

Memo



Date: June 6, 2011
File: 0550-01
To: City Manager
From: Manager, Community & Neighbourhood Programs
Subject: School District #23 Joint Use Agreements

Recommendation:

THAT Council receives the report from the Manager, Community & Neighbourhood Programs regarding the School District #23 Joint Use Agreements dated June 6, 2011 for information;

AND THAT Council approves the Joint Use Agreements between School District #23 and the City of Kelowna for Bankhead Elementary School, South Kelowna Elementary School, and Watson Road Elementary School as outlined in the report from the Manager, Community & Neighbourhood Programs dated June 6, 2011;

AND THAT the Mayor and City Clerk be authorized to execute the School District #23 Joint Use agreements on behalf of the City of Kelowna.

Purpose: To seek Council's authorization to sign off on the Joint Use Agreements for Bankhead Elementary School, South Kelowna Elementary School and Watson Road Elementary School.

Background: The City of Kelowna, Recreation & Cultural Services in conjunction with School District #23 have been providing both general community based recreation and licensed child care programs through Joint Use Agreements since 1995. The intent of these agreements was to outline roles and responsibilities in the management and operations of these facilities.

Since May of 2010, City staff has been meeting with representatives from School District # 23 to review the existing Joint Use Agreements. The purpose of the review was to update any policies and/or procedure that had become outdated from the original agreements and to discuss new opportunities to improve overall services to reflect the current operations and the future direction and use of the facilities.

The main changes to the agreements centered on reflecting the current operating practices which included:

- Identifying and adding to the agreements specific dates for key milestones to occur such as space allocation meetings and annual operational reviews.
- Updating the space allocation times to reflect current operations, such as we now have first right of access to the school facilities at 2:35 pm where the past agreements indicated 4:00 pm.

A handwritten signature in blue ink, appearing to be a stylized 'K' followed by a horizontal line.

- The new agreements identify an Operating Committee shall be comprised of a representative appointed by the Superintendent of Schools and a representative appointed by the City Manager. Representatives from the parent advisory council, local residents and local residents' association may at any time be invited to participate at the Operating Committee's request.
- Updating general information such as current addresses and contacts, and creating a consistency of language, format, and reporting structure in all three agreements.

Currently through these sites the City offers:

- General recreational programs that focus on both active and instructional programs targeted at children, youth and families
- Licensed Group Child Care (School Age) programs that provide care to children outside of school hours or during periods of school closure

Over the past year the Recreation & Cultural Service Department has provided:

- Licensed out of school programs, Monday-Friday, 2:30 pm - 6:00 pm, September through June at Bankhead Elementary School & Watson Road Elementary School for 50-60 participants
- Licensed day camps, Monday-Friday, 8:00 am - 5:00 pm during school breaks at Bankhead Elementary School & Watson Road Elementary School for 30-40 participants (10-12 weeks/year)
- General programs such as: sports, fitness, dance, art, crafts, cooking, martial arts, special events & family nights, music, languages, etc.

General programs	# of programs				# of registrations				# of program hours			
	Fall	Winter	Spring	Summer	Fall	Winter	Spring	Summer	Fall	Winter	Spring	Summer
Bankhead	7	15	12		80	146	150		40	68	135	
South Kelowna	28	25	25		277	192	210		468	370	253	
Watson Road	65	53	22	30	514	374	392	303	568	439	322	164
Total	100	93	59	30	871	712	752	303	1076	877	710	164

The ability to provide these types of programs and services out of schools is an important part of our neighbourhood delivery system and supports our goals of creating inclusive opportunities, building healthy communities, and developing healthy engaged citizens.

Legal/Statutory Authority: *Community Charter s.23(1)(a)(c)*

Existing Policy: The City currently has arrangements with School District #23 to deliver programs and services out of Bankhead Elementary School, South Kelowna Elementary School, and Watson Road Elementary School. The existing agreements expired in 2008 for South Kelowna Elementary School and 2009 for Bankhead Elementary and Watson Road Elementary School.

Financial/Budgetary Considerations: No impact on taxation is anticipated during the term of these agreements. Only nominal increases to operating expenses are expected which will be offset by increased revenue and absorber within the existing base budget.

Personnel Implications: Recreation & Cultural Services will continue to provide multi-age community programming out of Bankhead Elementary School, South Kelowna Elementary School and Watson Road Elementary School within the existing staffing model.

External Agency/Public Comments: City staff worked directly with the Secretary-Treasurer/CFO of School District #23 to review and update the Bankhead Elementary School, South Kelowna Elementary School and Watson Road Elementary School Joint Use Agreements. The Board of Education of School District #23 endorsed these Joint Use Agreements at their May 2011 meeting.

Internal Circulation: General Manager, Community Services; Director, Recreation & Cultural Services; City Clerk; Supervisor, Parks, Beaches & Sport Fields; Manager, Property Management.

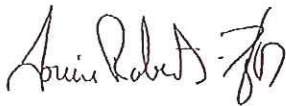
Considerations not applicable to this report:

Alternate Recommendation:

Community & Media Relations Comments:

Legal/Statutory Procedural Requirements:

Submitted by:



L. Roberts-Taylor, Manager, Community & Neighbourhood Programs

Approved for inclusion:



J. Gabriel, Director, Recreation & Cultural Services

Cc: General Manager, Community Services
Director, Recreation & Cultural Services
Director, Real Estate & Building Services
Director, Civic Operations
Director, Corporate Services

Attachments:

- Joint Use Agreement Bankhead Elementary School
- Joint Use Agreement South Kelowna Elementary School
- Joint Use Agreement Watson Road Elementary School

**Joint Use Agreement
(Watson Road Elementary School)**

THIS AGREEMENT made as of the _____ day of _____ 2011

BETWEEN:

CITY OF KELOWNA
1435 Water Street,
Kelowna, British Columbia

(hereinafter called the "City")

OF THE FIRST PART

AND:

**THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)**
1940 Underhill Street
Kelowna, British Columbia

(hereinafter called the "Board")

OF THE SECOND PART

WHEREAS the Board is the registered owner of lands located in the City of Kelowna, Province of British Columbia and legally described as:

Lot 30, Sec. 32, Twp. 26, Plan KPA44247, O.D.Y.D.

(hereinafter called the "Board Lands" shown on Schedule "A")

AND WHEREAS the Board and the City desires to use the educational facilities for community use;

AND WHEREAS the City and the Board endeavour to maximize the use of public funds for community and educational purposes;

AND WHEREAS the City has previously contributed funds towards the capital construction of the school to enhance the facility for community use (as outlined on Schedule B).

