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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** October 3, 2002  
**To:** City Manager  
**From:** Mission District Park Recreation and Sports Facility Negotiating Team  
**Subject:** Mission District Park Recreation & Sports Centre

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**RECOMMENDATION:**

THAT City Council approve the design of the Mission District Park Recreation and Sports Centre (the Facility) as presented in the October 3, 2002, report from the Negotiation Team;

AND THAT the proposed cost of \$15.987 Million be approved as the Agreed Guaranteed Price for the design, construction, equipping, and commissioning of the Facility by RG Properties and its affiliates (**RG**);

AND THAT City Council authorize the Mayor and the City Clerk to execute the Detailed Design Agreement and Partnering Agreement immediately;

AND THAT City Council authorize the Mayor and City Clerk to execute the Design-Build agreement with RG Construction Ltd. and the Operation, Maintenance, and Management Agreement with RG Facilities Ltd. subject to a counter petition process and the receipt of all required approvals for the Mission District Park Sports Facility Loan Authorization Bylaw No. 8887;

AND THAT upon adoption of these recommendations, the Mission District Parks Sports Facility Loan Authorization Bylaw No. 8887 be presented to Council for reading consideration;

AND FURTHER THAT Wednesday, November 20, 2002, at 4 p.m., be set as the deadline for receipt of Counter Petitions by the City Clerk in relation to the Mission District Park Sports Facility Loan Authorization Bylaw No. 8887 and the Partnering Agreement;

## **BACKGROUND:**

City Council authorized the Negotiation Team ( consisting of Joe Creron, Allison Flack, David Graham, Cliff Kraft, and Paul Macklem) to negotiate with RG Properties Ltd. (RG) to prepare the necessary legally binding agreements to design, build, manage, operate, and maintain the Mission District Park Recreation and Sports Centre. These negotiations follow Council's approval of a Memorandum of Understanding (**MOU**) between the City and RG based on which these agreements have now been prepared and are being submitted to City Council. Please refer to the attachment for a chart summarizing the agreements.

The Partnering Agreement is the "parent" agreement containing the Design Build Agreement and the Operation, Maintenance, and Management Agreement as appendices. The Detailed Design Agreement allows for the preparation of detailed working drawings to begin immediately. The Partnering Agreement and its appendices are subject to certain conditions being fulfilled, including the provision of a Counter Petition opportunity.

The Local Government Act sets out procedures that must be followed by a local government wishing to enter into agreements of this type. The agreements and process being placed before Council comply with these requirements and have been prepared and reviewed by the City's legal counsel. Upon acceptance of the above recommendations, Council will be asked to give the first three readings to the required Loan Authorization Bylaw for borrowing of approximately \$11.2 Million over a twenty year term and to initiate the required Counter Petition process related to the Bylaw and the Partnering Agreement. Following approval of the Bylaw by Council and the Ministry, and the required advertising, the Counter Petition opportunity will commence. This is expected to be October 21, 2002, with the deadline for submission of petitions on November 20, 2002.

All of the Agreements being placed before Council are consistent with the Memorandum of Understanding approved by Council on July 15, 2002. The legally binding agreements also cover details not included in the MOU such as:

- A process is set out whereby the City coordinates the scheduling of the Community Priority Time in the Facility.
- The City commits to ensuring full utilization of the ice surfaces in the 34 week fall to spring ice season, in the 3:00pm to 4:00pm time slot, for the first five years of the term.
- There is a requirement upon the City, acting in its capacity as owner, to consent to an application for liquor licensing of the Facility.
- The Design Build Agreement and the Operation, Maintenance, and Management Agreement are with subsidiary companies of RG and are guaranteed by RG.
- The nature of corporate guarantees provided by RG is set out.
- The timing for completion of the fitness center is September 1, 2004, and the restaurant is set as March 1, 2005.

The Facility design (see attached Schematic Design and Performance Specifications) has been carefully considered. City staff have had extensive input, facility user groups have been consulted, City Council provided input and direction, and RG Properties staff has provided considerable input to their architectural design team from ICR Projects. We are satisfied that this is a very functional and cost-effective design that will meet recreational needs in our community for many years to come. The attached Schematic Drawings and Performance Specifications form part of the contracts with RG and detail the Facility to be constructed. In addition to these designs, RG has commissioned a mechanical engineering design team to investigate, recommend, and design energy efficient systems for the Facility. Twenty-two potential energy management concepts have been identified and are being investigated. These will be subject to value for money analysis and added to the designs when appropriate and affordable. Council approval of the appropriate budget amendments is required for any energy related design enhancements that add to the Agreed Guaranteed Price for the Facility.

