

Memo



Date: August 18, 2009
File: 0550-05; 2380-20-8027.01
To: City Manager
From: Sam Samaddar, Airport Director
Subject: SUB-LEASE FOR THE OPERATION AND MAINTENANCE OF A PUBLIC CAR PARKING FACILITY - KELOWNA INTERNATIONAL AIRPORT

Recommendation:

THAT Council authorize the Airport Director to enter into a new sub-lease agreement with Royal Star Enterprises Inc. for the operation and maintenance of a public car parking facility at Kelowna International Airport effective September 1, 2009 and ending August 31, 2012, with a provision for two one-year renewals at the option of the City of Kelowna.

AND THAT Council authorize the Mayor and City Clerk to execute the sub-lease agreement on behalf of the City of Kelowna.

Background:

A sub-lease agreement was first entered into with Royal Star Enterprises Inc. to operate the Kelowna International Airport Short Term and Long Term parking lots on April 1, 1989. Royal Star Enterprises has been successful in maintaining the operation of the airport public parking facility since that time. The current sub-lease agreement expires August 31, 2009.

In May 2009 an open Request for Proposal for the provision of the operation and maintenance of a public car parking facility was carried out by the City of Kelowna Purchasing Department in conjunction with Kelowna International Airport management. Seven qualified proposals were received.

An added feature to the proposal was a strong commitment to customer service through staff training, complimentary transportation from the Long Term lot to the terminal building using a hybrid energy efficient vehicle in inclement weather and an electric golf cart in the warmer months and personal assistance to any customer having difficulties in the parking lots. In addition to customer service the incumbent is also responsible for the on-going maintenance of the parking facility in terms of response to malfunctions, servicing, cleaning and repairs.

The parking lot consists of 567 stalls in the Short Term Lot, 2006 stalls in the Long Term Lot, 33 curbside stalls with 4 pay and display meters located along the terminal frontage road, 72 stalls with 2 pay and display meters located at the North End of the Airport and 235 stalls with 1 pay and display meter in an overflow lot used during seasonal peak periods only. New parking rates went into effect April 15, 2009 and they can be found at the Kelowna International Airport website: www.ylw.aero.

Financial/Budgetary Considerations:

Monthly rent to the City, during the currency of the Sub-Lease, will be based as follows:

- (a) 60% on the first \$50,000 of net revenue
- (b) 86.25% of the next \$300,000 of net revenue
- (c) 91.25% of net revenue above \$350,000

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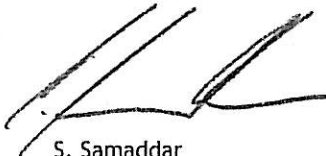
The 2009 budgeted annual revenue from parking at the Airport is \$2,909,000 in 2009 and this accounts for 27% of overall revenue.

Internal Circulation: Purchasing Manager

Considerations not applicable to this report:

Legal/Statutory Authority: N/A
Legal/statutory Procedural Requirements: N/A
Existing Policy: N/A
Personnel Implications: N/A
Technical Requirements: N/A
External Agency/Public Comments: N/A
Communications Considerations: N/A
Alternate Recommendation: N/A

Submitted by:



S. Samaddar
Airport Director

Approved for inclusion:  (General Manager, Corporate Sustainability)

CC: Deputy Director, Airport Operations
Airport Finance & Administration Manager

ORIGINAL

SUB-LEASE AGREEMENT

BETWEEN THE

CITY OF KELOWNA

AND

ROYAL STAR ENTERPRISES INC.

FOR

THE OPERATION OF THE PUBLIC PARKING FACILITIES

AT

KELOWNA INTERNATIONAL AIRPORT

(YLW FILE NO. 2380-20-8027.01)

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ATTACHMENTS

SCHEDULE "A" Sub-Lease Drawings:
- Appendix C1
- Appendix C2
- Appendix C3
- Appendix C4

SCHEDULE "B" Parking Fees

SCHEDULE "C" Certificate of Insurance

SCHEDULE "D" Letter of Credit

THIS INDENTURE made this _____ day of _____, 2009.

BETWEEN:

CITY OF KELOWNA

a municipal corporation having its offices at
1435 Water Street, Kelowna,
British Columbia, V1Y 1J4

(the "Lessee" or "City")

OF THE FIRST PART

AND:

ROYAL STAR ENTERPRISES INC.

3010 Lakha Road, Kelowna
British Columbia V1X 7W1

(the "Sub-Lessee")

OF THE SECOND PART

PHILIP PATARA, businessman,
3010 Lakha Road, Kelowna
British Columbia V1X 7W1

(the "Guarantor"),

OF THE THIRD PART

WHEREAS:

- A. The City of Kelowna entered into a lease (hereinafter referred to as the "Head Lease") with Her Majesty dated the nineteenth day of December 1979, and registered with the Department of Transport, as No. 109806 wherein granted to the City of Kelowna all and singular those certain parcels of land situate, lying and being in the province of British

Columbia, Osoyoos Division, Yale District, consisting of Lot 3 - Registered Plan 11796, District Lot 120 - Plan 1929, Lot 7 - Registered Plan 1502, comprising all of the Kelowna International Airport;

- B. The Sub-Lessee is desirous of leasing from the Lessee part of the Lessee's Land to be used as public car parking facilities;
- C. The City of Kelowna is desirous of sub-leasing a portion of the Kelowna International Airport to the Sub-Lessee on the terms and conditions contained herein;
- D. The approval of the Ministry of Transport shall be obtained for the Sub-Lease herein.

WITNESSETH that the Lessee, in consideration of the rents, covenants, provisos and conditions hereinafter reserved and contained, has demised and sub-leased, and, by this Sub-Lease, demises and leases to the Sub-Lessee:

ALL AND SINGULAR that certain parcel of land (hereinafter referred to as "the said land") situate, lying and being comprised, in the Kelowna International Airport (hereinafter referred to as "the said airport") at Kelowna, in the Province of British Columbia; the said land comprising an area of 9.4096 hectares, more or less, and being more particularly shown on the drawings hereto annexed and marked as Schedule "A".

TOGETHER WITH THE RIGHT AND PRIVILEGE to operate a public car parking facility (hereinafter referred to as "the said facility").

AND the Parties agree as follows:

ARTICLE 1 - DEFINITIONS

- (1) The word "Lessor" when used herein shall mean the Sovereign and shall include the Successors and Assigns of the Sovereign;
- (2) The words "City" or "Lessee" when used herein shall mean the City of Kelowna.

- (3) The word "Sub-Lessee" or other words relative thereto, or of like import, shall mean and include, irrespective of gender or number, the party or parties of the second part as above designated or described, and their or any of their executors, administrators, successors or assigns;
- (4) The word "Minister" shall mean the person holding the position, or acting in the capacity, of the Minister of Transport, for the time being and shall include the person holding the position, or acting in the capacity, of the Deputy Minister of Transport, for the time being;
- (5) The words "Airport Director" shall mean the person holding that position, or acting in the capacity, of the Airport Director of the Kelowna International Airport, for the time being.
- (6) The words "Gross Revenue" shall mean the total gross revenue derived from the operations under this Sub-Lease, as follows: all revenue obtained by the Sub-Lessee from any source whatsoever, whether through the sale of goods or services arising out of its occupancy, or any other reason due to this operation of the said facility. Gross revenue shall not include, however, all sales taxes at the retailer level, the amount of which is determined by the amount of sales made and which is required to be collected and accounted for to any federal, provincial or municipal authority.
- (7) The word "Facility" shall include ticket dispensers, entrance and exit gates, sensors, ticket validation equipment, fee computer, pay on foot machines, parking meters, pay and display meters and two booths, one in the short term lot and one in the long term lot.
- (8) The word "Land" shall mean the parking lot surface area used for the public car parking and roadways and laneways.

ARTICLE 2 - TERM

2.01 LENGTH OF TERM

The Sub-Lessee shall have and hold the Sub-Leased Premises, from and after the 1st day of September, 2009 for a period of three (3) years, up to and including the 31st day of August, 2012 and then to be complete and ended.

2.02 OVERHOLDING TENANCY

It is hereby agreed by and between the parties hereto that if the Sub-Lessee shall hold over after the expiration of the term hereby granted and the Lessee shall accept rent, the new tenancy thereby created shall be a tenancy from month to month and not a tenancy from year to year, and the Sub-Lessee shall pay as rent during the time of such occupancy a rent to be determined at the discretion of the Lessee, and shall be subject to the covenants and conditions herein contained so far as the same are applicable to a tenancy from month to month. The over holding month to month tenancy may be terminated by the City by providing thirty (30) days notice in writing.