NOW THEREFORE THIS AGREEMENT WITNESS, the Board and the City, in consideration of the covenants and agreements herein contained, agree as follows:

1.0 PURPOSE

The purpose of this Agreement is to provide a framework within which members of the local community, the Board, the public generally and students of the school can cooperate to maximize the development potential and use of educational and recreational facilities provided by the Board and the City for the efficient and effective management and administration of School and City Facilities.

2.0 FACILITIES DEVELOPMENT

The responsibility for future facilities improvements, including the capital costs thereof, shall be allocated in accordance with Schedule "B" subject to such adjustments from time to time as the Board and the City may mutually agree.

3.0 JOINT USE OF FACILITIES

3.01 For the purpose of this Agreement, the "School Facilities" shall include the following components:

- (a) The school playfields including the parking facilities;
- (b) The gymnasium, kitchen, gym storage area, and common public areas located within the school building.

3.02 For the purposes of this Agreement, the "City Facilities" shall include the following:

- (a) The community room and adjacent storage;
- (b) The single use washroom accessible only from the exterior of the school building.

3.03 For the purpose of this agreement the School Facilities and the City Facilities shall be collectively called the "Facilities".

3.04 For the purposes of this Agreement, in consideration of the financial contribution made by the City, the Board agrees that the City shall have first right of access to the School Facilities as set out in Clause 3.01 as follows:

- (a) From 2:35 p.m. to 10:00 p.m. on weekdays during the regular school year, except as previously scheduled by the school Principal;
- (b) From 8:00 a.m. to 10:00 p.m. on Saturdays and Sundays throughout the calendar year, with consideration for closing security needs and

custodial services, except as previously scheduled by the school Principal;

- (c) From 7:30 a.m. to 10:00 p.m. on weekdays during the school holiday periods, subject to maintenance requirements.

3.05 For the purposes of this Agreement, in consideration of the financial contribution made by the City, the Board agrees that the City shall have first right of access to the City Facilities as set out in Clause 3.02 as follows:

- (a) From 8:00 a.m. to 10:00 p.m. on weekdays during the regular school year;
- (b) From 8:00 a.m. to 10:00 p.m. on Saturdays and Sundays throughout the calendar year;
- (c) From 7:30 a.m. to 10:00 p.m. on weekdays during the school holiday periods subject to maintenance and security requirements.
- (d) Any maintenance or security requirements for any planned activity and the costs thereof shall be agreed to in advance by the Operating Committee. Such maintenance and security requirements shall be consistent with the provisions of the collective agreements entered into by the Board and the City from time to time with their respective unions.

4.0 ADMINISTRATIVE RESPONSIBILITY

4.01 For the purposes of implementing and administering this Agreement, the administrative authority of the City shall be exercised by the City Manager and the administrative authority of the Board shall be exercised by Superintendent of Schools or their designates ("the Designated Representatives"). These two persons shall be responsible for determining operating parameters affecting the Facilities and for the delegation of operating authority within those parameters to the Operating Committee subject to Clause 4.02 following.

4.02 The use and operation of the Facilities shall be subject to the policies, regulations and conditions of the Board and City respectively as they shall, from time to time determine.

4.03 The Board will ensure that the activities under this Joint Use Agreement are not in conflict with the collective agreement with the Central Okanagan Teachers Association (COTA) and the Canadian Union of Public Employees (CUPE), Local 3523.

5.0 OPERATING COMMITTEE

5.01 The Operating Committee shall be comprised of the following members:

- (a) One representative appointed by the Superintendent of Schools.

- (b) One representative appointed by the City Manager.
- (c) Other representatives from the School Parent Advisory Council, the local residents and the local residents association may at any time be invited to participate at the Operating Committee's request.

5.02 OPERATING COMMITTEE MANDATE

The Operating Committee's mandate shall be to work in partnership with local residents, the local resident's association, parent advisory council, the City and the Board to provide an inclusive and coordinated community based approach to the planning, programming and scheduling of the Facilities. The Operating Committee shall consult, amend and cooperate to develop, maintain and coordinate an overall annual schedule of approved uses for the Facilities in order to assure maximum use of the Facilities meeting the needs of the Board, the City, local residents and the community at large.

5.03 OPERATING COMMITTEE GUIDELINES

The Operating Committee shall work within policy guidelines and operating authorities established from time to time by the Board and City, which shall include the following:

(a) MEETINGS / REPORTING

The Operating Committee, shall meet as required, to be determined by mutual agreement. Minutes shall be taken of all matters discussed at each meeting.

(b) BUDGET / OPERATING COSTS

- i. By June of each year the representative appointed by the Superintendent of Schools shall provide the representative appointed by the City Manager a budget on an annual basis for the anticipated operation and maintenance costs pertaining to the joint use of the Facilities.
- ii. By June of each year the representative appointed by the City Manager shall provide the representative appointed by the Superintendent of Schools an annual report pertaining to the joint use of the Facilities.
- iii. The Board agrees that annually only incremental costs above the normal costs the school would incur to operate and maintain the facility will be charged back to the City. These are limited to: custodial services, security services and utilities.
- iv. The Operation Committee when deemed necessary will review and refer any electrical, structural and plumbing fixture maintenance needs to the City Facilities and the allocation thereof for approval by the Board and City respectively.

(c) SCHEDULING /TIME AVAILABILITY

The Operating Committee shall develop criteria for the priority of use and access to the Facilities in order to maintain a schedule that meets the needs of the Board and the City.

The Operating Committee shall recognize the School's requirement for the School Facility and playfields, located on Board Lands from 8:00 a.m. until 4:00p.m. during school days as well as special events as scheduled by the School Principal. Scheduling of remaining time for the School playfields shall be within the operating authority of the City. The City shall reimburse the School District for revenues generated from bookings of the playfields to groups outside of the community school programs.

The Operating Committee will agree upon space allocation, as outlined in 3.04 and 3.05 prior to each season.

- By the end of June for the following September through December
- By the end of September for the following January through March
- By the end of December for the following April through June
- By the end of March for the following July and August

Any changes to the agreed upon space allocation, by either the City or the School District requires a minimum of 10 days notice prior to the event date.

