

Memo



Date: January 6, 2010
File: 2380-20
To: City Manager
From: Director, Real Estate & Building Services
Subject: Delta Grand Okanagan Resort Wharf Sub-License Agreement
Prepared by: Ron Forbes, Property Manager

Recommendation:

THAT Council approve the City entering into a Sub-License, in the form attached to the Report of the Director of Real Estate & Building Services, dated January 6, 2010, between the City of Kelowna and Delta Hotels No. 48 Limited Partnership for the use of the foreshore and land covered by water fronting Lot 1, District Lots, 139, 4041, 4082 and 5199, ODYD, Plan KAP46717, otherwise known as the area occupied by the Delta Grand Okanagan Resort wharf, for a term of three (3) years from November 1, 2009 to October 31, 2012;

AND THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete this transaction.

Background:

The Delta Grand Okanagan Resort (Delta) had a sub-license with the City for the use of this space for the construction and operation of a wharf as part of the business of the resort. In 2006, the sub-license was renewed for a three (3) year period. That time frame has elapsed and the sub-license has expired. Staff is recommending that the sub-license be renewed for another three (3) year period on the following terms and conditions:

Base Terms of sub-license for the Delta is:

Term: 3 years - November 1, 2009 to October 31, 2012
Renewal: No renewal options
Rate: 2009 - \$6,500 plus taxes
2010 - \$6,750 plus taxes
2011 - \$7,000 plus taxes
Tenant Improvements: By tenant

The previous rental rate was \$8,000 per year; however, the City had to pay a fee of \$2,000 to the Province for the license. As the City has no control over the amount charged by the Province, the Delta will be charged separately for any license fee from the Province. As a result

A handwritten signature in black ink, appearing to be "R" followed by a flourish.

the City's revenue for this license will not be impacted should the Province seek to increase the fees being charged for the License of Occupation.

Due to the uncertainty of the development of the waterfront, the term of the sub-license is for three years only. The City, at its sole option, at the end of the sub-license may; renegotiate the sub-license; take possession of the wharf and any improvements; or instruct the owner to remove all structures and make the land whole

Internal Circulation:

Director, Infrastructure Planning
City Clerk
Risk Manager

Financial/Budgetary Considerations:

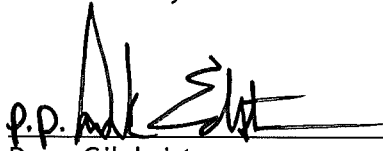
Financial Plan will need to be amended.

Considerations not applicable to this report:

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

In light of the above, the Real Estate & Building Services department requests Council's support of this matter.

Submitted by:



Doug Gilchrist, PMP, RI(BC)
Director, Real Estate & Building Services

Approved for inclusion:



John Vos, General Manager, Community Services

cc: K. Grayston, Director Financial Services
R. Cleveland, Director Infrastructure Planning

Location of the Delta Grand Waterfront Resort Wharf



DOCUMENT APPROVAL			
Sub-License			
Cir.	Dept.	Date	Int.
	Infrastructure Planning		
	Risk Mgmt.		
	City Clerk		

BETWEEN:

The **CITY OF KELOWNA**, a municipal corporation having
 Offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

(hereinafter called the "City")

OF THE FIRST PART

AND:

DELTA HOTELS NO. 48 LIMITED PARTNERSHIP
 1310 Water Street, Kelowna, B.C.D. V1Y 9P3a

(hereinafter called the "Sub-Licensee")

OF THE SECOND PART

WHEREAS the City holds a license of occupation (the "License") from Her Majesty the Queen in Right of British Columbia (the "Province"), for the lands including those described in Section 1 and on Schedule "A" (the "Lands"), commencing on August 10, 2006;

AND WHEREAS the City has previously sub-licensed the Lands to the Sub-Licensee the parties wish to create a new sub-license as set out herein, which will supercede all previous agreements;

AND WHEREAS the Province has consented to this Sub-License as required by the License;

NOW THEREFORE in consideration of the promises and payments provided for in this sub-license and the payment of one dollar (\$1.00) from each party to the other and other good and valuable consideration, the receipt and sufficiency of which both parties hereby acknowledge, the parties agree as follows:

Grant of Sub-License

1. The City hereby grants to the Sub-Licensee the non-exclusive right and licence to enter onto and use that portion of unsurveyed foreshore or land covered by water being part of the bed of Okanagan Lake fronting Lot 1 of District Lots 139, 4041, 4082 and 5199 Osoyoos Division of Yale District, Plan KAP46717, as outlined on Schedule "A" attached hereto and forming part of this sub-license (the "Lands"). It is not the City's intent to grant any additional rights with respect to the License.

