

# Report to Council



**Date:** February 5, 2018  
**File:** 1120-21-022  
**To:** City Manager  
**From:** J. Säufferer, Manager, Real Estate Services  
**Subject:** South Perimeter Road & Gordon Drive Extension – Alternative Approval Process

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## **Recommendation:**

THAT Council receives, for information, the report of the Manager, Real Estate Services dated February 5, 2018, regarding an update on the construction of South Perimeter Road and the associated Gordon Drive Extension;

AND THAT Council receives, for information, the report of the Manager, Real Estate Services dated February 5, 2018, regarding the Alternative Approval Process for the funding of South Perimeter Road and the Gordon Drive Extension, said funding limited to no more than ten million, seven hundred sixty-three thousand dollars (\$10,763,000.00), to be allocated toward the project from current and future Development Cost Charge revenues collected by the City of Kelowna;

AND THAT an alternative approval process open to all electors within the City of Kelowna be initiated in relation to the bylaw outlined in this report regarding the proposed funding of South Perimeter Road and the Gordon Drive Extension via current and future Development Cost Charge revenues collected by the City of Kelowna;

AND THAT **4:00pm, Friday March 16<sup>th</sup>, 2018**, be set as the deadline for receipt of elector responses in the form attached as Schedule A to the February 5, 2018 report of the Manager, Real Estate Services in relation to the City of Kelowna proceeding with the adoption of Bylaw No. 11554, being the South Perimeter Road & Gordon Drive Extension Development Cost Charge Frontending Authorization Bylaw authorizing the funding of South Perimeter Road and the Gordon Drive Extension up to a maximum of ten million, seven hundred sixty-three thousand dollars (\$10,763,000.00) from Development Cost Charge Revenues collected in the Southwest Mission Sector Plan;

AND THAT the City of Kelowna be authorized to pay the party constructing South Perimeter Road and the Gordon Drive Extension according to the agreed upon repayment terms for the cost of the road development, up to a maximum of ten million, seven hundred sixty-three thousand dollars (\$10,763,000.00);

AND FURTHER THAT the 20-Year Servicing Plan and Financial Strategy, and the Southwest Mission DCC Transportation Sector plan be updated in accordance with the contemplated re-prioritization of South Perimeter Road and the extension of Gordon Drive.

**Purpose:**

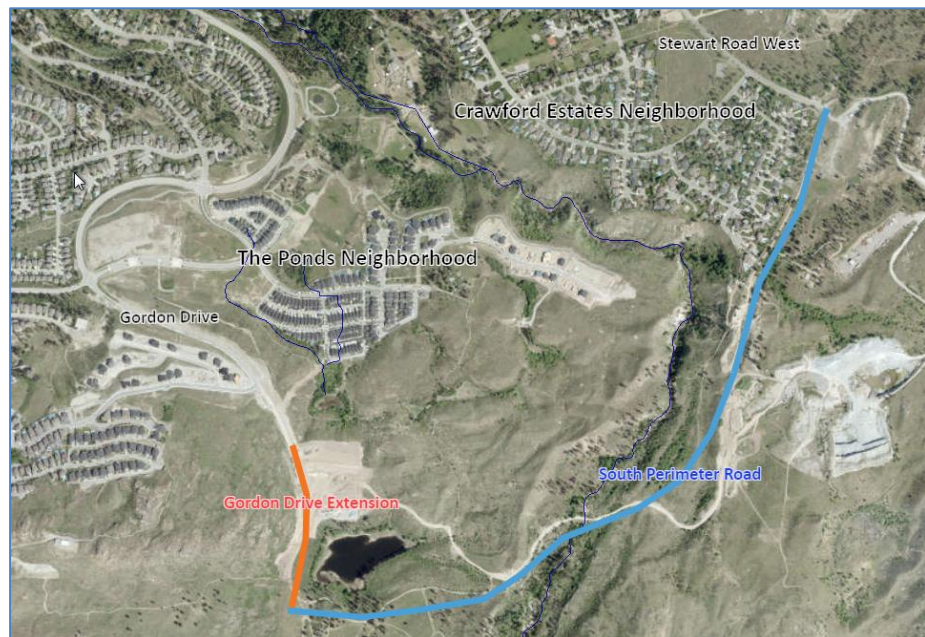
To provide an overview of the proposed re-prioritization of South Perimeter Road, and to initiate an alternative approval process and establish the deadline for the receipt of elector responses relating to the proposed funding bylaw for South Perimeter Road the associated extension of Gordon Drive via future Development Cost Charge revenues to be collected by the City up to a maximum of ten million, seven hundred sixty-three thousand dollars (\$10,763,000.00).