2.03 CANCELLATION PRIVILEGE

If by reason of fire, flood, lightning, tempest, earthquake, impact of aircraft, explosion, or Acts of God, or the Queen's enemies the said building shall, at any time during the term hereby granted be destroyed or so damaged as to render the said building unfit for occupancy, the Sub-Lessee will, then, have a period of ninety (90) days after such damage or destruction within which to decide whether or not it will repair or rebuild. If the Sub-Lessee decides not to rebuild or repair, it may terminate this Sub-Lease by notice, in writing, given to the Lessee within the said ninety (90) day period; provided, however, that in the event of such notice being given to the Lessee pursuant to this clause, the rent reserved to the Lessee under this Sub-Lease shall be due and payable up to the date of removal of the said building and clearance and levelling of the said land to the satisfaction of the Lessee.

2.04 SURRENDER OF PREMISES

At the expiration or sooner determination of the term of this Sub-Lease, the Sub-Lessee shall peaceably surrender and yield to the Lessee, in a condition satisfactory to the Lessee, the said land and the said building. The Sub-Lessee shall thereupon forthwith remove from the said land and the said building all chattels, goods, supplies, articles, equipment, materials, effects or things and shall also, to the satisfaction of the Lessee, repair all and every damage and injury occasioned to the premises of the Lessee by reason of such removal or in the performance thereof, but the Sub-Lessee shall not, by reason of any action taken or things performed or required under this clause, be entitled to any compensation whatever. Unless required by the Lessee, no chattels, goods, supplies, articles, equipment, materials, effects or things shall be removed from the said land or the said building until all rent due or to become due under this Sub-Lease is fully

paid. The City may, at its option, remove at the risk of and at the cost and expense of the Sub-Lessee, the chattels, goods, supplies, articles, equipment, materials, effects or things from the said land or the said building and the Sub-Lessee shall reimburse the Lessee forthwith upon receipt of appropriate accounts therefore and for any storage charges which may have been or will be incurred by the Lessee as a result of such removal. Where not removed by the Sub-Lessee, the Lessee may consider the chattels, goods, supplies, articles, equipment, materials, effects or things to be abandoned, and take title thereto in the name of the Lessee.

2.05 RENEWAL

That if, at the expiration of the term by these Presents created, all rent or other sums or charges due or payable by virtue of these Presents have been fully paid and that the Sub-Lessee has on its part observed and performed all the covenants, provisos, conditions and reservations in these Presents contained, the Lessee may, at its sole discretion, grant to the Sub-Lessee a renewal or extension of this Sub-Lease for a term not exceeding one (1) year commencing **September 1, 2012** in like manner, at the expiration of such second term for a third term of one (1) year commencing **September 1, 2013** subject to the covenants, provisos, conditions and reservations herein contained.

ARTICLE 3 - RENT

3.01 RENT

Yielding and paying therefore on the fifteenth (15th) day of each succeeding month, during the currency of this Sub-Lease, unto the Lessee, the sum or sums computed monthly as follows:

- (a) September 1, 2009 – August 31, 2012 – 60% on the first \$50,000 of net revenue
- (b) September 1, 2009 – August 31, 2012 – 86.25% of the next \$300,000 of net revenue
- (c) September 1, 2009 – August 31, 2012 – 91.25% of net revenue above \$350,000

3.02 PAYMENT OF RENT

The Sub-Lessee shall pay all rent herein reserved at the time and in the manner in this Sub-Lease set forth, without any abatement or deduction whatever.

3.03 INTEREST ON RENT IN DEFAULT

Without waiving any other right of action of the City in the event of default of payment of rent hereunder, in the event that the Sub-Lessee is delinquent after the date above appointed in making the payments required hereunder, the Sub-Lessee shall pay a penalty thereon at the rate of one and a half percent (1.5%) per month or any portion of a month, (18.0 percent per annum), retroactive from the date any such amount is due and payable until paid. In order to reflect prevailing interest rates, the City will review and adjust the interest rate from time to time.

3.04 PERCENTAGE OF GROSS REVENUE

- (1) That the Sub-Lessee shall remit to the Lessee in accordance with the provisions hereof the percentage of all gross revenue derived by the Sub-Lessee from its operations hereunder, whether such revenue is actually paid or due and payable only, and notwithstanding any loss sustained by the Sub-Lessee with respect to such gross revenue as a result of theft, defalcation or from any other cause whatsoever.
- (2) In all cases where the charges derived from the operations of the Sub-Lessee hereunder are not collected by the Sub-Lessee at the time such charges are incurred, all such charges shall be accounted for by the Sub-Lessee as revenue for purposes of determining the percentage payable to the Lessee, in the month that services are provided, whether or not payment thereof has been received by the Sub-Lessee.

3.05 FINANCIAL STATEMENTS

- (1) That during the currency of this Sub-Lease, the Sub-Lessee shall cause to be kept, records of revenue and expenses, such records to be kept according to accepted accounting principles. On or before the fifteenth (15) day of each month, the Sub-Lessee shall supply to the Airport Director in format deemed satisfactory an itemized statement of gross revenue for the preceding month,

upon which the percentage payments under this Sub-Lease are calculated. The fiscal year shall be January 1 to December 31. At the end of each fiscal year, the Sub-Lessee shall provide audited financial statements of the Sub-Lessee's operations hereunder and such additional accounting statements with the gross revenue reported in the annual audited statement, all to be in the form determined by the Airport Director and to be received by the office of the Airport Director by March 31 in each year. The audited financial statement referred to herein shall contain a statement from a licensed public accountant stating his/her opinion, without qualification, as to the fairness of this financial statement.

- (2) All cash sales to customers pursuant to these presents shall be recorded immediately on the cash register at the time of sale. All cash registers, and devices used in recording sales to customers shall have a detailed tape for a permanent recording of each sales transaction. All transactions recorded on these devices shall be visibly displayed so that the amount recorded can be viewed by customers from a reasonable distance. No register or device in which cash sales are recorded and deposited may be opened without recording the date and time of said opening. Cash register or device drawers must be kept closed at all times except when sales are made. All registers and devices used in recording sales to customers must meet all accepted standards of accounting systems and cash control.

3.06 AUDIT AND INSPECTION

That the books of the Sub-Lessee shall be open for audit and inspection and for taking extracts there from at all times, during business hours, by the accredited officers of the Lessee. The Sub-Lessee shall prepare and keep adequate books and records which shall show transactions by the Sub-Lessee. The cost of any audit performed pursuant to this clause shall be borne by the Lessee, provided, however, that should the results of such audits reveal a discrepancy of more than ONE HUNDRED DOLLARS (\$100.00) between the gross receipts reported in accordance with Clause 3.05 herein and the gross receipts as determined by such audits then the full cost of such audits shall be borne by the Sub-Lessee.

3.07 DISCLOSURE OF GROSS REVENUE INFORMATION

It is understood and agreed that in the concluding year of this Sub-Lease and at any time after its termination, the Lessee may publish the annual total of the gross sales

reported by the Sub-Lessee in each year of this Sub-Lease for the purpose of public tender information, along with a breakdown of parking lot revenue and parking meter revenue.

3.08 SECURITY DEPOSIT

A security deposit in the amount of \$500,000 in the form of an irrevocable letter of credit, attached hereto as Schedule "D", or cash will be required. The security deposit will be retained by the City of Kelowna for the term of the Sub-lease or until the Sub-lease comes to an end, whichever comes first. In the case of cash, interest will accrue at the City's prevailing rate of interest. The security deposit shall be returned to the Sub-Lessee, provided that if the Sub-Lessee fails to pay any portion of the revenues due and/or impairs, damages and injures the said parking facility or any part thereof during the currency of the Sub-lease, the City may draw on the security deposit and may apply the funds or any part thereof to the arrears of sums and/or damages. The application of the security deposit by the City shall not constitute a waiver nor in any way defeat or affect the rights of the City in terms of the Sub-lease or any and all other rights and remedies which the City has by law.

ARTICLE 4 - CONDUCT OF BUSINESS

4.01 PURPOSE

That the said land and the said facility shall be used for the operation therein of a public car parking facility and the said land and the said facility shall be used for no other purpose or purposes whatever.

4.02 SERVICES OFFERED BY THE SUB-LESSEE

- (1) The Sub-Lessee shall, except as in this Sub-Lease otherwise specifically provided, at its own costs and expense provide all and every kind of labour superintendence, services, equipment, materials, supplies, articles and things necessary for the due and satisfactory operation by the Sub-Lessee of the said facility, all to the satisfaction of the Airport Director.

