357	341,189,934	329,668,038	369,721,685	3,824,534,354
<b>TRANSFERS BETWEEN FUNDS</b>						
RESERVE FUNDS	15,626,706	16,693,234	16,761,320	16,693,383	16,613,357	160,787,118
DCC FUNDS	-	-	-	-	-	-
SURPLUS/RESERVE ACCOUNTS	26,830,032	24,002,274	21,878,394	28,741,549	26,277,573	313,477,866
	42,456,738	40,695,509	38,639,714	45,434,932	42,890,930	474,264,985
<b>TOTAL EXPENDITURES</b>	<b>472,202,419</b>	<b>375,359,865</b>	<b>379,829,648</b>	<b>375,102,970</b>	<b>412,612,616</b>	<b>4,298,799,338</b>

**Schedule "B"**  
**Statement of Objectives and Policies**

In accordance with Section 165(3.1) of the *Community Charter*, municipalities are required to include in the Five Year Financial Plan, objectives and policies regarding each of the following:

- (a) For each of the funding sources described in Section 165(7) of the *Community Charter*, the proportion of total revenue that is proposed to come from that funding source;
- (b) The distribution of property value taxes among the property classes that may be subject to taxes; and
- (c) The use of permissive tax exemptions.

### **Funding Sources**

Table 1 shows the proportion of total revenue proposed to be raised from each funding source in 2016. Property taxes and fees and charges are two of the largest sources of revenue. Both have advantages in that they are stable, relatively simple to administer and are generally understood by citizens. The City of Kelowna also utilizes funds from reserves and surplus as another main source of financial support. Reserve funds are closely managed to ensure and protect the current and future financial viability of the municipality. Other sources of revenue may be variable and fluctuate from year to year depending on the economic influences and capital programs undertaken by the City.

### **Objectives**

- Investigate other potential funding sources and securing opportunities for additional revenues.
- Begin to decrease the municipality's reliance on property taxes and explore opportunities to increase the percent of total revenue received from user fees and charges and senior government grants.
- Maintain a fees and charges structure whereby increases are applied on a regular basis in line with inflation, while ensuring that service levels remain competitive and affordable.

### **Policies**

- Pursue non-property tax revenues whenever possible through applying for government grants and charging user fees at appropriate levels.
- Perform regular reviews of revenue generating areas for appropriate application of rate increases.
  - Planning and Development Fees.
  - Recreation & Cultural Services - application of BC Consumer Price Index.
  - Utility Revenues - ensure Utilities operate as self-supporting enterprise funds.
- Increase provincial and federal grant revenue through maximum utilization of the City's Grant Manager position.

**Table 1: Sources of Revenue**

Revenue Source	Revenue \$ (000's)	% of Revenue
Property Value Tax	119,879	25%
Library Requisition	5,756	1%
Parcel Taxes	3,224	1%
Fees & Charges	106,746	22%
Borrowing Proceeds	55,276	12%
Other Sources	62,695	14%
Reserve Funds/Accounts	118,626	25%
<b>Total</b>	<b>472,202</b>	<b>100%</b>

### **Distribution of Property Tax Rates**

Table 2 outlines the council approved municipal tax distribution policy for 2016 and the relative proportion of tax revenues. Projected revenues from the combined residential, recreational and Non-Profit classes, provides the largest proportion of property tax revenue. This cumulative class represents the largest tax assessment base and hence utilizes the majority of City services.

### **Objectives**

- Provide an effective tax change that is the same for all property classes.

- Ensure that business and light industry property tax ratios remain below the average of BC municipalities with populations greater than 75,000.
- Allow for a maximum ratio cap of 3.00:1 for the Light Industrial/Business class.

#### Policies

- Council will annually review and modify tax class ratios to provide an effective tax change that is the same for all classes.
- The impacts on other property classes from administering a ratio cap on the Light Industrial/Business classes will be reported to Council during the annual Tax Distribution Policy review.
- Regularly review and compare the City's relative position in terms of distribution of taxes to other similarly sized municipalities in British Columbia.

**Table 2: Tax Class Ratios and Projected Revenues**

Property Class	Description	2016 Tax Class Ratios	Tax Revenue (000's)	2015 Tax Class Ratios
01/08/03	Res/Rec/NP/SH	1.0000:1	83,499	1.0000:1
02	Utilities	5.0458:1	511	5.1296:1
04	Major Industrial	3.7328:1	386	3.4822:1
05/06	Light Ind/Bus/Other	2.1934:1	34,972	2.1307:1
09	Farm Land	0.1275:1	10	0.1244:1
91	Farm Improvements	0.4801:1	501	0.4882:1
	<b>Total Revenues</b>		<b>119,879</b>	

#### **Permissive Tax Exemptions**

The City has an existing permissive tax exemption policy which guides the administration and approval of permissive tax exemptions. Some of the eligibility criteria for permissive tax exemptions that are outlined in the policy include the following:

- The applicant must qualify for an exemption under the provisions of the Community Charter.
- The organization receiving an exemption must be a registered non-profit society or registered charity, as the support of the municipality will not be used for commercial and private gain.
- The tax exemption must demonstrate benefit to the community and residents of the City by enhancing the quality of life (spiritually, educationally, socially and culturally), while delivering services economically to the citizens within the community.