(d) RENTAL OF FACILITIES

Agreements for use of the School Facility shall be regulated by Board Policy on the Board's form of Rental Agreement. Agreements for use of the City Facility shall be regulated by City Policy on the City's form of Rental Agreement. All revenues for use of the City Facilities shall be payable to the City and all revenues for use of the school Facilities shall be payable to the Board. In cases of joint sponsorship of activities, the Board and the City shall mutually agree on a division of the revenues.

(e) CUSTODIAL SERVICES

The Operating Committee shall determine the level of service required for the custodial maintenance of the City Facilities. This level will be reviewed annually, and based on the level of service required the City will be invoiced accordingly.

(f) INSURANCE / LIABILITY / SECURITY

- (i) The Board agrees that the use of the City Facilities thereon, will be at its own risk and the Board agrees to indemnify and save harmless the City from and against all actions, costs, claims and demands of every kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts or omissions of the City or those for whom it is in law responsible.
- (ii) The City agrees that the use of the Board Lands and Facilities thereon, will be at its own risk and the City agrees to indemnify and save harmless the Board from and against all actions, costs, claims and demands of every kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts or omissions of the Board or those for whom it is in law responsible.
- (iii) The City and the Board, subject to limitations placed on the Board by the Ministry of Education, further agree that each party shall maintain liability insurance for their Lands and the Facilities thereon, in an amount and form that is common and prudent to their respective activities.
- (iv) Any agreements for use of the Facilities by any third party shall require such third party to obtain comprehensive general liability insurance as specified in the rental agreement and such insurance shall name the City, and the Board, as Additional Insured. Such agreement shall also specify that the third party shall indemnify the City, its elected officials, officers, employees and agents and the Board, its officers, employees and agents 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 rental or other use of the specific Facilities included in the agreement.
- (v) The security provisions established by the Board or by the City from time to time with respect to their respective Facilities shall be set out in the Rental Agreement and shall be strictly enforced and adhered to by all parties using those Facilities.

(g) MONITORING / EVALUATING / RECOMMENDATIONS

The Operating Committee shall monitor the implementation of this Agreement and the participation by staff of the City and Board in the implementation of the joint use of the Facilities. The Committee shall recommend policy changes or operating authority guidelines to the Board and City for the better coordination of programs and the effective use of the facilities consistent with the mandate of the Operating Committee as defined in paragraph 5.02 herein.

(h) RESOLUTION OF DISPUTES

The Operating Committee shall mediate problems and concerns related to the use of the facilities. In the event the Designated Representatives are unable to resolve the dispute, they shall refer the dispute to the Board and City.. In the event that the Board and City are unable to agree on a resolution of such dispute, the dispute shall be referred to arbitration pursuant to the Commercial Arbitration Act of British Columbia, for a final and binding decision on the parties.

(i) SMOKING AND TOBACCO USE /ALCOHOL

The Operating Committee shall require that all Policies of the Board and of the City with respect to smoking and tobacco use and consumption of alcohol in or on the Facilities are adhered to.

6.0 DISPOSITION OF INTEREST

- 6.01 Neither party shall dispose of its interest in this Agreement or any renewal thereof without the prior written consent of the other party.

7.0 TERM / RENEWAL

- 7.01 This Agreement shall be for a term of five (5) years, commencing July, 1 2010 and terminating June 30, 2015, unless terminated by the mutual agreement of both parties hereto.
- 7.02 Six months prior to the termination of the agreement, the parties can enter into discussion to renew the agreement. If no agreement is concluded at the expiration of this agreement and negotiations are continued, this agreement shall remain in effect up to the time a subsequent agreement is reached or until negotiations are discontinued by either party.
- 7.03 This Agreement is subject to approval by the Board of Education of School District No.23 (Central Okanagan) and the City Council of the City of Kelowna.
- 7.04 This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successor and permitted assigns.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement by their duly authorized signing officers on the day and year first above written.

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)
by its authorized signatories:

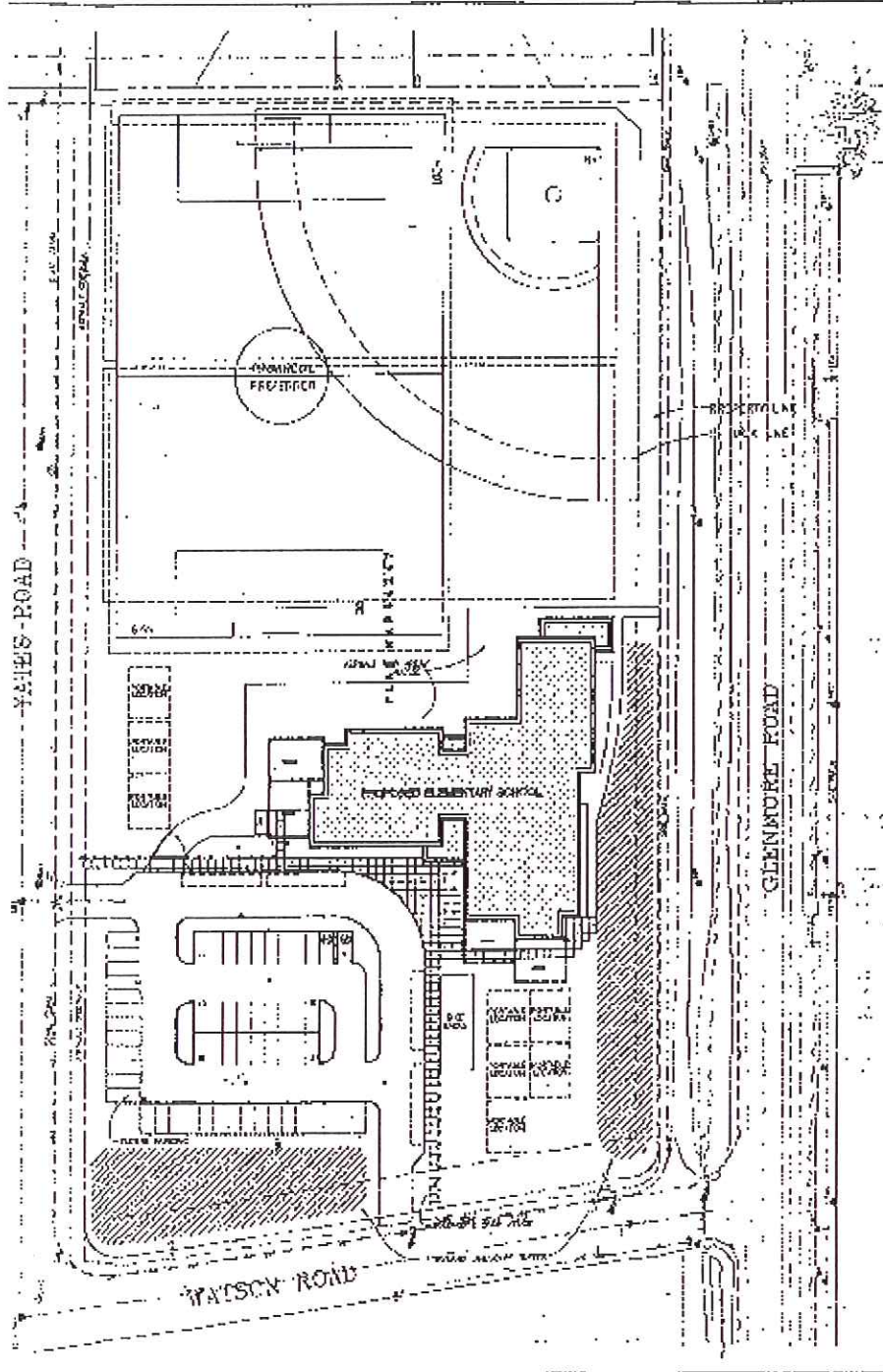
Secretary Treasurer

CITY OF KELOWNA by its authorized signatories:

Mayor

City Clerk

SCHEDULE 'A'



MALBY VANCE HILL
ARCHITECTS INC.

201-140-1200 (416) 461-1111 FAX 416-461-1111
140-140-1200 (416) 461-1111 FAX 416-461-1111

DATE: 10/10/00

PROJECT NAME:

REVISIONS

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			

These drawings were prepared by the architect for the purpose of showing the general location and extent of the proposed work. They do not constitute a contract. The contractor shall be responsible for obtaining all necessary permits and for the accuracy of the information shown on these drawings.

As shown on these drawings, the proposed work shall be completed by the contractor. The contractor shall be responsible for obtaining all necessary permits and for the accuracy of the information shown on these drawings.

Copyright reserved. The Architect shall be responsible for the accuracy of the information shown on these drawings. The contractor shall be responsible for obtaining all necessary permits and for the accuracy of the information shown on these drawings.

PROJECT
GLENMORE VALLEY ELEMENTARY SCHOOL
SD. 23
(CENTRAL OKANAGAN)

OWNER: SD. 23

DATE	BY	REVISION
10/10/00	MLV	1
10/10/00	MLV	2

**JOINT USE AGREEMENT
(South Kelowna Elementary School)**

THIS AGREEMENT made as of the _____ day of _____ 2011.

BETWEEN:

CITY OF KELOWNA
1435 Water Street,
Kelowna, British Columbia

(hereinafter called the "City")

OF THE FIRST PART

AND:

**THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)**
1940 Underhill Street
Kelowna, British Columbia

(hereinafter called the "Board")

OF THE SECOND PART

WHEREAS the City is the registered owner of lands located on Spiers Road in the City of Kelowna, Province of British Columbia and legally described as:

Parcel Identifier: 004-831-195
Lot 1, Section 4, Township 26
Osoyoos Division Yale District
Plan 27480

(hereinafter called the "City Lands" shown on schedule "A");

AND WHEREAS the Board is the registered owner of immediately adjoining lands located in the City of Kelowna, Province of British Columbia and legally described as:

Parcel Identifier: 004-831-209
Lot 2, Section 4, Township 26
Osoyoos Division Yale District
Plan 27480

Parcel Identifier: 023-334-045
Lot b, Section 4, Township 26
Osoyoos Division Yale District
Plan KAP56356

(hereinafter called the "Board Lands" shown on schedule "A");

AND WHEREAS the Board and the City have agreed to joint use of the School Facilities and City Facilities located on the Board Lands and City Lands (collectively referred to as the "Facilities") as described herein in accordance with specific funding allocation responsibilities for the joint benefit and ultimate use of the Site.

AND WHEREAS the Board and the City desires to use the Facilities for community use;

AND WHEREAS the City and the Board endeavour to maximize the use of public funds for community and educational purposes;

NOW THEREFORE THIS AGREEMENT WITNESS, the Board and the City, in consideration of the covenants and agreements herein contained, agree as follows:

1.0 PURPOSE:

The purpose of this Agreement is to provide a framework within which members of the local community, the Board, the public generally and students of the School can cooperate to maximize the development potential and use of recreational and educational facilities provided by the Board and the City for efficient and effective management and administration of the Site

2.0 FACILITIES DEVELOPMENT

The responsibility for various Facilities improvements by the Board and by the City, including the capital costs thereof, shall be allocated in accordance with Schedule "B" subject to such adjustments from time to time as the Board and the City may mutually agree.

2.01 MAINTENANCE

Unless otherwise agreed between the Board and the City maintenance of the School Facilities shall be undertaken and paid for by the Board. Maintenance of the City Facilities shall be undertaken and paid for by the City. Joint site maintenance responsibilities will be in accordance with Schedule "B" as amended from time to time by mutual agreement of the parties. Such maintenance requirements shall be consistent with the provisions of the collective agreements entered into by the Board and the City with their respective unions.

3.0 JOINT USE OF FACILITIES

3.01 For the purposes of this Agreement, the "School Facilities" shall include the following components as shown on Schedule "A":

- (a) The School playfields including the leased lands and the parking facilities; and
- (b) The gymnasium, kitchen, multi-purpose area, library, storage area, common public areas and any other areas as approved by the administrative officer located within the School building.

3.02 For the purposes of this Agreement, the "City Facilities" shall include the following as shown on Schedule "A":

- (a) All facilities and improvements within the area referred to as Centennial Park including:

- i) outdoor multipurpose court;
- ii) playfields;
- iii) picnic areas;
- iv) other passive activity areas;
- v) field washroom.

3.03 The City and the Board agree that the playfields within the Site shall be open and accessible areas without fences or other physical separation.