- (2) The said facility shall be open at hours to be determined by the Airport Director, provided such hours can be commenced earlier and extended later from time to time, at the option of the Airport Director.
- (3) The Sub-Lessee will provide service by means of 6 passenger type stretch golf limousine (for the summer months) and courtesy shuttle mini van (for the winter months) to transport customers from their vehicles to a point within the parking lot deemed appropriate by the Airport Director. These vehicles shall remain the property of the Sub-Lessee but vehicle type, condition and livery will be subject to the satisfaction of the Airport Director and will also be subject to regular inspections.
- (4) That the Sub-Lessee shall procure and maintain, at the cost and expense of the Sub-Lessee, such licences, permits or approvals from Federal, Provincial, Municipal or other Government Authorities, and such private permits as may be necessary to enable the Sub-Lessee to furnish the services and conduct the operations provided for in this Licence.
- (5) The Lessee will provide the "facility" including ticket dispensers, entrance and exit gates, sensors, ticket validation equipment, fee computer, pay on foot machines, parking meters, pay and display meters and 2 booths, one in the short term lot and one in the long term lot. The Sub-Lessee will provide at it's own costs and expense all and every kind of labour , superintendence, training, services, equipment, furniture, fixtures, materials, supplies, articles and things necessary for the operation, cleaning, maintenance and repairs to the facility to the satisfaction of the Airport Director and subject to regular inspection.

4.03 SIGNAGE

That the Sub-Lessee shall not install or cause or permit to be installed on the said land, facility or on the said Airport, signs of any nature without the prior approval of the Airport Director. Provided that the Sub-Lessee shall install signs indicating the parking fees to be charged on the said land or the said building in location(s) satisfactory to the Airport Director, and that the format of such signs shall be in accordance with Transport Canada Standards.

4.04 PRINTED MATTER AND ELECTRONIC MEDIA

That the Sub-Lessee shall ensure that all printed, written material and electronic media displayed or made available to the public including but not limited to signs, notices, instructions, directions, sales slips, receipts, tickets, brochures, pamphlets, web sites shall be so displayed or made available in both official languages and at the approval of the Airport Director, subject to inspection.

4.05 CREDIT AND DEBIT CARDS

The Sub-Lessee shall accept credit and debit cards in payment of car parking fees hereunder in accordance with directives as may be given from time to time by the Airport Director. The Sub-Lessee shall be responsible for obtaining and thereafter maintaining, at his/her own cost and expense, all credit and debit card processing equipment necessary for the provision of a credit and debit card service.

4.06 U.S. CURRENCY

- (1) That the Sub-Lessee shall accept U.S. currency in payment for goods or services hereunder at such rates of exchange as may be determined by the Airport Director from time to time. The exchange rate so determined will be equal to the "buy" rate set by a chartered bank, determined by the Airport Director.
- (2) That the Sub-Lessee shall inform the public of the exchange rate granted by displaying signs indicating the said rate in a prominent location within the sub-leased premises/facility.

4.07 PERSONNEL

- (1) That the Sub-Lessee shall engage suitable personnel to efficiently provide and maintain the required standard of service, that such personnel shall be properly groomed and attired and that such personnel shall be bondable with these records available for inspection.
- (2) If the Lessee determines that national security is involved, he/she may instruct the Sub-Lessee to provide information concerning any person or persons employed by the Sub-Lessee at the said Airport and may require the removal of any person

or persons from the said Airport. The Sub-Lessee shall comply immediately with instructions from the Airport Director pursuant to this clause.

- (3) The Sub-Lessee shall ensure all personnel receive customer service training as approved by the Airport Director the Sub-Lessee shall maintain records of such training to be made available for inspection.

4.08 COLLECTION OF PARKING FEES

- (1) That the Sub-Lessee shall collect car parking fees from all users of the said facility.
- (2) That except as otherwise provided by the Airport Director, no free parking will be permitted on the said land and cars of the Sub-Lessee and the Sub-Lessee's employees shall be parked in the employee car parking lot at rates in effect from time to time at the said Airport.
- (3) That the Sub-Lessee shall collect only such parking fees as set out in Schedule "B" attached hereto and any amendments thereto from time to time during the currency of this Sub-Lease; provided that such amendments shall be forwarded by the Lessee to the Sub-Lessee by registered letter and that such amendments shall be effective on the date indicated in such letter.
- (4) That the Sub-Lessee shall pay remuneration

4.09 COLLECTION OF MONIES FROM THE PARKING METERS

- (1) Collection of monies from the parking meters under the Sub-Lease shall be done by the Sub-Lessee as provided in Clause 4.09(2).
- (2) Regular collections will be conducted by the Sub-Lessee for the parking meters at a frequency to the satisfaction of the Airport Director. The Sub-Lessee or his/her representative shall be accompanied by at least one additional to make such collections.
- (3) All monies collected will be counted immediately after every collection by the Sub-Lessee or his/her representative and at least one additional bonded employee shall be present.

- (4) All collection of monies procedures shall be conducted to the entire satisfaction of the Airport Director and such procedures may be subject to change from time to time as determined by the Airport Director and subject to inspection.

4.10 TRAFFIC ENFORCEMENT

Traffic and parking enforcement will be the responsibility of the City of Kelowna as per Consolidated Bylaw No. 6550-89, Schedule 13, Part 4 – Parking Regulations, Section 4.1 – General Parking Prohibitions.

4.11 SERVICE TO PASSENGERS WITH DISABILITIES

- (1) (a) Any person with a mobility impairment which prevents him/her from accessing the Licensee's bus directly may, at his/her discretion, decline to board the Licensee's bus. Where the mobility-impaired passenger declines to board the bus under these circumstances and the Licensee has been so informed, the Licensee must arrange for alternative transportation, where available, for the passenger. This transportation may take the form of a taxicab or a specially equipped vehicle designed for the transportation of mobility-impaired passengers, where and as available.
- (b) Where a mobility-impaired passenger elects under this clause to use an alternative means of transportation, the Licensee will be responsible to pay the cost of such alternative transportation to the extent that such cost exceeds the cost of the bus fare charged by the Licensee. Where the mobility-impaired passenger is non-self-reliant and is accompanied by one or more attendants, and where space in the alternative transportation allows, the Licensee will be required to pay the cost of only one attendant's fare for the alternative transportation.
- (c) The Licensee may, at its discretion, require a passenger who declares mobility impairment to prove entitlement to the alternative transportation by displaying a medical certificate or pass for travel on any municipal parallel transportation system.
- (d) In the provision of alternative transportation, the Licensee's responsibility is limited to the same origin(s) and destinations as the Licensee's regular contracted bus service. Arrangements for any other origin(s) or

destinations and any extra costs incurred as a result, are matters between the operator and the passengers.

- (e) Aids to mobility for the disabled shall be carried consistent with the capability of the vehicle and at no additional charge.
- (2) Guide dogs shall be permitted to accompany the disabled in the passenger seating area of the vehicle and at no additional charge.

ARTICLE 5 - SUB-LEASED LAND, FACILITY, SERVICES AND IMPROVEMENTS

5.01 "AS IS" CONDITION

The Sub-Lessee accepts the said land and facility in an "as is" condition and any improvements made to the said land and facility by the Sub-Lessee at any time during the currency of this Sub-Lease, to make the said land and facility suitable for the operations of the Sub-Lessee hereunder, shall be at the risk, cost and expense of the Sub-Lessee and to the satisfaction of the Lessee.

5.02 ACCESS

- (1) The Lessee, its officers, servants or agents, shall have full and free access for inspection purposes during normal business hours and in the presence of the Sub-Lessee or a representative of the Sub-Lessee to any and every part of the said land and facility; it being expressly understood and agreed, however, that in cases of emergency, the Lessee, its officers, servants or agents shall at all times and for all purposes have full and free access to the said land and facility.
- (2) Subject as in this Sub-Lease provided, the Sub-Lessee shall have quiet possession of the said land, and the right of ingress and egress over the airport roadways subject to rules and regulations as may be established by the Lessee respecting such use.

5.03 CLEANING & MAINTENANCE OF SUB-LEASED FACILITY

- (1) That the Sub-Lessee shall be responsible for cleaning the interior and exterior of the facility on the said land, all to the satisfaction of the Airport Director, it being

expressly understood that the Airport Director reserves the right to rule upon the cleaning methods and quality of the cleaning supplies.

- (2) The facility and all equipment, materials, supplies, articles and things provided pursuant to Article 4.02 hereof including the equipment of the Lessee shall be maintained at all times in a good condition of repair and the Airport Director reserves the right to rule upon the quality of the maintenance thereof.
- (3) During the currency of this Sub-Lease, the Sub-Lessee shall, at the Sub-Lessee's own cost and expense, maintain a service contract for maintenance of the facility provided by the Lessee. Such service contract shall be with a company satisfactory to the Airport Director. The City of Kelowna will receive a copy of the signed service contract and further reserve the right to inspect the facility as deemed appropriate.
- (4) The Sub-Lessee shall notify the Airport Director of all facility and equipment breakdowns of more than one hour in duration. Notice is to include the time the equipment failed, details of the failure and the expected downtime.

