

CITY OF KELOWNA

BYLAW NO. 11495

Heritage Revitalization Agreement Authorization Bylaw

HRA17-0002 – 486 Cadder Avenue –
Dr. Alan Broome Inc., Inc. No. 447508

WHEREAS a local government may, by bylaw, enter into a heritage revitalization agreement with the Owner of property which Council deems to be of heritage value pursuant to section 610 of the *Local Government Act*;

AND WHEREAS the Municipal Council of the City of Kelowna is desirous of entering into a Heritage Revitalization Agreement with Dr. Alan Broome Inc., Inc. No. 447508 for the property located at 486 Cadder Avenue, Kelowna, B.C.;

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

1. The Municipal Council of the City of Kelowna hereby authorizes the City of Kelowna to enter into a Heritage Revitalization Agreement with Dr. Alan Broome Inc., Inc. No. 447508 for the property located at 486 Cadder Avenue, Kelowna, B.C., and legally described as:

Lot 1, District Lot 14, ODYD, Plan KAP69061

In the form of such Agreement attached to and forming part of this bylaw as Schedule "A".

2. The Mayor and City Clerk are hereby authorized to execute the attached agreement, as well as any conveyances, deeds, receipts and other documents in connection with the attached agreement, and to affix the corporate seal of the City of Kelowna to same.

Read a first time by the Municipal Council this 23rd day of October, 2017.

Considered at a Public Hearing this 7th day of November, 2017.

Read a second and third time by the Municipal Council this 7th day of November, 2017.

Approved under the Transportation Act this 14th day of November, 2017.

Audrie Henry

(Approving Officer-Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "A"
HERITAGE REVITALIZATION AGREEMENT

THIS AGREEMENT dated as of the ____ day of _____, 2017

BETWEEN:

THE CITY OF KELOWNA, a Municipal Corporation having offices at
1435 Water Street, Kelowna, British Columbia, V1Y 1J4

(Herein called the "CITY")

AND:

Dr. Alan Broome Inc. (Inc. No. 447508)
486 Cadder Avenue, Kelowna, British Columbia, V1Y 5N3

(Herein called the "OWNER")

WHEREAS a local government may, by bylaw, enter into a Heritage Revitalization Agreement with the Owner of property which Council deems to be of heritage value pursuant to Section 610 of the *Local Government Act*,

AND WHEREAS the Owner owns certain real property located at 486 Cadder Avenue, on which is situated a building of heritage value pursuant to the City's Heritage Register, legally described as:

Lot 1, District Lot 14, ODYD, Plan KAP69061
(PID: 025-046-101)

(Herein called the "Heritage Property")

AND WHEREAS the Owner has presented to the City a proposal for the use and preservation of the Heritage Property and has voluntarily and without any requirement by the City, entered into this agreement pursuant to Section 610 of the *Local Government Act*;

AND WHEREAS a local government must hold a Public Hearing on the matter before entering into, or amending, a Heritage Revitalization Agreement, if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the Heritage Property, and for these purposes Section 464 through 470 of the *Local Government Act* apply;

AND WHEREAS within thirty days after entering into, or amending a Heritage Revitalization Agreement, the local government must file a notice in the Land Title Office in accordance with Section 594 of the *Local Government Act* and give notice to the Minister responsible to the *Heritage Conservation Act* in accordance with Section 595 of the *Local Government Act*;

NOW THEREFORE in consideration of the mutual promises contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Heritage Revitalization and Preservation

- 1.1 The parties agree that the Heritage Property has heritage value, deserving of protection and conservation, and the Owner specifically agrees to maintain, preserve and protect the heritage character of the building located on the Heritage Property in accordance with Attached Schedule "AA".

2.0 Governing Regulations

The parties agree that except as varied or supplemented by the provisions of this Agreement, all bylaws and regulations of the City and all laws of any authority having jurisdiction shall apply to the Heritage Property.