3.04 For the purpose of this Agreement, in consideration and prior agreement of the financial commitment made by the City, the Board agrees that the City shall have first right of access to the School Facilities as set out in Clause 3.01 as follows:

- a) From 2:35 p.m. to 10:00 p.m. on weekdays during the regular school year, except as previously scheduled by the school Principal.
- b) From 8:00 a.m. to 10:00 p.m. on Saturdays and Sundays throughout the calendar year, with consideration for closing security needs and custodial services, except as previously scheduled by the school Principal;
- c) From 7:30 a.m. to 10:00 p.m. on weekdays during the school holiday periods subject to maintenance or security requirements.
- d) Any maintenance or security requirements for any planned activity and the costs thereof shall be agreed to in advance by the Operating Committee. Such maintenance and security requirements shall be consistent with the provisions of the collective agreements entered into by the Board and the City from time to time with their respective unions.

4.0 ADMINISTRATIVE RESPONSIBILITY

4.01 For the purposes of implementing and administering the Agreement, the administrative authority of the City shall be exercised by the City Manager and the administrative authority of the Board shall be exercised by the Superintendent of Schools or their designates ("the Designated Representatives"). These two persons shall be responsible for determining operating parameters affecting the Facilities and for the delegation of operating authority within those parameters to the Operating Committee subject to Clause 4.02 following.

4.02 The use and operation of the Facilities shall be subject to the policies, regulations and conditions of the Board and the City respectively as they shall, from time to time determine.

4.03 The Board will ensure that the activities under this Joint Use Agreement are not in conflict with the collective agreement with the Central Okanagan Teachers Association (COTA) and the Canadian Union of Public Employees (CUPE), Local 3523.

5.0 OPERATING COMMITTEE

5.01 The Operating Committee shall be comprised of the following members:

- (a) One representative appointed by the Superintendent of Schools;
- (b) One representative appointed by the City Manager;

- (c) Other representatives from the parent advisory council, local residents and the local residents association may at any time be invited to participate at the Operating Committee's request.

5.02 OPERATING COMMITTEE MANDATE

The Operating Committee's mandate shall be to work in partnership with local residents, the local resident's association, the parent advisory council of the School, the City and the Board to provide inclusive and coordinated community based approach to the planning, programming and scheduling of the Facilities. The Operating Committee shall consult, amend and cooperate to develop, maintain and coordinate an overall annual schedule of approved uses for the Facilities in order to assure maximum use of the Facilities meeting the needs of the Board, the City, local residents and the community at large.

5.03 OPERATING COMMITTEE GUIDELINES

The Operating Committee shall work within policy guidelines and operating authorities established from time to time by the Board and City which shall include the following:

(a) MEETINGS/REPORTING

The Operating Committee shall meet as required to be determined by mutual agreement. Minutes shall be taken of all matters discussed at each meeting.

b) BUDGET/OPERATING COSTS

- i) By June of each year the representative appointed by the Superintendent of Schools shall provide the representative appointed by the City Manager a budget on an annual basis for the anticipated operation and maintenance costs pertaining to the joint use of the Facilities.
- ii) By June of each year the representative appointed by the City Manager shall provide the representative appointed by the Superintendent of Schools an annual report pertaining to the joint use of the Facilities.
- iii) The Board agrees that annually only incremental costs above the normal costs the School would incur to operate and maintain the facility will be charged back to the City. These are limited to: custodial services, security services and utilities.
- iv) The Designated Representatives shall calculate the operating costs and capital costs and the allocation thereof for approval by the Board and the City respectively.

c) SCHEDULING/TIME AVAILABILITY

The Operating Committee shall develop criteria for the priority of uses and access to the Facilities in order to maintain a schedule that meets the needs of the Board and the City.

The Operating Committee shall recognize the School's requirement for the Facilities and playfields located on both Board Lands and City Lands from 8:00 a.m. until 2:35 p.m. during school days as well as special events as scheduled by the School Principal.

The Operating Committee shall allocate the remaining time for the Facility for public programs. If there is still available time at the Facility the owner of that facility will be notified and the owner may book the Facility to other parties, if so desired. If the owner of that facility does book it to another party not associated with the Operating Committee, the term shall be the lesser of one year, or the start of the school year following in July. After that time allocation shall be returned to the Operating Committee for their allocation.

The Operating Committee will agree upon space allocation, as outlined in 3.04 prior to each season.

- By the end of June for the following September through December
- By the end of September for the following January through March
- By the end of December for the following April through June
- By the end of March for the following July and August

Any changes to the agreed upon space allocation, by either the City or the School District requires a minimum of 10 days notice prior to the event date.

d) RENTAL OF FACILITIES

Agreements for use of the School Facility shall be regulated by Board Policy on the Board's form of Rental Agreement. Agreements for use of the City Facility shall be regulated by City Policy on City's form of Rental Agreement. All revenues for use of the City Facility shall be payable to the City and all revenues for use of the School Facility shall be payable to the Board. In cases of joint sponsorship of activities, the Board and the City shall mutually agree on a division of the revenues.

e) INSURANCE/LIABILITY/SECURITY

- i) The Board agrees that the use of the City Lands thereon, will be at its own risk and the Board agrees to indemnify and save harmless the City from and against all actions, costs, claims and demands of every kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts or omissions of the City or those for whom it is in law responsible.
- ii) The City agrees that the use of the Board Lands and facilities thereon, will be at its own risk and the City agrees to indemnify and save harmless the Board from and against all actions, costs, claims and demands of every kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts of omissions of the Board or those for whom it is in law responsible.

- iii) The City and the Board, subject to limitations placed on the Board by the Ministry of Education, further agree that each party shall maintain liability insurance for their Lands and the Facilities thereon, in an amount and form that is common and prudent to their respective activities.
- iv) Any agreements for use of the Facilities by any third party shall require such third party to obtain comprehensive general liability insurance as specified in the rental agreement and such insurance shall name the City, and the Board, as Additional Insured's there under. Such agreement shall also specify that the third party shall indemnify the City, its elected officials, officers, employees and agents and the Board, its officers, employees and agents 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 rental or other use of the specific Facilities included in the agreement.
- v) The security provisions established by the Board or by the City from time to time with respect to their respective Facilities shall be set out in the Rental Agreement and shall be strictly enforced and adhered to by all parties using those Facilities.

f) **MONITORING/EVALUATING/RECOMMENDATIONS**

The Operating Committee shall monitor the implementation of this Agreement and the participation by staff of the City and Board in the implementation of the joint use of the Site. The Operating Committee shall recommend policy changes or operating authority guidelines to the Board and City for the better coordination of programs and the effective use of the Site consistent with the mandate of the Operating Committee as defined in paragraph 5.02 herein.

g) **RESOLUTION OF DISPUTES**

The Operating Committee shall mediate problems and concerns related to use of the Site. In the event the Designated Representatives are unable to resolve the dispute, they shall refer the dispute to the Board and City. In the event the Board and City are unable to resolve the dispute, the dispute shall be referred to arbitration pursuant to the Commercial Arbitration Act, as applicable at time of referral, of British Columbia for a final and binding decision on the parties.

h) **SMOKING AND TOBACCO USE/ALCOHOL**

The Operating Committee shall require that all policies of the Board and of the City with respect to smoking and tobacco use and consumption of alcohol in or on the Site are adhered to.

