

Memo



Date: April 19, 2010
File: 0210-20
To: City Manager
From: L.M. Walter, Special Projects Manager, Financial Services
Subject: BICYCLE PROGRAM - KELOWNA & DISTRICT SOCIETY FOR COMMUNITY LIVING

Recommendation:

THAT Council continues to support the Bicycle program with the Kelowna and District Society for Community Living, by entering into a new agreement for the period 2010 -2014 to provide for the collection, safekeeping and ultimate disposal of lost and stolen bicycles within the City of Kelowna;

AND THAT the Mayor and City Clerk be authorized to execute the Agreement;

AND FURTHER THAT Council approve a transfer of \$2,300 from Other Working Capital to provide the additional funding for the 2010 portion of this request.

Purpose:

To seek approval for the renewal for an additional five year term, the agreement between the City of Kelowna (City) and the Kelowna and District Society for Community Living (KDSCL) for the collection, safekeeping and ultimate disposal of lost and stolen bicycles within the City of Kelowna.

Background:

Since 1995 the City has contracted with KDSCL, a non-profit society, for the collection, safekeeping and ultimate disposal of lost and stolen bicycles.

Contract highlights include:

- KDSCL picks up bikes as directed by the RCMP
- All bikes picked up are to be logged into a computer database
- Secure storage is provided for 90 days
- Efforts to contact owners are to be made
- Bikes will be sold, used for parts or disposed of at the landfill
- KDSCL will maintain insurance coverage as per the agreement

The City's funding of this operation will change from the prior five year term, which provided funding to the Society in the amount of \$12,000 per year less any bicycle sales revenue received by KDSCL. The net payments, after reducing the \$12,000 by the bicycle sales revenue, to KDSCL for each of the past five years of the contract term have been:

- 2005 \$7,634
- 2006 \$6,550
- 2007 \$7,855
- 2008 \$7,879
- 2009 \$8,770

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The City's funding of this operation for the coming term (2010 - 2014) will provide:

- 2010 \$10,000, with KDSCL keeping all bicycle sales revenue
- 2011 \$11,000, with KDSCL keeping all bicycle sales revenue
- 2012 \$12,000, with KDSCL keeping all bicycle sales revenue
- 2013 \$12,000, with KDSCL keeping all bicycle sales revenue
- 2014 \$12,000, with KDSCL keeping all bicycle sales revenue

There has not been an increase in funding to the program since its inception in 1995. The service provided by KDSCL has relieved the RCMP or other City staff of costs and efforts that would be associated with retrieving bicycles, finding the owners and storing bikes. As well, this agreement has also provided meaningful activities for adults with developmental disabilities in the areas of customer sales, bike repair and maintenance, computer skills, public interaction and money handling.

KDSCL has indicated that the current \$12,000 annual subsidy, which includes the dollars received from annual bike sales, leaves KDSCL with an annual shortfall to the program of approximately \$15,000. The proposed funding change will provide for both a constant dollar subsidy from the City and the opportunity for KDSCL to recognize the revenue associated with annual bike sales.

Financial/Budgetary Considerations:

The current base budget for this program is \$7,700; a transfer of \$2,300 from Other Working Capital will be required.

Considerations not applicable to this report:

Internal Circulation: N/A

Legal/Statutory Authority: N/A

Legal/Statutory Procedural Requirements: N/A

Existing Policy: N/A

Personnel Implications: N/A

External Agency/Public Comments: N/A

Community & Media Relations Comments: N/A

Alternate Recommendation: N/A

Submitted by:



L. Walter, Special Projects Manager, Financial Services

Approved for inclusion:



CC: Manager, Risk Management
Financial Planning Manager

THIS AGREEMENT made this _____ day of _____, 2010.

BETWEEN:

CITY OF KELOWNA
1435 Water Street
Kelowna, BC V1Y 1J4

(hereinafter called "the City")

OF THE FIRST PART

AND:

KELOWNA AND DISTRICT SOCIETY FOR COMMUNITY LIVING
1380 Bertram Street
Kelowna, BC V1Y 2G1

(hereinafter called "the Society")

OF THE SECOND PART.