3.0 Uses Permitted

- 3.1 The principal uses permitted on the Heritage Property are:

- a) Health Services, Major
- b) Health Services, Minor
- c) Single Dwelling Housing

- 3.2 The secondary uses permitted on the Heritage Property are:

- a) Secondary Suite

4.0 Proposed Development

- 4.1 The Owner agrees not to alter the exterior of the Heritage Building except pursuant to a Heritage Alteration Permit issued by the City and in accordance with this Agreement.
- 4.2 Where a Heritage Alteration Permit is required, the discretion to approve, refuse or revise such permit is delegated by Council to the Community Planning Department Manager.
- 4.3 The hours of operation for offices located on the subject property shall be between 8.00 am and 7.00 pm Monday through Friday, and 9.00 am to 4.00 pm on Saturday. Patients will be seen by appointment only.
- 4.4 Six (6) on-site parking stalls shall be provided as shown on Schedule "AA"
- 4.5 Signage will be limited to one sign to a maximum size of 2.0m² and a maximum height of 1.0m may be attached to the residence or may be free standing located in the front yard or a flanking side yard. Any such free standing sign may be located on the property line but must not encroach or overhang beyond the property line.

Damage or Destruction

5.1 In the event that the Heritage Property is damaged, the parties agree as follows:

- (a) The Owner may repair the Heritage Property in which event the Owner shall commence and complete the repair work within one year of the date of damage.

OR, in the event that the Heritage Property is destroyed,

- (b) The City will, by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 464 through 470 of the *Local Government Act*, cancel this Agreement whereupon all use and occupation of the Heritage Property shall be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

6.0 Breach

6.1 In the event that the Owner is in breach of any term of this Agreement, the City may give the Owner notice in writing of the breach and the Owner shall remedy the breach within 30 days of receipt of the notice. In the event that the Owner fails to remedy the breach within the time allotted by the notice, the City may by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 464 through 470 of the *Local Government Act* cancel this Agreement whereupon all use and occupation of the Heritage Property shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

7.0 Amendment

7.1 The parties acknowledge and agree that this Agreement may only be amended by one of the following means:

- (a) By bylaw with the consent of the parties provided that a Public Hearing shall be held if an amendment would permit a change to use or density of use on site or;
- (b) By Heritage Alteration Permit (HAP), issued pursuant to Section 617 of the *Local Government Act*.

8.0 Representations

8.1 It is mutually understood and agreed upon between the parties that the City has made no representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.

9.0 Statutory Functions

9.1 Except as expressly varied or supplemented herein, this Agreement shall not prejudice or affect the rights and powers of the City in the exercise of its statutory functions and responsibilities including, but not limited to, the *Local Government Act* and its rights and powers under any

enactments, bylaws, order or regulations, all of which, except as expressly varied or supplemented herein, are applicable to the Heritage Property.

10.0 Enurement

10.1 This Agreement enures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

11.0 Other Documents

11.1 The Owner agrees at the request of the City, to execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the City to give full effect to the intent of this Agreement.

12.0 Notices

12.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall either be delivered mailed by registered mail as follows:

(a) To the City:

City of Kelowna
1435 Water Street
Kelowna, B.C. V1Y 1J4
ATTENTION: City Clerk

(b) To the Owner:

Dr. Alan Broome Inc. (Inc. No. 447508)
486 Cadder Avenue
Kelowna, BC, V1Y 5N3

Or to such other address of which one party may notify the other in writing.

13.0 No Partnership or Agency

13.1 The parties agree that nothing contained herein creates a relationship between the parties of partnership, joint venture or agency.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA
by its authorized signatories

(Mayor)

(City Clerk)

Dr. Alan Broome Inc.
By its authorized signatory (ies)



In the presence of:

ANDREW FASQUHAR
Witness (print name)

409 VIEWCREST RD.
Address Kelowna, BC

Physician (retired)
Occupation

Attachments:

- Schedule AA, page 1 Exterior Rendering*
- Schedule AA, page 2 Building Elevations*
- Schedule AA, page 3 Site Plan*
- Schedule AA, page 4 Floor Plan*