

CITY OF WHITEHORSE – STANDING COMMITTEES

Monday, November 18, 2019 – 5:30 p.m.

Council Chambers, City Hall

CALL TO ORDER

ADOPTION OF AGENDA

PROCLAMATIONS

DELEGATES

Sky Bridges – Support for Indigenous Day Live 2020 Cam Kos – Public Hearings and the Rezoning Process

CITY OPERATIONS COMMITTEE

1. Contract Extension – Landfill Operations
 2. New Business

COMMUNITY SERVICES COMMITTEE

1. Ushiku Sister City Exchange Program – *For Information Only*
 2. New Business

PUBLIC HEALTH AND SAFETY COMMITTEE

- ## 1. New Business

DEVELOPMENT SERVICES COMMITTEE

- ## 1. New Business

CORPORATE SERVICES COMMITTEE

1. Contract Award – Supply of Printers and Printer Services
 2. Urban Electrification Local Improvement
 3. Third Quarter Capital Variance Report
 4. Third Quarter Operating Variance Report – *For information only*
 5. New Business

CITY PLANNING COMMITTEE

1. Bylaw for the Sale and Disposition of Land beside 2 North Star Drive
 2. Lease Agreements – Pioneer Hotels 1 and 2 – Shipyards Park
 3. Zoning Bylaw Amendment – 25 Rhine Way/468 Range Road
 4. Zoning Bylaw Amendment – Keno Way
 5. New Business

CITY OF WHITEHORSE
CITY OPERATIONS COMMITTEE
Council Chambers, City Hall

Chair: Samson Hartland

Vice-Chair: Laura Cabott

Date: November 18, 2019

1. Contract Extension – Landfill Operations
Presented by Manager Geoff Quinsey
2. New Business

ADMINISTRATIVE REPORT

TO: Operations Committee
FROM: Administration
DATE: November 18, 2019
RE: Contract Extension – Landfill Operations

ISSUE

Authorization to extend the existing contract agreement with Castle Rock Enterprises for Solid Waste Disposal Landfill Operations to June 30, 2020

REFERENCE

2019 Operating Budget Bylaw 2018-59
Council Policy: Purchasing and Sales
2014 Solid Waste Disposal – Landfill Operations Contract

HISTORY

The approved 2019 operating budget includes funds for conducting the landfilling operations at the Waste Management Facility (WMF). Landfilling operations are, at their core, the work required to properly place, compact and cover landfilled waste in conformance with the City's Waste Management Permit and industry best practices as defined by the Solid Waste Association of North America and the City's Solid Waste Management Plan 2013 – 2023. The landfill operations contract also includes management of the metals and tires stockpiled for recycling and other work within the WMF. Landfilling of special waste (asbestos, animal carcasses) is paid for using the contingency available in the current contract at rates agreed under the contract.

The existing contract began July 1, 2014, and was scheduled to expire on June 30, 2019, and renewal of the agreement was not anticipated.

An expression of interest (EOI) was issued in March 2019 to solicit interest in the upcoming tender. The EOI was issued in both local newspapers, the City's website and the City's e-procurement platform Bonfire. On the close date of March 29, 2019, three local companies submitted information.

The ensuing procurement work did not progress as intended. The tender document was not finalized and issued in time to allow for award ahead of the expiry of the existing contract. In the interest of ensuring no gap in service, a change order extending the contract to July 31, 2019 was approved under the authority of the City manager. On June 24, 2019, Council approved extension of the contract to November 30, 2019.

During the intervening months, further operational demands within Water & Waste Services prevented progress on the preparation of the new tender.

Water & Waste Services is proposing to extend the existing contract to June 30, 2020 to allow time for completion of the tendering process and the contemplated new five-year agreement.

ALTERNATIVES

1. Authorize Administration to extend the contract as recommended
2. Do not approve and refer the matter back to Administration.

ANALYSIS

This contract is one of the most expensive operational contracts that the City procures from private industry. It is critical that the tender reflect the most up to date operational practices and the current realities of the City's solid waste management system.

The additional time is required because Water & Waste Services has been unable to maintain the original schedule intended for this procurement.

Landfill operations are paid on a monthly rate, and the total monthly cost on average is \$36,494.04 (including contingency, not including GST).

Therefore, the value of the proposed change order to extend the contract for the period of December 1, 2019 to June 30, 2020 is \$255,458.28. The cost of this service has been accounted for in the approved 2019 operating budget and the proposed 2020 operating budget.

ADMINISTRATIVE RECOMMENDATION

THAT Council authorize Administration to extend the contract for the 2014 Solid Waste Disposal – Landfill Operations to Castle Rock Enterprises to June 30, 2020 for a net cost to the City of \$255,458.28 plus GST.

CITY OF WHITEHORSE
COMMUNITY SERVICES COMMITTEE
Council Chambers, City Hall

Chair: Jocelyn Curteanu

Vice-Chair: Dan Boyd

Date: November 18, 2019

1. Ushiku Sister City Exchange Program – For Information Only
Presented by Manager Krista Mroz
2. New Business

ADMINISTRATIVE REPORT

TO: Community Services Committee
FROM: Administration
DATE: November 18, 2019
RE: Ushiku Sister City Exchange Program – For Information Only

ISSUE

A one-year postponement of the next Ushiku Sister City exchange

REFERENCE

Ushiku Sister City Exchange Program <https://www.whitehorse.ca/departments/parks-and-community-development/sister-city-exchange-program-ushiku-japan>

HISTORY

Ushiku, Japan is a sister city of Whitehorse located approximately 50 km north of Tokyo in the southern part of the Ibaraki prefecture. The Sister City program began in the 1980's as both an adult and student exchange program, and over the years evolved to being exclusively a student exchange.

In alternating years, selected students of both Whitehorse and Ushiku aged 13-18 represent their city on the program exchange. While the students are visiting the host city, there is an itinerary encompassing a variety of activities that allow these young people to experience a different culture and way of life. This exchange program has proven to be an outstanding opportunity for young people to experience, learn and share cultures.

During a visit to Ushiku, Whitehorse students stay with a local family, and participate in scheduled activities that have included spending time at a high school, exploring cultural sites, learning Japanese calligraphy, participating in a tea ceremony, and touring Tokyo, along with activities planned by the host family.

While in Whitehorse, Ushiku students experience a similar schedule filled with cultural and recreational activities, that highlight the best the Wilderness City has to offer.

ANALYSIS

The 2020 Summer Olympics are taking place in Tokyo from July 24th until August 9th. The timing of the Olympics affects travel logistics, Ushiku student school schedules, and the availability of host families before, during and after the Olympics. As a result, Administration of both Ushiku City and City of Whitehorse have decided that Whitehorse will postpone sending students to Ushiku until summer 2021. As 2020 marks the 35th anniversary of the exchange between the two cities, Whitehorse will organize a small cultural event to mark the milestone, celebrate our friendship and connection with our sister city, and increase awareness about the program for 2021. The timing of the cultural event has yet to be determined.

CITY OF WHITEHORSE
PUBLIC HEALTH AND SAFETY COMMITTEE
Council Chambers, City Hall

Chair: Stephen Roddick

Vice-Chair: Jan Stick

Date: November 18, 2019

1. New Business

CITY OF WHITEHORSE
DEVELOPMENT SERVICES COMMITTEE
Council Chambers, City Hall

Chair: Dan Boyd

Vice-Chair: Jocelyn Curteanu

Date: November 18, 2019

1. New Business

CITY OF WHITEHORSE
CORPORATE SERVICES COMMITTEE
Council Chambers, City Hall

Chair: Laura Cabott

Vice-Chair: Stephen Roddick

Date: November 18, 2019

1. Contract Award – Supply of Printers and Printer Services
Presented by Manager Michael Reyes
2. Urban Electrification Local Improvement
Presented by Manager Brittany Dixon
3. Third Quarter Capital Variance Report
Presented by Manager Brittany Dixon
4. Third Quarter Operating Variance Report – For Information Only
Presented by Manager Brittany Dixon
5. New Business

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: November 18, 2019
RE: Contract Award – Request for Proposals for Supply of Printers and Printer Services

ISSUE

Contract award for Supply of Printers and Printer Services

REFERENCE

RFP 2019-083 Supply of Printers and Printer Management Service

Council Policy: Purchasing and Sales

Capital Budget 300c00109 Computer Infrastructure

Operating Budget – Printer/Copier Supplies (All City Departments)

HISTORY

City Administration released a non-binding request for information (RFI) for Printers and Printer Management Services on February 15, 2019, which closed on March 12, 2019. The purpose was to gather information on printer and photocopying equipment suppliers and maintenance service providers. The goal of the RFI was to attract suppliers who could replenish the City's ageing and end-of-life equipment, and also a reliable service provider that would maintain the city's equipment for an initial term of three years.

With the information received from the RFI, a request for proposals (RFP) for Supply of Printers and Printer Management Services was released on September 30, 2019 and closed on October 24, 2019. The RFP was advertised on the City's website and in local newspapers. The RFP documents were made available via the City's e-procurement platform www.whitehorse.bonfirehub.ca.

The City received two compliant proposals from the following businesses:

- Klondike Business Solutions, that proposed a solution based on Ricoh; and
- MRG Technologies Inc., that proposed a solution based on Xerox.

The proposals were reviewed by an internal evaluation team comprised of personnel from the Business and Technology Systems and Financial Services. The evaluation team followed the Council Policy on Purchases and Sales.

ALTERNATIVES

1. Authorize Administration to award the contract as recommended
2. Refer the proposed award back to Administration for further analysis

ANALYSIS

The proposals were evaluated in accordance with the following criteria, published in the RFP:

1. Proponent's Qualifications;
2. Service Proposal (includes supply of equipment, supply of printer consumables, supply of printer management software, and support services);
3. Value-Added Services;
4. Implementation and Deployment; and
5. Price and Costs

The analysis of proposals was a two-stage process where all proposals were first evaluated on the first four technical or service criteria. Proposals that score at least 400 points on these criteria move on to the second stage of evaluation. The second stage evaluated price and costs, both initial/one-time and recurring/ongoing costs. Both proposals garnered enough points in the first stage and qualified for the second stage of the evaluation wherein they were evaluated for price and costs.

The highest scoring proposal was submitted by MRG Technologies Inc. MRG's pricing and cost proposal are as follows:

- \$130,000 – one-time pricing to supply the replacement of all the city's printer equipment. The equipment will be replaced in three batches based on asset life-cycle: December 2019, March 2020, and March 2021.
- \$33,000 (approximate) – expected annual cost for printer supplies and maintenance services. The agreement term covers the next three years, with the option to extend the term subject to vendor performance. The total projected three-year cost for annual maintenance is \$99,000.
- \$0 – cost for printer management software and support services, included in the agreement.

The City's Capital Budget 300c00109 Computer Infrastructure contains sufficient funds for the annual capital requirements. The City's annual operating budget for printer supplies and maintenance covering all departments also contains sufficient funds for the operating portion of this contract. Overall, this proposal represents the best value for the City.

ADMINISTRATIVE RECOMMENDATION

THAT Council authorize Administration to award the contract for the Supply of Printers to MRG Technologies Inc. in the amount of \$130,000 plus GST and:

That Council authorize Administration to award the contract for the supplies and maintenance to MRG Technologies Inc. in an amount not to exceed \$99,000 plus GST, covering the next three-year period.

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: Nov 18, 2019
RE: Urban Electrification Local Improvement Charge Bylaw

ISSUE

Authorization of a local improvement charge for urban electrical services

REFERENCE

Urban Electrification Program Policy

HISTORY

In 1989 the City began assisting with the cost of electrifying urban property by financing it and charging the cost back to the property as a local improvement charge. In order to have an application approved the applicant must have title to the property, current taxes must be paid in full, and the cost of the work must not exceed 75% of the assessed value of the property.

The owners of Lot 26 Pineridge Subdivision, located at 10 Haldane Place, have applied under the Urban Electrification Program Policy for a local improvement that will provide electrical service to the property.

ALTERNATIVES

1. Accept the application and bring forward a local improvement charge bylaw
2. Decline the application.

ANALYSIS

The property owners have met all the conditions of the Urban Electrification Program Policy. A bylaw to provide for a local improvement charge is required.

ADMINISTRATIVE RECOMMENDATION

THAT council accept the application under the urban electrification program for Lot 26 Pineridge Subdivision, 10 Haldane Place; and

That Bylaw 2019-17, a bylaw to authorize local improvement charge for urban electrification at 10 Haldane Place be brought forward for consideration under the bylaw process.

CITY OF WHITEHORSE

BYLAW 2019-17

A bylaw to authorize a local improvement charge for urban electrification

WHEREAS in 1989 council approved the concept of assisting taxpayers to bring electrical service to their property via the imposition of a local improvement charge; and

WHEREAS the owners of the property located at Lot 26 Pineridge Subdivision, 10 Haldane Place, have applied under the Urban Electrification Program for a local improvement to assist them in providing power to the property; and

WHEREAS sections 267 to 271 of the *Municipal Act* require that a bylaw to provide for and authorize a local improvement will contain specific information pertaining to the local improvement and the procedures to be followed in passing the bylaw; and

WHEREAS the actual cost of the said construction is estimated to be \$5,040.00 of which \$5,040.00 will be raised by way of a special tax assessment, and

WHEREAS in order to construct and complete the project it will be necessary to fund up to the sum of \$5,040.00 from the City; and

WHEREAS the estimated life of the project exceeds ten years;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. A work of local improvement, being the electrification of the property described as Lot 26 Pineridge Subdivision, Plan 89-67, Roll #3500002600, property class RSC, located at 10 Haldane Place, is hereby authorized.
2. The parcel of land benefiting from this work of local improvement is as set out in section 1 of this bylaw.
3. The total cost of the local improvement has been determined by ATCO Electric Yukon.
4. The cost of the work is to be paid for by way of a special assessment to be levied on the parcel described in section 1 of this bylaw.
5. For the purposes aforesaid, the sum of up to \$5,040.00 is to be funded by the City at large.
6. The sum of \$5,040.00 is to be collected by way of a special assessment as provided in section 7 of this bylaw.
7. There is hereby imposed on the land described in section 1 of this bylaw a special assessment under the *Assessment and Taxation Act*. This equates to an annual fee in the amount of \$619.84 for each of ten years. This sum is the amount necessary to pay the annual amount of interest and principal falling due in each year, computed at the prime business rate of 3.95% as at November 13, 2019. The said special assessment shall be in addition to all other rates and taxes.

Local Improvement for Urban Electrification Bylaw 2019-17

- (1) The property owners have the option of paying the total property charge prior to its due date, or of paying the equal annual instalments each of ten years, commencing on July 2, 2021.
 - (2) The property owners may reduce the balance owing on the total property charge by making a lump sum payment in any year during the life of the bylaw. Such lump sum payments shall be accepted only in the month of January each year.
 - (3) The property owners may also pay off the balance owing at any point during the ten-year life of the bylaw.
8. The provisions of this bylaw shall come into full force and effect upon final passage thereof.

NOTICE GIVEN:

FIRST and SECOND READING:

THIRD READING and ADOPTION:

Mayor

Assistant City Clerk

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: November 18, 2019
RE: Third Quarter Capital Variance Report

ISSUE

Financial Services has reviewed capital budget projections submitted by department managers and is providing a summary of completed capital projects.

REFERENCE

Bylaw 2018-58 Capital Expenditure Program 2019-2022
2019 Capital Budget Amendments (“Appendix 1” attached)
2019 Third Quarter Capital Budget Recommendation (“Appendix 2” attached)

HISTORY

Council adopted a Capital Expenditure Program for 2019 totalling \$8,910,335. Throughout the first nine months of the year, council and administrative amendments totalled \$52,320,522 (\$34,190,520 in approved re-budgets, \$13,028,500 in Bylaw 2018-58 Appendix B projects, and \$5,101,502 in amendments) for a new total of \$61,230,857.

ANALYSIS

As part of the City’s third quarter variance reporting, managers are required to review their planned capital spending. Most projects are proceeding as planned and several have been successfully completed under budget. Other projects are either expected to carry forward into 2020 through the capital re-budget process or will be cancelled as they have been re-sscoped and resubmitted as part of the next capital budget. A budget amendment is required in order to reduce the 2019 capital budget by \$1,685,552 with all of the funds returning to reserves or external funding sources.

ADMINISTRATIVE RECOMMENDATION

THAT Council authorize the amendments totalling \$1,685,552, attached hereto as “Appendix 2”, to the 2019 to 2022 capital expenditure program.