5.04 ADDITIONAL RIGHTS OF THE SUB-LESSEE

The Lessee reserves the right to grant licenses, rights of way or privileges to others on, over, under, through or across the said land, provided, however, that such rights of way or privileges are not detrimental to the proper conduct of the business or operation of the said building and related services, will not damage or disrupt permanently the physical facilities of the Sub-Lessee, will not impose any cost upon the Sub-Lessee, and will not weaken, diminish or impair the security of this Sub-Lease.

5.05 SERVICES & UTILITIES

- (1) That the Lessee, at the Lessee's expense, will maintain and repair the paved surface, including markings, on the said land; provided, however, that the Sub-Lessee must pay to the Lessee the cost of repairs and/or service costs, arising from any damage to the said paved surface due to the negligence of the Sub-Lessee and its employees.
- (2) That the Lessee, at the Lessee's expense, will be responsible for clearance of snow from the land and the sweeping of the land.

- (3) That the Lessee, at the Lessee's expense, will be responsible for collection and removal of garbage/recycles from the refuse bins in the land and provided by the Lessee

5.06 TEMPORARY SUSPENSION OF SERVICES

Without limiting or restricting the generality of the provisions of Clause 7.01 hereof, the Sub-Lessee shall not have nor make any claim or demand, nor bring any action or suit or petition against the Lessee or any of its officers, servants or agents for any damage which the Sub-Lessee may sustain by reason of any temporary suspension, interruption or discontinuance, in whole or in part from whatever cause arising in service supplied by the Lessee hereunder.

5.07 REASONABLE USE

The Sub-Lessee shall not, during the currency of this Sub-Lease, do, suffer nor permit to be done any act or thing which may impair, damage or injure the said land, the said facility or any part thereof, beyond the damage occasioned by reasonable use, and shall, at the cost and expense of the Sub-Lessee, repair and renew in a good, sufficient and workmanlike manner all portions of the said land or the said facility which may at any time by the Sub-Lessee be damaged (ordinary wear and tear only excepted) and in the event of the failure on the part of the Sub-Lessee to so repair and renew, the Sub-Lessee shall indemnify and save harmless the Lessee from all damages, costs and expenses suffered or incurred by the Lessee by reason of such impairment, damage or injury to the extent the Sub-Lessee is liable for the same in law, such payment to be made forthwith upon receipt of appropriate accounts therefore.

5.08 NUISANCE

The Sub-Lessee shall not do, suffer or permit to be done any act or thing upon or above the said land or the said facility which is or would constitute a nuisance to the occupiers of any lands or premises adjoining or in the vicinity of the said land or the said facility or to the public generally.

5.09 ENVIRONMENTAL PROTECTION STATUTES

The Sub-Lessee shall accede to and abide by Federal Environmental Protection Statutes and regulations and bylaws and any regulations thereto and applicable

Provincial, Territorial and/or City of Kelowna or local Environmental Protection Statutes and regulations and bylaws.

5.10 POLICE AND FIRE PROTECTION

The Lessee shall not be responsible for providing fire protection to nor policing of, the said land, the said facility and any improvements.

5.11 FIRE PREVENTION

The Sub-Lessee shall, at the expense of the Sub-Lessee, take all precautions to prevent fire from occurring in or about the said land and the said facility, and shall observe and comply with all laws and regulations in force respecting fires at the said airport, and with all instructions given from time to time by the Airport Director with respect to fires and extinguishing of fires.

5.12 ADVERTISING

The Sub-Lessee shall not construct, erect, place or install on the outside of the said facility or on the said land any poster, advertising sign or display, electrical or otherwise, without first obtaining the consent, in writing, of the Airport Director. Any media or web based advertising or information shall be in a format approved by the Airport Director.

5.13 DRAINAGE AND DISCHARGE OF MATERIAL

The Sub-Lessee shall not discharge, cause or permit to be discharged or howsoever to pass into the sewer systems, storm drains or surface drainage facilities at the said airport or elsewhere any deleterious material, noxious, contaminated or poisonous substances, all as determined by the Airport Director, whose decision shall be final; it being expressly understood and agreed that in the event of a discharge or escape of such deleterious material, noxious, contaminated or poisonous substances in and under the control of the Sub-Lessee, the cost incurred in the clean-up to the satisfaction of the Airport Director, shall be to the Sub-Lessee's account.

5.14 INTERCEPTORS

If required by the City of Kelowna, grease, oil and sand interceptors shall be provided by the Sub-Lessee. All interceptors shall be of a type and capacity approved by the City

and shall be readily accessible for cleaning and inspection. Such interceptors shall be maintained by the Sub-Lessee, at the expense of the Sub-Lessee, in continuous, efficient operation at all times.

5.15 REPAIR OF DAMAGE TO FACILITY

If, at any time or times hereafter, any damage or injury (ordinary wear and tear only excepted) should be occasioned to the said land, the said facility, or any part thereof, or to any works of the Lessee on the said airport by reason of or on account of the operations of the Sub-Lessee hereunder or any action taken or things done or maintained by virtue thereof, then, and in every such case, the Sub-Lessee shall, within a reasonable time upon notice thereof from the City given in writing, repair, rebuild and restore the same in good, sufficient and workmanlike manner; in the event of failure on the part of the Sub-Lessee to so repair the City may, at its option, repair such damage or injury in which case the Sub-Lessee shall repay and reimburse the Lessee for all costs and expenses connected therewith or incidental thereto to the extent the Sub-Lessee is liable for the same in law plus such additional charge as may be applicable in accordance with the policies of the Lessee for administration and overhead forthwith upon receipt by the Sub-Lessee of appropriate accounts therefore from the Lessee. In the event of failure on the part of the Sub-Lessee to repair such damage or injury and in the event of non repair by the Lessee, the Sub-Lessee shall remain liable to the Lessee for the amount of such damage or injury to the extent the Sub-Lessee is liable therefor in law and payment of such amount shall be made by the Sub-Lessee to the Lessee forthwith, upon receipt by the Sub-Lessee of appropriate accounts therefor from the Lessee.

5.16 ERECTION AND MAINTENANCE OF BUILDINGS OR STRUCTURES

- (1) The Sub-Lessee shall not construct or erect any building or other structures on the said land without first obtaining the written approval of the City of Kelowna, of plans showing the design and nature of construction of such building or structures and their proposed location, and all such buildings or structures shall be constructed and thereafter maintained by and at the cost and expense of the Sub-Lessee to the satisfaction of the Airport Director.

- (2) If, at any time during the term of this Sub-Lease, the Sub-Lessee defaults in its obligation of maintaining the said land and the said building, structures and improvements, and every of them, in accordance with the requirements of this

Sub-Lease, the Airport Director may give written notice, specifying the respect in which such maintenance is deficient, to the Sub-Lessee. If, within fifteen (15) days from the giving of such notice the default specified in such notice has not been remedied or (if the nature of such default reasonably requires more than fifteen (15) days to remedy and make right) the Sub-Lessee has not commenced, or, having commenced, is not diligently completing the remedying of such default, or if such maintenance is not of a type satisfactory to the Airport Director, the Lessee may enter upon the said land and the said building, structures and improvements and perform such maintenance, at the cost and expense of the Sub-Lessee, plus such additional charge as may then be applicable, in accordance with the policies of the Lessee for administration and overhead; it being expressly understood and agreed that the Lessee shall not be under any obligation to perform any maintenance during the term of this Sub-Lease.

5.17 VESTING OF REPAIRS, ALTERATIONS, IMPROVEMENTS OR REPLACEMENTS TO FACILITY

Any repairs, alterations, improvements or replacements made by the Sub-Lessee to or upon the said land and the said facility which by their nature are determined to be fixtures shall upon termination of this Sub-Lease, except and subject as in this Sub-Lease otherwise specifically provided, be vested in title in the Lessee without any payment of compensation to the Sub-Lessee in respect of the repairs, alterations, improvements or replacements; nevertheless the Lessee shall have the option of requiring or compelling the Sub-Lessee upon written notice, to remove such repairs, alterations, improvements or replacements, and the Sub-Lessee shall be so bound to remove and shall restore the said land to its original condition all at the cost and expense of the Sub-Lessee and without any right on the part of the Sub-Lessee to seek compensation for any reason whatsoever.