6.0 **DISPOSITION OF INTEREST**

- 6.01 Neither party shall dispose of its interest in this Agreement or any renewal thereof without the prior written consent of the other party.

7.0 **TERM/RENEWAL**

- 7.01 This Agreement shall be for a term of five (5) years, commencing July, 1 2010 and terminating June 30, 2015, unless terminated by the mutual agreement of both parties hereto.
- 7.02 Six months prior to the termination of the agreement, the parties can enter into discussion to renew the agreement. If no agreement is concluded at the expiration of this agreement and negotiations are continued, this agreement shall remain in effect up to the time a subsequent agreement is reached or until negotiations are discontinued by either party.
- 7.03 This Agreement is subject to approval by the Board of Education of School District No. 23 (Central Okanagan) and the City Council of the City of Kelowna.
- 7.04 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have hereunto executed this Agreement by their duly authorized signing officers on the day and year first above written.

**THE BOARD OF EDUCATION OF SCHOOL
DISTRICT NO. 23 (CENTRAL OKANAGAN)**
by its authorized signatories:

CITY OF KELOWNA by its authorized
signatories:

Mayor

Secretary Treasurer

City Clerk

SKETCH PLAN SH. WING CITY OF KELOWNA and
SCHOOL DISTRICT # 23 PROPERTIES - SPIERS ROAD
(LOTS 1 and 2 , PLAN 27480 , SEC. 4 , TP. 26 , Q.D.Y.D.)



SCHEDULE 'B'

JOINT USE AGREEMENT - MAINTENANCE RESPONSIBILITY

SOUTH KELOWNA ELEMENTARY - SOUTH KELOWNA CENTENNIAL PARK

TENANT INFORMATION

Partner Agency: City of Kelowna

Original Agreement Date: April 28, 1994

Updated: October 26, 1995

Updated: May 2011

Expiry Date: June 2015

Lease Description: South Kelowna Elementary & City of Kelowna South Kelowna Centennial Park - Joint Use and Maintenance

Exclusions:

MAINTENANCE ITEM	MAINTENANCE RESPONSIBILITY		FINANCIAL RESPONSIBILITY	
	SD 23	CITY	SD23	CITY
Grounds Maintenance				
Site Litter Control - Garbage Collection		✓		100%
Grass Cutting - All Fields (City Fields 2x per week)	✓		100%	
String Trimming associated with mowing	✓			
Grass Maintenance: Fertilize, Weed Control, Aeration & Vandalism - All Fields		✓		100%
Landscape Maintenance - Full Site except perimeter around school		✓		100%
Landscape Maintenance - Within perimeter of sidewalk (around school)	✓		100%	
Field Lining - School Fields	✓		100%	
Field Lining - City Fields		✓		100%
Shale Area Maintenance (Ball Diamonds)		✓		100%
Tree Maintenance - Full Site		✓		100%
Site Services & Equipment Maintenance				
Septic Field Maintenance	✓		100%	
Services in school building (water supply, electrical services etc)	✓		100%	
Goal Posts	✓		100%	
Backstops		✓		100%
Irrigation System (in accord with areas of installation)		✓		100%
Irrigation seasonal blowout		✓		100%
Central controls for irrigation system		✓		100%
Fencing - Chain link	✓		100%	
Fencing - Barriers		✓		100%
Traffic Control Pipe Gates	✓		100%	
Adventure Playground	✓		100%	
Other Playground Equipment	✓		100%	
Site Parking Lot Maintenance (including lighting)	✓		100%	
Vandalism - Parking Lot	✓		100%	
Site Snow Removal	✓		100%	
Site Sidewalk cleaning and sanding	✓		100%	
Field House - All maintenance		✓		100%
MultiPurpose Sports Court		✓		100%
Vandalism - Field House & Sports Court		✓		100%
Utilities				
Electrical				
Water				

JOINT USE AGREEMENT
(Bankhead Elementary School)

THIS AGREEMENT made as of the _____ day of _____ 2011.

BETWEEN:

CITY OF KELOWNA
1435 Water Street
Kelowna, British Columbia

(hereinafter called the "City")

OF THE FIRST PART

AND:

**THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 23 (CENTRAL OKANAGAN)**
1940 Underhill Street
Kelowna, British Columbia

(hereinafter called the "Board")

OF THE SECOND PART

WHEREAS the Board is the registered owner of lands located in the City of Kelowna, Province of British Columbia and legally described as:

Lot 2, DL 137, O.D.Y.D., Plan 14545

(hereinafter called the "Board Lands" shown on Schedule "A")

AND WHEREAS the City is the registered owner of lands located in the City of Kelowna, Province of British Columbia and legally described as:

Lot 3, DL 137, O.D.Y.D., Plan 14545

(hereinafter called the "City Lands" shown on Schedule "A")

AND WHEREAS the Board and the City desires to use the Facilities for community use;

AND WHEREAS the City and Board endeavor to maximize the use of public funds for community and educational purposes;

NOW THEREFORE THIS AGREEMENT WITNESS, the Board and the City, in consideration of the covenants and agreements herein contained, agree as follows:

1.0 PURPOSE

The purpose of this Agreement is to provide a framework within which members of the local community, the Board, the public generally and students of the School can cooperate to maximize the development potential and use of educational and recreational facilities provided by the Board and the City for the efficient and effective management and administration of the Site.

2.0 FACILITIES

2.01 The responsibility for any Facilities improvements and maintenance on Board land are to be performed by the Board, including the capital costs, unless otherwise mutually agreed upon between the Board and the City.

2.02 The responsibility for any Site improvements and maintenance on City land are to be performed by the City, including the capital costs, unless otherwise mutually agreed upon between the Board and the City.