Appendix 1

2019 Capital Budget Amendments

	Project Number	Bylaw/Resolution Number	Council Revision Amount	Admin Revision Amount
Approved Budget (as per Appendix "A")		Bylaw 2018-58		\$ 8,910,335
<u>Revisions:</u>				
Add Appendix "B" projects				
Watermain Improvements-Lambert 5th&6th moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the "CW&WF" (CLEAN WATER&WASTE FUND) agreement is in place	240c00211		450,000	
Watermain Improvements-Birch St North Extension project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	240c00218		950,000	
Downtown Reconstruction: Cook St West moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the "CW&WF" (CLEAN WATER&WASTE FUND) agreement is in place	240c00418		200,000	
Storm Sewer Upgrades moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the "CW&WF" (CLEAN WATER&WASTE FUND) agreement is in place	240c01410		180,000	
2019 Asphalt Overlay Program project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the ICIP funding is in place	240c00410		2,103,000	
Mt. McIntyre Ski Bridge Repair project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the other contribution is in place	240c00819		198,000	
Selkirk Water Pumphouse project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the other contribution is in place	240c00110		140,000	
Wildfire Risk Reduction Strategy project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the other contribution is in place	600c00219		85,000	
2019 Condenser/Water Tower Replacement project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	320c00717		259,000	
2019 Refinish Flexihall Flooring project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	320c01112		150,000	
2019 Two Mile Hill Booster Motor Replacement project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00219		195,000	
2019 Range Rd/Tw Mile Hill Intersection Upgrade project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	240c00417		50,000	
Marwell East -Tlingit St project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	240c00513		230,000	
Pot Hole Lake Service Upgrades project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00618		30,000	
Modular Litter Fence project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00619		95,000	
Transfer Station upgrades project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00819		250,000	
WMF South End Development project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00919		300,000	
Whitehorse Services Building from "B" (subject to funding) to "A" (approved) of 2019 project list as the "SCF" (SMALL COMMUNITY FUND) agreement is in place	320c01117		2,400,000	
City Hall Reno: Energy Upgrades Building from "B" (subject to funding) to "A" (approved) of 2019 project list as the "SCF" (SMALL COMMUNITY FUND) agreement is in place	320c01417		750,000	
Ice Plant Maintenance project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	320c00519		30,000	
Mount McIntyre Stairs project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	240c01318		60,000	

Appendix 1

2019 Capital Budget Amendments

	Project Number	Bylaw/Resolution Number	Council Revision Amount	Admin Revision Amount
Replacement Dump Trailer-Compost Facility project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	320c00819			38,500
LTECF Discharge Line Upgrade project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	650c00319			100,000
Trail Plan Update 2017 project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the GAS TAX funding is in place	740c00316			35,000
Compost Facility Expansion project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the Investment in Canada Infrastructure Plan (ICIP) funding is in place	650c02118			2,600,000
McIntyre Creek Pumphouse Fuel Spill project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the reserve funding was put temporary in place to proceed with the project's planned schedule (reference council resolution: 2019-13-08)	650c00419			50,000
Replacement Transit Buses project moved from "B" (subject to funding) to "A" (approved) of 2019 project list as the ICIP funding is in place	320c01016			1,100,000
			\$ 13,028,500	

Approved Rebudgets

Bylaw 2019-06 \$ 34,190,520

Budget Amendments

Amend 2019-2022 capital budget to include re-budgeted amounts from 2018 to 2019 and increase a total budget to 450K for McIntyre Creek Pump House Upgrade project	650c00115	2019-01-07	450,000
Amend 2019-2022 capital budget to include re-budgeted amounts from 2018 to 2019 and increase a 2019 budget to 269,534.36 for Compost Facility Expansion Project	650c02118	2019-02-09	269,534
Amend 2019-2022 capital budget to include re-budgeted amounts from 2018 to 2019 and add the increase to 2019 budget for Rotary Park Playground Replacement project	740c00217	2019-03-06	\$ 397,042
Add budget to a new project: Fire Tanker Replacement	320c01319	2019-05-09	\$ 365,000
Increase budget to a project: Water License Renewal funded by the Water & Sewer Reserve	240c00117	2019-09-05	\$ 150,000
Add budget to a new project: Bylaw Services Replacement Vehicle	320c01419	2019-09-06	\$ 66,000
Increase budget to a project: Modular Litter Fences For Landfill funded from the Capital Reserve	650c00619	2019-11-06	\$ 31,120
Add budget to a new project: Marwell Lift Station Pump Replacement funded by Gas Tax	650c01219	2019-12-04	\$ 100,000
Increase budget to a project: Scada Software Upgrade funded from the Gas Tax	650c00518	2019-12-05	\$ 80,000
Increase 2019 budget for Fuel Abatement project by reallocating funds from 2020 and 2021 provisional budget years	440c00118	2019-13-05	\$ 350,000
Increase budget to a project: Water Main Improvement -Lambert & 6th funded from the Build Canada Clean Water and Wastewater Fund	240c00211	20019-13-06	\$ 200,000
Increase budget to a project: Compost Facility Expansion funded from the Gas Tax and ICIP	650c02118	2019-13-07	\$ 2,070,000
Increase budget to a project: Porter Creek West Water Main project funded from Gas Tax	240c00218	2019-14-04	\$ 200,000
Increase budget to a project: Waste Management Facility Expansion project funded from the capital reserve until an amended Gas Tax TPA is received	650c00919	2019-14-05	\$ 90,000
Increase budget to a project: Water License Renewal project funded from the Water& Sewer reserve to cover the additional costs	240c00117	2019-15-03	\$ 62,717
Increase budget to a project: Water Main Improvement -Lambert & 6th funded from the Building Canada Clean Water and Wastewater Fund	240c00211	2019-15-04	\$ 125,000
Increase budget to a project: Marwell East-Tlingit St funded from the Capital reserve until the amended GT agreement is in place	240c00513	2019-15-05	\$ 230,045
2nd Quarter Capital Variance	320c00619	2019-16-03	\$ (3,254)

Appendix 1

2019 Capital Budget Amendments

	Project Number	Bylaw/Resolution Number	Council Revision Amount	Admin Revision Amount
2nd Quarter Capital Variance	320c01110	2019-16-03	\$ (107,162)	
2nd Quarter Capital Variance	720c00117	2019-16-03	\$ (2,000)	
2nd Quarter Capital Variance	650c00718	2019-16-03	\$ (15,000)	
2nd Quarter Capital Variance	650c01218	2019-16-03	\$ (7,540)	
Total Budget Amendments			\$ 5,101,502	
Total Budget Revisions (Details in Appendix "A")				\$ 52,320,522
Total Capital Budget as of December 31, 2019				\$ 61,230,857

Appendix 2

Project	Status	Amount
Additional Pickup for the Transfer Station Compliance Officer	Completed and Under Budget	\$ 1,314
City Hall Security Upgrades	Cancelled in 2019 - Rescoped and Submitted for 2020	\$ 200,000
Refinish Flexihall Flooring	Completed and Under Budget	\$ 24,556
Building Consolidation Project-City Hall Renovation	Cancelled in 2019 - Rescoped and Submitted for 2020	\$ 750,000
Bylaw Services Replacement Vehicle	Completed and Under Budget	\$ 3,470
Waste Management Facility Fire	Completed and Under Budget	\$ 563,906
McIntyre Creek Booster Station	Completed and Under Budget	\$ 57,079
Pumphouse and Recirculation	Completed and Under Budget	\$ 16,460
Truck-Mounted Fall Arrest Davits	Completed and Under Budget	\$ 7,420
Multi-Family Organic Totes	Completed and Under Budget	\$ 4,740
Range Point Planning Implementation	Completed and Under Budget	\$ 12,666
Housing and Downtown Initiatives	Completed and Under Budget	\$ 6,819
Rotary Park Playground Replacement	Completed and Under Budget	\$ 7,122
Grey Mountain Cemetery Expansion	Cancelled in 2019 - Rescoped and Submitted for 2020	\$ 30,000
Total amount remaining in reserves or external funding sources		\$ 1,685,552

ADMINISTRATIVE REPORT

TO: Corporate Services Committee
FROM: Administration
DATE: November 18, 2019
RE: Third Quarter Operating Variance Report – *For information only*

ISSUE

The Financial Services Department has reviewed operating budget projections submitted by Department Managers and is providing a forecast of operating results to the end of the 2019 fiscal year.

REFERENCE

Bylaw 2018-59 Operating Budget 2019 to 2021
2019 Operating Budget Amendments (Appendix "A" attached)

HISTORY

Council adopted an operating budget for 2019 totalling \$81,264,048. Throughout the first three quarters of the year, Council and Administrative amendments were made with a net total of \$40,871 for a new total of \$81,304,919.

ANALYSIS

The 2019 third quarter variance projection shows that total operating revenues are expected to be under budget by \$652,427 and expenses will be under budget by \$1,137,139. Therefore, operating projections to December 31, 2019 as compared to the revised budget indicate an operating surplus of \$484,712. When viewed by Fund, the projected surplus is as follows:

Projected Variance	
Fund	Deficit/(Surplus) to Budget
General	\$ (506,186)
Water and Sewer	\$ 21,474
Projected Surplus	\$ 484,712

When analyzing the projected variance by "object-type" across the corporation revenue items of note include:

Revenue (brackets indicate higher than anticipated revenues)	
Investment Income	(875,000)
Garage Charge Recovery	(211,687)
Territorial Grant in Lieu	(114,144)
Sale of Equipment	(111,706)
Territorial Operating Grants	67960
Miscellaneous	104,603
Parking Meter Collection	184,500

Transfer from Capital Reserve Building Debenture	1,607,901
Total Revenues	\$ 652,427

- Investment Income is higher than anticipated due to increased interest rates and the intentionally higher cash levels to offset planned capital spending.
- Higher than anticipated Garage Charge Recovery offsets the higher expense charged to departments based on their usage of equipment, mostly in summer road maintenance due to the variety of heavy equipment that was required this summer.
- Territorial Grant in Lieu is higher than anticipated due to assessment amendments that came in after the initial Tax Roll had been provided to the City.
- Sale of Equipment revenue is not typically budgeted for as the value that is received annually is unpredictable and usually minimal. In the spring the City was able to earn a significant amount on the sale of equipment that had reached the end of its useful life.
- Territorial Operating Grants are projected to come in lower than budgeted due to nature of current projects not being eligible for funding. Specifically in the Economic Development area, the unspent grant funding is offset by the unspent consultant fees.
- Miscellaneous Revenue is made up of numerous small, mostly offsetting, amounts such as Transit sales, Metered and Court Levied Parking fines, and General Tax Revenue.
- Transfers from the Capital reserve are down as planned contributions to the operating budget are not required. This is largely due to the City deferring borrowing for the new operations building until 2019.
- Parking Meter Collection is not anticipated to make budget in part due to the budget not being adjusted to reflect the actual results from 2018 but also due to the loss of revenue from a number of meters being stolen or destroyed in the downtown area.

On the expense side, the following items are projected to vary from the budget:

Expenses (brackets indicate lower than anticipated spending)	
Debenture Interest	(932,103)
Wages & Benefits	(585,462)
Transfer to Parking Reserve	(88,167)
Municipal Charges Grants	(69,625)
Legal Fees	(65,000)
Consultants	(64,691)
Miscellaneous	22,798
Cost of Land Sold	190,549
Garage Charges	207,686
Transfer to Equipment Reserve	246,876
Total Expenses	\$ (1,137,139)

- Interest expense on the debenture for the new operations building will not be incurred in 2019 as possession is not scheduled until late December. Interest on the construction loan will only begin to accrue as the loan is drawn down.
- Wages and Benefits are expected to come in lower than anticipated due primarily to vacancies in Safety Services, Financial Services and Land Development
- Transfers to Reserve are governed by the City's Reserve Bylaw. In this case the lower than expected Parking Meter Collection has resulted in lower reserve transfers to the Parking reserves.
- Municipal Charges Grants is down as there are fewer applicants than prior years in addition, the Salvation Army, who is typically a large user of the grant is no longer eligible as their building is now government owned.
- Legal Fees are projected to be lower than budget as there have been fewer claims and fewer requirements for legal advice.
- Consultants are down in Human Resources and Economic Development due to departmental capacity to initiate various projects.
- Miscellaneous expenses are made up of multiple amounts which vary from budget including, training, gas, oil and diesel, janitorial services, small equipment, and heating costs.
- Cost of Land Sold is the net book value of the land that the City has sold. When the land is sold, the carrying value is removed from the City's assets and expensed. Like depreciation, the cost of land sold is not budgeted for as it is considered a sunk cost.
- Transfer to Equipment Reserve is higher than anticipated due to the increase in Garage Charges.

Overall department spending is controlled. Based on the total operating budget of \$81,304,919 third quarter surplus variance of \$484,712 is well within 1% of the City's total operating budget.

Appendix A

<u>2019 Operating Budget Amendments</u>			
		2019	
	Bylaw/Resolution Number	Revenue	Expenses
Approved Budget	Bylaw 2018-59	\$ 81,264,048	\$ 81,264,048
Budget Amendments			
Allocate Heritage Fund Grant to YHMA for the 2019 Yukon Stikine Heritage Fair	2019-04-04	2,000	2,000
Increase operating budget for Mayor & Council -donations account to provide grant to Yukon Cares funded by the General Reserve	2019-01-06	1,488	1,488
Increase 2019-2021 Operating budget for Mosquito Control Program	2019-07-08	5,000	5,000
Increase 2019-2021 Operating budget for new staff position to work on Climate change Innovation Program funded from other contributions: FCM	2019-09-04	31,100	31,100
Fees and Charges (3Rd Quarter changes)	Bylaw 2019-19 & 2019-17-09	1,283	1,283
Summary of Amendments		40,871	40,871
Revised Budget		\$ 81,304,919	\$ 81,304,919

CITY OF WHITEHORSE
CITY PLANNING COMMITTEE
Council Chambers, City Hall

Chair: Jan Stick

Vice-Chair: Samson Hartland

Date: November 18, 2019

1. Bylaw for the Sale and Disposition of Land Beside 2 North Star Drive
Presented by Manager Patrick Ross
2. Lease Agreements – Pioneer Hotels 1 and 2 – Shipyards Park
Presented by Manager Patrick Ross
3. Zoning Bylaw Amendment – 25 Rhine Way/468 Range Road
Presented by Manager Mélodie Simard
4. Zoning Bylaw Amendment – Keno Way
Presented by Manager Mélodie Simard
5. New Business

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: November 18, 2019
RE: Bylaw for the Sale and Disposition of Land beside 2 North Star Drive

ISSUE

Additional information and alternatives on Bylaw 2019-16, a bylaw to authorize the sale of a portion of (public utility land) P.U.L. 19 to the owners of the adjacent lot on North Star Drive in the Copper Ridge neighbourhood.

REFERENCE

- Motion 2019-16-06
- Zoning Bylaw 2012-20
- Location Sketch
- Land Disposition Policy
- Lease, Encroachment and Property Use Policy
- Easement Authority Bylaw 2009-17
- Bylaw 2019-16 (Disposition Bylaw)
- Property Appraisal

HISTORY

On September 9, 2019, Council referred Bylaw 2019-16 and the issue of the lot expansion versus an easement agreement back to Administration for additional information (Motion 2019-16-06).

In September 2018, the owners of 2 North Star Drive were issued a stop work order on an accessory structure when it was discovered that the structure was being constructed with garage doors facing Falcon Drive. There is a strip of City-owned land (part of P.U.L. 19) between 2 North Star Drive and the Falcon Drive right-of-way; side yard access from Falcon Drive across P.U.L. 19 is not permitted without authorization from the City. The owners attempted to resolve the issue by requesting an easement agreement.

The request was reviewed by the Development Review Committee on September 19, 2018. While no operational concerns were noted with regard to the use of P.U.L 19 and access to Falcon Drive, Administration determined that an easement was not the most appropriate tool to allow regular and exclusive access to an urban residential property. The easement request was thus refused by the approving authority, the director of Development Services, per the Easement Authority Bylaw. The owners then requested to purchase that portion of P.U.L 19 from the City instead.

ALTERNATIVES

1. Bring forward Bylaw 2019-16 to authorize the sale and disposition of the land;
2. Do not proceed with Bylaw 2019-16, and move to direct Administration to bring an encroachment agreement bylaw to Council for consideration; or
3. Do not proceed with either bylaw process and retain City ownership of P.U.L. 19.

ANALYSIS

There are several options available that could allow the owners to achieve side yard access to the property:

Easement

The request for easement went through the appropriate process and was denied by the approving authority. The approving authority's decision is final; the Easement Authority Bylaw does not provide an appeal process.

Access easements can be appropriate in unique circumstances where an easement is the only option for providing access to a parcel of land. This is not the case in this instance, nor is it normally the case in an urban residential area. Easement agreements are typically for a pre-determined length of time (30 or 40 years) without the option to terminate by the grantor, and do not provide for ongoing compensation to the grantor by the benefitting party.

Encroachment

The Lease, Encroachment, and Property Use Policy provides a process for evaluating encroachment requests. The Policy discourages encroachments except in unique circumstances, or when an encroachment is the result of an error. An urban residential lot without side or rear yard access is not unique. The owners knew that side yard access across P.U.L. 19 was not permitted when they started building the garage, therefore it is not reasonable to suggest that the orientation of the garage doors was the result of an error.

Should Council wish to pursue an encroachment agreement, the agreement can be for a defined period of time and can provide for annual payment of a fee based on 10% of the market value of the encroachment area. Administration has calculated the annual fee for a 9.14 m x 5.0 m encroachment area to be \$517.50. The owners would also be required to provide proof of public liability insurance annually, with the City of Whitehorse named as additional insured.

An encroachment agreement does not provide security of tenure for the owners, and the owners risk ending up with a structure on the property that cannot be used in the manner for which it was designed should the agreement ever be terminated.

Lease

The scope of the Policy limits leases to commercial entities and non-profit organizations. A lease would not be appropriate since this issue is relating to a residential private property owner.

Land Sale

Administration has determined that the portion of P.U.L. 19 sought by the property owner is not currently being used for any utility except for the ATCO switch cube, nor does the City anticipate having any future need for it. If the land were sold, the ATCO switch cube would be protected by easement within the privately titled land. Any future utility installations would need to be installed within the remaining public boulevard and/or other areas within the Falcon Drive right-of-way, which is already the case for most of the length of Falcon Drive.

A land sale would provide the most security of tenure for the owners, and would eliminate the administrative burden of managing an ongoing encroachment agreement. The desire for access to the property from Falcon Drive, where proper access to the lot already exists from North Star Drive, should not be facilitated by way of easement as it would set an undesirable precedent from Administration's perspective. As Administration sees no particular reason now or in the future to maintain ownership of P.U.L. 19, the requested access can be offered to the owner through the purchase of the property.