**Background:**

Overview of South Perimeter Road and the Gordon Drive Extension

[South Perimeter Road](#) ("SPR"), along with Stewart and Frost Roads are planned road improvement projects to support the actively developing Ponds neighbourhood within the Upper Mission Area of Southeast Kelowna. SPR, a component of the Upper Mission road network, has been identified in the City's Official Community Plan since 1995, with corresponding budget identified in the 20-Year Servicing Plan and Financial Strategy. SPR will provide a third access route, via Stewart Road, from the Upper Mission (i.e. Ponds neighbourhood) to the north and the rest of the City. The future extension of Frost Road to Chute Lake Road in 2026, would also improve access to SPR for residents of the Kettle Valley neighbourhood.

The total length of SPR is approximately 2.3 kilometers, with an allocated budget within the DCC program of \$7.6 million. Based on development projections within the neighborhoods serviced by SPR and the corresponding increase in transportation demand, construction of SPR is currently scheduled within Quarter 4 (2025-2030) of the 20-Year Servicing Plan and Financial Strategy.



In order for SPR to function as a connected roadway, the existing terminus of Gordon Drive requires an extension of approximately 600-meters to the starting point of South Perimeter Road.<sup>1</sup> The design and construction standard of the Gordon Drive Extension ("GDE"), which has a budget of \$1.663 million, would be similar to the existing standard of Gordon Drive in the Upper Mission.

Combined, SPR and GDE constitute approximately 2.9 kilometers of roadway, with a corresponding construction cost value of \$9.263 million in the City's DCC program.

#### Contemplated Re-Prioritization of SPR

On [October 6, 2014](#), staff forwarded a report to Council that contemplated the re-prioritization of SPR from Quarter 4 (2025-2030) of the 20-Year Servicing Plan and Financial Strategy to Quarter 2 (2015-2020). The rationale for this request was summarized as follows in the October, 2014, report:

The development community has identified that constructing the Gordon Drive and South Perimeter Road portions earlier than the plan would benefit the neighborhoods of Upper Mission and Crawford. In addition to providing an alternative egress and access for the residents, there is the potential for an enhanced commercial development within the Ponds neighborhood which is planned as a village center to serve the needs of the entire Upper Mission and Crawford areas. These roads will also provide a strong connection between two school sites; the middle school site within the Ponds development, which is priority for School District 23, and the elementary school site within the Crawford neighborhood. The catchments areas for both schools involve Upper Mission and Crawford neighborhoods, AND this road link avoids the need to travel the circuitous route via Crawford, Dehart and Gordon. The road also allows for improved transit circulation to service the Upper Mission and Crawford.

*2014-10-08 Report - South Perimeter Road*

The report noted that the road would be constructed by a third-party developer, and that compensation for project costs would be by way of DCC credits and revenues as development occurs within the Southwest Mission Roads sector. Additionally, the report indicated that there would be no direct tax-payer contribution to the project, and that, based on the anticipated rate of development within the area, the construction costs would likely be recovered in 5-7 years.

Given the impact of the proposed re-prioritization on other transportation initiatives within the sector, the October, 2014, report included a request for public consultation to create awareness and invite public feedback regarding the new schedule for construction of the Southwest Mission road network.

The results of public engagement regarding the proposed re-prioritization of SPR were presented to Council on [January 12, 2015](#). Communication efforts regarding this initiative included extensive information on the City's website, media releases and [informational videos](#), an open house, and a statistically significant, independently commissioned, telephone survey of Mission area residents. Overall feedback of the consultation completed at that time is summarized as follows:

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<sup>1</sup> The location of SPR is based on the topography of the lands, riparian features such as Jack Smith Lake and Bellevue Creek, as well as the potential future development of adjacent lands to the west.

