

Report to Council



Date: February 6, 2023

To: Council

From: City Manager

Subject: Lease and Operating Agreements: Kelowna Art Gallery Association and Kelowna Visual & Performing Arts Centre Society

Department: Real Estate and Active Living and Culture

Recommendation:

THAT Council receives, for information, the report from the Real Estate and Active Living and Culture departments dated February 6, 2023, with respect to the Lease and Operating Agreements between the City of Kelowna and the Kelowna Art Gallery Association, and the City of Kelowna and the Kelowna Visual & Performing Arts Centre Society;

AND THAT Council approves the Kelowna Art Gallery Association Lease and Operating Agreement as attached to the report from the Real Estate and Active Living and Culture departments dated February 6, 2023;

AND THAT Council approves the Kelowna Visual & Performing Arts Centre Society Lease and Operating Agreement as attached to the report from the Real Estate and Active Living and Culture departments dated February 6, 2023;

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

Purpose:

To obtain approval from City Council for the Lease and Operating Agreements between the City of Kelowna and the Kelowna Art Gallery Association and between the City of Kelowna and the Kelowna Visual & Performing Arts Centre Society.

Background:

The City has created Lease and Operating Agreements with each of the Kelowna Art Gallery Association ("KAG") and the Kelowna Visual & Performance Arts Centre Society ("KVPACS") to set out the terms of the City's relationship with each based on shared common principles, establish a legal framework for responsibility and accountability by each party, and to establish a maintenance procedure for each of the facilities.

Throughout the preparation of the Lease and Operating Agreements, the parties have consistently acted in the spirit of collaboration, good faith, and with the shared goal of making high-quality cultural services and amenities available to the Kelowna community. Notwithstanding the collegial approach to these negotiations, the Lease and Operating Agreements prepared are comprehensive legal agreements and have undergone considerable internal review with relevant City stakeholders.

Discussion:

One of the most fundamental principles of these Lease and Operating Agreements is that the Kelowna Art Gallery and the Rotary Centre for the Arts, as operated by KVPACS, are to be operated and maintained in order to promote an appreciation of culture and the arts in Kelowna.

The KAG is an exhibition and gallery space that houses both historical and contemporary Canadian art. The society offers art classes and workshops for adults and teens in the fall and winter, and art camps during spring and summer breaks for children. In 2022 the KAG presented more than 350 educational programs and had 28,730 visitors. See attached Schedule C for additional information.

The Rotary Centre for the Arts is a multidisciplinary visual and performing arts centre whose purpose is to improve the economic, cultural, and social quality of life of the Kelowna community, through fostering participation in, and an appreciation of, the arts. The Rotary Centre for the Arts was the venue for more than 1,400 events in 2022 and saw 1,100 youth participate in various arts and culture programs. See attached Schedule D for additional information.

Building Services performed condition assessments on each of these facilities during the development of the Cultural Facilities Master Plan in 2021, summaries of which can be found in Schedule E.

There are benefits for the City, KAG, KVPACS, and especially the community, as we work collectively to ensure the efficient operation of these facilities, while concurrently maximizing community access to the programs and services they provide.

Lease and Operating Agreement Key Terms		
	Kelowna Art Gallery	Kelowna Visual & Performing Arts Centre
Annual Grant	\$511,000.00, increased annually by BC Consumer Price Index ("CPI")	\$333,300, increased annually by BC CPI
Address	1315 Water Street	421 Cawston Avenue
Rent	Nominal (\$1)	Nominal (\$1)
Reserve Contribution	\$18,000.00, increased annually by BC CPI	\$18,000.00, increased annually by BC CPI

Staff have worked closely with KAG and KVPACS to strengthen the Lease and Operating Agreements, in an effort to increase the clarity of the working relationship and set the expectations of both parties. The proposed agreements accomplish the following major points:

1. The City provides a five (5) year lease of each facility to KAG and KVPACS, who will operate the Kelowna Art Gallery and Rotary Centre for the Arts, respectively, and provide defined services to the public over a five (5) year term;
2. The City provides annual operating grants to KAG and KVPACS, adjusted annually based on the BC CPI;
3. KAG and KVPACS provide annual contributions to building reserves, adjusted annually based on the BC CPI, to be held by the City;
4. The City of Kelowna and the tenants are jointly responsible for the maintenance of the facilities, with their respective responsibilities outlined in Schedule "D" of each Lease and Operating Agreement;
5. KAG and KVPACS are fully responsible for all day-to-day operations, management decisions, and staffing their respective facilities;
6. Public access to the facilities are defined and assured over the life of the agreements;
7. The City is the legal owner of the facilities, all major equipment, most other property within each facility, and is the beneficial owner of the KAG art collection; and
8. KAG and KVPACS will provide appropriate support and work in collaboration with the many stakeholders operating in the community, to ensure the success of the Kelowna Cultural District.

As Kelowna's Cultural District continues to grow and flourish, both the Kelowna Art Gallery and the Rotary Centre for the Arts will provide significant focal points for the development and understanding of the art and culture landscape of our community.

Finance:

The Lease and Operating Agreement establishes the City's annual operating funding to KAG at \$511,000/year and to KVPACS at \$333,300/year, with further increases to be adjusted annually by the BC CPI for the term of the Lease and Operating Agreements.

The operators' annual contributions to a building reserve fund, which commences at \$18,000 per year and will be adjusted annually by the BC CPI, will provide the City with greater resources to maintain these facilities and allow us to continue to foster the development of arts and culture within our community.

Existing Policy:

The proposed non-market facility leases align with Council Policy 347 – Non-Market Leasing of Civic Lands and Buildings. For this reason, staff are recommending non-market leases and operating agreements as detailed in this report.

Internal Circulation:

Active Living and Culture
Partnerships and Investments
Communications
Finance

Considerations not applicable to this report:

Legal/Statutory Authority:
Legal/Statutory Procedural Requirements:
External Agency/Public Comments:
Communications Comments:

Submitted by: J. Buck, Manager, Property Management

Approved for inclusion: J. Säufferer, Real Estate Department Manager

Attachments: Schedule A – Kelowna Art Gallery Association Lease and Operating Agreement
Schedule B – Kelowna Visual & Performing Arts Centre Society Lease and Operating Agreement
Schedule C – Kelowna Art Gallery Additional Information
Schedule D – Rotary Centre for the Arts Additional Information
Schedule E – Building Condition Assessments
Schedule F – PowerPoint Presentation

cc: R. Parlane, Parks and Buildings Planning
S. Perry, Manager, Building Services
L. Kayfish, Manager, Risk Management
J. Sass, Director, Financial Services
S. Leatherdale, Divisional Director, Corporate & Protective Services