The value of tax exemptions provided by Council for 2016 (based on 2015 assessment totals and tax rates) is \$1,929,523. The following breaks down the total into various exemption categories and the exemption value for the category:

Places of Worship - \$280,318

Private schools - \$159,177

Hospitals - \$ 15,789

Special Needs Housing - \$55,630

Social Services - \$187,011

Public Park, Athletic or Recreational - \$440,681

Cultural - \$315,652

Partnering, Heritage or Other Special Exemptions Authority - \$333,573

Revitalization - \$141,692



In order to encourage the restoration and preservation of commercial, industrial and institutional building, properties that meet the criteria outlined in the Heritage Building Tax Incentive Program policy can receive a tax exemption.

The establishment of the Revitalization Tax Exemption policy allows qualifying properties within the Downtown Urban Centre and Rutland Urban Centre areas to receive a tax exemption.

#### Objectives

- Continue to provide permissive tax exemptions to support qualifying organizations that improve the well-being of the community.
- The municipality will continue to provide heritage and revitalization tax exemptions for qualifying properties.

#### Policies

- Permissive tax exemptions will be considered to encourage activities that: (a) are consistent with the quality of life objectives of the municipality; (b) provide direct access and benefit to the public; and (c) would otherwise be provided by the municipality.
- To meet the city's commitment to the ongoing restoration, preservation and maintenance of buildings and structures on its Heritage Register, eligible properties will be considered for a tax exemption.
- To support the city's revitalization program of the Downtown Urban Centre and Rutland Urban Centre, qualifying properties will be considered for a tax exemption.

**CITY OF KELOWNA**  
**BYLAW NO. 11228**  
**Tax Structure Bylaw, 2016**

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WHEREAS the Letters Patent of the City of Kelowna provide that the municipality may be divided into two (2) or more taxation areas by bylaw adopted prior to the adoption of the Annual Budget Bylaw;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1.     **Taxation Area 1**

        All lands and improvement thereon classified for assessment purposes as "Farm".

2.     **Taxation Area 2**

        All lands and improvements thereon not included in Taxation Area 1.

3.     This bylaw shall be applicable for the 2016 taxation year.

4.     This bylaw may be cited for all purposes as "Tax Structure Bylaw, 2016 No. 11228".

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11229

### Annual Tax Rates Bylaw, 2016

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WHEREAS the Letters Patent dated the Twenty-fifth day of April, 1973 for the City of Kelowna provides for differing levels of taxation taking into consideration the extent of level of services being provided to different areas within the municipality.

The Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The following rates are hereby imposed and levied for the taxation year 2016:
  - (a) For all lawful General purposes of the municipality on the assessed value of land and improvements taxable for general municipal purposes, rates appearing in column "A" of Schedule 1 of this Bylaw;
  - (b) For Debt purposes on the assessed value of land and improvements taxable for general municipal purposes, rates appearing in column "B" of Schedule 1 of this Bylaw;
  - (c) For purposes of the Okanagan Regional Library on the assessed value of land and improvements taxable for Regional Library purposes, rates appearing in column "C" of Schedule 1 of this Bylaw;
  - (d) For Hospital purposes on the assessed value of land and improvements taxable for Regional Hospital District purposes, rates appearing in column "D" of Schedule 1 of this Bylaw;
  - (e) For purposes of the Regional District of Central Okanagan on the assessed value of land and improvements taxable for Regional District purposes, rates appearing in column "E" of Schedule 1 of this Bylaw;
  - (f) For purposes of the Regional District of Central Okanagan on the assessed value of land only for the Regional District of Central Okanagan Sterile Insect Release Program, rates appearing in column "F" of Schedule 1 of this Bylaw; and
  - (g) For Local Service Area purposes on the assessed value of land and improvements taxable for general municipal purposes, rates appearing in columns "A" and "B" of Schedule 2 of this Bylaw.
2. This bylaw may be cited as "Annual Tax Rates Bylaw, 2016 No. 11229".