5.18 PAYMENT OF TAXES

- (1) The Sub-Lessee shall pay or cause to be paid all rates, taxes and assessments, of whatsoever description, that may at any time during the existence of this Sub-Lease be lawfully imposed, and become due and payable, upon, or in respect of the said land, the said building, or any part thereof.
- (2) The Sub-Lessee shall pay any business tax, value added tax, multi-stage sales tax, sales tax, goods and services tax or any other tax lawfully imposed on any

rent receivable by the Lessee hereunder by any governmental or other taxing authority having jurisdiction, whether known as business transfer tax, value added tax, goods and services tax, or by any other name.

5.19 COMPLIANCE WITH REGULATIONS

- (1) That the Sub-Lessee shall in all respects comply with all laws, rules and regulations of the Federal Government, Provincial Government and all by-laws and regulations of the Lessee and any other governing body whatsoever and shall comply with all local police, health, or fire regulations or by-laws, in any manner affecting the business of the Sub-Lessee, the said building and the operations of the Sub-Lessee hereunder. In agreeing to comply with all by-laws and regulations of the Lessee the Sub-Lessee does so voluntarily as a matter of commercial expedience, without protest, without any demand by the Lessee and without qualification by any condition. Further the Sub-Lessee agrees that compliance with all by-laws and regulations of the Lessee is a fundamental term of this agreement and that any breach of this term entitles the Lessee to terminate this agreement.
- (2) That the Sub-Lessee shall abide by and comply with all regulations regarding traffic control, airport security, sanitation and all other regulations relative to the management and operation of the said Airport.

5.20 DEFECT OF TITLE

That it is an express condition of this Sub-Lease that the Sub-Lessee shall not have any recourse against the Lessee should the Lessee's title to the said Land be found to be defective, or should these Presents prove ineffectual by reason of any defect in such title.

5.21 GARBAGE & REFUSE DISPOSAL FROM FACILITY

That the Sub-Lessee shall, at the cost and expense of the Sub-Lessee, provide complete and proper arrangements for the adequate sanitary handling and disposal away from the said Airport of all trash, garbage and other refuse on or in connection with the Sub-Lessee's operation under this Sub-Lease, all to the satisfaction of the Airport Director. Piling of boxes, cartons, barrels or other similar items shall not be permitted in a public area on the said Airport.

5.22 FURNITURE, FIXTURES & EQUIPMENT

That the Sub-Lessee shall provide, install and maintain in the said facility, such fixtures, furnishings and equipment required for purposes in connection with the operations conducted pursuant to this Sub-Lease, and the Sub-Lessee shall also provide replacement of fixtures, furnishings and equipment all at the cost and expense of the Sub-Lessee and to the satisfaction of the Lessee.

5.23 APPROVAL OF ALTERATIONS & UTILITIES TO FACILITY

That the Sub-Lessee shall not make any alterations to the said sub-leased premises or facilities connected therewith or add any utility services until plans showing the design and nature of the proposed alterations to the said sub-leased premises or facilities connected therewith and the said utility services have been approved in writing by the Lessee and all such alterations to the said sub-leased premises or facilities connected therewith shall be made and thereafter maintained by and at the cost of the Sub-Lessee to the satisfaction of the Lessee.

ARTICLE 6 - ASSIGNMENT AND CHANGE OF CONTROL

6.01 ASSIGNMENT

The Sub-Lessee shall not make any assignment of this Sub-Lease, nor any transfer or sub-lease of the whole or any portion of the said land demised or sub-leased hereunder, without obtaining the prior consent in writing of the City of Kelowna to such assignment, transfer or sub-lease, such consent not to be unreasonably withheld.

6.02 CORPORATE OWNERSHIP

If the Sub-Lessee is a private corporation and if by the sale or other disposition of its shares or securities the control or beneficial ownership of such corporation is changed at any time, such change in control shall be deemed to be an assignment of the Sub-Leased Premises by the Sub-Lessee, requiring the City's consent pursuant to Article 6.01 herein.

ARTICLE 7 - LIABILITY AND INDEMNITY

7.01 LIABILITY

The Sub-Lessee shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the Indemnities) including but not limited to damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this Sub-Lease, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities.

7.02 INDEMNITY

The Sub-Lessee shall defend, indemnify and hold harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this sub-lease agreement, excepting only where such claim, demand, action, proceeding or liability is based solely on the negligence of the Indemnities.

ARTICLE 8 - INSURANCE

8.01 EXPENSE AND COST

The Sub-Lessee shall procure and maintain, at its own expense and cost, the insurance policies listed below in section 2, with limits no less than those shown in the respective items, unless in connection with the performance of this Sub-Lease the City advises in writing that it has determined that the exposure to liability justifies less limits. The insurance policy or policies shall be maintained continuously from commencement of this Sub-Lease until total completion or such longer period as may be specified by the City.

8.02 INSURANCE POLICIES

As a minimum, the Sub-Lessee shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, the following insurance policies:

- (1) Workers' Compensation Insurance covering all employees of Contractor in accordance with the statutory requirements of the province or territory having jurisdiction over such employees.
- (2) A Commercial Blanket Fidelity Bond for a minimum of Twenty-five Thousand Dollars (\$25,000.00) per employee with a third party endorsement to the City. Bonding will be renewed each year of the contract. All contractors' employees must be bonded before commencing work in the City facilities.
- (3) Comprehensive General Liability Insurance
 - (i) providing for an inclusive limit of not less than Two Million Dollars (\$2,000,000.00) for each occurrence or accident;
 - (ii) providing for all sums which the Sub-Lessee shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting there from) sustained by any person or persons or because of damage to or destruction of property caused by an occurrence or accident arising out of or related to this Sub-Lease or any operations carried on in connection with this Sub-Lease;
 - (iii) including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employer's Liability, Broad Form Property Damage, and Non-Owned Automobile Liability; and
 - (iv) including a Cross Liability clause providing that the inclusion of more than one Insured shall not in any way affect the rights of any other Insured hereunder, in respect to any claim, demand, suit or judgement made against any other Insured.
- (4) Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Sub-Lessee directly or indirectly in the performance of

this Sub-Lease. The Limit of Liability shall not be less than Five Million Dollars (\$5,000,000.00) inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.

8.03 CITY NAMED AS ADDITIONAL INSURED

The policies required by Clauses 8.02 and 8.03 shall provide that the City is an Additional Named Insured there under and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

8.04 SUBCONTRACTORS

The Sub-Lessee shall require each of its subcontractors to provide comparable insurance to that set forth under Clause 8.02.

8.05 CERTIFICATES

The Sub-Lessee agrees to submit Certificates of Insurance (Schedule "C") for itself and for all of its subcontractors to the Risk Management Department of the City prior to the commencement of this Sub-Lease. Such Certificates shall provide that 30 days written notice shall be given to the Risk Management Department of the City, prior to any material changes or cancellations of any such policy or policies.

8.06 ADDITIONAL POLICIES REQUIRED BY CITY

After reviewing the Sub-Lessee's Certificates of Insurance, the City may require other insurance or alterations to any applicable insurance policies in force during the period of this contract and will give notifications of such requirement. Where other insurances or alterations to any insurance policies in force are required by the City and result in increased insurance premium, such increased premium shall be at the Sub-Lessee's expense.

8.07 ADDITIONAL POLICIES BY SUB-LESSEE

The Sub-Lessee may take out such additional insurance, as it may consider necessary and desirable. All such additional insurance shall be at no expense to the City. The Sub-Lessee shall ensure that all of its subcontractors are informed of and comply with the City's requirements set out in this Article 8.

8.08 PROVINCE OF B.C. REGISTRATION

All insurance, which the Sub-Lessee is required to obtain with respect to this contract, shall be with insurance companies registered in and licensed to underwrite such insurance in the Province of British Columbia.

8.09 NON-COMPLIANCE

If the Sub-Lessee fails to do all or anything which is required of it with regard to insurance, the City may do all that is necessary to affect and maintain such insurance, and any monies expended by the City shall be repayable by and recovered from the Sub-Lessee. The Sub-Lessee expressly authorizes the City to deduct from any monies owing the Sub-Lessee, any monies owing by the Sub-Lessee to the City.

8.10 FAILURE TO PAY LOSSES

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Sub-Lessee or any subcontractor shall not be held to waive or release the Sub-Lessee or subcontractor from any of the provisions of this Article 8 or this Sub-Lease, with respect to the liability of the Sub-Lessee otherwise. Any insurance deductible maintained by the Sub-Lessee or any subcontractor under any of the insurance policies is solely for their account and any such amount incurred by the City will be recovered from the Sub-Lessee as stated above in Clause 8.09.