Next Steps

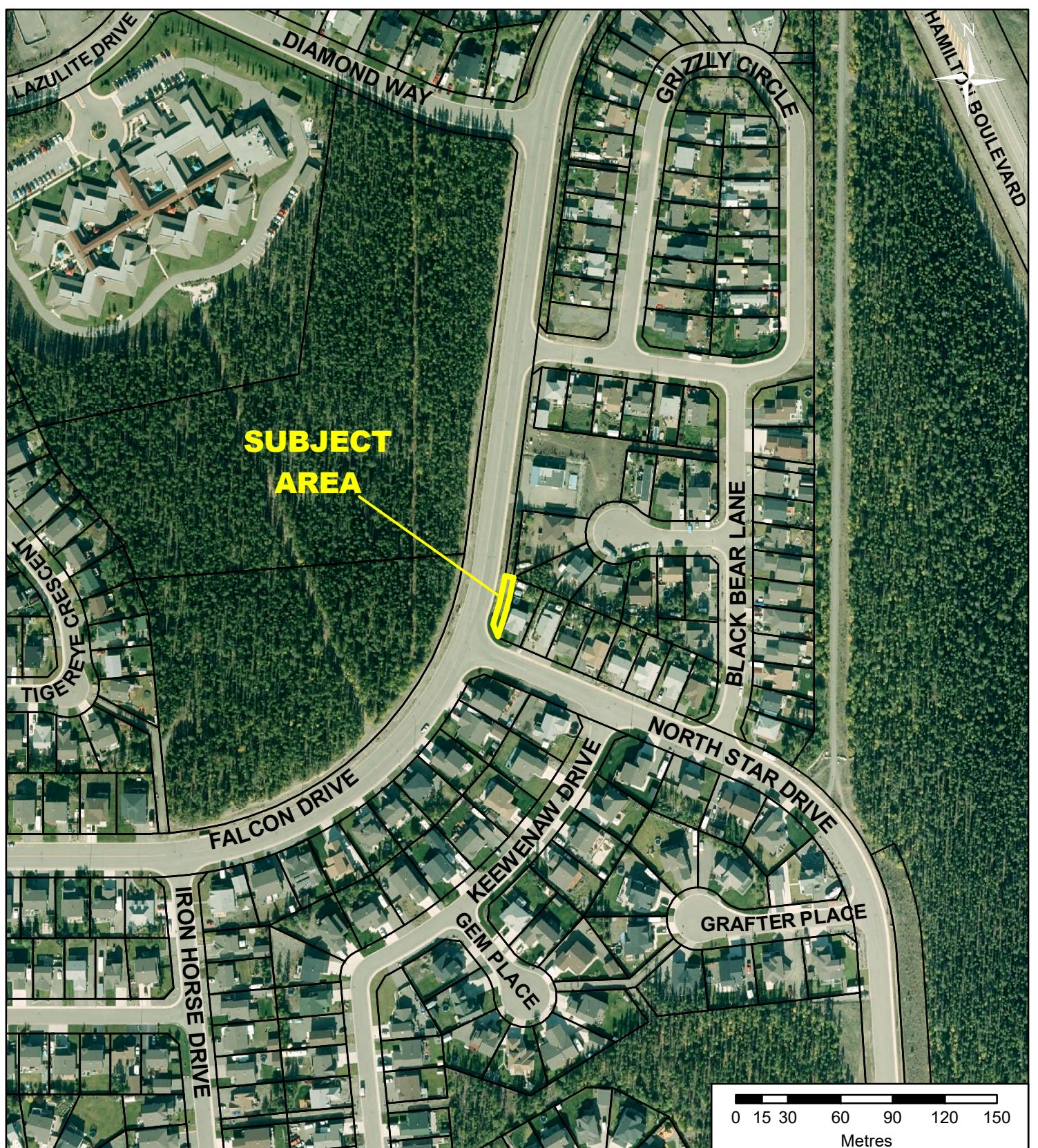
Should Council approve the land sale and disposition, Administration will proceed with the land disposition and ATCO easement agreement processes and transfer the enlargement area in accordance with the terms of the Land Sale Agreement between the applicants and the City.

Should Council prefer the encroachment option, Administration will prepare an encroachment agreement and bring an encroachment agreement bylaw to Council for consideration at a later date.

Not approving the land sale or an encroachment agreement will result in P.U.L. 19 remaining City-owned land, and access to Lot 462 from Falcon Drive would not be permitted. The owners would be required to alter the accessory structure in a manner that does not require side yard access to Falcon Drive.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct that Bylaw 2019-16, a bylaw to authorize the sale and disposition of a portion of P.U.L. 19 to the owners of 2 North Star Drive, be brought forward for consideration under the bylaw process.



SCALE: 1:3,000	DWN BY: DWM	CITY OF WHITEHORSE - LAND AND BUILDING SERVICES		
DATE: Nov 18, 2019	REV NO: 2	LOCATION SKETCH WITH IMAGE		 Whitehorse THE WILDERNESS CITY
FILE NO: Bylaw 2019-16 - Tom Nevral \Land Disposition\2019		Proposed Land Disposition for a portion of Public Utility Lot 19 Copper Ridge Subdivision, Plan 98-142 LTO. Civic Address: 2 North Star Drive		

CITY OF WHITEHORSE

BYLAW 2019-16

A bylaw to authorize the sale and disposition of approximately 159 m² of land for side lot enlargement to 2 North Star Drive.

WHEREAS section 265 of the *Municipal Act* (R.S.Y. 2002) provides that Council may by bylaw authorize the sale and disposition of any real property; and

WHEREAS it is deemed desirable that a portion of land located in the Copper Ridge neighbourhood on the east side of Falcon Drive be sold and disposed;

NOW THEREFORE the Council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. The City of Whitehorse is hereby authorized to sell and dispose part of P.U.L 19 comprising a total area of approximately 159 m² in the Copper Ridge neighbourhood, as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw;
2. The parcel will be offered for sale for the sum of \$18,285.00, representing fair market value as determined by independent market value appraisal, to the owners of the adjacent Lot 462, Plan 98-142 LTO, on the condition that the lot enlargement area shall be consolidated with adjacent Lot 462, Plan 98-142 LTO.
3. The Mayor and Assistant Clerk are hereby authorized to execute on behalf of the City of Whitehorse all documentation required for the completion of the sale and transfer of ownership of the said lands in an expeditious manner; and
4. This bylaw shall come into full force and effect on the final passing thereof.

FIRST and SECOND READING:

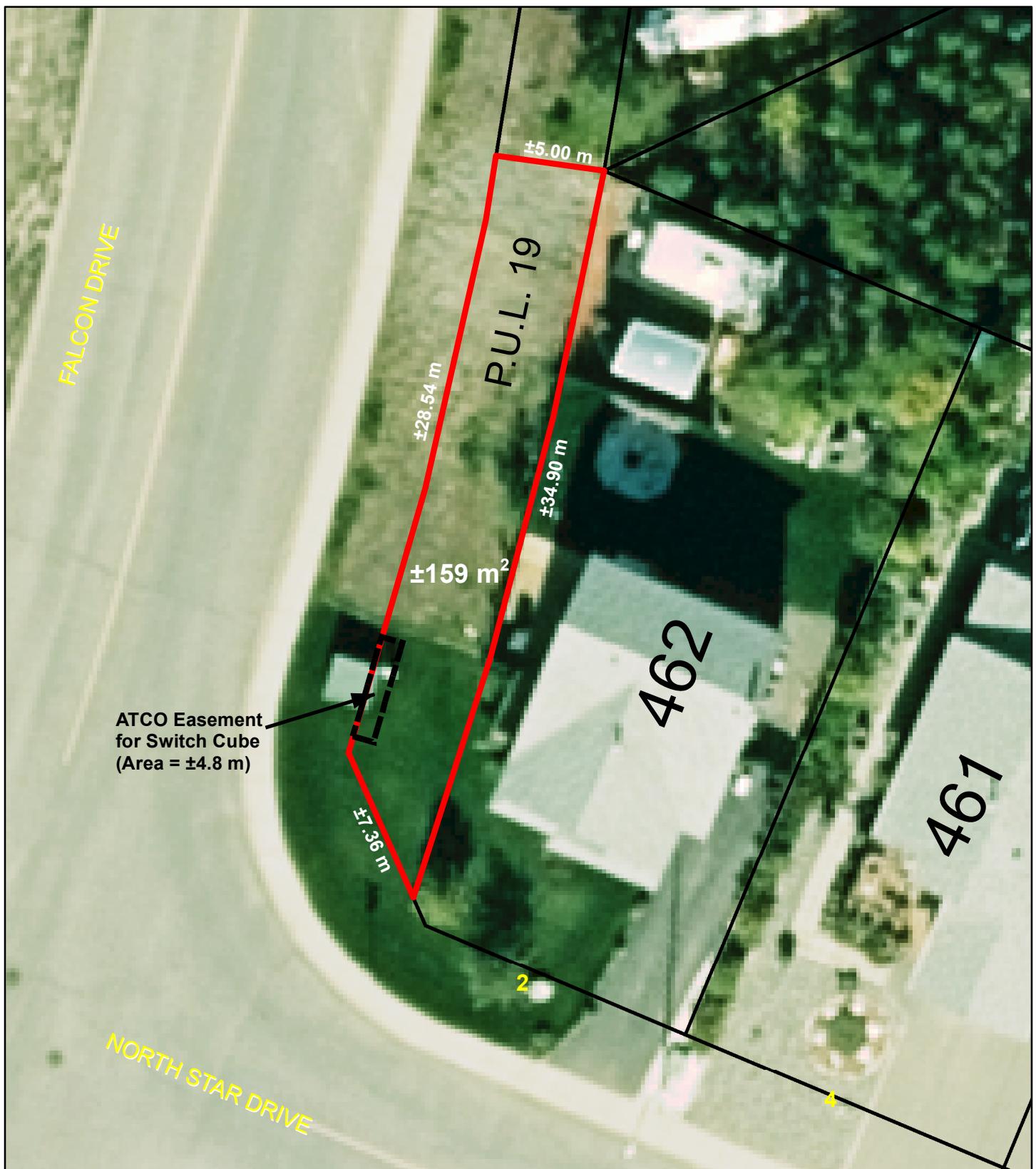
THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2019-16
APPENDIX "A"



BYLAW 2019-16

A bylaw to authorize the sale and disposition of part of P.U.L. 19
for lot enlargement to Lot 462, Plan 98-142 LTO.

LEGEND



SUBJECT AREAS

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: November 18, 2019
RE: Lease Agreements – Pioneer Hotels 1 and 2 – Shipyards Park

ISSUE

Bylaws to enter into a lease agreements with Yukon Film Society for Pioneer Hotel 1 (Jenni House) and Yukon Literacy Coalition for Pioneer Hotel 2 (Hatch House) in Shipyards Park.

REFERENCE

- Proposed Bylaw 2019-22
(Lease Pioneer Hotel 1)
- Location Sketch
- Appendices B – Lease Agreements
- Proposed Bylaw 2019-23
(Lease Pioneer Hotel 2)
- Appendices A – Location Sketches
- Lease, Encroachment and Property Use Policy

HISTORY

Pioneer Hotels 1 and 2 (also known as Jenni House and Hatch House, respectively) are heritage structures owned by the City of Whitehorse. Constructed in 1899, they were originally part of one building located on the east bank of the Yukon River before it was relocated to Front Street near Main Street. In the 1950s, the building was moved to its present location at Shipyards Park (then known as Moccasin Flats) and divided into three pieces. Only these two portions of the original building remain. Both have been fully restored and made available for lease in Shipyards Park.

The current lessees, Yukon Film Society (YFS) and Yukon Literacy Coalition (YLC), have been tenants of the heritage structures since 2015 and 2013, respectively. Both leases have expired in 2019 and are currently in overholding pursuant to section 8.3 of their respective leases.

YFS is a registered non-profit organization whose primary activities are to support media art creation, presentation, and training in the Yukon. YLC is a registered non-profit organization with a mandate to increase literacy and essential skills for everyone in the Yukon.

ALTERNATIVES

1. Bring forward Bylaws 2019-22 and 2019-23 to enter into new lease agreements with Yukon Film Society and Yukon Literacy Coalition.
2. Do not proceed with the bylaw process.

ANALYSIS

Lease Agreement Terms

Highlights of each lease agreement include:

Lease Term – The lease term has been established as five years from November 1, 2019 to October 31, 2024.

Lease Fees – The recommended lease fee has been established at \$500 for each year. The lessee will also be responsible for paying taxes and utilities. As per the Lease, Encroachment and Property Use Policy, YFS and YLC are Class A registered non-profit societies and are eligible for Non-Market Leases. Administration determined the recommended lease rate after calculating the maintenance costs associated with the buildings and evaluating community benefit statements provided by each society.

Insurance – The lessees are required to maintain a \$3 million liability insurance policy for the protection of any claims relating to operations in the lease area and building.

Maintenance Responsibilities – The City will be responsible for the larger structural issues as well as landscaping around the building. The lessee will be responsible for the daily maintenance of the building and ensuring the grounds are tidy.

Heritage Integrity – To respect the heritage character of the building, the lessee must obtain approval from the City prior to any alterations to the interior or exterior.

Parking and Vehicle Access – The designated parking area is the Shipyards Park parking lot, which is provided on a first-come, first-served basis. Vehicle access to the buildings is prohibited unless the lessee obtains approval from the City for special circumstances.

Seasonal Occupancy of Pioneer Hotel 1 – The lease agreement for Pioneer Hotel 1 allows YFS to use the premises for programming from May 1 to October 31 each year, and as cold storage for items incidental to the programming from November 1 to April 30 each year. This eliminates the need to bleed water all winter to prevent pipes freezing. Pioneer Hotel 2 has a working heat trace and can be occupied year-round.

Sublease of premises – While both lease agreements require the lessees to obtain approval from the City prior to subleasing the premises, the lease agreement for Pioneer Hotel 2 provides that YLC may sublease to YFS from November 1 to April 30 each year, at the sole discretion of YLC, without further authorization from the City.

Both YFS and YLC have indicated their agreement to the terms of the agreement by signing the lease documents.

Request for Proposal Process

A request for proposals process is not recommended to select lessees for these public buildings. Previous RFPs to lease Pioneer Hotels 1 and 2 have yielded minimal interest. Based on the historically low interest in leasing these buildings and the demonstrated programming successes and cooperation between YFS and YLC, Administration is recommending extending the leases with YFS and YLC. Both have proven to be excellent tenants, and are positive contributors to the community.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct that Bylaws 2019-22 and 2019-23, bylaws to authorize the City of Whitehorse to enter into lease agreements with Yukon Film Society with respect to Pioneer Hotel 1 (Jenni House), and Yukon Literacy Coalition with respect to Pioneer Hotel 2 (Hatch House), in Shipyards Park, be brought forward for consideration under the bylaw process.



SCALE: 1:1,500	DWN BY: DWM	CITY OF WHITEHORSE - LAND AND BUILDING SERVICES		
DATE: Nov 18, 2019	REV NO: 2	LOCATION SKETCH WITH IMAGE		
FILE NO: Bylaws 2019-22/2019-23		Proposed Leases of Pioneer Hotels 1 and 2 in Shipyards Park to Yukon Film Society and Yukon Literacy Coalition		
\Lease Agreements\				

CITY OF WHITEHORSE

BYLAW 2019-22

A bylaw to authorize a lease agreement with Yukon Film Society with respect to the heritage property Pioneer Hotel 1

WHEREAS section 265 of the *Municipal Act* (2002) provides that council may pass bylaws for municipal purposes respecting the municipality's leasing of any real or personal property; and

WHEREAS it is deemed desirable that the City enter into an agreement with Yukon Film Society for the lease of the heritage property Pioneer Hotel 1, also known as Jenni House, and a 0.017 hectare parcel of land for a five year lease term from November 1, 2019 to and including October 31, 2024;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. The City of Whitehorse is hereby authorized to enter into a lease agreement with Yukon Film Society with respect to those portions of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO and Block 330, Plan 2003-0151 LTO, in the City of Whitehorse, as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
2. The Mayor and Assistant City Clerk are hereby authorized to execute on behalf of the City of Whitehorse the Lease Agreement attached hereto as Appendix "B" and forming part of this bylaw.
3. This bylaw shall come into full force and effect upon the final passing thereof.

**FIRST and SECOND READING:
THIRD READING and ADOPTION:**

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2019-22
APPENDIX "A"



BYLAW 2019-22

A bylaw to authorize the City of Whitehorse to enter into a lease agreement with Yukon Film Society with respect to the heritage property known as Pioneer Hotel 1 (Jenni House), comprising approximately 0.17 ha.

LEGEND



SUBJECT AREA

THIS LEASE AGREEMENT, made the _____ day of _____, 2019 in triplicate, to be effective as of and from the 1st day of November, 2019.

BETWEEN

The City of Whitehorse, a municipality duly incorporated pursuant to the provisions of the *Municipal Act*
(the "Lessor")

AND

Yukon Film Society
(the "Lessee")

WHEREAS

- A. The Lessor is the tenant of the Lands as described in Paragraph 1.1(1) herein pursuant to a License of Occupation (Disposition Number 2009-3080) with the Government of Yukon (the "License of Occupation");
- B. The Lessee will occupy the building known as the Pioneer Hotel 1 – also known as the Jenni House – which the Lessee will operate for an artist residency program and for heritage interpretation activities (the "Premises");
- C. The Premises are situated on the Lands and the Lessee desires to enter into a lease agreement with the Lessor in accordance with the terms and conditions contained in this lease.

1. Demise

1.1. *Lease*

Witness that in consideration of the rents, covenants, conditions and agreements herein reserved and contained on the part of the Lessee to be paid, observed and performed, the Lessor, being licensee of the Government of Yukon under the License of Occupation, does hereby demise and lease unto the Lessee on the terms and conditions herein contained, the Premises and that parcel of land more particularly described as follows:

- (1) That portion of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO, City of Whitehorse, Yukon Territory;
- (2) That portion of Block 330, Plan 2003-0151 LTO, City of Whitehorse, Yukon Territory;

Comprising approximately 0.017 hectares more or less and shown outlined in yellow in the sketch attached hereto as Schedule "A" (the "Lands").

1.2. *Term*

To have and to hold the Lands and Premises, within which the Lessee will operate as a programming, activities and events space for the Yukon Film Society, from May 1 to October 31 annually, and as a cold storage space for items incidental to the aforementioned programming from November 1 to April 30 annually, for and during the term of November 1, 2019 up to and including October 31, 2024.

1.3. *Rent*

Yielding and paying therefore during the term hereof unto the Lessor the sum of Five Hundred dollars (\$500.00) per year, plus Goods and Services Tax, of lawful money of Canada to be paid in advance of the first day March each year.

1.4. *Property Taxes*

The tenant shall be responsible for all real property taxes including local improvements rates levied or assessed by any competent authority upon or in respect of the Land.

1.5. *Carefree Lease*

The Lessee acknowledges that it is intended that this Lease be a net-net lease for the Lessor and that all and every cost, expense, charge or out lay of any nature whatsoever in any way related to the Lands and Premises or their occupancy by the Lessee shall be borne by the Lessee excepting as otherwise expressly provided herein.

1.6. *Heritage Integrity*

The Lessor and Lessee hereby recognize that the Pioneer Hotel 1 (Jenni House) is a heritage building and that the historic integrity, especially the exterior, must be maintained. Any alterations, repairs, or applications for signage must receive prior approval from the Lessor.

1.7. *Parking*

The Lessee, their employees and any other individuals associated with the programs and activities associated with the building shall use the designated public parking area in the Shipyards Park parking lot for vehicle parking. The parking spaces are on a first-come, first-serve basis, with no reserved spaces. Vehicles are prohibited from driving and parking on any other land in Shipyards Park, unless there are exceptional circumstances and the Lessee has received verbal permission from the Lessor.