2.03 Parking Lot Maintenance

Unless otherwise agreed between the Board and the City, the maintenance of the Parking Lot shall be undertaken and paid for by the Board. The Board will sand, snow clear and sweep the Parking Lot as required for the operation of the school on school days. Should the city require additional maintenance of snow clearing beyond the standard maintenance or outside of the normal maintenance cycle then the City shall reimburse the Board for the additional cost of providing the service.

3.0 JOINT USE OF FACILITIES

3.01 For the purpose of this Agreement, the "School Facilities" shall include the following components:

(a) The School playfields;

(b) The gymnasium, kitchen, multi-purposes area, media tech center, storage area, and common public areas located within the School building;

(c) The portion of the Parking Lot on Board Lands.

3.02 For the purposes of this Agreement, the "City Facilities" shall include the following:

(a) The portion of the Parking Lot on City Lands.

3.03 For the purposes of this agreement the School Facilities and the City Facilities shall be collectively called the "Facilities"

3.04 For the purpose of this Agreement, in consideration of the financial commitment made by the City, the Board agrees that the City shall have first right of access to the School Facilities as set out in Clause 3.01 as follows:

- (a) From 2:35 p.m. to 10:00 p.m. on weekdays during the regular school year, except as previously scheduled by the school Principal;
- (b) From 7:30 a.m. to 8:25 a.m., Multi-purpose room only, on weekdays during the regular school year, except as previously scheduled by the school Principal;
- (c) From 8:00 a.m. to 10:00 p.m. on Saturdays and Sundays throughout the calendar year, with consideration for security needs and custodial services, except as previously scheduled by the school Principal;
- (d) From 7:30 a.m. to 10:00 p.m. on weekdays during the school holiday periods, subject to maintenance and security requirements.
- (e) Any maintenance or security requirements for any planned activity and the costs thereof shall be agreed to in advance by the Operating Committee. Such maintenance and security requirements shall be consistent with the provisions of the collective agreements entered into by the Board and the City from time to time with their respective unions.

4.0 ADMINISTRATIVE RESPONSIBILITY

- 4.01 For the purposes of implementing and administering this Agreement, the administrative authority of the City shall be exercised by the City Manager and the administrative authority of the Board shall be exercised by Superintendent of Schools or their designates (the "Designated Representatives"). These two persons shall be responsible for determining operating parameters affecting the Facilities and for the delegation of operating authority within those parameters to the Operating Committee subject to Clause 4.02 following.
- 4.02 The use and operation of the Facilities shall be subject to the policies, regulations and conditions of the Board and City respectively as they shall, from time to time determine.
- 4.03 The Board will ensure that the activities under this Joint Use Agreement are not in conflict with the collective agreement with the Central Okanagan Teachers Association (COTA) and the Canadian Union of Public Employees (CUPE), Local 3523.

5.0 OPERATING COMMITTEE

- 5.01 The Operating Committee shall be comprised of the following members:
 - (a) One representative appointed by the Superintendent of Schools.
 - (b) One representative appointed by the City Manager.
 - (c) Other representatives from the parent advisory council, local residents and the local residents' association may at any time be invited to participate at the Operating Committee's request.

5.02 OPERATING COMMITTEE MANDATE

The Operating Committee's mandate shall be to work in partnership with local residents, the local resident's association, the parent advisory council of the School, the City and the Board to provide an inclusive and coordinated community based approach to the planning, programming and scheduling of the Facilities. The Operating Committee shall consult, amend and cooperate to develop, maintain and coordinate an overall annual schedule of approved uses for the Facilities in order to assure maximum use of the Facilities meeting the needs of the Board, the City, local residents and the community at large.

5.03 OPERATING COMMITTEE GUIDELINES

The Operating Committee shall work within policy guidelines and operating authorities established from time to time by the Board and City, which shall include the following:

(a) MEETINGS / REPORTING

The Operating Committee, shall meet as required, to be determined by mutual agreement. Minutes shall be taken of all matters discussed at each meeting.

(b) BUDGET / OPERATING COSTS

- (i) By June of each year the representative appointed by the Superintendent of Schools shall provide the representative appointed by the City Manager a budget on an annual basis for the anticipated operation and maintenance costs pertaining to the joint use of the Facilities.
- (ii) By June of each year the representative appointed by the City Manager shall provide the representative appointed by the Superintendent of Schools an annual report pertaining to the joint use of the Facilities.
- (iii) The Board agrees that for the first year of this Joint Use Agreement; July 1st, 2010 to June 30th, 2011 the City will only be charged for a .25 FTE Custodial position, plus any additional custodial and/or security staff costs associated to weekend or holiday programming.
- (iv) The Board agrees that annually only incremental costs above the normal costs the School would incur to operate and maintain the facility will be charged back to the City. These are limited to: custodial services, security services, and utilities commencing July 1st, 2011.
- (v) The security provisions established by the Board or by the City from time to time with respect to their respective Facilities shall be set out in the Rental Agreement and shall be strictly enforced and adhered to by all parties using those Facilities.

(c) SCHEDULING / TIME AVAILABILITY

The Operating Committee shall develop criteria for the priority of use and access to

the Facilities in order to maintain a schedule that meets the needs of the Board and the City.

The Operating Committee shall recognize the School's requirement for the facility and playfields, located on both Board Lands and City Lands from 8:00 A.M. until 2:35 P.M. during school days as well as for special events as scheduled by the School Principal.

The Operating Committee shall allocate the remaining time for the Facility for public programs. If there is still available time at the Facility the owner of that Facility will be notified so the owner may book the Facility to other parties, if so desired. If the owner of that Facility does book it to another party not associated with the Operating Committee, the term shall be the lesser of one year, or the start of the school year following in July. After that the time allocation shall be returned to the Operating Committee for their allocation.

The Operating Committee will agree upon space allocation, as outlined in 3.04 prior to each season:

- By the end of June for the following September through December
- By the end of September for the following January through March
- By the end of December for the following April through June
- By the end of March for the following July and August

Any changes to the agreed upon space allocation, by either the City or the School District requires a minimum of 10 days notice prior to the event date.

(d) RENTAL OF FACILITIES

Agreements for use of the Facilities shall be regulated by Board Policy on the Board's form of Rental Agreement. Agreements for use of the City Facilities shall be regulated by current applicable City Policy on the City's form of Rental Agreement. All revenues for use of the City Facilities shall be payable to the City and all revenues for use of the School Facilities shall be payable to the Board. In cases of joint sponsorship of activities, the Board and the City shall mutually agree on a division of the revenues.