ARTICLE 9 - DEFAULT AND RE-ENTRY

9.01 DEFAULT AND RE-ENTRY

- (1) It is expressly agreed that:
 - (a) if the Sub-Lessee shall be in default in the payment of rent or amounts collectable hereunder as rent, whether lawfully demanded or not, and such default shall continue for a period of fifteen (15) days after the rent has become due and payable; or

- (b) if the Sub-Lessee shall be in default of any of its covenants or agreements hereunder (other than its covenant to pay rent or amounts collectable hereunder as rent) and such default shall continue for a period of thirty (30) days (or such longer period as may be reasonably necessary to cure such default considering the nature thereof) after notice by the Lessee to the Sub-Lessee specifying with reasonable particularity the nature of such default and requiring the same to be remedied; or
- (c) if the default set out in the notice given to the Sub-Lessee by the Lessee pursuant to paragraph (b) reasonably requires more time to cure than the thirty (30) day period referred to in that paragraph and the Sub-Lessee has not commenced remedying or curing the same within the thirty (30) day period or; in the opinion of the Lessee fails to diligently complete the same within a reasonable time; or
- (d) if the Sub-Lessee shall make an assignment for the benefit of creditors, or shall make an assignment or have a receiving order made against it under the Bankruptcy Act, or becoming bankrupt or insolvent shall make application for relief under the provisions of any statute now or hereafter in force concerning bankrupt or insolvent debtors, or any action whatsoever, legislative or otherwise shall be taken with a view to the winding-up, dissolution or liquidation of the Sub-Lessee;

then the current month's rent together with the rent for the three months next ensuing shall immediately become due and payable, and at the option of the Lessee the term hereby granted shall become forfeited and void, and the Lessee may without notice or any form of legal process whatsoever forthwith re-enter upon the said land, the said building or any part thereof in the name of the whole and repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding.

- (2) Forfeiture of this Sub-Lease by the Sub-Lessee shall be wholly without prejudice to the right of the Lessee to recover arrears of rent or damages for any antecedent breach of covenant on the part of the Sub-Lessee, and notwithstanding any such forfeiture the Lessee may subsequently recover from the Sub-Lessee damages for loss of rent suffered by reason of the Sub-Lease having been determined prior to the end of the term of this Sub-Lease as set out

herein and this clause and the rights hereunder shall survive the termination of this Sub-Lease whether by act of the parties or by operation of law.

9.02 LIEN

The Lessee shall have a lien upon the chattels, goods, supplies, articles, equipment, materials, effects or things of the Sub-Lessee for any loss or damage arising by reason of the breach of any of the conditions or provisions hereof, or the failure on the part of the Sub-Lessee to comply therewith.

9.03 BANKRUPTCY

That, notwithstanding anything in this Sub-Lease contained, if the Sub-Lessee becomes bankrupt or insolvent or makes an assignment for the benefit of the Sub-Lessee's creditors, or takes the benefit of any winding up or insolvency act, then, in each and any of such cases this Sub-Lease shall be and become by any of such acts, absolutely forfeited and terminated, and the Lessee shall be entitled to take the steps in such cases provided.

ARTICLE 10 - GENERAL

10.01 BRIBES

The Sub-Lessee hereby confirms that it has not, nor has any person on its behalf, given, promised or offered to any official or employee of the Lessee for or with a view to obtaining this Sub-Lease any bribe, gift or other inducement and that it has not, nor has any person on its behalf, employed any person to solicit or secure this Sub-Lease upon any agreement for a commission, percentage, brokerage or contingent fee.

10.02 MEMBERS OF THE HOUSE OF COMMONS

No Member of the House of Commons of Canada shall be admitted to any share or part of this Sub-Lease, or to any benefit to arise there from.

10.03 HEADINGS

Any note appearing as a heading in this Sub-Lease has been inserted for convenience and reference only and of itself cannot define, limit or expand the scope or meaning of the present Sub-Lease or any of its provisions.

10.04 DIFFERENCES

All matters of difference arising between the Lessee and the Sub-Lessee in any matter connected with or arising out of this Sub-Lease whether as to interpretation or otherwise, shall be determined by the Lessee but without prejudice to any recourse available under law.

10.05 EFFECT OF SUB-LEASE

This Sub-Lease and everything herein contained shall ensure to the benefit of and be binding upon the successors and assigns, as the case may be, of each of the parties hereto, subject to granting of consent by the Lessee as provided herein to any assignment, transfer or sublease of this Sub-Lease, and where there is a male, female or corporate party, the provisions hereof shall be read with all grammatical changes to gender and number required by the context, and all covenants and obligations shall be deemed joint and several.

10.06 PROVISIONS SEPARATELY VALID

If any covenant, obligation, agreement, term or condition of this Sub-Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Sub-Lease or the application of such covenant, obligation, agreement, term or condition to any persons or circumstances other than those in respect of which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation, agreement, term or condition of this Sub-Lease shall be separately valid and enforceable to the fullest extent permitted by law.

10.07 WAIVER NEGATED

The failure by the Lessee or its authorized representative, as the case may be, to require the fulfilment of the obligations, or to exercise any rights herein contained shall not constitute a waiver, a renunciation or a surrender of those obligations or rights.

10.08 NO IMPLIED OBLIGATIONS

No implied terms or obligations of any kind by or on behalf of the Lessee shall arise from anything in this Sub-Lease and the express covenants and agreements herein contained and made by the Lessee are the only covenants and agreements upon which any rights against the Lessee may be founded.

10.09 ENTIRE AGREEMENT

This Sub-Lease shall be deemed to constitute the entire agreement between the Lessee and the Sub-Lessee hereto with respect to the subject matter hereof and shall supersede all previous negotiations, representations, and documents in relation hereto made by any party to this Sub-Lease.

ARTICLE 11 - NOTICES

- (1) Whenever in this Sub-Lease, it is required or permitted that notice or demand be given or served by either party of this Sub-Lease to or on the other, such notice or demand will be in writing and will be validly given or sufficiently communicated if forwarded by priority post mail, telegram, or facsimile as follows:

To the City:	City Clerk City of Kelowna 1435 Water Street Kelowna, B.C. V1Y 1J4 Facsimile: (250) 470-0697
To the Sub-Lessee:	Royal Star Enterprises 3010 Lakha Road Kelowna BC V1X 7W1 Facsimile: (250) 451-9050

- (2) Such addresses may be changed from time to time by either party giving notice as above provided.

- (3) If any question arises as to whether any notice was or was not communicated by one party to the other, it shall be deemed to have been effectively communicated or given on the day received or on the fifth day after it was mailed or sent, whichever is the earlier.

ARTICLE 12 - HEAD LEASE

12.01 HEAD LEASE COVENANT

The Sub-Lessee hereby covenants that they will perform and observe all the covenants on the part of the City under the provisions of the Head Lease other than the covenant to pay rent there under and other than covenants relating to the premises other than these sub-premises, and will keep the City indemnified against all actions, expenses, claims and demands in respect of such covenants except as aforesaid.

12.02 HEAD LEASE TERMINATION

Upon the termination of the Head Lease for whatsoever reason and provided that each of the following conditions exist:

- (1) the termination of the Head Lease is not in any manner disputed;
- (2) the City has yielded up vacant possession to the Lessor (the Department of Transport) of the Lease area;
- (3) the Sub-Leases immediately preceding the termination of the Head Lease are in full force and effect and the Sub-Lessees at the termination of the Head Lease were not, or are not, in default or breach of their respective Sub-Leases;
- (4) the Lessor is not legally prohibited by reason of defect in title, adverse possession, or otherwise from fulfilling the terms of any of the Sub-Leases. the Sub-Leases then in full force and effect shall be deemed to have been assigned to the Lessor, thereby creating a new Lessor/Lessee relationship under the terms and conditions of the respective Sub-Leases as the case may be; provided, however, that the Lessor reserves the option to amend the new Lease therein

created from time to time in accordance with policy or policies in effect at that time.

ARTICLE 13 - PERSONAL GUARANTEE

13.01 PERSONAL GUARANTEE

The Guarantor joins in this agreement for valuable consideration and as an inducement to the Lessee agreeing to enter into this Sub-Lease. The Guarantor hereby covenants and agrees to guarantee full performance and observance of all of the terms of this agreement including, without restriction, the payment of rent, without requiring any notice of non-performance, non-payment or non-observance, the receipt of which notices the Guarantor hereby expressly waives. The liability of the Guarantor hereunder shall not be released, limited or affected in any way by reason of the assertion by the Lessee of its rights under the Sub-Lease or any forbearance, extension of time or other modification of the Sub-Lease agreed to by the Lessee and the Sub-Lessee. The Guarantor further agrees that this guarantee shall remain in full force and effect during the full term of this Sub-Lease and any renewals, modifications or extensions thereof and during any period that the Sub-Lessee may be a tenant from month to month.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first above written.