Summary of SPR Re-Prioritization Public Engagement			
	Supportive	Non-Supportive	Total
<b>Third-party Survey</b>	192	108	300
	64%	36%	100%
<b>Open House Exit Surveys</b>	130	78	208
	62.5%	37.5%	100%
<b>SPR Emails</b>	25	15	40
	62.5%	37.5%	100%
<b>TOTAL</b>	347	201	548
	63.3%	36.7%	100%

*2015-01-12 Report – South Perimeter Road – Results of Public Engagement*

Based on the broad public support for the proposed re-prioritization, the January, 2015, report included a recommendation directing staff to work with area developers to fulfill the conditions necessary for the project to proceed. The outcome of this work was a Memorandum of Understanding (“MOU”) forwarded to council on [February 16, 2015](#), and subsequently ratified by Council. The MOU identified “the understanding and obligations of the parties...as they move forward to meet all the conditions to allow the project to proceed”. Key terms of the MOU included the following:

Key MOU Terms Relating to Construction of SPR	
Developer’s Responsibility	City’s Responsibility
Finance and construct SPR, including the acquisition of all required land rights, at a cost of no more than \$7.6 million.	Provide compensation to the developer in the form of 80% of all future Transportation DCCs collected within the Southwest Mission sector until such a time as SPR costs are recovered by the developer.

At the time of signing of the MOU, it was contemplated that a formal agreement based on the general terms and conditions of the MOU would subsequently be negotiated to allow final design and construction of the project to proceed. Said document (the “Definitive Agreement”), a copy of which is attached to this report as Schedule B, was signed by the third-party developer (the “Developer”) in January, 2018.

#### Overview of SPR Definitive Agreement

Key details of the Definitive Agreement which formalizes the re-prioritization of SPR are as follows:

##### *Conditions Precedent*

The Definitive Agreement is subject to a number of conditions will need to be satisfied prior to the document becoming legally binding. This includes:

- The City and the Developer agreeing on the ultimate road design and associated costs;
- The City successfully adopting a bylaw as necessary to enter into a legally binding agreement with the Developer; and,
- The Developer having received all necessary permits and approvals to proceed with the construction of the project.

#### *Construction Timelines*

As per the Definitive Agreement, construction of the roadway must commence within 30-days of the conditions precedent being waived. Construction must be complete within one year of the commencement date. Assuming construction commences in early Spring 2018, completion would be no later than Spring 2019.

#### *Cost and Financing*

A brief summary of the key financial impacts of the proposed agreement include the following:

- The City is not responsible for any project costs, including any cost overruns.
- Construction of SPR at a cost of no more than \$7.6 million.
- Construction of the GDE at a cost of no more than \$1.663 million<sup>2</sup>.
- Construction of additional roadway components beyond the current scope of SPR and GDE at a cost of no more than \$1.5 million.<sup>3</sup>
- Total project construction costs of no more than \$9.263 million (with the potential increase by \$1.5 million for additional components by mutual consent of the parties) recoverable by the Developer from DCCs collected by the City in the Southwest Mission DCC Sector.
- One-time lump-sum payment of \$2.56 million from DCC reserves upon project completion (currently anticipated in early 2019).
- Payment of 80% of DCC revenues collected by the City in the six months prior to the project completion date (estimated to be approximately \$750,000).<sup>4</sup>

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<sup>2</sup> As contemplated in the MOU, the Gordon Drive Extension was originally anticipated to be completed by a third-party developer. Given the work being done by the Developer with respect to SPR, it was agreed that construction of the Gordon Drive Extension by the Developer as part of SPR project was in both parties' best interests. The maximum cost of this work is estimated at \$1.663m, less any work that is completed by third party developers in the area for DCC credit.

<sup>3</sup> Any changes in the scope of the project, which may be desired for safety or environmental reasons, would be at the mutual consent of the parties.

- Payments to the Developer of 80 per cent of Transportation DCC revenues collected from the Southwest Mission sector between 2020-2025 over that time (approximately \$1.1 million/year).<sup>5</sup>

In addition to the above, key considerations in the Definitive Agreement ensure that no interest is payable by the City in relation to the DCC remittance payments and that the City is not obligated to make any remittances except to the extent that DCCs have actually been received by the City. If no DCCs are collected by the City within the payment time period, no remittance payments are due.

#### *Third Party Lands*

Approximately 700 meters of the +/-2.3 km SPR roadway are located on privately-owned lands. It is the expectation of staff that the Developer make every reasonable effort to acquire the necessary lands at mutually agreeable terms and conditions.

#### Alternative Approval Process

[Section 175](#) of the *Community Charter* dictates that Council may, under an agreement, incur a liability that is for more than five-years only with the approval of the electors (in the form of a referendum or the [Alternative Approval Process](#) ("AAP")). With respect to the proposed SPR Definitive Agreement, based on the projected rate of development in the Southwest Mission Sector, it is anticipated that all funds owing to the Developer as part of SPR/GDE will be repaid within 5-7 years of completion of construction. Accordingly, approval of the electors via an AAP is necessary prior to the City being in a position to ratify the agreement.