No Interest in Land

2. The Sub-License granted hereby is not to be construed as being granted for all times and it grants no interest in land or on City or Crown property to the Sub-Licensee.

Term

3. The term of this Sub-License shall be from the 1st day of November, 2009 (the "Commencement Date") to and including 9th day of August, 2016 (the "Term"), subject to earlier termination of this Sub-License as provided herein, or of the License. For clarification, the term of this sub-license expires one (1) day prior to the expiration of the head lease with the Province.

Use of Lands

4. The Sub-Licensee shall have the use of the Lands for temporary commercial moorage of float planes and or the Sub-Licensee's own vessel(s) or vessel(s) of any related entities or entity with whom the Sub-Licensee has contracted as of the first day of the Sub-License (November 1, 2009) (including without limitation any contract assigned to the Sub-Licensee as part of its purchase of the Grand Okanagan Lakefront Resort and Conference Centre (the "Hotel") including the contract with Lakefront Sports Centre for rental of boats and sea-doo's). Should the Sub-Licensee wish to have other commercial vessels moor at the dock in the Lands, the Sub-Licensee must first obtain permission in writing from the City. The Sub-Licensee shall also have the use of the Lands for the temporary moorage of non-commercial vessels including without limitation vessels of guests of the Hotel. The Sub-Licensee shall ensure that the Lands and structures thereupon are maintained in a safe, clean and sanitary condition at all times. The Sub-Licensee shall not conduct any other type of commercial activity on the adjacent Waterfront Park or the Lagoon Queuing Dock without the prior written approval of the City. The Sub-Licensee shall ensure all activity by it, its partners, officers, directors, employees, agents, contractors, subcontractors, licensees, invitees or others for whom it is responsible, on the Lands and structures thereupon shall adhere to all Federal, Provincial and Municipal laws and by-laws. The Sub-Licensee shall not permit commercial boat tours, which are not owned and operated by the Sub-Licensee, to operate from the Lands or structures without prior written approval from the City.

Limited Access

5. The City reserves the right on reasonable notice to the Sub-Licensee to limit access to the Lands as may be required for major waterfront events.

Licence Fee

6. The Sub-Licensee shall pay to the City an annual licence fee in the amount of:
 - (a) \$6,500 plus Taxes from November 1, 2009 – October 31, 2010. This amount will increase by \$250 / year for the term of the agreement.
 - (b) \$2,000 plus Taxes. This is the fee the City must pay the Province for the Licence of Occupation. Should the Province increase the fees in accordance with

Section 3.1 of the Licence of Occupation, the fees charged to the Sub-Licensee shall be adjusted to match the charge by the Province.

to be paid in advance on the first day of each year of the Term (the "Licence Fee") and the Licensee shall pay to the City, from time to time and upon demand, all other sums payable to the City pursuant to this Sub-license (the "Additional Fees").

Interest Penalty on Overdue Fees

7. Without waiving any right of action of the City in event of late payment or default of payment of the License Fee due herein, the Sub-Licensee shall pay a penalty of two percent (2%) per month or any portion thereof compounded monthly (26.82% per annum) effective from the day the amount is due. In order to reflect prevailing interest rates, the City may review and adjust the penalty rate from time to time.
8. If the Licence Fee or any Additional Fees should be payable for less than a full year, the amounts will be adjusted accordingly.
9. It is the intention of the parties that this is a net agreement and that all expenses, costs and payments incurred in respect of the Lands related to its use under this Sub-License, and any other improvement to the Lands made by the Sub-Licensee shall be borne by the Sub-Licensee.