The Agreed Guaranteed Price of \$15.987 Million is the amount proposed by RG for the design, construction, and commissioning of the Facility. The City has undertaken a detailed review of this price proposal using the services of an independent, accredited Quantity Surveyor (QS). The QS has examined every component of the Schematic Design, the Performance Specifications, and the detailed cost analysis provided by RG and has stated to the City that the Agreed Guaranteed Price represents fair market value for the project as currently designed. This process has been completed in accordance with the MOU.

The project budget for the Facility, including costs associated with agreements development, debenture borrowing issuing costs, interim financing, project management, and construction insurance totals \$16,577,500. A 2002 financial plan amendment will be brought forward to Council at the completion of the counter petition process period. Council consideration of the amendment on November 25, 2002, will be concurrent with presentation of the Certificate of Sufficiency report. This will ensure that RG is not unduly delayed in initiating construction of the facility.

Financing for the project has been identified from the following sources:

MFA 20 Year Debenture	\$11,000,000
Developer Contribution	500,000
General Reserves	2,377,500
Statutory Reserves	700,000
Electrical Utility Surplus	1,500,000
2003 Pay-As-You-Go Capital	<u>500,000 *</u>
Total	<u>\$16,577,500</u>

\* This portion cannot be committed until the 2003 budget is considered in early January. Accumulated general fund surplus will be substituted on an interim basis.

Beginning in 2004, the annual increase to the City's operating budget is anticipated to be \$1.0 Million beginning in 2004 resulting in an increase of approximately 1.8% to the existing taxation demand. This is comprised of the annual principal and interest payments to service the debenture debt component less RG's annual right to operate payment of \$60,000.

The City will be filing a 211 Election with Canada Customs and Revenue Agency making construction of this facility a taxable supply and allowing the City to claim full 7% Input Tax Credits for GST purposes.

The Negotiating Team is pleased to present the attached agreements for Council's consideration.

David L. Graham  
Director of Parks and Leisure Services for the  
Mission District Park Recreation and Sports Facility  
Negotiating Team

DLG/dhk

Attachments

cc: Parks Manager  
Legislative and Records Supervisor  
Director of Finance and Corporate Services  
Deputy Director of Finance

# Mission District Park Recreation and Sports Centre

## Summary of Agreements and Documents

Oct. 7, 2002

<b>Agreement</b>	<b>Status</b>	<b>Approval Process</b>
<b><i>Memorandum of Understanding</i></b> Sets out the main business terms to guide the preparation of the binding agreements	Approved by Council, July 15, 2002	N/A
<b><i>Design Costs and Pre-Loading Costs Agreement</i></b> Allows preparation of performance specs. and schematic drawings prior to execution of Partnering Agreement	Binding agreement previously approved by Council July 15, 2002	N/A
<b><i>Partnering Agreement</i></b> Parent agreement establishes twenty-five year term and contains sub-agreements for construction and operation  <b><i>Design Build Agreement</i></b> Provides for design and construction at a guaranteed price <ul style="list-style-type: none"> <li><i>Performance Specifications</i> Written design documentation as a schedule to the Design Build Agreement</li> <li><i>Schematic Designs</i> Design drawings as a schedule to the Design Build Agreement</li> </ul> <b><i>Operation, Maintenance, Management Agreement</i></b> Provides Community Priority Time and payments to City	Submitted for approval	Requires Counter Petition opportunity
	Submitted for approval	Appendix to the Partnering Agreement, submitted for approval, executed after full approval of Loan Authorization By-Law (LAB)  Appendix to the Partnering Agreement, submitted for approval, executed after full approval of the LAB
<b><i>Detailed Design Agreement</i></b> Allows preparation of detailed working drawings prior to adoption of Partnering Agreement	Submitted for approval	Binding upon Council resolution
<b>Loan Authorization By-Law</b> Approves capital loan with twenty year term	Submitted for first three readings	Requires Counter Petition opportunity and Ministry approval