1.8. *Access*

The Lessee agrees that vehicles shall not drive or park on any portion of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO, City of Whitehorse, Yukon Territory without prior verbal permission from the Lessor.

The Lessee further agrees that the formal pedestrian access route from the parking lot shall be by way of the waterfront trail rather than across the skating loop.

1.9. *Special Events*

The Lessor and Lessee hereby recognize that special events and festivals will be occurring in Shipyards Park during the lease term, which may limit the availability of parking and compromise access to the Lands and Premises. The Lessor shall make every reasonable effort to ensure that access to the Lands and Premises is maintained during special events and festivals. In the event that access will be unable to be maintained to the Lands and Premises as a result of any special event or festival, the Lessor shall notify

the Lessee in advance of the special event or festival (not to include any regular events such as the weekly Fireweed Market).

2. Covenants of Lessee

2.1. *Promises of Lessee*

The Lessee covenants and agrees with the Lessor as follows:

(1) *Rent*

The Lessee shall during the terms of this lease or any renewal thereof pay to the Lessor the rent hereby reserved, and all other sums to be paid by the Lessee hereunder in the manner herein provided without any deduction whatsoever. The Lessee shall produce to the Lessor from time to time, at the request of the Lessor, satisfactory evidence of the due payment by the Lessee of all other payments required to be made by the Lessee under this lease;

(2) *Repair*

The Lessee shall maintain the Lands and Premises in good and substantial repair, damage by fire and other risks against which the Lessor is insured excepted (the "Lessee Repair Exceptions");

(3) *Notice to Repair*

The Lessor and its agents may at all reasonable times enter the Lands and Premises to examine the condition thereof, and all want of repair that upon such examination may be found and for the amendment of which notice in writing is left at the Lands and Premises, the Lessee shall well and sufficiently repair and make good according to such notice within 15 days from the date on which such notice is left at the Lands and Premises, subject to the Lessee Repair Exceptions;

(4) *Care of Lands and Premises*

The Lessee shall take good care of the Lands and Premises and keep the same in a safe, tidy and healthy condition and shall, at its own expense, bear such costs as are reasonably necessary during the term of this lease to keep the Lands and Premises in such condition. The Lessee shall be responsible for clearing snow on the walkway between the waterfront trail and the entrance to the Premises from May 1 to October 31 annually;

(5) *Utilities*

The Lessee shall pay when due all rates and charges for electricity, water, sewer, telephone, cable, heating fuel, internet and any other utilities supplied to or used on or in the Lands and Premises as separately metered or separately invoiced by the supplier(s), including any utilities as supplied by the Lessor;

(6) *Security Alarm*

The Premises is equipped with a security system. The Lessee shall pay all charges for security alarm call-outs when the reason for the call-out is deemed to be a false alarm.

(7) *Waste Diversion*

Waste diversion to extend the life of the City's landfill is important to the Landlord and the citizens of the City of Whitehorse. As such, City Council has adopted the Waste Management Bylaw which bans or controls certain types of waste. The Tenant agrees that it shall comply with the Waste Management Bylaw at all times, including provision of sufficient recycling and compost bins on the Lands and Premises, to ensure that recyclable and organic waste are separated and diverted from the landfill as required by the Waste Management Bylaw. All costs associated with waste diversion shall be the responsibility of the Tenant;

(8) *Removal of Garbage*

The Lessee shall arrange at their cost for regular garbage collection of all garbage arising from the operation of the Lessee's business or their occupation of the Lands and Premises. The Lessee shall also be responsible for cleaning all garbage and refuse from within the Lands and Premises which includes all areas within 3 metres of the building;

(9) *Business Taxes*

The Lessee shall pay when due all business taxes payable by the Lessee in respect of the Lessee's occupancy of the Lands and Premises;

(10) *Assignment and Subleasing*

The Lessee shall not assign, mortgage or encumber this Lease, or sublet, or suffer or permit the Lands and Premises or any part thereof to be used by others by license or otherwise, without the prior written consent of the Lessor, which consent may be arbitrarily and unreasonably withheld;

(11) *Use of Lands and Premises*

The Lessee shall not use the Lands and Premises nor allow the Lands and Premises to be used for any purpose other than as operations and programming for the Yukon Film Society between May 1 and October 31, and as cold storage of incidental items between November 1 and April 30, or such other uses as are approved in writing by the Lessor. The Lessee may make application for temporary events outside the boundaries of the Lands and Premises, so long as they obtain written approval from the Lessor, whose consent may be arbitrarily and unreasonably withheld;

(12) *Nuisance*

The Lessee shall not at any time use, exercise, or carry on or permit to be used, exercised or carried on, in or upon the Lands and Premises or any part thereof any noxious, noisome, or offensive act, trade, business, occupation or calling and no act, matter or thing whatsoever shall at any time be done in or upon the Lands and Premises or any part thereof which is an unreasonable annoyance, nuisance or disturbance to the occupiers or owners of the adjoining lands and properties;

(13) *Insurance Risk*

The Lessee shall not do or permit to be done any act or thing which may render void or voidable or conflict with the requirements of any policy of insurance, on the Lands and Premises, including any regulations of fire insurance underwriters applicable to such policy. The Lessee shall ensure that all activities carried out or conducted on the Lands and Premises are done in accordance with the provisions of any policy of insurance that is in force, so that the Lessee and the Lessor have the benefit of such insurance. Any activity which cannot be insured for or which is specifically exempted from coverage under any policy of insurance that is in force shall not be permitted by the Lessee;

(14) *Bylaws*

The Lessee shall comply with all statutes, regulations, and by-laws of any governmental authority relating in any way to the use or occupation of the Lands and Premises, including, without limiting the generality of the foregoing, all laws, regulations and bylaws affecting or relating to the sale or consumption of alcoholic beverages on the Lands and the Premises;

(15) *Alterations*

The Lessee shall not make any alterations, installations, improvements or changes of any kind to the Lands and Premises without the prior written consent of the Lessor, and the Lessor may require that any or all work to be done or materials to be supplied hereunder, be done or supplied by contractors or workers approved by the Lessor;

(16) *Fixtures*

All alterations, additions, improvements and fixtures to, in or upon the Lands and Premises including everything attached to any part of the Lands and Premises, other than the Lessee's trade fixtures, machinery, plant and equipment, shall become the property of the Lessor and shall remain on the Lands and Premises at the expiration or earlier termination of the term, subject to such exceptions that the Lessor may consent to in writing;

(17) *Removal of Goods, Chattels, or Fixtures*

The Lessee shall not remove from the Lands and Premises any goods or chattels moved into the Lands and Premises, except in the normal course of business, until all rent and other payments due or to become due during the term of this Lease are fully paid;

(18) *No Permanent Structures*

The Lessee shall not construct, install or erect any permanent structures or buildings on the Lands or additions to the Premises without the express written consent of the Lessor;

(19) *Builder's Liens*

The Lessee shall promptly pay all charges incurred by the Lessee for any work, materials or services that may be done, supplied or performed in respect of the

Lands and Premises and shall not cause or permit any builder's lien to be registered against the Lands and if any such lien should be so registered the Lessee shall pay off and discharge the same forthwith and, if he shall fail or neglect to do so within 10 days after written notice thereof from the Lessor, the Lessor may but shall not be obliged to, pay and discharge such lien and may add to the next ensuing instalment of rent the amount so paid including all costs to the Lessor together with interest thereon from the date of payment.

Provided that in the event of a bona fide dispute by the Lessee of the validity or correctness of any such claim of lien, the Lessee shall be entitled to defend against the same and any proceedings brought in respect thereof after having first paid into Court the amount claimed and such costs as the Court may direct or having provided such other security as the Lessor may in writing approve to ensure payment thereof. Provided further that upon determination of the validity of any such lien, the Lessee shall immediately pay any judgment in respect thereof against the Lessor, including all proper costs and charges incurred by the Lessor and the Lessee in connection with any such lien and shall cause a discharge thereof to be registered without cost or expense to the Lessor;

(20) *Inspection*

The Lessee shall permit the Lessor or any other person authorized by the Lessor to inspect the Lands and Premises at all reasonable times;

(21) *Re-letting*

The Lessee shall permit the Lessor, at any time within 90 days prior to the expiration of the terms hereby granted, upon 24 hours' notice to the Lessee, to enter upon the Premises at all reasonable hours for the purpose of offering the same for rent and exhibiting the same to prospective tenants and to place and keep upon the Premises, signs advertising the premises for rent;

(22) *Maintenance*

The Lessee shall permit the Lessor to install, maintain, replace, repair and service or cause to be installed, maintained, replaced, repaired, and serviced, wires, ducts or other installations in, under or through the Lands and Premises for or in connection with the supply of any service or utility to any part of the Lands and Premises;

(23) *Seasonal Closure*

The Lessee shall contact the Lessor at the end and beginning of each season to perform winterizing and de-winterizing procedures. The Lessor shall not charge a fee for this service.

(24) *Winter Storage*

The Lessee is permitted to store items such as furniture and books within the Premises from November 1 to April 30, provided such items are incidental to the programming, activities and events offered by the Lessee during the summer months. Absolutely no food or other pest attractants shall be stored within the Premises. The Lessee shall not regularly access the Premises during the winter

months. The Lessee shall maintain insurance coverage throughout the year in accordance with Section 5.4.

(25) *Vacant Possession*

The Lessee shall at the expiration or earlier termination of this Lease, peaceably surrender and deliver up vacant possession of the Lands and Premises in the condition required herein and deliver to the Lessor all keys, operation manuals, logs and such documents as are reasonably requested which relate to the Lands and Premises.

3. Covenants of Lessor

3.1. *Promises of Lessor*

The Lessor covenants with the Lessee as follows:

(1) *Quiet Enjoyment*

The Lessee, paying the rent hereby reserved and performing the covenants herein on its part contained, shall and may peaceably possess and enjoy the Lands and Premises for the terms of this Lease or any renewal thereof without interruption or disturbance from the Lessor or any other person lawfully claiming by, from or under the Lessor;

(2) *Repairs*

The Lessor shall make any necessary repairs to any structural defects or weaknesses in the Premises not caused by the Lessee, its agents, employees or invitees and, in so doing, shall, to the extent possible, not unduly disrupt the Lessee's business;

(3) *Vandalism*

The Lessor shall make any repairs to the exterior of the Premises resulting from vandalism of the Premises including the removal of spray paint and graffiti;

(4) *HVAC Systems*

The Lessor shall be responsible for major repairs to or any required replacements of any heating, ventilation and air conditioning (HVAC) systems in the Premises not caused by the Lessee, its agents, employees or invitees and, in doing such work, the Lessor shall to the extent possible, not unduly disrupt the Lessee's business; and

(5) *Grounds*

The Lessor shall provide lawn care and maintenance for all that portion of the Lands not occupied by buildings.

4. Rights and Remedies of the Lessor

4.1. *Re-entry*

If default or breach or non-performance of any of the covenants or agreements in this Lease contained on the part of the Lessee continues for 30 days after written notice

thereof has been given by the Lessor to the Lessee, then it shall be lawful for the Lessor at any time thereafter without notice to re-enter the Lands and the same to have again, repossess and enjoy as of its former estate, anything herein contained to the contrary notwithstanding. If the Lessor re-enters the Lands and Premises by reason of the default of the Lessee prior to the expiry of the term of this lease, the Lessee will be liable to the Lessor for the amount of rent for the remainder of the term as if such re-entry had not been made, less the actual amount received by the Lessor after such re-entry from any subsequent leasing of the Lands during the remainder of the term after deducting the Lessor's costs of re-letting the Lands.

4.2. Right of Termination

Upon the Lessor becoming entitled to re-enter upon the Lands and Premises, the Lessor shall have the right in addition to all other rights, to determine forthwith this lease by giving notice in writing to the Lessee and thereupon rent shall be apportioned and paid to the date of such determination and the Lessee shall forthwith deliver up possession of the Lands and Premises and the Lessor may re-enter and take possession of the same.

4.3. Bankruptcy

If the term hereof or any renewal thereof shall at any time be seized or taken in execution or attachment by any creditor of the Lessee or if the Lessee makes any assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any bankruptcy or insolvency legislation or in case the Lands and Premises become vacant or unoccupied for a period of 10 days, the then current month's rent together with the rent accruing for the balance of the term or the next three months, whichever is less, shall immediately become due and payable and the term hereof or any renewal thereof shall at the option of the Lessor become forfeited and void. Neither this Lease nor any interest therein nor any estate hereby created shall pass to or enure to the benefit of any trustee in bankruptcy or any receiver of any assignee for the benefit of creditors or otherwise by operation of law.

4.4. Distress

Whensoever the Lessor shall be entitled to levy distress against the goods and chattels of the Lessee, the Lessor may use such force as it may deem necessary for that purpose and for gaining admittance to the Lands and Premises without being liable in any action in respect thereof, or for any loss or damage occasioned thereby and the Lessee hereby expressly releases the Lessor from all actions, proceedings, claims or demands whatsoever for or on account of or in respect of any such forcible entry or any loss or damage sustained by the Lessee in connection therewith.

4.5. Distress not Waiver

The exercise by the Lessor of its right of distraint for a breach or breaches by the Lessee shall not act as a waiver of such breach or breaches and the Lessor may, at its sole and unfettered discretion, after distraining or during a distraint after seizing and before the disposal of the distrained goods has been completed, exercise any of its other remedies hereunder provided or provided by law or in equity without affecting the distraint, whether

completed or not, and, if not completed, the Lessee hereby agrees that the Lessor may complete the restraint whether or not the Lessee has determined this Lease.

4.6. *Non-waiver*

The waiver by the Lessor of any breach by the Lessee of any covenant or condition contained in this Lease shall not be construed as or constitute a waiver of any further or other breach of the same or any other covenant or condition, and the consent or approval of the Lessor to or of any act by the Lessee requiring the Lessor's consent or approval shall not be deemed to waive or render unnecessary the Lessor's consent or approval to any subsequent act, similar or otherwise, by the Lessee.

4.7. *Lessor's Right to Perform*

If the Lessee fails to perform any of the covenants or obligations of the Lessee under or in respect of this Lease, the Lessor may from time to time, at its discretion, perform or cause to be performed any such covenants or obligations or any part thereof and for such purpose may do such things as may be required and may enter upon the Lands and Premises to do such things and all expenses incurred and expenditures made by or on behalf of the Lessor shall be paid forthwith by the Lessee to the Lessor and if the Lessee fails to pay the same the Lessor may add the same to the rent and recover the same by all remedies available to the Lessor for the recovery of rent in arrears; provided that if the Lessor commences or completes either the performance or causing to be performed of any of such covenants or obligations or any part thereof, the Lessor shall not be obliged to complete such performance or causing to be performed or be later obliged to act in a like fashion.

4.8. *Interest*

The Lessee shall pay to the Lessor interest at 1.5% per month being 19.62% per annum on all overdue payments of rent and other sums required to be paid under this Lease, from the date upon which the same were due until actual payment thereof.

4.9. *Status as a Society*

In the event the Lessee is dissolved, wound up or struck from the Corporate Registry, fails to maintain its status as a registered Society, or is in default of filing returns or notices, including its annual return and financial statements for a period in excess of one (1) year, or is otherwise no longer a not-for-profit society or organization, the Lessor shall have the absolute right to terminate this Lease upon giving the Lessee written notice to that effect. In the event the Lease is terminated pursuant to the provisions of this paragraph, the Lands and Premises shall become the sole property of the Lessor.

5. Indemnification

5.1. *Indemnity by Lessee*

Except for or in respect of events caused by the Lessor's actions, or those for who it is at law responsible, arising out of the use and occupation of the Lands and Premises, including wilful misconduct or negligence during the Term, the Lessee shall indemnify the Lessor and all of its servants, agents, employees, contractors, invitees and persons for

whom the Lessor is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Lessee of any of the provisions of this Lease;
- (b) any act or omission of the Lessee of any of its members, servants, agents, employees, invitees, licensees, sub-tenants, concessionaires, contractors or persons for whom the Lessee is in law responsible on the Lands and Premises;
- (c) any injury, death or damage to persons or property of the Lessee or its members, servants, agents, employees, customers, invitees, contractors or any other persons on the Lands and Premises by or with the invitation, license or consent of the Lessee;
- (d) any damage, destruction or need of repair to any part of the Premises caused by any act or omission of the Lessee or its members, servants, agents, employees, customers, invitees, contractors, or persons for whom the Lessee is in law responsible, notwithstanding any other provisions of this Lease; and
- (e) any latent or patent defect in the Lands and Premises;

and this Indemnity shall survive the expiration or earlier termination of this Lease. In the event that the Lessor incurs liabilities, claims, damages, losses and expenses which are not paid by the Lessee or acknowledged by the insurer of the Lessee, within one year of written demand being made by the Lessor for indemnity pursuant to the provisions herein, this Lease shall terminate.

5.2. *Indemnity by Lessor*

Except for or in respect of events caused by the Lessee's actions, or those for whom it is at law responsible, arising out of the use and occupation of the Lands and Premises, including wilful misconduct or negligence during the term of this Lease, the Lessor shall indemnify the Lessee and all of its servants, agents, employees, contractors, customers, invitees and persons for whom the Lessee is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Lessor of any of the provisions of this Lease;
- (b) any act or omission of the Lessor or any of its servants, agents, employees, contractors or persons for whom the Lessor is in law responsible on the Lands and Premises; and
- (c) any injury, death or damage to persons or property of the Lessor or its servants, agents, employees, contractors or any other persons on the Lands and Premises by or with the invitation or consent of the Lessor;

except for any latent or patent defect in the Lands and Premises, and this Indemnity shall survive the expiration or earlier termination of this Lease.

5.3. *Lessor Unable to Perform*

Whenever and to the extent that the Lessor shall be unable to fulfil or shall be delayed or restricted in the fulfilment of any obligation hereunder in respect of the supply or provision of any service or utility or the doing of any work by reason of being unable to obtain the material goods, equipment, service, utility or labour required to enable it to fulfil such obligation or by reason of any strike or lock-out or any statute, law, or order-in-council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administration, controller or board or any governmental department or officer or other authority or by reason of any cause beyond its control either of the foregoing character or not, the Lessor shall be relieved from the fulfilment of such obligation and the Lessee shall not be entitled to compensation for any loss, inconvenience, nuisance or discomfort thereby occasioned.