Payment of Taxes, Expenses and Utilities

10. Unless otherwise provided herein, the Sub-Licensee covenants and agrees to pay all costs and expenses of any kind whatsoever associated with and payable in respect of the Sub-Licensee's use of the Lands, including without limitation, all municipal property taxes, other taxes, levies, charges and assessments, if any, permit and licence fees, repair and maintenance costs, administration and service fees, telephone, cablevision, gas, water, sewage disposal and other utility or communication charges and payments for work and materials, excluding electricity.

GST / HST

11. The Sub-Licensee shall pay to the City all taxes, charges, levies and other fees, including Goods and Services Tax / Harmonized Sales Tax or any replacement tax, which may be payable in respect of this Sub-license.

Further Construction

12. The Sub-Licensee shall not construct any buildings or structures upon the Lands, except those required for temporary moorage purposes.

Compliance with Laws

13. The Sub-Licensee shall use and occupy the Lands in compliance with all statutes, laws, regulations and orders of any authority having jurisdiction and without limiting the generality of the foregoing, all federal, provincial or municipal laws or statutes or bylaws relating to environmental matters and relating to the Lands including all the rules, regulations, policies, guidelines, or criteria made under or pursuant to any such laws.

No Assigning or further Sub-licensing

14. The Sub-Licensee shall not assign or further sub-licence any part of the Lands, nor mortgage or otherwise encumber its interest in this Sub-License, nor permit the area to be used for any purpose prohibited by this Sub-License without the written permission of the City of Kelowna Civic Properties Manager.

Maintenance

15. The Sub-Licensee shall promptly repair all elements of the dock on the Lands as would any prudent owner and to a standard appropriate for a commercial moorage facility.

Public Safety

16. The Sub-Licensee shall take all reasonable precautions to ensure the safety of persons using the Lands and any structure thereupon.

Environmental Matters

17.
 - (a) For the purposes of this section of the Sub-license, "Environmental Laws" means any statutes, laws, regulations, orders, bylaws, standards, guidelines, permits and other lawful requirements of any federal, provincial, municipal or other governmental authority having jurisdiction over the Lands now or hereafter in force with respect in any way to the environment, health, occupational health and safety, product liability or transportation of dangerous goods, including the principles of common law and equity.
 - (b) Compliance with Environmental Laws. The Sub-Licensee shall promptly and strictly comply, and cause any person for whom it is in law responsible to comply, with all Environmental Laws regarding the use and occupancy of the Lands under or pursuant to this sub-license, including without limitation obtaining all required permits or other authorizations.

Signs

18. The Sub-Licensee shall not erect any sign on the Lands or on the adjacent public walkway without the prior written consent of the City.

Access

19. The Sub-Licensee shall give the City, the Province, and any utility company having services located in or over the Lands unobstructed access to the Lands.

Builders Liens

20. The Sub-Licensee shall, within 30 days of registration, discharge any builders' lien and related judgment or other charge which may be registered against the title to the Lands related to the Sub-Licensee's use of the Lands and the Sub-Licensee

acknowledges that the City will file a notice against the title to the Lands pursuant to section 3 of the *Builders Lien Act*.

Ownership of Structures

21. The City and the Sub-Licensee agree that the title to and ownership of any structures on the Lands (as it may be improved, altered or rebuilt throughout the Term) shall during the Term of this Sub-license be vested in the Sub-Licensee, notwithstanding any rule of law to the contrary. Upon termination of this Sub-License all structures on the Lands shall become the property of the City unless the City at its sole discretion determines that it does not wish to take possession of any or all such structures. Should the City determine that it does not wish to take possession of any or all such structures the Sub-Licensee agrees to remove any and all such structures and make whole the Lands.

Lands Accepted "As Is"

22. The Sub-Licensee accepts the Lands and existing structures "as is" and acknowledges that it has had the opportunity to undertake such inspections, tests and surveys of the Lands and existing structures as it considers necessary and that the City has made no representations or warranties respecting the Lands, and that by entering into this Sub-license, it is satisfied that the Lands and existing structures are suitable for its purposes.