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

**SCHEDULE 1****CITY OF KELOWNA****GENERAL MUNICIPAL, DEBT, HOSPITAL AND REGIONAL DISTRICT  
TAX RATES - 2016**

PROPERTY CLASS		TAX RATES (DOLLAR OF TAX PER \$1,000 TAXABLE VALUE)					TAXABLE LAND ONLY
		A GENERAL MUNICIPAL	B DEBT	C LIBRARY	D REGIONAL HOSPITAL DISTRICT	E REGIONAL DISTRICT	F REGIONAL DISTRICT SIR
01	Residential	3.5607	0.1507	0.1778	0.3345	0.3114	0.0425
02	Utilities	17.9668	0.7604	0.8973	1.1708	1.0900	0.1488
03	Supportive Housing	3.5607	0.1507	0.1778	0.3345	0.3114	0.0425
04	Major Industrial	13.2915	0.5625	0.6638	1.1373	1.0588	0.1446
05	Light Industrial	7.8101	0.3305	0.3900	1.1373	1.0588	0.1446
06	Business/Other	7.8101	0.3305	0.3900	0.8196	0.7630	0.1042
08	Recreation/Non-Profit	3.5607	0.1507	0.1778	0.3345	0.3114	0.0425
09	Farm:						
	a) Land	0.4586	0.0192	0.0222	0.3345	0.3114	0.0425
	b) Improvements	1.7096	0.0723	0.0854	0.0000	0.0000	0.0000



**SCHEDULE 2**

**CITY OF KELOWNA**

**2016 LOCAL SERVICE AREA TAX RATES**

<b>PROPERTY CLASS</b>	<b>A</b>	<b>B</b>
	<b>DOWNTOWN BUSINESS IMPROVEMENT AREA</b>	<b>UPTOWN RUTLAND BUSINESS IMPROVEMENT AREA</b>
1. RESIDENTIAL	0	0
2. UTILITY	0	0
4. INDUSTRIAL - MAJOR	0	0
5. INDUSTRIAL - LIGHT	1.5072	1.2941
6. BUSINESS	1.5072	1.2941
7. TREE FARM	0	0
8. SEASONAL	0	0
9. FARM		
a) LAND	0	0
b) IMPROVEMENT	0	0

# CITY OF KELOWNA

## BYLAW NO. 11230

### Development Cost Charge Reserve Fund Expenditure Bylaw, 2016

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WHEREAS, there is an unappropriated balance in the Development Cost Charge Reserve Fund established under Bylaw No. 7112, which has most recently been replaced by Bylaw No. 11085, of Fourteen Million, Four Hundred and Sixty Two Thousand, Five Hundred and Forty One dollars (\$ 14,462,541.00) as at March 31<sup>st</sup>, 2016.

AND WHEREAS, it is deemed desirable to expend a portion of the monies set aside under said Bylaw No. 7112, which has most recently been replaced by Bylaw No. 11085, for the purpose of utility, road and land improvement and additions;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The sum of Fourteen Million, Four Hundred and Sixty Two Thousand, Five Hundred and Forty One dollars (\$ 14,462,541.00) is hereby appropriated from the Development Cost Charge Reserve Fund to be expended in 2016 for the following purposes:

Land for Park Purposes	\$ 493,024.00
Road Construction	\$ 6,345,055.00
Water Mains, Pump Stations & Reservoir Construction	\$ 984,749.00
Wastewater Trunks, Plant & Debt Repayment	\$ 6,639,713.00
	<u>\$ 14,462,541.00</u>

2. The expenditure to be carried out by the monies hereby appropriated shall be more particularly specified and authorized by resolution of Council.
3. Should any of the above remain unexpended after the expenditures hereby authorized have been made, the unexpended balance shall be returned to the credit of the Development Cost Charge Reserve Fund.
4. This bylaw may be cited as the "Development Cost Charge Reserve Fund Expenditure Bylaw, 2016, No. 11230.

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

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Mayor

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City Clerk

# CITY OF KELOWNA

## BYLAW NO. 11231

### Sale of City-Owned Land Reserve Fund Expenditure Bylaw, 2016

WHEREAS, there is an unappropriated balance in the Sale of City-Owned Land Reserve Fund of Seven Million, Ninety Three Thousand, Seven Hundred and Fifty Four Dollars (\$7,093,754) as at January 1<sup>st</sup>, 2016.

AND WHEREAS, it is deemed desirable to expend a portion of the monies set aside under said Sale of City-Owned Land Reserve Fund for the purpose of land purchases and enhancements set out below;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The sum of One Million, Nine Hundred Seven Thousand, Five Hundred and Twenty Dollars (\$1,907,520.00) as at January 1<sup>st</sup>, 2016 is hereby appropriated from the Sale of City-Owned Land Reserve Fund to be expended in 2016 for the following purposes:

Parks Land	\$ 317,400.00
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	<u>\$ 1,907,520.00</u>
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2. The expenditure to be carried out by the monies hereby appropriated shall be more particularly specified and authorized by resolution of Council.
3. Should any of the above remain unexpended after the expenditures hereby authorized have been made, the unexpended balance shall be returned to the credit of the City-Owned Land Reserve Fund.
4. This bylaw may be cited as the "Sale of City-Owned Land Reserve Fund Expenditure Bylaw, 2016, No. 11231.

Read a first, second and third time by the Municipal Council this 25<sup>th</sup> day of April, 2016.

Adopted by the Municipal Council of the City of Kelowna this

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Genera