5.4. *Liability Insurance*

The Lessee shall provide and maintain in such form and to such extent and with such companies as required by the Lessor, public liability insurance in the minimum amount of \$3,000,000.00 for the protection against any claims in any way relating to the Lands and Premises. This public liability insurance shall be increased by the Lessee upon the written request of the Lessor. Such policy shall designate both the Lessor and the Lessee as the insured and provide that the same cannot be cancelled without at least 15 days prior written notice to the Lessor. The Lessee shall deposit with the Lessor a certificate of such insurance at or prior to the commencement of the term and thereafter within 10 days prior to the expiration of any such policy. The Lessee's insurance shall be in effect for the duration of the lease term.

5.5. *Contents Insurance*

The Lessee shall provide and maintain their own insurance for the contents of the Premises. The Lessee's contents insurance shall be in effect for the duration of the lease term.

5.6. *Condition of Lands and Premises*

The Lessee will examine the Lands and Premises before taking possession thereof under this Lease and unless the Lessee has furnished the Lessor with notice in writing specifying any defects in the construction or condition of the Lands and Premises, the Lessee shall conclusively be deemed to have examined the Lands and Premises and to have found the Lands and Premises in good order and satisfactory condition. The Lessee acknowledges that there are no promises, representations or undertakings by the Lessor as to any alterations, remodelling or decorating of the Lands and Premises or installations of equipment or fixtures therein except such, if any, as are expressly set forth in this Lease.

5.7. *Relief of Lessor on Sale*

If the Lessor sells or otherwise conveys its interest in the Lands and Premises and the subsequent owner of such interest assumes the covenants and obligations of the Lessor hereunder, the Lessor shall, without further written agreement, be freed and relieved of all liability for such covenants and obligations. The Lessee shall from time to time at the request of the Lessor promptly execute and return to the Lessor such certificates confirming the current status of this Lease in such detail as the Lessor may require.

6. Hazardous Substances

6.1. *Definitions*

“Hazardous Substance” means any substance which is hazardous to persons or property and includes, without limiting the generality of the foregoing:

- (1) radioactive materials;
- (2) explosives, excluding lawfully possessed ammunition;
- (3) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent that it is detrimental to its use by man or by any animal, fish or plant;
- (4) any solid, liquid, gas or odour or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that:
 - (a) endangers the health, safety or welfare of persons or the health of animal life;
 - (b) interferes with normal enjoyment of life or property; or
 - (c) causes damage to plant life or to property;
- (5) toxic substances; or
- (6) substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction over the Lessor, the Lessee, or the Lands and Premises.

6.2. *Compliance with Laws*

The Lessee shall not bring upon the Lands and Premises or any part thereof any Hazardous Substance. Without limiting the generality of the foregoing, the Lessee shall, at the Lessee's own cost and expense, comply with all laws and regulations from time to time in force relating to a Hazardous Substance and protection of the environment, and shall immediately give written notice to the Lessor of the occurrence of any event on the Lands and Premises constituting an offence thereunder or being in breach thereof and, if the Lessee, either alone or with others, causes the happening of such event, the Lessee shall, at its own expense, immediately give the Lessor notice to that effect and thereafter give the Lessor from time to time written notice of the extent and nature of the Lessee's compliance with this Paragraph 6; promptly remove the Hazardous Substance from the Lands and Premises, as the case may be, in a manner which conforms with all laws and regulations governing the movement of the same; and if requested by the Lessor, obtain from an independent consultant designated or approved by the Lessor a report verifying

the complete and proper removal thereof from the Lands and Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with this Paragraph.

The Lessee shall, at its own expense, remedy any damage to the Lands and Premises caused by such event or by the performance of the Lessee's obligations under this Paragraph 6 as a result of such occurrence.

If any governmental authority having jurisdiction requires the clean-up of any Hazardous Substance held, released, spilled, abandoned, or placed upon the Lands and Premises or released into the environment by the Lessee in the course of the Lessee's business or as a result of the Lessee's use or occupancy of the Lands and Premises, then the Lessee shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work required and shall keep the Lessor fully informed and provide to the Lessor full information with respect to proposed plans and comply with the Lessor's reasonable requirements with respect to such plans.

6.3. *Discharge*

The Lessee shall not discharge or permit the discharge of any oil or grease or any deleterious, objectionable, dangerous materials or Hazardous Substance into any water course, culvert, drain or sewers in, under or near the Lands and Premises. The Lessee shall take all reasonable measures for ensuring that any discharge effluent shall not be corrosive, poisonous or otherwise harmful or to cause obstruction, deposit or pollution to any waters, ditches, water course, culverts, drains or sewers, nor to or within any sewage disposal works nor to the bacteriological process of sewage purification. The Lessee shall forthwith, at the Lessor's request, provide facilities for testing and monitoring the effluent from the Lessee's operations and shall permit the Lessor and its agents reasonable access to the lands for the purposes of carrying out such testing and monitoring from time to time at the Lessee's expense.

The Lessee shall construct, maintain and operate every furnace and burner used on the Lands and Premises so as to substantially consume or burn the smoke arising there from and shall not use or suffer any furnace or burner to be used negligently.

The Lessee shall not cause or permit any grit, dust, noxious or offensive effluvia or Hazardous Substance to be emitted from any engine, furnace, burner or apparatus on the Lands and Premises without using the best practicable means reasonably available for preventing or counteracting such emissions.

6.4. *Ownership of Hazardous Substances*

If the Lessee brings onto or creates upon the Lands and Premises any Hazardous Substance or if the conduct of the Lessee's business causes there to be any Hazardous Substance upon the Lands and Premises, then, notwithstanding any rule of law to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Lessee and shall not become the property of the Lessor, notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous

Substance to the Lands and Premises and notwithstanding the expiry or earlier termination of this Lease.

6.5. Access to Information

The Lessee hereby authorizes the Lessor to make enquiries from time to time of any government or governmental agency with respect to the Lessee's compliance with any and all laws and regulations pertaining to any Hazardous Substance and the protection of the environment and the Lessee covenants and agrees that the Lessee shall from time to time provide to the Lessor such written authorization as the Lessor may reasonably require in order to facilitate the obtaining of such information. The Lessee shall, at its own expense, comply with all the laws and regulations from time to time in force regulating the manufacture, use, storage, transportation or disposal of Hazardous Substance and shall make, obtain and deliver all reports and studies required by governmental authorities having jurisdiction.

7. Termination

It is hereby agreed that during the term hereof, or any renewal thereof, the Lessor or the Lessee may terminate the Lease by giving notice in writing two months before such determination, and on the day following the date specified in the notice, this Lease is terminated.

8. General Provisions

8.1. Subordination

This Lease is subject and subordinate to all mortgages, easements, or rights of way which now or hereafter during the term of this Lease or any renewal thereof shall be recorded in the Land Titles Office as a mortgage, easement, or right of way given by the Lessor against the Lands and Premises. The Lessee shall execute promptly from time to time any assurances that the Lessor may request to confirm this subordination.

8.2. No Agency or Partnership

Nothing herein contained shall be construed as creating the relationship of principal and agent or of partners or of joint ventures between the parties hereto, their only relationship being that of landlord and tenant.

8.3. Over-holding

If the Lessee continues to occupy the Lands and Premises with the consent of the Lessor after the expiration of this Lease or any renewal thereof without any further written agreement, the Lessee shall be a monthly Lessee at a monthly rental equivalent to 1/12 of the annual rental and all other sums payable hereunder pro-rated for one month.

8.4. Effect of Headings

The headings or subheadings to the clauses in this Lease form no part thereof, and are inserted for convenience and internal reference only and are not to be relied upon or considered by any person in the interpretation hereof.

8.5. Notices

Any notice required to be given hereunder by any party shall be deemed to have been well and sufficiently given if mailed by prepaid, registered mail, faxed, telexed or telegraphed to or delivered at the address of the other party hereinafter set forth:

If to the Lessor: City of Whitehorse
 2121 Second Avenue
 Whitehorse, Yukon Territory
 Y1A 1C2
 Attention: Manager, Land and Building Services
 Fax No. (867) 668-8395

If to the Lessee: Yukon Film Society
 212 Lambert Street
 Whitehorse, Yukon Territory
 Y1A 1Z4
 Attention: Aileen Horler, Yukon Film Society President

A notice shall be deemed to have been received, if faxed, telexed, telegraphed or delivered, on the date of delivery and if mailed as aforesaid then on the fifth business day following the posting thereof, provided that in the event of disruption of postal, telex or telegraph services a notice shall be given by one of the other methods of communication.

8.6. Solicitor and Client Costs

If the Lessee defaults in paying the rent hereunder or in performing any of the covenants and agreements herein contained on the part of the Lessee to be observed and performed, the Lessor may recover from the Lessee all of the Lessor's reasonable costs in enforcing compliance with this Lease and without limitation, costs as between solicitor-and-own-client or in the alternative, costs at the highest tariff allowed under the *Rules of Court*.

8.7. Binding Agreement

This Lease shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns as the case may be. This Lease is not assignable by the Lessee without the express written consent of the Lessor, which may be arbitrarily and unreasonably withheld.

8.8. Interpretation of Words

Wherever the singular or the masculine is used in this Lease, the same shall be deemed to include the plural or the feminine or the body politic or corporate where the context or the parties so require.

8.9. Time of Essence

Time shall in all respects be of the essence hereof.

8.10. Changes to Agreement

No provision of this Lease shall be deemed to have been changed unless made in writing signed by the Lessor and Lessee, and if any provision is unenforceable or invalid for any reason whatever, such unenforceability or invalidity shall not affect the remaining provisions of this Lease and such provisions shall be severable from the remainder of this Lease.

8.11. Acceptance by Lessee

The Lessee does hereby accept this Lease of the Lands and Premises, to be held by it as tenant, and subject to the conditions, restrictions and covenants above set forth.

IN WITNESS WHEREOF the parties hereto have hereunto executed this Lease as of the day and year first written above in the City of Whitehorse, in the Yukon Territory.

) THE CORPORATE SEAL OF
The City of Whitehorse
was hereunto affixed in the presence of:
)
)
)
)
)

Mayor
)
)
Assistant City Clerk

) Yukon Film Society
Per:
)
)
)
)
)

Aileen Horler, President

Witness

Affidavit of Witness

CANADA) I, _____
YUKON TERRITORY) of the City of Whitehorse,
) in the Yukon Territory,
)
TO WIT:) MAKE OATH AND SAY AS FOLLOWS:

- 1) I was personally present and did see Aileen Horler named in the within instrument, who identified himself to me to be the person named therein, duly sign and execute the same for the purpose therein named;
 - 2) The said instrument was executed at the City of Whitehorse, in the Yukon Territory, and that I am the subscribing witness thereto;
 - 3) The said party is in my belief of the full age of nineteen years.

SWORN BEFORE ME
at the City of Whitehorse in the
Yukon Territory, this _____ day
of _____, 2019.

A Notary Public in and for
the Yukon Territory



CITY OF WHITEHORSE
BYLAW 2019-22
SCHEDULE "A"



LEASE AGREEMENT

Between the City of Whitehorse and Yukon Film Society.

LEGEND



SUBJECT AREA

CITY OF WHITEHORSE

BYLAW 2019-23

A bylaw to authorize a lease agreement with Yukon Literacy Coalition with respect to the heritage property Pioneer Hotel 2

WHEREAS section 265 of the *Municipal Act* (2002) provides that council may pass bylaws for municipal purposes respecting the municipality's leasing of any real or personal property; and

WHEREAS it is deemed desirable that the City enter into an agreement with Yukon Literacy Coalition for the lease of the heritage property Pioneer Hotel 2, also known as Hatch House, and a 0.022 hectare parcel of land for a five year lease term from November 1, 2019 to and including October 31, 2024;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. The City of Whitehorse is hereby authorized to enter into a lease agreement with Yukon Literacy Coalition with respect to that portion of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO, in the City of Whitehorse, as shown on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
2. The Mayor and Assistant City Clerk are hereby authorized to execute on behalf of the City of Whitehorse the Lease Agreement attached hereto as Appendix "B" and forming part of this bylaw.
3. This bylaw shall come into full force and effect upon the final passing thereof.

**FIRST and SECOND READING:
THIRD READING and ADOPTION:**

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2019-23
APPENDIX "A"



BYLAW 2019-23

A bylaw to authorize the City of Whitehorse to enter into a lease agreement with Yukon Literacy Coalition with respect to the heritage property known as Pioneer Hotel 2 (Hatch House), comprising approximately 0.22 ha.

LEGEND



SUBJECT AREA

THIS LEASE AGREEMENT, made the _____ day of _____, 2019 in triplicate, to be effective as of and from the 1st day of November, 2019.

BETWEEN

The City of Whitehorse, a municipality duly incorporated pursuant to the provisions of the *Municipal Act*
(the "Lessor")

AND

Yukon Literacy Coalition
(the "Lessee")

WHEREAS

- A. The Lessor is the tenant of the Lands as described in Paragraph 1.1(1) herein pursuant to a License of Occupation (Disposition Number 2009-3080) with the Government of Yukon (the "License of Occupation");
- B. The Lessee will occupy the building known as the Pioneer Hotel 2 – also known as the Hatch House – which the Lessee will operate as a downtown location for the Family Literacy Centre (the "Premises");
- C. The Premises are situated on the Lands and the Lessee desires to enter into a lease agreement with the Lessor in accordance with the terms and conditions contained in this lease.

1. Demise

1.1. *Lease*

Witness that in consideration of the rents, covenants, conditions and agreements herein reserved and contained on the part of the Lessee to be paid, observed and performed, the Lessor, being licensee of the Government of Yukon under the License of Occupation, does hereby demise and lease unto the Lessee on the terms and conditions herein contained, the Premises and that parcel of land more particularly described as follows:

- (1) That portion of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO, City of Whitehorse, Yukon Territory;

Comprising approximately 0.022 hectares more or less and shown outlined in yellow in the sketch attached hereto as Schedule "A" (the "Lands").

1.2. *Term*

To have and to hold the Lands and Premises, within which the Lessee will operate as a programming, activities and events space for the Yukon Literacy Centre, for and during the term of November 1, 2019 up to and including October 31, 2024.

1.3. *Rent*

Yielding and paying therefore during the term hereof unto the Lessor the sum of Five Hundred dollars (\$500.00) per year, plus Goods and Services Tax, of lawful money of Canada to be paid in advance of the first day March each year.

1.4. *Property Taxes*

The tenant shall be responsible for all real property taxes including local improvements rates levied or assessed by any competent authority upon or in respect of the Land.

1.5. *Carefree Lease*

The Lessee acknowledges that it is intended that this Lease be a net-net lease for the Lessor and that all and every cost, expense, charge or out lay of any nature whatsoever in any way related to the Lands and Premises or their occupancy by the Lessee shall be borne by the Lessee excepting as otherwise expressly provided herein.

1.6. *Heritage Integrity*

The Lessor and Lessee hereby recognize that the Pioneer Hotel 2 (Hatch House) is a heritage building and that the historic integrity, especially the exterior, must be maintained. Any alterations, repairs, or applications for signage must receive prior approval from the Lessor.

1.7. *Parking*

The Lessee, their employees and any other individuals associated with the programs and activities associated with the building shall use the designated public parking area in the Shipyards Park parking lot for vehicle parking. The parking spaces are on a first-come, first-serve basis, with no reserved spaces. Vehicles are prohibited from driving and parking on any other land in Shipyards Park, unless there are exceptional circumstances and the Lessee has received verbal permission from the Lessor.

1.8. *Access*

The Lessee agrees that vehicles shall not drive or park on any portion of Lot 8 (Remainder), Group 5 (804), Plan 20502 LTO, City of Whitehorse, Yukon Territory without prior verbal permission from the Lessor.

The Lessee further agrees that the formal pedestrian access route from the parking lot shall be by way of the waterfront trail rather than across the skating loop.

1.9. *Special Events*

The Lessor and Lessee hereby recognize that special events and festivals will be occurring in Shipyards Park during the lease term, which may limit the availability of parking and compromise access to the Lands and Premises. The Lessor shall make every reasonable effort to ensure that access to the Lands and Premises is maintained during special events and festivals. In the event that access will be unable to be maintained to the Lands and Premises as a result of any special event or festival, the Lessor shall notify the Lessee in advance of the special event or festival (not to include any regular events such as the weekly Fireweed Market).

2. Covenants of Lessee**2.1. *Promises of Lessee***

The Lessee covenants and agrees with the Lessor as follows:

(1) *Rent*

The Lessee shall during the terms of this lease or any renewal thereof pay to the Lessor the rent hereby reserved, and all other sums to be paid by the Lessee hereunder in the manner herein provided without any deduction whatsoever. The Lessee shall produce to the Lessor from time to time, at the request of the Lessor, satisfactory evidence of the due payment by the Lessee of all other payments required to be made by the Lessee under this lease;

(2) *Repair*

The Lessee shall maintain the Lands and Premises in good and substantial repair, damage by fire and other risks against which the Lessor is insured excepted (the "Lessee Repair Exceptions");

(3) *Notice to Repair*

The Lessor and its agents may at all reasonable times enter the Lands and Premises to examine the condition thereof, and all want of repair that upon such examination may be found and for the amendment of which notice in writing is left at the Lands and Premises, the Lessee shall well and sufficiently repair and make good according to such notice within 15 days from the date on which such notice is left at the Lands and Premises, subject to the Lessee Repair Exceptions;

(4) *Care of Lands and Premises*

The Lessee shall take good care of the Lands and Premises and keep the same in a safe, tidy and healthy condition and shall, at its own expense, bear such costs as are reasonably necessary during the term of this lease to keep the Lands and Premises in such condition. The Lessee shall be responsible for clearing snow on the walkway between the waterfront trail and the entrance to the Premises;

(5) *Utilities*

The Lessee shall pay when due all rates and charges for electricity, water, sewer, telephone, cable, heating fuel, internet and any other utilities supplied to or used on or in the Lands and Premises as separately metered or separately invoiced by the supplier(s), including any utilities as supplied by the Lessor;

(6) *Security Alarm*

The Premises is equipped with a security system. The Lessee shall pay all charges for security alarm call-outs when the reason for the call-out is deemed to be a false alarm.