Insurance

23. The Sub-Licensee shall, without limiting its obligations or liabilities under this Sub-license, procure and maintain, at its own expense and cost, the insurance policies listed in Schedule B, attached hereto and made a part of this Sub-license. The insurance policies shall be maintained continuously from the date of commencement of this Sub-license until the termination date of this Sub-license or such further period as may be specified in Schedule B.

Release

24. The Sub-Licensee hereby releases the City and its elected officials, officers, employees, agents and others (the "City's Representatives") from and against all demands and claims that the Sub-Licensee may have, now or in the future, in relation to this Sub-license, the Lands or the Sub-Licensee's use of the Lands.

Indemnity

25. Save and except for the negligence of the City and the City's Representatives, the Sub-Licensee will and hereby does indemnify and save harmless the City and the City's Representatives from any and all suits, actions, causes of action, liabilities, damages, costs, claims, expenses (including actual fees of professional advisors) and harm, of any nature or kind whatsoever, whether related to death, bodily injury, property loss, property damage or consequential loss or damage, which may be connected with or arise from:
- (a) any breach of any obligation set forth in this Sub-license to be observed or performed by the Sub-Licensee;

- (b) any act, omission, or negligence of the Sub-Licensee, its partners, officers, directors, employees, agents, contractors, subcontractors, licensees, invitees or others for whom it is responsible in law;
- (c) the use or occupation of the Lands or structures thereupon by the Sub-Licensee, its partners, officers, directors, employees, agents, contractors, subcontractors, licensees, invitees or others for whom it is responsible in law; or
- (d) the granting of this Sub-license.

Survival of Indemnities

- 26. All the releases and indemnities contained in this Sub-license will survive the expiration or earlier termination of the Term.

Notice of Default

- 27. If the Sub-Licensee fails to observe, comply with or perform any of its covenants, agreements or obligations under this Sub-license, the City may deliver to the Sub-Licensee a notice of default (in the manner required herein for giving notices) stipulating that the default must be rectified or cured within 15 days of the notice if the default is non-payment of the Licence Fee or Additional Fees and within 30 days of the notice for other defaults, but less or no notice is required to be given by the City in emergency or urgent circumstances, as determined by the City in its sole discretion, acting reasonably, or where the Sub-Licensee has failed to keep the Lands insured.

City May Cure Default

- 28. If the Sub-Licensee fails to rectify or cure a default within the time and in the manner specified in a notice under section 27 and if the default is one that can be rectified or cured by the City, the City may, without further notice to the Sub-Licensee, take all steps considered in its sole discretion necessary to rectify or cure the default and all costs of doing so, including the cost of retaining professional advisors, shall be payable immediately by the Sub-Licensee as Additional Fees. Nothing in this Sub-license obligates the City to rectify or cure any default of the Sub-Licensee but should the City choose to do so, the City shall not be liable to the Sub-Licensee for any act or omission in the course of rectifying or curing or attempting to rectify or cure any default.

Distress

- 29. If the Licence Fee or Additional Fees payable by the Sub-Licensee is in arrears after the period in Section 27, the City or a person authorized in writing by the City may enter upon the Lands and seize any goods or chattels and may sell the same.

Termination Upon Default

- 30. Provided always and it is hereby agreed that the City may, without further notice to the Sub-Licensee, terminate this sub-license and enter and take possession of the Lands if:

- (a) the Licence Fee or any Additional Fees is unpaid for 15 days after notice pursuant to section 27; or
- ~~(b) the Sub-Licensee fails to observe, comply with or perform any of its covenants, agreements or obligations herein and the failure is not rectified or cured by the Sub-Licensee within the time specified in section 27.~~
- (c) in the event that the City may require the use, for whatever purpose, of said Lands, after giving the Licensee ninety (90) days notice of the City's intention to cancel this Sub-License.
- (d) in the event the Province cancels the Licence on the lands between the City of Kelowna and the Province of British Columbia.

In the event the City terminates this Sub-License pursuant to sub-section 30(c) or 30(d), the Licence Fee detailed in section 6 shall be pro-rated and any overpayment of funds shall be returned to the Sub-Licensee.