SIGNED, SEALED AND DELIVERED)
By the Lessee in the presence of:)
)
_____)
Witness Signature)
_____)
Witness Name)
_____)
Address)
_____)
City/Town)
_____)
Occupation)

CITY OF KELOWNA:

SIGNED, SEALED AND DELIVERED)
By the Sub-Lessee In the presence of:)

N Redman)
Witness Signature)
NOREEN REDMAN)
Witness Name)
#1-5533 AIRPORT WAY)
Address)
KELOWNA BC VIVISI)
City/Town)
AIRPORT FINANCE & ADMIN.)
Occupation MANAGER)

ROYAL STAR ENTERPRISES INC.

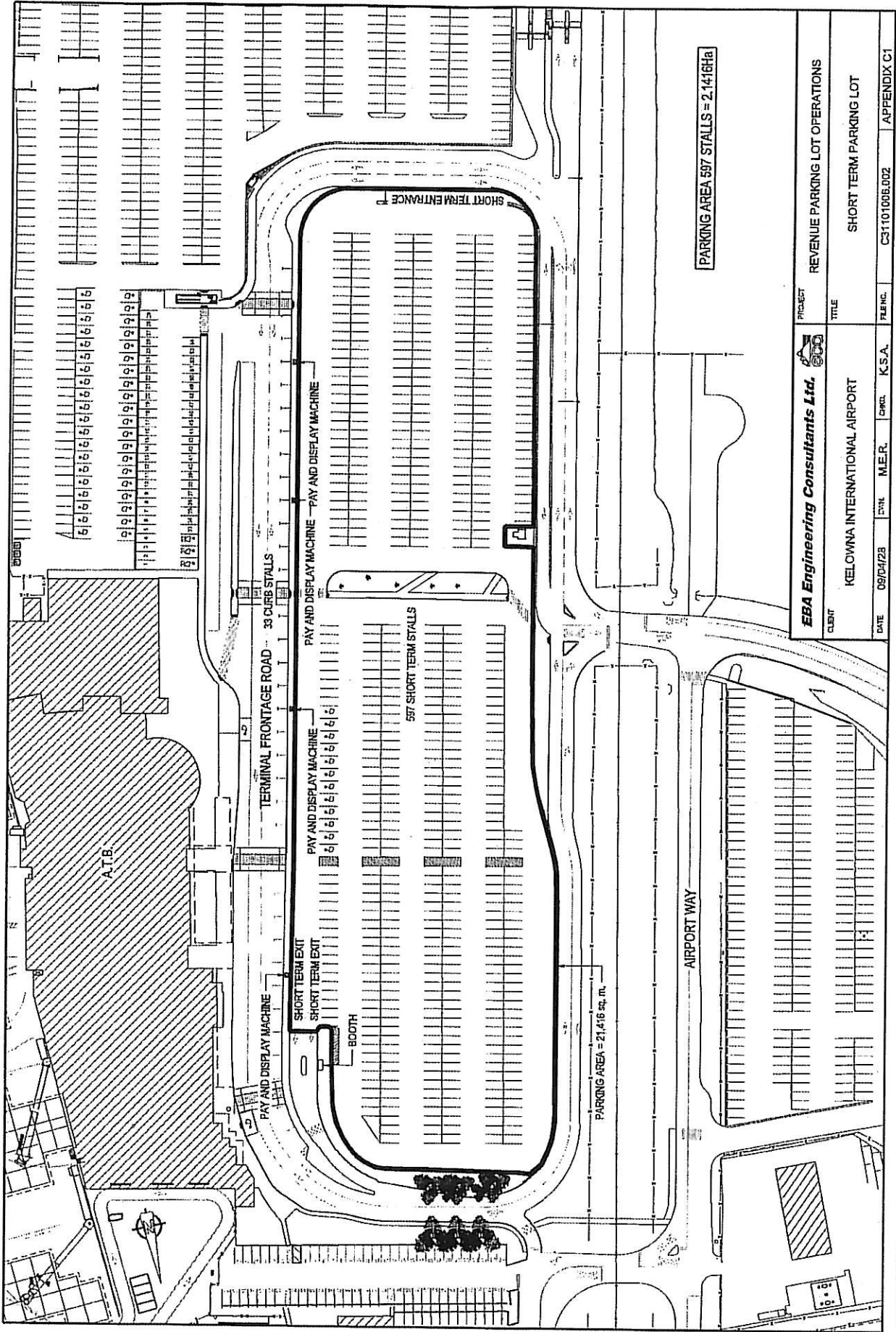
[Signature]

SIGNED, SEALED AND DELIVERED)
By the Guarantor In the presence of:)

N Redman)
Witness Signature)
NOREEN REDMAN)
Witness Name)
#1-5533 AIRPORT WAY)
Address)
KELOWNA BC VIVISI)
City/Town)
AIRPORT FINANCE & ADMIN.)
Occupation MANAGER)

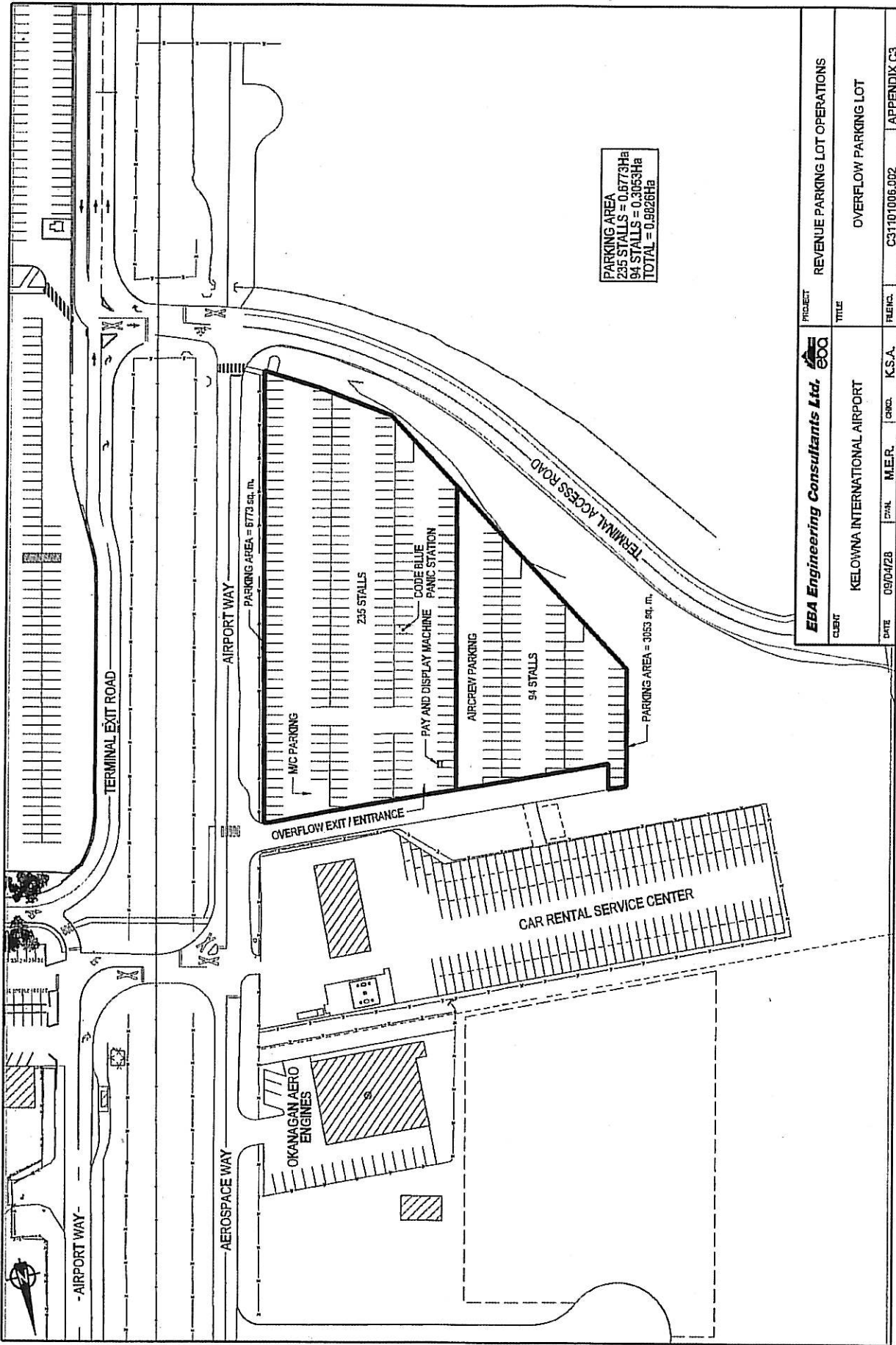
[Signature]