(7) *Waste Diversion*

Waste diversion to extend the life of the City's landfill is important to the Landlord and the citizens of the City of Whitehorse. As such, City Council has adopted the Waste Management Bylaw which bans or controls certain types of waste. The

Tenant agrees that it shall comply with the Waste Management Bylaw at all times, including provision of sufficient recycling and compost bins on the Lands and Premises, to ensure that recyclable and organic waste are separated and diverted from the landfill as required by the Waste Management Bylaw. All costs associated with waste diversion shall be the responsibility of the Tenant;

(8) *Removal of Garbage*

The Lessee shall arrange at their cost for regular garbage collection of all garbage arising from the operation of the Lessee's business or their occupation of the Lands and Premises. The Lessee shall also be responsible for cleaning all garbage and refuse from within the Lands and Premises which includes all areas within 3 metres of the building;

(9) *Business Taxes*

The Lessee shall pay when due all business taxes payable by the Lessee in respect of the Lessee's occupancy of the Lands and Premises;

(10) *Assignment and Subleasing*

The Lessee shall not assign, mortgage or encumber this Lease, or sublet, or suffer or permit the Lands and Premises or any part thereof to be used by others by license or otherwise, without the prior written consent of the Lessor, which consent may be arbitrarily and unreasonably withheld;

Notwithstanding the foregoing, the Lessor authorizes the Lessee, at the Lessee's sole discretion, to sublet the Lands and Premises to Yukon Film Society for the purposes of artist residency programming during the winter months (November 1 to April 30 annually), provided Yukon Film Society maintains its status in good standing as a not-for-profit Society.

(11) *Use of Lands and Premises*

The Lessee shall not use the Lands and Premises nor allow the Lands and Premises to be used for any purpose other than as operations and programming for the Family Literacy Centre, or such other uses as are approved in writing by the Lessor. The Lessee may make application for temporary events outside the boundaries of the Lands and Premises, so long as they obtain written approval from the Lessor, whose consent may be arbitrarily and unreasonably withheld;

(12) *Nuisance*

The Lessee shall not at any time use, exercise, or carry on or permit to be used, exercised or carried on, in or upon the Lands and Premises or any part thereof any noxious, noisome, or offensive act, trade, business, occupation or calling and no act, matter or thing whatsoever shall at any time be done in or upon the Lands and Premises or any part thereof which is an unreasonable annoyance, nuisance or disturbance to the occupiers or owners of the adjoining lands and properties;

(13) *Insurance Risk*

The Lessee shall not do or permit to be done any act or thing which may render void or voidable or conflict with the requirements of any policy of insurance, on the

Lands and Premises, including any regulations of fire insurance underwriters applicable to such policy. The Lessee shall ensure that all activities carried out or conducted on the Lands and Premises are done in accordance with the provisions of any policy of insurance that is in force, so that the Lessee and the Lessor have the benefit of such insurance. Any activity which cannot be insured for or which is specifically exempted from coverage under any policy of insurance that is in force shall not be permitted by the Lessee;

(14) *Bylaws*

The Lessee shall comply with all statutes, regulations, and by-laws of any governmental authority relating in any way to the use or occupation of the Lands and Premises, including, without limiting the generality of the foregoing, all laws, regulations and bylaws affecting or relating to the sale or consumption of alcoholic beverages on the Lands and the Premises;

(15) *Alterations*

The Lessee shall not make any alterations, installations, improvements or changes of any kind to the Lands and Premises without the prior written consent of the Lessor, and the Lessor may require that any or all work to be done or materials to be supplied hereunder, be done or supplied by contractors or workers approved by the Lessor;

(16) *Fixtures*

All alterations, additions, improvements and fixtures to, in or upon the Lands and Premises including everything attached to any part of the Lands and Premises, other than the Lessee's trade fixtures, machinery, plant and equipment, shall become the property of the Lessor and shall remain on the Lands and Premises at the expiration or earlier termination of the term, subject to such exceptions that the Lessor may consent to in writing;

(17) *Removal of Goods, Chattels, or Fixtures*

The Lessee shall not remove from the Lands and Premises any goods or chattels moved into the Lands and Premises, except in the normal course of business, until all rent and other payments due or to become due during the term of this Lease are fully paid;

(18) *No Permanent Structures*

The Lessee shall not construct, install or erect any permanent structures or buildings on the Lands or additions to the Premises without the express written consent of the Lessor;

(19) *Builder's Liens*

The Lessee shall promptly pay all charges incurred by the Lessee for any work, materials or services that may be done, supplied or performed in respect of the Lands and Premises and shall not cause or permit any builder's lien to be registered against the Lands and if any such lien should be so registered the Lessee shall pay off and discharge the same forthwith and, if he shall fail or neglect

to do so within 10 days after written notice thereof from the Lessor, the Lessor may but shall not be obliged to, pay and discharge such lien and may add to the next ensuing instalment of rent the amount so paid including all costs to the Lessor together with interest thereon from the date of payment.

Provided that in the event of a bona fide dispute by the Lessee of the validity or correctness of any such claim of lien, the Lessee shall be entitled to defend against the same and any proceedings brought in respect thereof after having first paid into Court the amount claimed and such costs as the Court may direct or having provided such other security as the Lessor may in writing approve to ensure payment thereof. Provided further that upon determination of the validity of any such lien, the Lessee shall immediately pay any judgment in respect thereof against the Lessor, including all proper costs and charges incurred by the Lessor and the Lessee in connection with any such lien and shall cause a discharge thereof to be registered without cost or expense to the Lessor;

(20) *Inspection*

The Lessee shall permit the Lessor or any other person authorized by the Lessor to inspect the Lands and Premises at all reasonable times;

(21) *Re-letting*

The Lessee shall permit the Lessor, at any time within 90 days prior to the expiration of the terms hereby granted, upon 24 hours' notice to the Lessee, to enter upon the Premises at all reasonable hours for the purpose of offering the same for rent and exhibiting the same to prospective tenants and to place and keep upon the Premises, signs advertising the premises for rent;

(22) *Maintenance*

The Lessee shall permit the Lessor to install, maintain, replace, repair and service or cause to be installed, maintained, replaced, repaired, and serviced, wires, ducts or other installations in, under or through the Lands and Premises for or in connection with the supply of any service or utility to any part of the Lands and Premises;

(23) *Vacant Possession*

The Lessee shall at the expiration or earlier termination of this Lease, peaceably surrender and deliver up vacant possession of the Lands and Premises in the condition required herein and deliver to the Lessor all keys, operation manuals, logs and such documents as are reasonably requested which relate to the Lands and Premises.

3. Covenants of Lessor

3.1. *Promises of Lessor*

The Lessor covenants with the Lessee as follows:

(1) *Quiet Enjoyment*

The Lessee, paying the rent hereby reserved and performing the covenants herein on its part contained, shall and may peaceably possess and enjoy the Lands and Premises for the terms of this Lease or any renewal thereof without interruption or disturbance from the Lessor or any other person lawfully claiming by, from or under the Lessor;

(2) *Repairs*

The Lessor shall make any necessary repairs to any structural defects or weaknesses in the Premises not caused by the Lessee, its agents, employees or invitees and, in so doing, shall, to the extent possible, not unduly disrupt the Lessee's business;

(3) *Vandalism*

The Lessor shall make any repairs to the exterior of the Premises resulting from vandalism of the Premises including the removal of spray paint and graffiti;

(4) *HVAC Systems*

The Lessor shall be responsible for major repairs to or any required replacements of any heating, ventilation and air conditioning (HVAC) systems in the Premises not caused by the Lessee, its agents, employees or invitees and, in doing such work, the Lessor shall to the extent possible, not unduly disrupt the Lessee's business; and

(5) *Grounds*

The Lessor shall provide lawn care and maintenance for all that portion of the Lands not occupied by buildings.

4. Rights and Remedies of the Lessor

4.1. *Re-entry*

If default or breach or non-performance of any of the covenants or agreements in this Lease contained on the part of the Lessee continues for 30 days after written notice thereof has been given by the Lessor to the Lessee, then it shall be lawful for the Lessor at any time thereafter without notice to re-enter the Lands and the same to have again, repossess and enjoy as of its former estate, anything herein contained to the contrary notwithstanding. If the Lessor re-enters the Lands and Premises by reason of the default of the Lessee prior to the expiry of the term of this lease, the Lessee will be liable to the Lessor for the amount of rent for the remainder of the term as if such re-entry had not been made, less the actual amount received by the Lessor after such re-entry from any subsequent leasing of the Lands during the remainder of the term after deducting the Lessor's costs of re-letting the Lands.

4.2. Right of Termination

Upon the Lessor becoming entitled to re-enter upon the Lands and Premises, the Lessor shall have the right in addition to all other rights, to determine forthwith this lease by giving notice in writing to the Lessee and thereupon rent shall be apportioned and paid to the date of such determination and the Lessee shall forthwith deliver up possession of the Lands and Premises and the Lessor may re-enter and take possession of the same.

4.3. Bankruptcy

If the term hereof or any renewal thereof shall at any time be seized or taken in execution or attachment by any creditor of the Lessee or if the Lessee makes any assignment for the benefit of creditors or becomes bankrupt or insolvent or takes the benefit of any bankruptcy or insolvency legislation or in case the Lands and Premises become vacant or unoccupied for a period of 10 days, the then current month's rent together with the rent accruing for the balance of the term or the next three months, whichever is less, shall immediately become due and payable and the term hereof or any renewal thereof shall at the option of the Lessor become forfeited and void. Neither this Lease nor any interest therein nor any estate hereby created shall pass to or enure to the benefit of any trustee in bankruptcy or any receiver of any assignee for the benefit of creditors or otherwise by operation of law.

4.4. Distress

Whosoever the Lessor shall be entitled to levy distress against the goods and chattels of the Lessee, the Lessor may use such force as it may deem necessary for that purpose and for gaining admittance to the Lands and Premises without being liable in any action in respect thereof, or for any loss or damage occasioned thereby and the Lessee hereby expressly releases the Lessor from all actions, proceedings, claims or demands whatsoever for or on account of or in respect of any such forcible entry or any loss or damage sustained by the Lessee in connection therewith.

4.5. Distress not Waiver

The exercise by the Lessor of its right of distraint for a breach or breaches by the Lessee shall not act as a waiver of such breach or breaches and the Lessor may, at its sole and unfettered discretion, after distraining or during a distraint after seizing and before the disposal of the distrained goods has been completed, exercise any of its other remedies hereunder provided or provided by law or in equity without affecting the distraint, whether completed or not, and, if not completed, the Lessee hereby agrees that the Lessor may complete the distraint whether or not the Lessee has determined this Lease.

4.6. Non-waiver

The waiver by the Lessor of any breach by the Lessee of any covenant or condition contained in this Lease shall not be construed as or constitute a waiver of any further or other breach of the same or any other covenant or condition, and the consent or approval of the Lessor to or of any act by the Lessee requiring the Lessor's consent or approval shall not be deemed to waive or render unnecessary the Lessor's consent or approval to any subsequent act, similar or otherwise, by the Lessee.

4.7. Lessor's Right to Perform

If the Lessee fails to perform any of the covenants or obligations of the Lessee under or in respect of this Lease, the Lessor may from time to time, at its discretion, perform or cause to be performed any such covenants or obligations or any part thereof and for such purpose may do such things as may be required and may enter upon the Lands and Premises to do such things and all expenses incurred and expenditures made by or on behalf of the Lessor shall be paid forthwith by the Lessee to the Lessor and if the Lessee fails to pay the same the Lessor may add the same to the rent and recover the same by all remedies available to the Lessor for the recovery of rent in arrears; provided that if the Lessor commences or completes either the performance or causing to be performed of any of such covenants or obligations or any part thereof, the Lessor shall not be obliged to complete such performance or causing to be performed or be later obliged to act in a like fashion.

4.8. Interest

The Lessee shall pay to the Lessor interest at 1.5% per month being 19.62% per annum on all overdue payments of rent and other sums required to be paid under this Lease, from the date upon which the same were due until actual payment thereof.

4.9. Status as a Society

In the event the Lessee is dissolved, wound up or struck from the Corporate Registry, fails to maintain its status as a registered Society, or is in default of filing returns or notices, including its annual return and financial statements for a period in excess of one (1) year, or is otherwise no longer a not-for-profit society or organization, the Lessor shall have the absolute right to terminate this Lease upon giving the Lessee written notice to that effect. In the event the Lease is terminated pursuant to the provisions of this paragraph, the Lands and Premises shall become the sole property of the Lessor.

5. Indemnification

5.1. Indemnity by Lessee

Except for or in respect of events caused by the Lessor's actions, or those for who it is at law responsible, arising out of the use and occupation of the Lands and Premises, including wilful misconduct or negligence during the Term, the Lessee shall indemnify the Lessor and all of its servants, agents, employees, contractors, invitees and persons for whom the Lessor is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Lessee of any of the provisions of this Lease;
- (b) any act or omission of the Lessee of any of its members, servants, agents, employees, invitees, licensees, sub-tenants, concessionaires, contractors or persons for whom the Lessee is in law responsible on the Lands and Premises;

- (c) any injury, death or damage to persons or property of the Lessee or its members, servants, agents, employees, customers, invitees, contractors or any other persons on the Lands and Premises by or with the invitation, license or consent of the Lessee;
- (d) any damage, destruction or need of repair to any part of the Premises caused by any act or omission of the Lessee or its members, servants, agents, employees, customers, invitees, contractors, or persons for whom the Lessee is in law responsible, notwithstanding any other provisions of this Lease; and
- (e) any latent or patent defect in the Lands and Premises;

and this Indemnity shall survive the expiration or earlier termination of this Lease. In the event that the Lessor incurs liabilities, claims, damages, losses and expenses which are not paid by the Lessee or acknowledged by the insurer of the Lessee, within one year of written demand being made by the Lessor for indemnity pursuant to the provisions herein, this Lease shall terminate.

5.2. *Indemnity by Lessor*

Except for or in respect of events caused by the Lessee's actions, or those for whom it is at law responsible, arising out of the use and occupation of the Lands and Premises, including wilful misconduct or negligence during the term of this Lease, the Lessor shall indemnify the Lessee and all of its servants, agents, employees, contractors, customers, invitees and persons for whom the Lessee is in law responsible and shall hold them and each of them harmless from and against any and all liabilities, claims, damages, losses and expenses, including all legal fees, on a solicitor-and-own-client basis, or in the alternative, the highest rate allowed for the taxation of costs under the *Rules of Court* and disbursements, due to, arising from or to the extent contributed to by:

- (a) any breach by the Lessor of any of the provisions of this Lease;
- (b) any act or omission of the Lessor or any of its servants, agents, employees, contractors or persons for whom the Lessor is in law responsible on the Lands and Premises; and
- (c) any injury, death or damage to persons or property of the Lessor or its servants, agents, employees, contractors or any other persons on the Lands and Premises by or with the invitation or consent of the Lessor;

except for any latent or patent defect in the Lands and Premises, and this Indemnity shall survive the expiration or earlier termination of this Lease.

5.3. *Lessor Unable to Perform*

Whenever and to the extent that the Lessor shall be unable to fulfil or shall be delayed or restricted in the fulfilment of any obligation hereunder in respect of the supply or provision of any service or utility or the doing of any work by reason of being unable to obtain the material goods, equipment, service, utility or labour required to enable it to fulfil such obligation or by reason of any strike or lock-out or any statute, law, or order-in-council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administration, controller or board or any governmental department or

officer or other authority or by reason of any cause beyond its control either of the foregoing character or not, the Lessor shall be relieved from the fulfilment of such obligation and the Lessee shall not be entitled to compensation for any loss, inconvenience, nuisance or discomfort thereby occasioned.

5.4. *Liability Insurance*

The Lessee shall provide and maintain in such form and to such extent and with such companies as required by the Lessor, public liability insurance in the minimum amount of \$3,000,000.00 for the protection against any claims in any way relating to the Lands and Premises. This public liability insurance shall be increased by the Lessee upon the written request of the Lessor. Such policy shall designate both the Lessor and the Lessee as the insured and provide that the same cannot be cancelled without at least 15 days prior written notice to the Lessor. The Lessee shall deposit with the Lessor a certificate of such insurance at or prior to the commencement of the term and thereafter within 10 days prior to the expiration of any such policy. The Lessee's insurance shall be in effect for the duration of the lease term.

5.5. *Contents Insurance*

The Lessee shall provide and maintain their own insurance for the contents of the Premises. The Lessee's contents insurance shall be in effect for the duration of the lease term.

5.6. *Condition of Lands and Premises*

The Lessee will examine the Lands and Premises before taking possession thereof under this Lease and unless the Lessee has furnished the Lessor with notice in writing specifying any defects in the construction or condition of the Lands and Premises, the Lessee shall conclusively be deemed to have examined the Lands and Premises and to have found the Lands and Premises in good order and satisfactory condition. The Lessee acknowledges that there are no promises, representations or undertakings by the Lessor as to any alterations, remodelling or decorating of the Lands and Premises or installations of equipment or fixtures therein except such, if any, as are expressly set forth in this Lease.

5.7. *Relief of Lessor on Sale*

If the Lessor sells or otherwise conveys its interest in the Lands and Premises and the subsequent owner of such interest assumes the covenants and obligations of the Lessor hereunder, the Lessor shall, without further written agreement, be freed and relieved of all liability for such covenants and obligations. The Lessee shall from time to time at the request of the Lessor promptly execute and return to the Lessor such certificates confirming the current status of this Lease in such detail as the Lessor may require.

6. Hazardous Substances

6.1. Definitions

“Hazardous Substance” means any substance which is hazardous to persons or property and includes, without limiting the generality of the foregoing:

- (1) radioactive materials;
- (2) explosives, excluding lawfully possessed ammunition;
- (3) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent that it is detrimental to its use by man or by any animal, fish or plant;
- (4) any solid, liquid, gas or odour or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that:
 - (a) endangers the health, safety or welfare of persons or the health of animal life;
 - (b) interferes with normal enjoyment of life or property; or
 - (c) causes damage to plant life or to property;
- (5) toxic substances; or
- (6) substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction over the Lessor, the Lessee, or the Lands and Premises.