No Compensation Upon Termination

- 31. The Sub-Licensee will make no claim for compensation, in damages or otherwise, upon the lawful termination of this sub-license. If the City terminates this sub-license, the City retains the right to proceed at law against the Sub-Licensee for all of the Licence Fee and Additional Fees and other loss or damage and costs, including all prospective losses or prospective damages suffered or to be suffered by the City arising from the default of the Sub-Licensee under this sub-license.

Dissolution

- 32. If the Sub-Licensee should cease to exist as a partnership formed in Manitoba in good standing in the records of the Registrar of Companies of British Columbia, or if it should take any proceedings towards dissolution or winding up or if it should be dissolved or wound up, then at the option of the City, the License Fee, Additional Fees and all outstanding levies and charges shall become immediately due and payable and the Term shall immediately become forfeited and void and the City may re-enter and take possession of the Lands.

State of Lands at Termination

- 33. At the expiry or earlier termination of this sub-license, the Sub-Licensee shall deliver to the City the Lands:

- (a) vacant of any and all structures;
 - (b) remediated to public park standards, as determined by the City acting reasonably; and
 - (c) otherwise in good repair.
-

unless otherwise determined in Section 21.

Own Cost

- 34. The Sub-Licensee shall perform all of its obligations, covenants and agreements under this sub-license solely at its own cost.

Law to the Contrary

- 35. This sub-license shall enure to the benefit of and be binding on the parties notwithstanding any rule of law or equity to the contrary.

Severance

- 36. If any portion of this sub-license is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this sub-license.

Governing Law

- 37. This sub-license shall be construed and governed by with the laws of the Province of British Columbia.

No Waiver

- 38. Waiver by the City of any default by the Sub-Licensee shall not be deemed to be a waiver of any subsequent default. A waiver is effective only if it is in writing.

References

- 39. Every reference to each party is deemed to include the heirs, executors, administrators, successors, directors, employees, partners, servants, agents, officers and invitees of such party where the context so permits or requires.

Amendment

- 40. This sub-license may not be modified or amended except in writing signed by the City and the Sub-Licensee.

Remedies Not Exclusive

- 41. No remedy conferred upon or reserved to the City is exclusive of any other remedy herein or provided by law, but all such remedies shall be cumulative and may be exercised in any order or concurrently.

No Joint Venture

42. Nothing in this sub-license shall constitute the Sub-Licensee the agent, joint venturer or partner of the City or give the Sub-Licensee any authority or power to bind the City in any way.

Powers Preserved

43. Nothing in this sub-license affects the rights of the City to exercise its powers within its jurisdiction.

Authority of Licensee

44. The Sub-Licensee represents and warrants to the City that it is validly established under the laws of Manitoba and in good standing under the laws of the Province of British Columbia, that it has full authority to enter into this sub-license and to carry out the actions contemplated herein, that all resolutions and other preconditions to validity have been validly adopted, and that those signing this sub-license on its behalf are authorized to bind the Sub-Licensee by their signatures.

Enurement

45. This Sub-license shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, personal representatives, and corporate successors.

Interpretation

46. Wherever the singular or masculine or neuter is used in this sub-license, the same shall be construed as meaning the plural, the feminine or body corporate where the context so requires.

Captions

47. The captions appearing in this sub-license have been inserted for reference and as a matter of convenience and do not define, limit or enlarge the scope or meaning of this sub-license.

Entire Agreement

48. The provisions of this sub-license, together with the License to the extent that the provisions herein do not conflict with the License, constitutes the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements whether verbal or written between the parties with respect to the subject matter hereof.

Time of Essence

49. Time is of the essence of this sub-license.

Covenants and Conditions

50. All of the provisions of this sub-license shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants and conditions were used in each separate section.

No Abatement

51. Unless otherwise provided herein, the Sub-Licensee is not entitled to any abatement or reduction or deduction from the Licence Fee or Additional Fees unless terminated by the City as per sub-section 30(c) or (d).

