

CITY OF KELOWNA

BYLAW NO. 8718

BC Gas Legacy Fund Security Issuing Bylaw

A bylaw to authorize the entering into of an agreement respecting financing between the Municipality and the Regional District of Central Okanagan

WHEREAS the City of Kelowna (the "Municipality") is a member municipality of the Regional District of Central Okanagan (the "Regional District");

AND WHEREAS the Regional District may, from time to time, finance at the request, cost, and on behalf of the Municipality, pursuant to the provisions of Section 835 of the *Local Government Act* the works to be financed pursuant a certain loan authorization bylaw;

AND WHEREAS the amount of borrowing authorized by the loan authorization bylaw, the amount already borrowed under the authority thereof, the amount of authorization to borrow remaining thereunder, and the amount being issued under the authority of this bylaw is as follows:

Bylaw No.	Borrowing Purpose	Amount of Borrowing Authorized	Amount Already Borrowed	Borrowing Authority Remaining	Term of Issue	Amount of Issue
8660	Prepaying the rent payable under the terms of the Capital Lease to BCGU as authorized by City of Kelowna BC Gas Agreements Authorization Bylaw No. 8661	\$49,300,000.00	Nil	\$49,300,000.00	17 years	\$49,300,000.00
Total		<u>\$49,300,000.00</u>		<u>\$49,300,000.00</u>		<u>\$49,300,000.00</u>

AND WHEREAS the Municipal Council by this bylaw hereby requests that such financing shall be undertaken through the Municipal Finance Authority of British Columbia by the Regional District;

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

1. The Regional District is hereby requested and authorized to finance, from time to time, the aforesaid undertakings at the sole cost and on behalf of the Municipality up to, but not exceeding Forty-Nine Million Three Hundred Thousand Dollars (\$49,300,000.00) in lawful money of Canada (provided that the Regional District may borrow all or part of such amount in United States of America Dollars or United Kingdom Sterling but the aggregate amount in lawful money of Canada and in Canadian Dollar equivalents, so borrowed shall not exceed exceeding Forty-Nine Million Three Hundred Thousand Dollars (\$49,300,000.00) in Canadian Dollars) at such interest and with such discounts or premiums and expenses as the Municipal Finance Authority of British Columbia may deem appropriate in consideration of the market and economic conditions pertaining.

2. Upon completion by the Regional District of financing undertaken pursuant hereto, the Mayor and Officer Assigned Responsibility for Financial Administration under Section 199 of the *Local Government Act* for the Municipality, under its seal shall, at such time or times as the Regional District may direct, enter into and deliver to the Regional District one or more agreements, which said agreement or agreements shall be substantially in the form annexed hereto as Schedule "A" and made part of this bylaw (such Agreement or Agreements as may be entered into, delivered or substituted hereinafter referred to as the "Agreement"), providing for payment by the Municipality to the Regional District of the amounts required to meet the obligations of the Regional District with respect to its borrowings undertaken pursuant hereto, provided that the principal amount of the Agreement will not exceed the amount referred to in Section 1.
3. The Agreement shall be dated and payable in the principal amount or amounts of moneys and in such currency or currencies as shall be borrowed by the Regional District pursuant to Section 1 and shall set out the schedule of repayment of the principal amount, together with interest on unpaid amounts as shall be determined by the Treasurer of the Regional District so as to be consistent with the repayment of moneys being borrowed by the Regional District to finance the said undertakings of the Municipality as authorized by this bylaw.
4. The obligation incurred under the said Agreement shall bear interest from a date specified therein, which date shall be determined by the Treasurer of the Regional District and shall bear interest at a rate to be determined by the Treasurer of the Regional District, so as to be consistent with the rate of interest payable on moneys raised by the Regional District in order to finance the said undertakings in the amounts as authorized by this bylaw.
5. The Agreement shall be sealed with the seal of the Municipality and shall bear the signature of the Mayor and the Officer Assigned Responsibility for Financial Administration under Section 199 of the *Local Government Act*.
6. The obligation incurred under the said Agreement as to both the principal and interest shall be payable at the principal office of the Regional District and at such time or times as shall be determined by the Regional District so as to be consistent with the repayment of principal, together with interest on unpaid amounts of money being borrowed by the Regional District in order to finance the undertakings of the Municipality as authorized by this bylaw.
7. During the currency of the Agreement hereunder to secure borrowings in respect of Bylaw No. 8660 there shall be levied and raised annually by a rate sufficient therefore over and above all other rates upon all land and improvements subject to taxation for general municipal purposes in the Municipality in the same manner and at the same time as other rates, an amount sufficient to meet the annual payment of interest and the repayment of principal.
8. The Municipality shall provide and pay over to the Regional District such sums as are required to discharge its obligations in accordance with the terms of the Agreement, provided, however, that if the sums provided for in the Agreement are not sufficient to meet the obligations of the Municipality, such deficiency shall be a liability of the Municipality to the Regional District and the Council of the Municipality shall make due provision to discharge such liability.

9. The Municipality shall pay over to the Regional District, at such time or times as the Treasurer of the Municipal Finance Authority of British Columbia so directs, such sums as are required pursuant to Section 15 of the *Municipal Finance Authority Act* to be paid into the Debt Reserve Fund established by the Authority in connection with the financing undertaken by the Regional District on behalf of the Municipality pursuant to the Agreement.
10. This bylaw may be cited as "BC Gas Legacy Fund Security Issuing Bylaw No. 8718".
11. This bylaw shall come into full force and effect and be binding on all persons as from the date of adoption.

Read a first, second and third time by the Municipal Council this

Received the approval of the Inspector of Municipalities this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

SCHEDULE "A" TO BYLAW NO. 8718

CANADA

PROVINCE OF BRITISH COLUMBIA

The City of Kelowna (the "Municipality") hereby promises to pay to the Regional District of Central Okanagan (the "Regional District"), the sum exceeding Forty-Nine Million Three Hundred Thousand Dollars (\$49,300,000.00) in lawful money of Canada, United States of America, or United Kingdom, together with interest thereon from the _____ day of _____, 20____, at varying rates of interest calculated semi-annually in each and every year during the currency of this Agreement; payments shall be as specified in the table appearing on the reverse side hereof commencing on the _____ day of _____, 20____, provided that in the event the payments of principal and interest hereunder are insufficient to satisfy the obligations of the Regional District undertaken on behalf of the Municipality, the Municipality shall pay over to the Regional District such further sums as are sufficient to discharge the obligations of the Municipality to the Regional District.

Dated at _____, British Columbia, this _____ day of _____, 20____

IN TESTIMONY WHEREOF and under the authority of Bylaw No. 8718 cited as "BC Gas Legacy Fund Security Issuing Bylaw No. 8718"

This Agreement is sealed with the Corporate Seal of the City of Kelowna and signed by the Mayor and Officer Assigned Responsibility for Financial Administration under Section 199 of the *Local Government Act* thereof.

Mayor

Officer Assigned Responsibility for
Financial Administration

Pursuant to the *Local Government Act*, I certify that this Agreement has been lawfully and validly made and issued and that its validity is not open to question on any ground whatever in any Court of the Province of British Columbia.

Dated this _____ day of _____, 20____.

Inspector of Municipalities of British Columbia