PHILIP PATARA

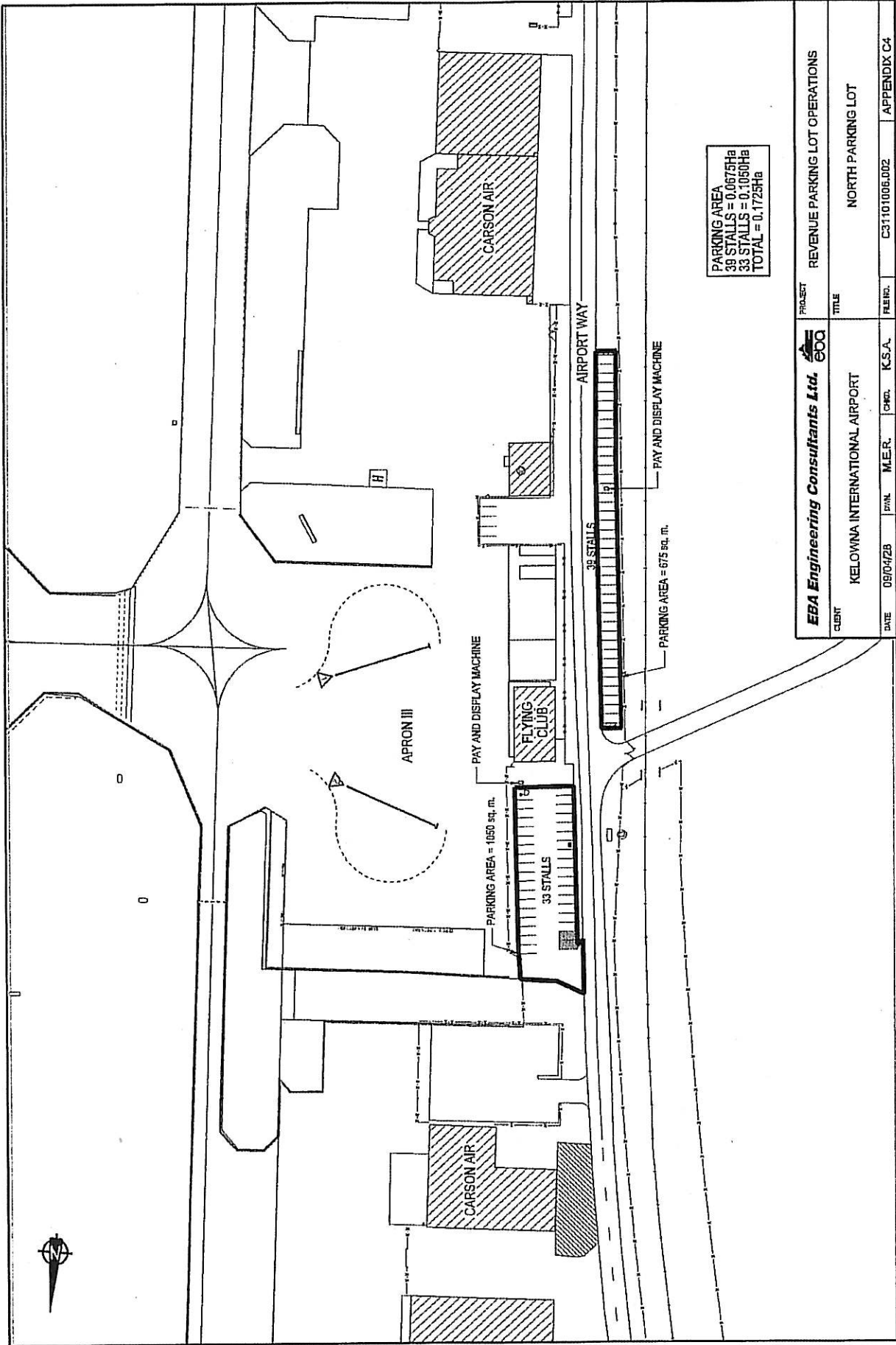


EBA Engineering Consultants Ltd. 	PROJECT	REVENUE PARKING LOT OPERATIONS
	CLIENT	KELOWNA INTERNATIONAL AIRPORT
DATE	09/04/23	DRAWN
		M.E.R.
		K.S.A.
		FILE NO.
		C31101006.002
	TITLE	SHORT TERM PARKING LOT
		APPENDIX C1

Planning, Design & Construction Services Ltd. 4225 14th Street, Kelowna, BC V1Y 9K6



CLIENT	EBA Engineering Consultants Ltd.		PROJECT	REVENUE PARKING LOT OPERATIONS
			TITLE	OVERFLOW PARKING LOT
DATE	09/04/28	DRAWN	M.E.R.	CHRG.
			K.S.A.	FILE NO.
				C31101006.002
				APPENDIX C3



EBA Engineering Consultants Ltd.		EDC		PROJECT		REVENUE PARKING LOT OPERATIONS	
CLIENT				TITLE			
KELOWNA INTERNATIONAL AIRPORT				NORTH PARKING LOT			
DATE	DRAWN	M.E.R.	CHKD.	K.S.A.	FILE NO.	APPENDIX C4	
09/04/28					C31101006.002		

**SCHEDULE "B"
PARKING FEES**

City of Kelowna

Airport Fees Bylaw No. 7982

14. **AUTOMOBILE PARKING FEES – Effective April 15, 2009**

PARKING LOTS:

- | | |
|--|---|
| (a) Short Term Lot | First 15 minutes free
\$1.00 for the 1 st hour or part thereof
(includes first 15 minutes)
\$2.00 for each additional hour or part thereof to
a maximum of \$12.00 per 24 hours
\$714.00 for a "Gold Pass" a six month pre
purchase program. |
| (b) Long Term Lot | First 15 minutes free
\$1.00 per hour or part thereof (includes
first 15 minutes) to a maximum of \$8.00 per
24 hours and a weekly maximum rate of \$42.00) |
| (c) North End Lot
North Airport Way | 1 st 24 hours free
\$5.00 for each additional 24 hours or part thereof |

Note: All vehicle parking fees include GST



SCHEDULE "C"

CERTIFICATE OF INSURANCE

This Certificate is issued to: The City of Kelowna
 1435 Water Street
 Kelowna, BC V1Y 1J4

<u>Insur</u>	Name: ROYAL STAR ENTERPRISES INC.
	Address: 3010 Lakha Road, Kelowna, B.C. V1X 7W1

<u>Brok</u>	Name:
	Address:

Location and nature of operation or contract to which this Certificate applies:

Sub-Lease Agreement for the operation of the public car parking facilities at Kelowna International Airport

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
Section 1 Commercial General Liability including: <ul style="list-style-type: none"> • Products/Completed Operations • Blanket Contractual • Contractor's Protective • Contingent Employer's Liability • Broad Form Property Damage • Non-Owned Automobile 				Bodily Injury and Property Damage \$ <u>2,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
Section 2 Automobile Liability				Bodily Injury and Property Damage \$ <u>5,000,000</u> Inclusive
Section 3 Umbrella/Excess Liability				\$ _____ Excess of Section 1 \$ _____ Excess of Section 2
Section Fidelity Bonding				\$25,000 per Employee

It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:

1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the party named above.
2. The City of Kelowna is added as an Additional Named Insured.
3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

 Print Name

 Authorized Signatory

 Date

SCHEDULE "D"
LETTER OF CREDIT FORM

Date:
(Name of Bank)
(Address of Bank)

City of Kelowna
City Hall
1435 Water Street
Kelowna, BC V1Y 1J4

Dear Sirs: **Re: (Project or City File #)**

At the request of (legal name of developer or contractor), we hereby establish in your favour our irrevocable letter of credit for a sum not exceeding (amount).

This credit shall be available to you by sight drafts drawn on the (Name and Address of Bank) when supported by your written demand for payment made upon us.

This Letter of Credit is required in connection with an undertaking by (the owner(s) / authorized agent) to perform certain works and services required by you.

We specifically undertake not to recognize any notice of dishonor of any sight draft that you shall present to us for payment under this Letter of Credit.

You may make partial drawings or full drawings at any time.

We shall honour your demand without inquiring whether you have a right as between yourself and our customer.

This credit will expire on (date) subject to the condition hereinafter set forth.

It is a condition of this credit that it shall be deemed to be automatically extended, without amendment, for one year from the present or any future expiry date hereof, unless 30 (thirty) days prior to such expiry date, we notify you in writing, by registered mail, that we elect not to consider this credit to be renewable for an additional period. Upon receipt of such notice, you may draw hereunder by means of your written demand for payment.

Our reference for this Letter of Credit is _____.

This credit is subject to the uniform customs and practice for Documentary Credits (1993 Revision, International Chamber of Commerce, Paris, France, Publication No. 500)

(Bank Signatures)

(Bank Signatures)