WHEREAS any lost or stolen bicycles found in the City of Kelowna and turned over to the Kelowna Detachment of the R.C.M.P., are the property of the City, unless claimed by the rightful owner or, after a ninety (90) day waiting period, retrieved by the registered finder;

AND WHEREAS any bicycles donated privately to the Society are the sole property of the Society until such time as they are sold or disposed of;

AND WHEREAS the City has agreed to contract with the Society to handle lost or stolen bicycles for the purpose of returning them to their rightful owners or registered finders, or to sell or otherwise dispose of the same;

NOW THEREFORE, in consideration of the fee of One Dollar (\$1.00) of lawful money of Canada to be paid by the City to the Society, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. SOCIETY TO PICK UP BICYCLES. The society will pick up bicycles as directed by the Kelowna Detachment of the R.C.M.P., complete with appropriate documentation, when notified to do so by the Kelowna Detachment of the R.C.M.P.
2. BICYCLES TO BE STORED SECURELY. Once picked up by the Society, all bicycles are to be kept on the premises of the Society in a secure compound for a period of ninety (90) days.

3. EFFORT TO LOCATE RIGHTFUL OWNER. During the ninety (90) day holding period, the Society will make every reasonable effort to locate the rightful owner of the bicycle.
4. OWNER FOUND. If a match is made between owner and bicycle, the owner shall be contacted and may retrieve the bicycle by paying a service charge of Twenty-five Dollars (\$25.00) to the Society.
5. EXPIRATION OF NINETY (90) DAY HOLDING PERIOD. Upon the expiration of the ninety (90) day holding period, if the rightful owner has not claimed the bicycle, the Society may sell or dispose of the bicycle in the manner that it sees fit.
6. PROCEEDS FROM SALE OF BICYCLES. That all proceeds from the return of bicycles to proven owners or to registered finders, and all proceeds from the sale of unclaimed bicycles will be the sole property of the Society, except as otherwise provided elsewhere in this agreement, at a rate to be set by the Society.
7. DISPOSAL OF NON-SALEABLE BICYCLES. If a bicycle is in a poor and unsafe condition, after the ninety (90) day holding period, it may be dismantled for parts and unusable portions may be disposed of.
8. SALE OR DISPOSAL OF A BICYCLE. Upon the sale or disposal of a bicycle, documentation showing the final disposal of a bicycle shall be forwarded to the Kelowna Detachment of the R.C.M.P. for their records.
9. CITY TO MEDIATE. In the event that the purchaser of a bicycle, who has purchased it in good faith from the Society, is challenged by the original owner who had not reported the loss or theft of the bicycle to the Kelowna Detachment of the R.C.M.P., nor filed a claim with the Society, the decision of rightful ownership shall rest with the City.
10. REFUND OF PURCHASE PRICE. In the event that the original owner had previously reported the loss or theft of the bicycle with the Kelowna Detachment of the R.C.M.P., or filed a claim with the Society, and challenges the purchaser who has bought the bicycle in good faith from the Society, the bicycle will be forfeited to the proven owner upon payment of the twenty-five dollar (\$25.00) service charge, the costs of repairing or upgrading the bicycle and a storage fee. The Society will reimburse the original purchase price to the purchaser.
11. ACCURATE RECORDS. The Society shall maintain accurate and full records on each bicycle handled by them.
12. REVENUE FROM SALE OF BICYCLES. All revenue received from the sale of bicycles as part of this agreement will belong to the Society.
13. CITY SUBSIDY. The City shall pay the Society the following:

2010	\$10,000 Plus KDSCL retains the proceeds of bicycle sales
2011	\$11,000 Plus KDSCL retains the proceeds of bicycle sales
2012	\$12,000 Plus KDSCL retains the proceeds of bicycle sales
2013	\$12,000 Plus KDSCL retains the proceeds of bicycle sales
2014	\$12,000 Plus KDSCL retains the proceeds of bicycle sales

14. GENERAL INSURANCE PROVISIONS. Without in any way limiting the obligation or liabilities of the Contractor, the Contractor shall, at his/her expense, maintain and keep in force during the term of this agreement, the insurance coverage listed in this article. The deductible or reimbursements amounts of any of the policies shall be the responsibility of the Contractor and shall not apply to the City.

