

Report to Council



Date: September 17, 2018
File: 1110-10
To: City Manager
From: M. Olson, Manager, Property Management
Subject: Fortis Operating Agreement

Recommendation:

THAT Council receives for information, the Report from the Manager, Property Management, dated September 17, 2018, regarding the proposed Operating Agreement with Fortis Energy Inc.;

AND THAT Council approves the City entering into an Operating Agreement with Fortis Energy Inc. as per the general terms and conditions of the agreement attached to the Report of the Manager, Property Management, dated September 17, 2018;

AND FURTHER THAT Mayor and City Clerk be authorized to execute all documents necessary to complete the transaction.

Purpose:

To obtain Council support to replace the current operating agreement with Fortis Energy Inc. which is set to expire October 31, 2018.

Background:

Fortis Energy Inc. ("Fortis") and the City of Kelowna entered into and are parties to a franchise agreement ("Operating Agreement") dated the 2nd day of April, 1980. This agreement was subsequently renewed by various amending agreements and is set to expire at the end of October, 2018.

Under a certificate of public convenience and necessity ("CPCN"), Fortis was granted the right to construct and operate gas distribution facilities within the City of Kelowna, and the attached operating agreement has been drafted in order to clarify and settle the terms and conditions under which Fortis will exercise its rights to use public places in conducting its business of distributing gas within the municipality.

A new province-wide Operating Agreement template was approved by the BC Utilities Commission ("BCUC") on April 1, 2014, with the intention that any operating agreements in BC expiring after April 2014 would be based on the pre-approved BCUC template agreement (which is attached to this report as "Schedule A").

In addition to details regarding the terms and conditions under which Fortis may use public places in conducting its business of distributing gas within the municipality, the agreement also allows Fortis to collect a fee of 3% of Fortis' gross revenues for the provision and distribution of all gas consumed within the boundary of the municipality.

Legal/Statutory Authority:

Community Charter, S.B.C. 2003, a Municipal council may, by resolution adopt and enter into a licensing and operating agreement.

Financial/Budgetary Considerations:

The Operating Agreement includes an operating fee whereby FortisBC agrees to pay the City 3% of the gross revenues received by FortisBC for provision and distribution of all gas consumed within the boundary limits of the City of Kelowna during the prior calendar year. Based on gas consumption in 2017, the anticipated payment in 2018 is \$1,254,100.55.

Internal Circulation:

Budget Supervisor

Considerations not applicable to this report:

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: J. Säufferer, Acting Director, Strategic Investments

Attachments: 1. Schedule A – Fortis Operating Agreement

cc: I. Wilson, Department Manager, Infrastructure Operations
D. Astofooroff, Public Works Manager
G. Davidson, Divisional Director, Financial Services