6.2. Compliance with Laws

The Lessee shall not bring upon the Lands and Premises or any part thereof any Hazardous Substance. Without limiting the generality of the foregoing, the Lessee shall, at the Lessee's own cost and expense, comply with all laws and regulations from time to time in force relating to a Hazardous Substance and protection of the environment, and shall immediately give written notice to the Lessor of the occurrence of any event on the Lands and Premises constituting an offence thereunder or being in breach thereof and, if the Lessee, either alone or with others, causes the happening of such event, the Lessee shall, at its own expense, immediately give the Lessor notice to that effect and thereafter give the Lessor from time to time written notice of the extent and nature of the Lessee's compliance with this Paragraph 6; promptly remove the Hazardous Substance from the Lands and Premises, as the case may be, in a manner which conforms with all laws and regulations governing the movement of the same; and if requested by the Lessor, obtain from an independent consultant designated or approved by the Lessor a report verifying the complete and proper removal thereof from the Lands and Premises or, if such is not the case, reporting as to the extent and nature of any failure to comply with this Paragraph.

The Lessee shall, at its own expense, remedy any damage to the Lands and Premises caused by such event or by the performance of the Lessee's obligations under this Paragraph 6 as a result of such occurrence.

If any governmental authority having jurisdiction requires the clean-up of any Hazardous Substance held, released, spilled, abandoned, or placed upon the Lands and Premises or released into the environment by the Lessee in the course of the Lessee's business or as a result of the Lessee's use or occupancy of the Lands and Premises, then the Lessee shall, at its own expense, prepare all necessary studies, plans and proposals and submit the same for approval, provide all bonds and other security required by governmental authorities having jurisdiction and carry out the work required and shall keep the Lessor fully informed and provide to the Lessor full information with respect to proposed plans and comply with the Lessor's reasonable requirements with respect to such plans.

6.3. *Discharge*

The Lessee shall not discharge or permit the discharge of any oil or grease or any deleterious, objectionable, dangerous materials or Hazardous Substance into any water course, culvert, drain or sewers in, under or near the Lands and Premises. The Lessee shall take all reasonable measures for ensuring that any discharge effluent shall not be corrosive, poisonous or otherwise harmful or to cause obstruction, deposit or pollution to any waters, ditches, water course, culverts, drains or sewers, nor to or within any sewage disposal works nor to the bacteriological process of sewage purification. The Lessee shall forthwith, at the Lessor's request, provide facilities for testing and monitoring the effluent from the Lessee's operations and shall permit the Lessor and its agents reasonable access to the lands for the purposes of carrying out such testing and monitoring from time to time at the Lessee's expense.

The Lessee shall construct, maintain and operate every furnace and burner used on the Lands and Premises so as to substantially consume or burn the smoke arising there from and shall not use or suffer any furnace or burner to be used negligently.

The Lessee shall not cause or permit any grit, dust, noxious or offensive effluvia or Hazardous Substance to be emitted from any engine, furnace, burner or apparatus on the Lands and Premises without using the best practicable means reasonably available for preventing or counteracting such emissions.

6.4. *Ownership of Hazardous Substances*

If the Lessee brings onto or creates upon the Lands and Premises any Hazardous Substance or if the conduct of the Lessee's business causes there to be any Hazardous Substance upon the Lands and Premises, then, notwithstanding any rule of law to the contrary, such Hazardous Substance shall be and remain the sole and exclusive property of the Lessee and shall not become the property of the Lessor, notwithstanding the degree of affixation of the Hazardous Substance or the goods containing the Hazardous Substance to the Lands and Premises and notwithstanding the expiry or earlier termination of this Lease.

6.5. *Access to Information*

The Lessee hereby authorizes the Lessor to make enquiries from time to time of any government or governmental agency with respect to the Lessee's compliance with any and all laws and regulations pertaining to any Hazardous Substance and the protection of the environment and the Lessee covenants and agrees that the Lessee shall from time

to time provide to the Lessor such written authorization as the Lessor may reasonably require in order to facilitate the obtaining of such information. The Lessee shall, at its own expense, comply with all the laws and regulations from time to time in force regulating the manufacture, use, storage, transportation or disposal of Hazardous Substance and shall make, obtain and deliver all reports and studies required by governmental authorities having jurisdiction.

7. Termination

It is hereby agreed that during the term hereof, or any renewal thereof, the Lessor or the Lessee may terminate the Lease by giving notice in writing two months before such determination, and on the day following the date specified in the notice, this Lease is terminated.

8. General Provisions

8.1. *Subordination*

This Lease is subject and subordinate to all mortgages, easements, or rights of way which now or hereafter during the term of this Lease or any renewal thereof shall be recorded in the Land Titles Office as a mortgage, easement, or right of way given by the Lessor against the Lands and Premises. The Lessee shall execute promptly from time to time any assurances that the Lessor may request to confirm this subordination.

8.2. *No Agency or Partnership*

Nothing herein contained shall be construed as creating the relationship of principal and agent or of partners or of joint ventures between the parties hereto, their only relationship being that of landlord and tenant.

8.3. *Over-holding*

If the Lessee continues to occupy the Lands and Premises with the consent of the Lessor after the expiration of this Lease or any renewal thereof without any further written agreement, the Lessee shall be a monthly Lessee at a monthly rental equivalent to 1/12 of the annual rental and all other sums payable hereunder pro-rated for one month.

8.4. *Effect of Headings*

The headings or subheadings to the clauses in this Lease form no part thereof, and are inserted for convenience and internal reference only and are not to be relied upon or considered by any person in the interpretation hereof.

8.5. *Notices*

Any notice required to be given hereunder by any party shall be deemed to have been well and sufficiently given if mailed by prepaid, registered mail, faxed, telexed or telegraphed to or delivered at the address of the other party hereinafter set forth:

If to the Lessor: City of Whitehorse
2121 Second Avenue
Whitehorse, Yukon Territory
Y1A 1C2
Attention: Manager, Land and Building Services
Fax No. (867) 668-8395

If to the Lessee: Yukon Literacy Coalition
#207 – 100 Main Street
Whitehorse, Yukon Territory
Y1A 2A8
Attention: Beth Mulloy, Executive Director

A notice shall be deemed to have been received, if faxed, telexed, telegraphed or delivered, on the date of delivery and if mailed as aforesaid then on the fifth business day following the posting thereof, provided that in the event of disruption of postal, telex or telegraph services a notice shall be given by one of the other methods of communication.

8.6. *Solicitor and Client Costs*

If the Lessee defaults in paying the rent hereunder or in performing any of the covenants and agreements herein contained on the part of the Lessee to be observed and performed, the Lessor may recover from the Lessee all of the Lessor's reasonable costs in enforcing compliance with this Lease and without limitation, costs as between solicitor-and-own-client or in the alternative, costs at the highest tariff allowed under the *Rules of Court*.

8.7. *Binding Agreement*

This Lease shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns as the case may be. This Lease is not assignable by the Lessee without the express written consent of the Lessor, which may be arbitrarily and unreasonably withheld.

8.8. *Interpretation of Words*

Wherever the singular or the masculine is used in this Lease, the same shall be deemed to include the plural or the feminine or the body politic or corporate where the context or the parties so require.

8.9. *Time of Essence*

Time shall in all respects be of the essence hereof.

8.10. *Changes to Agreement*

No provision of this Lease shall be deemed to have been changed unless made in writing signed by the Lessor and Lessee, and if any provision is unenforceable or invalid for any reason whatever, such unenforceability or invalidity shall not affect the remaining provisions of this Lease and such provisions shall be severable from the remainder of this Lease.

8.11. Acceptance by Lessee

The Lessee does hereby accept this Lease of the Lands and Premises, to be held by it as tenant, and subject to the conditions, restrictions and covenants above set forth.

IN WITNESS WHEREOF the parties hereto have hereunto executed this Lease as of the day and year first written above in the City of Whitehorse, in the Yukon Territory.

) THE CORPORATE SEAL OF
The City of Whitehorse
was hereunto affixed in the presence of:
)
)
)
)
) _____
) Mayor
)
) _____
) Assistant City Clerk

Witness

) **Yukon Literacy Coalition**
Per:
)
)
)
)
) _____
) Patricia Brennan, Vice President

Affidavit of Witness

CANADA) I, _____
YUKON TERRITORY) of the City of Whitehorse,
) in the Yukon Territory,
)
TO WIT:) MAKE OATH AND SAY AS FOLLOWS:

- 1) I was personally present and did see Patricia Brennan named in the within instrument, who identified herself to me to be the person named therein, duly sign and execute the same for the purpose therein named;
 - 2) The said instrument was executed at the City of Whitehorse, in the Yukon Territory, and that I am the subscribing witness thereto;
 - 3) The said party is in my belief of the full age of nineteen years.

SWORN BEFORE ME
at the City of Whitehorse in the
Yukon Territory, this _____ day
of _____, 2019.

A Notary Public in and for
the Yukon Territory



CITY OF WHITEHORSE
BYLAW 2019-23
SCHEDULE "A"



LEASE AGREEMENT

Between the City of Whitehorse and Yukon Literacy Coalition.

LEGEND



SUBJECT AREA

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: November 18, 2019
RE: Zoning Bylaw Amendment – 25 Rhine Way/468 Range Road

ISSUE

Application to amend the zoning of a 557 m² portion of 25 Rhine Way and 468 Range Road in Takhini to allow for a boundary realignment and reduction of parking for a supportive housing development.

REFERENCE

- Zoning Bylaw 2012-20
- Proposed Bylaw 2019-21
- 2010 Official Community Plan

HISTORY

The owner of 468 Range Road, KBC Developments Inc., recently purchased the property located at 25 Rhine Way from the City of Whitehorse. The owner is proposing to develop a 'seniors community' on the two lots, with the first phase being a supportive housing development at 468 Range Road.

The owner has applied to rezone a portion of 25 Rhine Way. If the zoning application is successful, a boundary realignment would also be completed.

In addition, Administration has discussed a reduction in the required parking spaces as part of this amendment with the owner. The proposal would see the number of required spaces reduced from one space per two sleeping units to one space per four sleeping units.

This development has undergone numerous revisions by the owner, specifically following the purchase of 25 Rhine Way from the City. A major development incentive was approved for a previous rendition of this development proposal. If the amendment is successful, the owner would cancel that incentive application and reapply as part of a new development permit application.

ALTERNATIVES

1. Proceed with First Reading under the bylaw process.
2. Do not proceed with First Reading.

ANALYSIS

Development Proposal

The proposed project is intended as a seniors housing community that encompasses both 468 Range Road and 25 Rhine Way. The first development would front Range Road and is proposed as a 5 storey, 84-unit supportive housing building, including a

commercial kitchen, courtyard, and space for additional on-site services for assisted living for residents. Supportive housing is defined as a residential building with onsite services and supports, for individuals that require supervision or assistance due to physical, mental, social, or behaviour challenges. A future development at 25 Rhine Way is proposed as a 4 storey, independent living seniors apartment building.

The developer is proposing to realign the boundary of 468 Range Road to increase the lot area by 557 m², from 3,708 m² to 4,265 m² (15% increase in area). The lot at 25 Rhine Way would decrease in size from 5,201 m² to 4,644 m² (11% decrease in area).

This additional area would be used for parking, garbage/recycling/compost receptacles, and the energy generation plant and propane tanks. The proposed amendment also includes a reduction in the required parking.

Official Community Plan (OCP) and Zoning

The current zoning of 25 Rhine Way is RCM2-Comprehensive Residential Multiple Family 2 and the zoning of 468 Range Road is CM1-Mixed-Use Commercial. The proposed zoning for both 468 Range Road and a portion of 25 Rhine Way is CM1x(a)-Mixed-Use Commercial (modified). The proposed supportive housing is an allowable use under the CM1 zone, with a special modification to reduce the parking requirement.

Residents of supportive housing development are less likely to own/drive cars, and therefore have a lower parking requirement than for other residential developments. Section 7.3.6 of the Zoning Bylaw specifies the parking requirements for supportive housing developments as one space per two sleeping units. The requirements in the City's downtown area are even lower, reflecting the fact that services are available in close proximity. The modified parking requirements for supportive housing in the downtown area under section 7.3.7 of the Zoning Bylaw is one space per four sleeping units.

Pursuant to section 7.3.6, the proposed 84-unit development at 468 Range Road would require a total of 42 parking spaces. The proposed bylaw amendment would apply the supportive housing parking requirements for downtown to the Range Road property, with the result that parking complement for this development could be reduced to 21 spaces.

The Range Road/Rhine Way location is 150 m from a transit stop and could be served by the Handi-Bus or other private transportation options. Increasing density near services/transit/major transportation connections is consistent with sustainable planning practice. More people living in an area increases viability of commercial operations and municipal transit service. The OCP states that the City shall promote a compact development pattern oriented towards transit and active transportation. Given the close proximity of this site to downtown and the ease of access of public service, applying the downtown parking requirement to this site can be justified.

Decreased parking requirements are supported by the OCP. It states that consideration may be given to redevelopment incentives, such as decreased parking requirements, to encourage development on under-utilized properties.

Adding a variety of housing unit types into neighbourhoods allows for a wider range of choices and promotes variety in demographics and income levels. Adding supportive

housing units, such as the proposed project, can allow people to move through the housing continuum, but stay in their local neighbourhood – typically referred to as ‘aging in place’.

The proposed schedule for the Zoning Bylaw amendment is:

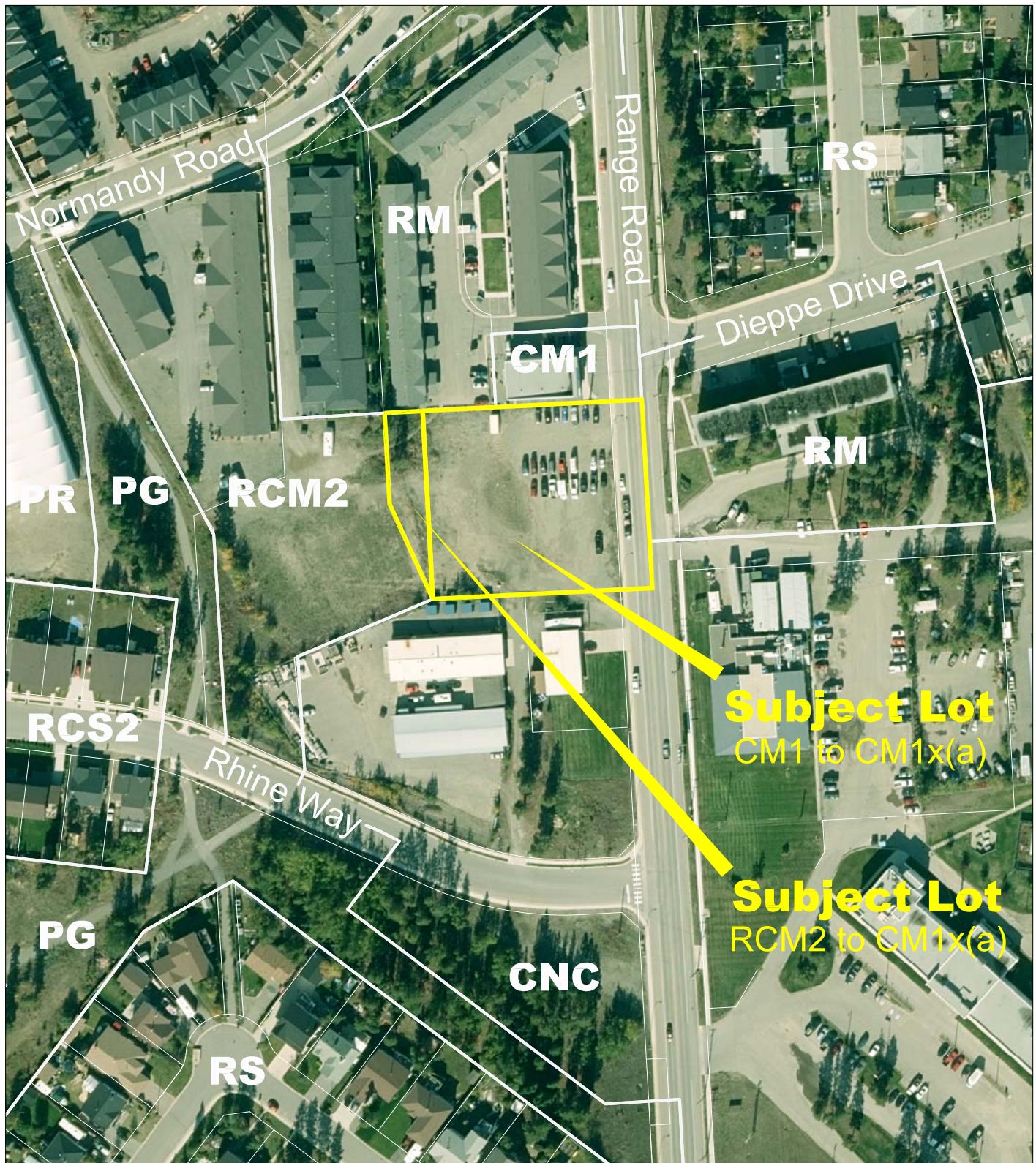
Planning Committee:	November 18, 2019
First Reading:	November 25
Public Hearing:	January 13, 2020
Report to Committee:	February 3
Second and Third Reading:	February 10

ADMINISTRATIVE RECOMMENDATION

THAT Bylaw 2019-21, a bylaw to amend the zoning of a 557 m² portion of 25 Rhine Way (Lot 426, Plan 2018-0037) and 468 Range Road (Lot 435-190-3), Group 804, Plan 35041 LTO) located in the Takhini neighbourhood, to allow for a boundary realignment and reduced parking requirements for a supportive housing development, be brought forward for consideration under the bylaw process.



CITY OF WHITEHORSE
BYLAW 2019-21
APPENDIX 'A'



BYLAW 2019-21

A bylaw to amend the zoning of 468 Range Road and a portion of 25 Rhine Way to allow for a boundary realignment and reduced parking requirements for a supportive housing development.

LEGEND

SUBJECT AREA

CITY OF WHITEHORSE

BYLAW 2019-21

A bylaw to amend Zoning Bylaw 2012-20

WHEREAS section 289 of the *Municipal Act* provides that a zoning bylaw may prohibit, regulate and control the use and development of land and buildings in a municipality; and

WHEREAS section 294 of the *Municipal Act* provides for amendment of the Zoning Bylaw; and

WHEREAS it is deemed desirable that the City of Whitehorse Zoning Bylaw be amended with respect to a number of administrative edits;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Section 9 of Zoning Bylaw 2012-20 is hereby amended by adding a new subsection 9.4.7 as follows:

“9.4.7 Special Modifications

- a) A 557 m² portion of lot 426, Plan 2018-0037, located at 25 Rhine Way (in the Takhini neighbourhood) is designated CM1x with the special modifications being that the number of required parking spaces for supportive housing is calculated at a rate of 1 per 4 units.

2. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding a new subsection 10.5.7 as follows:

“10.5.7 Special Modifications

- a) Lot 435-190-3, Group 804, Plan 35041 LTO, located at 468 Range Road (in the Takhini neighbourhood) is designated CM1x with the special modifications being that the number of required parking spaces for supportive housing is calculated at a rate of 1 per 4 units.

3. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of a 557 m² portion of lot 426, Plan 2018-0037, located at 25 Rhine Way (in the Takhini neighbourhood) from RCM2 – Comprehensive Residential Multiple Family 2 to CM1x(a) – Mixed Use Commercial (modified), as indicated on the sketch attached hereto as Appendix “A” and forming part of this bylaw.

4. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 435-190-3, Group 804, Plan 35041 LTO, located at 468 Range Road (in the Takhini neighbourhood) from CM1 – Mixed Use Commercial to CM1x(a) – Mixed Use Commercial (modified), as indicated on the sketch attached hereto as Appendix “A” and forming part of this bylaw.

Zoning Amendment Bylaw 2019-07

5. This bylaw shall come into full force and effect upon final passage thereof.

FIRST READING:

PUBLIC NOTICE:

PUBLIC HEARING:

SECOND READING:

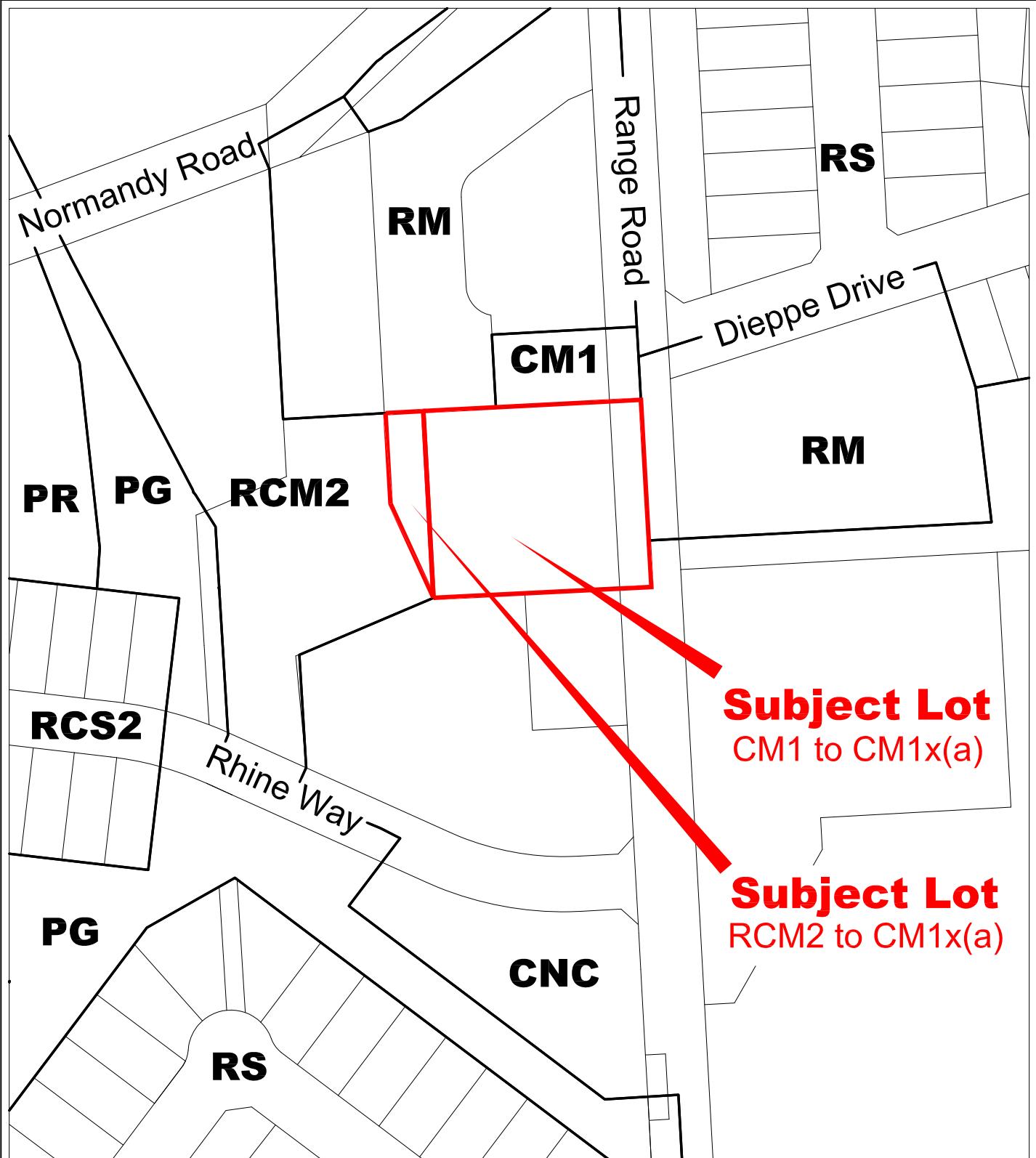
THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2019-21
APPENDIX 'A'



BYLAW 2019-21

A bylaw to amend the zoning of 468 Range Road and a portion of 25 Rhine Way to allow for a boundary realignment and reduced parking requirements for a supportive housing development.

LEGEND



SUBJECT AREA

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: November 18, 2019
RE: Zoning Bylaw Amendment – Keno Way

ISSUE

Edits to the CNC2-Comprehensive Neighbourhood Commercial 2 zoning in preparation for commercial lot sales on Keno Way in Whistle Bend.

REFERENCE

- Zoning Bylaw 2012-20
- Proposed Bylaw 2019-20
- 2010 Official Community Plan

HISTORY

Proposed Bylaw 2019-20 contains a number of changes to the CNC2-Comprehensive Neighbourhood Commercial 2 zone in advance of the Government of Yukon selling commercial lots on Keno Way in Whistle Bend. The edits are intended to implement a more urban design that would function similar to Main Street (in downtown Whitehorse) and complement the location of the town square as the centre of the neighbourhood.

The CNC2 zone was developed as part of the Master Plan design work for Whistle Bend and has only been applied to lots on Keno Way. Therefore, amending this zoning will not impact other areas of the city.

ALTERNATIVES

1. Proceed with First Reading under the bylaw process.
2. Do not proceed with First Reading.

ANALYSIS

The edits proposed in this bylaw are generally intended to promote an urban design for Keno Way that is focused on pedestrian friendly scale and uses that will create vitality along the street.

Bylaw 2019-20 proposes the following amendments:

- Adding/deleting permitted uses
- Increasing site coverage/floor area ratio
- Decreasing height/upper storey massing
- Reducing parking requirements
- Including specific requirements adjacent to the town square

Permitted Uses

The proposed bylaw refines the principal uses to promote customer-oriented development that will result in a vibrant streetscape. Specifically, the amendment would:

- Delete community recreation services and pet clinics as principal uses.
- Add hotels, scientific and cultural exhibits, and studios as principal uses.
- Clarify that residential uses, offices, and indoor participant recreation services are only permitted above the first storey of development.

Site Coverage/Floor Area Ratio

The proposed bylaw would allow for a greater scale of development on each lot that is more in line with urban, downtown development than suburban development.

Specifically, the bylaw proposes to:

- Increase the maximum site coverage from 70% to 90%.
- Increase the floor area ratio from 1.5 to 2.5.

Height/Upper Storey Massing

The proposed bylaw reduces the overall height of development and reduces the massing on upper storeys, which helps to promote articulation of building façade. It also encourages the creation of usable amenity space on upper storeys. Specifically, the bylaw proposes to:

- Reduce the maximum height from 15 m to 12 m.
- Require upper storeys facing a public street/town square to be set back 1.5 m.

Parking Requirements

The proposed bylaw reduces the number of off-street parking spaces required for each lot, similar to the reduction for lots located downtown. This amendment is intended to provide additional development space on the lots and supports the sustainable and walkable design for Whistle Bend. Stand-alone parking lots that can accommodate roughly 80 parking stalls have been planned immediately north of Keno Way.

Specifically, the bylaw proposes to:

- Reduce the number of required parking stalls to 1 per 2 dwelling units and 1 per 150 m² of non-residential gross floor area.

Specific Requirements Adjacent to Town Square

The proposed bylaw amendment restricts the principal uses allowed on the first storey for buildings adjacent to the town square. This amendment is intended to provide for an interactive connection between the building frontages and the town square.

Specifically, the bylaw proposes to:

- Restrict the first storey uses adjacent to the town square to eating and drinking establishments, retail services, and personal service establishments.
- Require a minimum percentage of seating for eating and drinking establishments to be developed outdoors.
- Require that building access and façades front both Keno Way and the town square.

The proposed schedule for the Zoning Bylaw amendment is:

Planning Committee:	November 18, 2019
First Reading:	November 25
Public Hearing:	January 13, 2020
Report to Committee:	January 20
Second and Third Reading:	January 27

ADMINISTRATIVE RECOMMENDATION

THAT Bylaw 2019-20, a bylaw to make several edits to the CNC2 zone, be brought forward for consideration under the bylaw process.

CITY OF WHITEHORSE

BYLAW 2019-20

A bylaw to amend Zoning Bylaw 2012-20

WHEREAS section 289 of the *Municipal Act* provides that a zoning bylaw may prohibit, regulate and control the use and development of land and buildings in a municipality; and

WHEREAS section 294 of the *Municipal Act* provides for amendment of the Zoning Bylaw; and

WHEREAS it is deemed desirable that the City of Whitehorse Zoning Bylaw be amended with respect to a number of administrative edits;

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Section 10 of Zoning Bylaw 2012-20 is hereby amended by deleting subsections 10.10.2 c) and k) and renumbering the remaining sections accordingly.
2. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding a new subsection 10.10.2 g) as follows and renumbering the remaining sections accordingly:
“10.10.2 g) hotels”
3. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding a new subsection 10.10.2 n) as follows and renumbering the remaining sections accordingly:
“10.10.2 m) scientific and cultural exhibits”
4. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding new subsection 10.10.2 o) as follows and renumbering the remaining sections accordingly:
“10.10.2 n) studios”
5. Section 10 of Zoning Bylaw 2012-20 is hereby amended by deleting existing subsection 10.10.5 c) and adding a new subsection as follows:
“10.10.5 c) The maximum floor area ratio is 2.5.”
6. Section 10 of Zoning Bylaw 2012-20 is hereby amended by deleting existing subsection 10.10.5 d) and adding a new subsection as follows:
“10.10.5 d) The maximum site coverage is 90%.”
7. Section 10 of Zoning Bylaw 2012-20 is hereby amended by deleting existing subsection 10.10.5 c) and adding a new subsection as follows:
“10.10.5 e) The maximum height is 12 m.”
8. Section 10 of Zoning Bylaw 2012-20 is hereby amended by deleting existing subsection 10.10.6 f) and adding a new subsection as follows:
“10.10.6 f) Residential uses, offices, and indoor participant recreation services are only permitted above the first storey.”

Zoning Amendment Bylaw 2019-07

9. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding new subsection 10.10.6 g) as follows and renumbering the remaining sections accordingly:
“10.10.6 g) The off-street vehicle parking, loading, and bicycle parking provisions are modified as per section 7.3.7.”
10. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding new subsection 10.10.6 h) as follows and renumbering the remaining sections accordingly:
“10.10.6 h) Upper storeys must be setback an additional 1.5 m from the building façade facing a public street or the town square.”
11. Section 10 of Zoning Bylaw 2012-20 is hereby amended by adding new subsection 10.10.7 as follows:
“10.10.7 Special Modifications
 - a) Lot 550, Plan 2019-0003 LTO (located at 120 Keno Way in Whistle Bend) is zoned CNC2x with the special modification being:
 - (1) Only eating and drinking establishments are permitted on the first storey.
 - (2) A minimum of 25% of seating capacity must be dedicated to outdoor seating.
 - (3) Building access and façade should front both Keno Way and the town square.
 - (4) The western side yard setback is 2.5 m.
 - b) Lot 548, Plan 2019-0003 LTO (located at 134 Keno Way in Whistle Bend) is zoned CNC2x with the special modification being:
 - (1) Only eating and drinking establishments, retail services (general or convenience), and personal service establishments are permitted on the first storey.
 - (2) A minimum of 30% of the first storey must be established as an eating and drinking establishment.
 - (3) A minimum of 10% of seating capacity must be dedicated to outdoor seating.
 - (4) Building access and façade should front both Keno Way and the town square.
 - (5) The eastern side yard setback is 2.5 m.
 - (c) Lots 530 and 533, Plan 2019-0003 LTO (located at 125 and 129 Keno Way in Whistle Bend) are zoned CNC2x with the special modification being:

Zoning Amendment Bylaw 2019-07

- (1) Only eating and drinking establishments, retail services (general or convenience), and personal service establishments are permitted on the first storey.
 - (2) Outdoor seating will be established in association with any eating and drinking establishment.
12. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 550, Plan 2019-0003 LTO (located at 120 Keno Way in Whistle Bend) from CNC2-Comprehensive Neighbourhood Commercial 2 to CNC2x(a)-Comprehensive Neighbourhood Commercial 2 (modified), as indicated on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
 13. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lot 548, Plan 2019-0003 LTO (located at 134 Keno Way in Whistle Bend) from CNC2-Comprehensive Neighbourhood Commercial 2 to CNC2x(b)-Comprehensive Neighbourhood Commercial 2 (modified), as indicated on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
 14. The zoning maps attached to and forming part of Zoning Bylaw 2012-20 are hereby amended by changing the zoning of Lots 530 and 533, Plan 2019-0003 LTO (located at 125 and 129 Keno Way in Whistle Bend) in Whistle Bend from CNC2-Comprehensive Neighbourhood Commercial 2 to CNC2x(c)-Comprehensive Neighbourhood Commercial 2 (modified), as indicated on the sketch attached hereto as Appendix "A" and forming part of this bylaw.
 15. This bylaw shall come into full force and effect upon final passage thereof.

FIRST READING:

PUBLIC NOTICE:

PUBLIC HEARING:

SECOND READING:

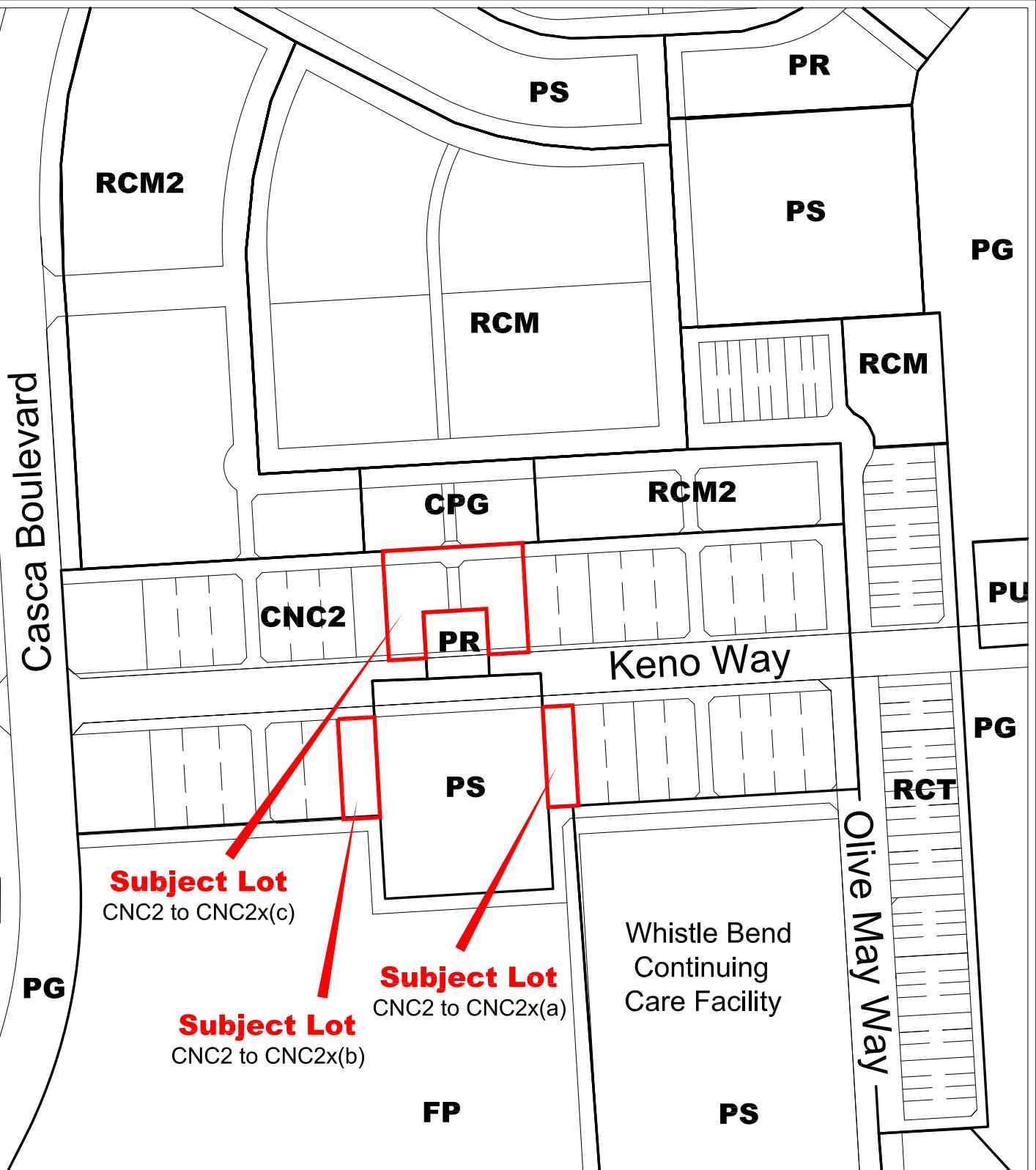
THIRD READING and ADOPTION:

Mayor

Assistant City Clerk



CITY OF WHITEHORSE
BYLAW 2019-20
APPENDIX 'A'



Bylaw 2019-20

A bylaw to amend the zoning of commercial lots located on Keno Way in Whistle Bend.

LEGEND



SUBJECT AREA