The City retains the exclusive right to amend the amounts of insurance and deductible stated in this section, from time to time, to reflect changes in requirements.

The Contractor shall at the time the agreement is signed, and prior to commencement of this contract, submit to the City, a certificate in exactly the same format and wording as per attached Schedule A, for all liability insurance policies required under this article or certified copies of these insurance policies (if required), and shall also provide to the City from time to time, as may be required, satisfactory proof that such policies are still in full force and effect.

Each insurance policy required under this Article shall contain an endorsement to provide all additional insureds with prior notice of material changes and cancellations. Such endorsement shall be in the following form:

"It is understood and agreed that the City will be provided with at least thirty (30) days written notice in advance of any material alteration or amendment restricting coverage, transfer, assignment or cancellation. Notice shall be given or sent by registered mail to all named additional insureds."

Whenever the word "City" is to appear in the insurance policies, the legal name shall be inserted.

LIABILITY INSURANCE. The Contractor shall be responsible for a policy of public liability and property damage insurance in an amount of no less than TWO MILLION DOLLARS (\$2,000,000) against liabilities and damages in respect to injuries to persons (including injuries resulting in death) and in respect of damage arising out of the performance of this agreement.

The deductible in this policy shall not exceed \$5,000 per occurrence.

The City shall be a named additional insured on the policy. The policy shall preclude subrogation claims by the insurer against anyone insured thereunder. In addition, such insurance policy shall include the following "Cross Liability" clause:

"The insurance afforded by this policy shall apply in the same manner, as though separate policies were issued, to any action brought against any of the named insured by or on behalf of any other named insured."

AUTOMOTIVE INSURANCE. The Contractor shall licence and insure for business purposes to a minimum of TWO MILLION DOLLARS (\$2,000,000) public liability and property damage, all automotive equipment used by the Contractor in the conduct of the business provided for in this agreement. The Contractor shall provide the City with a Certificate of Insurance, ICBC form APV 47, for all owned and leased vehicles as evidence of third party motor vehicle insurance coverage.

15. INDEMNIFICATION. The Society agrees to reimburse the City for all expense, damages, loss or fines incurred or suffered by the City by reason of any breach, violation or non-performance by the Society of any covenant or provision of this Agreement or by reason of damage to the premises, persons or property caused by the Society, its employees or agents or persons visiting or doing business with the Society. The Society further covenants and agrees to save and hold harmless the City, its officers, agents, servants and employees, from and against any and all suits or claims alleging damage or injury (including death) to any person or property that may occur or that may be alleged to have occurred, in the course of the term of this Agreement, whether such claim shall be made by an employee of the Society, or by a third person and whether or not it shall be claimed that the alleged damage or injury (including death) was caused through a willful or negligent act or omission of the Society, its officers, servants, agents or employees; and at its own expense, the Society shall defend any and all such actions and pay all legal charges, costs, and other costs arising therefrom.
16. TERM OF AGREEMENT. This agreement shall be for five years from and including the 1st day of January, 2010 to the 31st day of December, 2014.

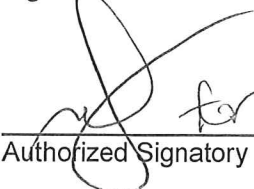
IN WITNESS WHEREOF the parties have executed the agreement as of the day and year first written above:

CITY OF KELOWNA by its authorized signatories:

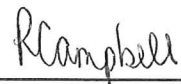
Authorized Signatory
SHARON SHEPHERD, MAYOR

Authorized Signatory
Stephen Fleming, City Clerk

KELOWNA AND DISTRICT SOCIETY FOR
COMMUNITY LIVING by its authorized
signatories:

 for KDSC

Authorized Signatory



Authorized Signatory