(e) INSURANCE / LIABILITY / SECURITY

- (i) The Board agrees that the use of the City Lands thereon, will be at its own risk and the Board agrees to indemnify and save harmless the City from and against all actions, costs, claims and demands of every kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts or omissions of the City or those for whom it is in law responsible.
- (ii) The City agrees that the use of the Board Lands and Facilities thereon, will be at its own risk and the City agrees to indemnify and save harmless the Board from and against all actions, costs, claims and demands of every

kind, description or nature arising out of or in any way connected with such use, including claims arising pursuant to the Occupiers' Liability Act, except where any such actions, costs, claims and demands arise from the negligent acts of omissions of the Board or those for whom it is in law responsible.

- (iii) The City and the Board, subject to limitations placed on the Board by the Ministry of Education, further agree that each party shall maintain liability insurance for their Lands and the Facilities thereon, in an amount and form that is common and prudent to their respective activities.
- (iv) Any agreements for use of the Facilities by any third party shall require such third party to obtain comprehensive general liability insurance as specified in the rental agreement and such insurance shall name the City, and the Board, as Additional Insured's there under. Such agreement shall also specify that the third party shall indemnify the City, its elected officials, officers, employees and agents and the Board, its officers, employees and agents 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 rental or other use of the specific Facilities included in the agreement.
- (v) The security provisions established by the Board or by the City from time to time with respect to their respective Facilities shall be set out in the Rental Agreement and shall be strictly enforced and adhered to by all parties using those Facilities

(f) MONITORING / EVALUATING / RECOMMENDATIONS

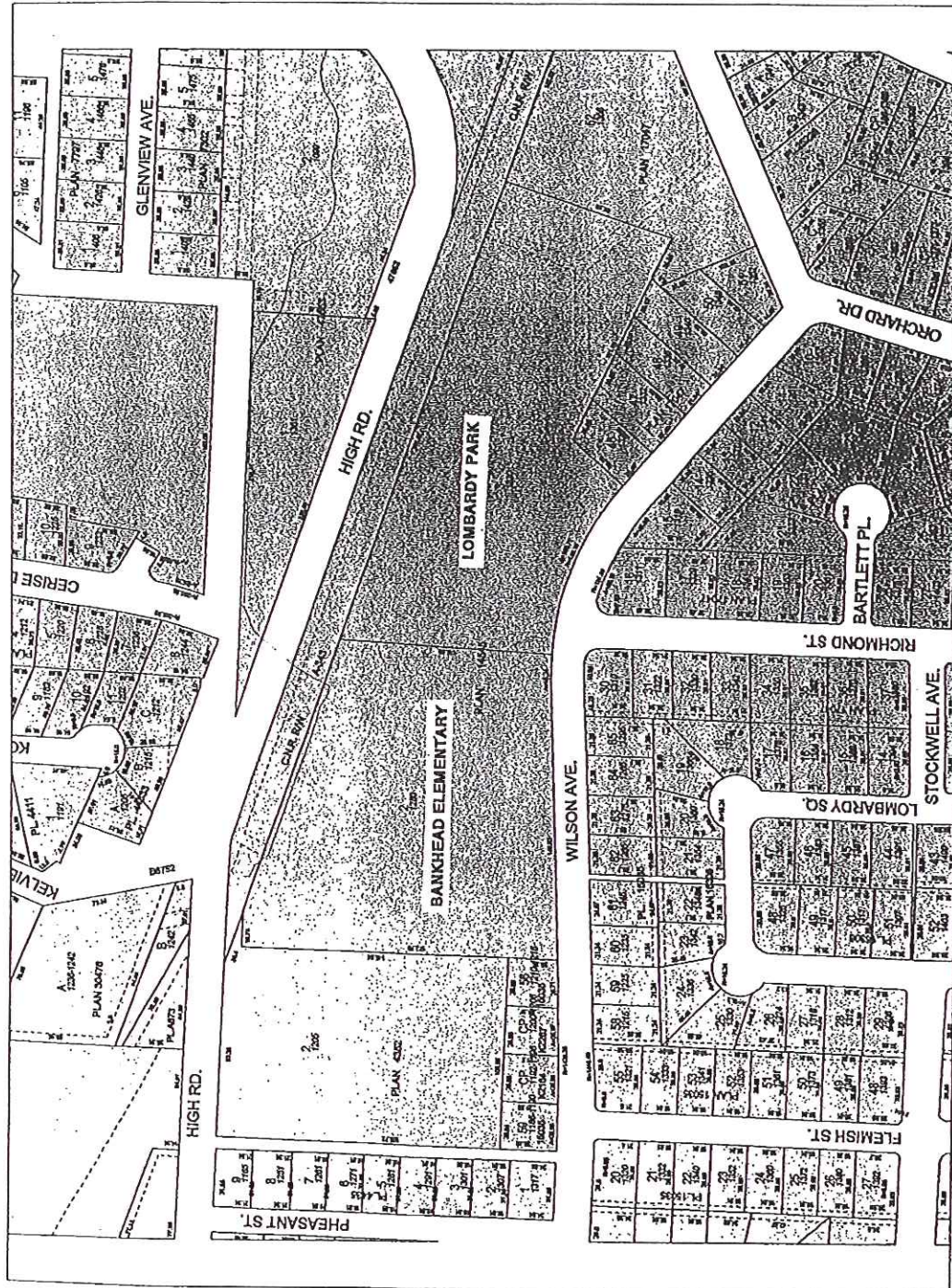
The Operating Committee shall monitor the implementation of this Agreement and the participation by staff of the City and Board in the implementation of the joint use of the Facilities. The Operating Committee shall recommend policy changes or operating authority guidelines to the Board and City for the better coordination of programs and the effective use of the Facilities consistent with the mandate of the Operating Committee as defined in paragraph 5.02 herein.

(g) RESOLUTION OF DISPUTES

The Operating Committee shall mediate problems and concerns related to the use of the Facilities. In the event the Designated Representatives are unable to resolve the dispute, they shall refer the dispute to the Board and City. In the event that the Board and City are unable to agree on a resolution of such dispute, the dispute shall be referred to arbitration pursuant to the Commercial Arbitration Act of British Columbia, as applicable at time of referral, for a final and binding decision on the parties.

(h) SMOKING AND TOBACCO USE / ALCOHOL

The Operating Committee shall require that all Policies of the Board and of the City with respect to smoking and tobacco use and the consumption alcohol in or on the Facilities are adhered to.



SCHEDULE "A"