Approval of the electors will be obtained if the number of elector responses received by the end of the alternative approval process is less than 10 per cent of the number of electors. Elector response forms will be available at City Hall, 1435 Water Street and posted on the City's website: [www.kelowna.ca/cityprojects](http://www.kelowna.ca/cityprojects).

#### **Legal/Statutory Procedural Requirements:**

Pursuant to [Section 86](#) of the *Community Charter*, Council is required to approve the elector response form as attached to this report (Schedule A) for an alternative approval process and establish the deadline for receipt of elector responses, which must be at least thirty days after the second publication of the alternative approval process notice.

Notice requirements for the alternative approval process are set by [Section 94](#) of the *Community Charter*. Notices will be posted on the public notice board at City Hall, advertised in the Kelowna Daily

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<sup>4</sup> Note that payments will be made based on actual DCC revenues collected, which may vary significantly from projections.

<sup>5</sup> A payback period of 5-7 years has been assumed based on the current project scope and cost of \$9.263 million. Payments will be made based on actual DCC revenues collected.

Courier on Friday February 9, 2018 and Tuesday February 13, 2018, and posted on the City's website. The associated deadline for elector responses relating to this initiative will be Friday March 16, 2018.

#### Financial/Budgetary Considerations:

The proposed re-prioritization of SPR as contemplated in the Definitive Agreement has no impact on taxation. Payment for the project will be sourced from current DCC reserves and future DCC revenues; no additional borrowing or third-party funding sources are required. The 20-Year Servicing Plan and Financial Strategy will be amended to prioritize SPR and GDE over other Transportation initiatives within the Southwest Mission sector. A summary of these impacts is provided in the table below:

Southwest Mission DCC Sector – Transportation Impacts of SPR		
	Original Prioritization	Revised Prioritization
<b>Q2 2015-2020</b>	Dehart 2 (Lakeshore – Gordon)	South Perimeter Rd
	Frost 1 (Chute Lk – Killdeer)	Stewart 3 – Phase I
	Gordon 1 (Frost – SPR)	Gordon 1 (Frost – SPR)
<b>Q3 2020-2025</b>	Lakeshore 1 (Vintage T. – Dehart)	Stewart 3 – Phase II
	Lakeshore 2 (Dehart – Old Meadows)	
	Gordon Bridge @ Bellevue Creek	
	Lakeshore Bridge @ Bellevue Creek	
<b>Q4 2025-2030</b>	Stewart 3 (Crawford – Swamp)	Stewart 3 – Phase III
	South Perimeter Rd	Frost 1 (Chute Lk – Killdeer)
	Lakeshore 1A (Barnaby – Vintage T.)	Lakeshore 1A (Barnaby – Vintage T.)
	Casorso 1 (Swamp – Benvoulin)	Casorso 1 (Swamp – Benvoulin)
	Casorso Bridge @ Mission Creek	Casorso Bridge @ Mission Creek
		Lakeshore 1 (Bellevue Cr – Vintage T.)
		Lakeshore 2 (Dehart – Old Meadows)
		Lakeshore Bridge @ Bellevue Creek
		Dehart 2 (Lakeshore – Gordon)
		SPR Multi-use path, curb/gutter, lights

#### Communications Comments:

A public information session will be scheduled for early March, with further information to be provided regarding the time and place. City Staff will be on hand to answer any questions relating to the re-prioritization of SPR and the Definitive Agreement.

All information, as it is available, will be posted on the City's website at [www.kelowna.ca/cityprojects](http://www.kelowna.ca/cityprojects) under the South Perimeter Road Project page.

**Internal Circulation:**

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Divisional Director, Corporate Strategic Services  
Divisional Director, Corporate & Protective Services  
Divisional Director, Community Planning & Strategic Investments

**Considerations not applicable to this report:**

Legal/Statutory Authority:  
Existing Policy:  
Personnel Implications:  
External Agency/Public Comments:  
Alternate Recommendation:

**Submitted by:** J. Säufferer, Manager, Real Estate Services

**Approved for inclusion:** D. Edstrom, Director, Strategic Investments

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Attachment: Schedule A – Alternative Approval Elector Response Form  
Schedule B - Executed Definitive Agreement  
Schedule C – PowerPoint Presentation