

# Report to Council



**Date:** April 24, 2023  
**To:** Council  
**From:** City Manager  
**Subject:** Rail Trail Access Permit with OKIB  
**Department:** Infrastructure

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## **Recommendation:**

THAT Council receives for information the report from the Infrastructure General Manager dated April 24, 2023, regarding the Rail Trail Access Permit between Kelowna and the Okanagan Indian Band;

AND THAT the Mayor and City Clerk be authorized to execute the Rail Trail Access Permit on behalf of the City of Kelowna.

## **Purpose:**

To execute an agreement where Kelowna constructs, operates, and maintains the Okanagan Rail Trail on a Permit Area authorized by the Okanagan Indian Band on Indian Reserve No. 7.

## **Background:**

In 2020, City of Kelowna staff entered negotiations with the District of Lake Country (DLC) and Okanagan Indian Band (OKIB) staff to craft agreements on mutually shared services and projects that would benefit each community. This work culminated in the Memorandum of Understanding (MOU) between the parties which was signed in February 2022.

Over the past year, the negotiation of several legal agreements has been conducted between the three partners and the Government of Canada. The parties are actively finalizing six separate legal agreements for the following subjects

<b>MOU Ref #</b>	<b>Agreement Description</b>	<b>Status</b>
1	Water supply agreement between Kelowna and Lake Country	Complete
2&3	Water and Wastewater Service Agreement between Kelowna and OKIB IR7	Subject of separate concurrent report
4a	Sewer permit agreement between Kelowna, OKIB and Canada	Complete
<b>4b</b>	<b><i>Rail Trail Access Permit between Kelowna and OKIB</i></b>	<b><i>Subject of this report</i></b>
4c	Commonwealth Road permit between Kelowna, OKIB and Canada	Under development
5	Sewer Agreement between Kelowna and Lake Country	Complete

**Discussion:**

The Rail Trail Access Permit (MOU Reference #4b) between Kelowna and OKIB is ready for execution and attached to this report.

**Service Area:** The Okanagan Rail Trail is a recreational multi-use pathway extending from Okanagan Lake in Kelowna to the District of Coldstream. Within Indian Reserve #7, the Rail Trail will be approximately 4.0 metres wide and run 2,300 metres in length, constructed as a continuous, compacted aggregate or asphalt paved trail for the use of pedestrians, bicycles, e-bikes, wheelchairs and other non-motorized modes of transportation, as well as motorized scooters or similar mobility assistance devices used exclusively by persons with disabilities.

The "Permit Area" is part of 7.0125 hectares of land awaiting transfer to OKIB by the Government of Canada. This permit will allow construction to proceed upon the land transfer to OKIB.

Under this permit, OKIB authorizes the non-exclusive use of the Permit Area:

1. For the pass along and over and upon the Works Area for public recreation purposes: by foot, bike, e-bike, wheelchair, or other non-motorized modes of transportation as well as motorized scooters or similar mobility assistance devices used exclusively by persons with disabilities.
2. For Kelowna, its employees, contractors, subcontractors, agents, and invitees (including all members of the public), to construct, operate and maintain the Rail Trail.
3. Where Kelowna will comply with all applicable Laws.

**Term:** 5 years.

**Costs:** Kelowna pays \$10.00 to OKIB on the Commencement Date, the receipt and sufficiency of which are hereby acknowledged by the parties. All construction costs are the responsibility of the City of Kelowna and its partners.

**Conclusion:**

The Rail Trail Access Permit is one of a suite of agreements envisioned in the 2022 MOU between Kelowna, DLC and OKIB. The commitments, both financial and technical, are consistent with the broader goals of resolving the many issues being addressed by the MOU. The Rail Trail Permit clarifies key terms

and allows the City to commit to providing the construction, maintenance, and limitations to OKIB as envisioned in the MOU.

**Internal Circulation:**

Financial Planning  
Communications

**Considerations applicable to this report:**

**Communications Comments:**

A formal signing ceremony will be held to jointly complete several OKIB, DLC and Kelowna agreements.

**Considerations not applicable to this report:**

Legal/Statutory Authority:  
Legal/Statutory Procedural Requirements:  
Existing Policy:  
Financial/Budgetary Considerations:  
External Agency/Public Comments:

**Submitted by:** M. Logan, Infrastructure General Manager

**Approved for inclusion:** D. Gilchrist, City Manager

Attachment 1 – Rail Trail Permit Agreement 4b  
Attachment 2 – Rail Trail Access Permit

cc: Divisional Director, Corporate Strategic Services  
Acting Division Director, Financial Services