Further Assurances

52. The parties shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this sub-license.

Notices

53. All notices to be made or given pursuant to this Sub-License will be in writing and delivered or sent by postage prepaid mail or facsimile and addressed to the parties as follows:

To the City:

1435 Water Street
Kelowna, BC V1Y 1J4

Facsimile: 250.862.3317
Attention: City Clerk

To the Sub-Licensee:

1310 Water St.
Kelowna B.C. V1Y 9P3

Facsimile: 250.868.5637
Attention: Daniel Bibby

or at such other address or facsimile number as either party may specify in writing to the other. The time of giving and receiving such notice will be deemed to be on the day of delivery or transmittal if delivered or sent by facsimile (so long as such delivery or transmittal was carried out prior to 5:00 pm (Kelowna time) on a Business Day, failing which such notice will be deemed to have been given and received on the next succeeding Business Day), or on the third Business Day after the day of mailing thereof if sent by mail. In the event of any disruption of mail services, all notices will be delivered or sent by facsimile rather than mailed. In this Sub-License, "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in British Columbia.

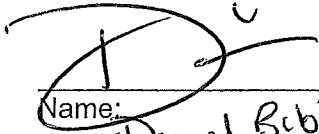
IN WITNESS WHEREOF the parties hereto have executed this Sub-License as of the day and year first above written.

CITY OF KELOWNA)
by its authorized signatories)

_____))
Name:)

_____))
Name:)

DELTA HOTELS NO. 48)
LIMITED PARTNERSHIP)
by its authorized signatory(ies))

)
_____))
Name: Daniel Bibb)
General Manager)
_____))
Name:)

SCHEDULE B INSURANCE REQUIREMENTS

Any reference to "Licensee" means the Sub-Licensee

1. Licensee To Provide

The Licensee shall procure and maintain, at its own expense and cost, the insurance policies listed in section 2, with limits no less than those shown in the respective items, unless 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-License to use or such longer period as may be specified by the City.

2. Insurance

As a minimum, the Licensee 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:

- 2.1 Work Safe Insurance covering all employees or sub-contractors engaged in the work or services permitted under this Sub-License in accordance with the statutory requirements of the province or territory having jurisdiction over such employees.
- 2.2 Comprehensive General Liability Insurance
 - (i) providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident;
 - (ii) providing for all sums which the Licensee shall become legally obligated to pay for damages because of bodily injury (including death at any time resulting therefrom) 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-license or any operations carried on in connection with this Sub-license;
 - (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.
 - (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.
- 2.3 Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Licensee directly or indirectly in the performance of this Sub-license. The Limit of Liability shall not be less than \$2,000,000 inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.
- 2.4 All Risks Insurance for loss of or damage to all Licensee's equipment, owned, leased or for which Licensee may otherwise be responsible and

used or to be used in the performance of the work under this Sub-License. This insurance shall be for an amount not less than the replacement cost value of the equipment. In the event of loss or damage, Licensee shall if so requested by the City, forthwith replace such lost or damaged equipment. Such All Risks Insurance shall be endorsed to waive all rights of subrogation against the City.

3. **The City Named As Additional Insured**

The policies required by sections 2.2 and 2.3 above shall provide that the City is named as an Additional Insured thereunder and that said policies are primary without any right of contribution from any insurance otherwise maintained by the City.

4. **Licensee's Subcontractors**

The Licensee shall require each of its subcontractors to provide comparable insurance to that set forth under section 2.

5. **Certificates of Insurance**

The Licensee agrees to submit Certificates of Insurance for itself and for all of its subcontractors to the Risk Management Department of the City within 30 days after commencing the Sub-license. 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.

6. **Other Insurance**

After reviewing the Licensee's Certificates of Insurance, the City may require other insurance or alterations to any applicable insurance policies in force during the period of this Sub-license 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 Licensee's expense.

7. **Additional Insurance**

The Licensee 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 Licensee shall ensure that all of its subcontractors are informed of and comply with the City's requirements set out in this Schedule B

8. **Insurance Companies**

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

9. **Failure to Provide**

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

10. Nonpayment of Losses

The failure or refusal to pay losses by any insurance company providing insurance on behalf of the Licensee or any subcontractor shall not be held to waive or release the Licensee or subcontractor from any of the provisions of the foregoing insurance requirements or this Sub-license, with respect to the liability of the Licensee otherwise. Any insurance deductible maintained by the Licensee 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 Licensee as stated in section 9.