

REPORT TO COUNCIL



Date: April 25, 2012
File: 1340-40
To: City Manager
From: P. McCormick, Planner Specialist, Urban Design
Subject: Father Pandosy Sculpture

Recommendation:

THAT Council receives for information, the report from the the Planner Specialist, Urban Design dated April 25, 2012, with respect to *The Father Pandosy Mission 150th Anniversary Commemorative Sculpture* ("the Artwork");

AND THAT Council approves funding of \$5,000.00 from the Public Art allocation for 2012, towards the installation of the Artwork;

AND THAT Council accepts the Artwork into the City of Kelowna's Public Art Collection;

AND THAT Council endorses the terms of an agreement to loan the Artwork to the Okanagan Historical Society according to the terms set out in Attachment D;

AND FURTHER THAT Council authorizes the Mayor and City Clerk to sign the agreement included as Attachment D to the report of the Planner Specialist, Urban Design, dated April 25, 2012.


Purpose:

To approve City funding to accept a sculpture of Father Charles Pandosy into the City's Public Art Collection, and to provide for the Artwork to be located on an appropriate site that can assure long-term public access.

Background:

This year will mark the 150th Anniversary of the founding of the first Euro-Canadian settlement in the Okanagan Valley. Founded by Father Charles Pandosy, the Pandosy Mission attracted many settlers to the area. It was a progressive agricultural model during the early settlement era. It is notable for introducing many approaches to crop-growing including many of the fruit trees that are predominant in the Central Okanagan today. The Mission site is on the City of Kelowna Heritage Register as well as the Canadian Register (Federal Government) and is a designated provincial heritage site.

In April, 2010, the Public Art Committee received a request from Kelowna artist Crystal Przybille who was in the process of raising funds towards creation of a sculpture of Father Pandosy to commemorate the anniversary of the founding of his mission. The project was conceived by Ms. Przybille who, with the support of the Okanagan Historical Society (OHS), was proposing to



design and construct the sculpture. She was seeking \$5,000.00 from the City's Public Art Program to assist in the installation of the artwork.

According to the artist, the 6' 8" statue (see images of maquette in Attachment A) is intended to "stand for generations to publicly inspire awareness and contemplation regarding Okanagan Valley history, both of Euro-Canadian and Okanagan First Nation/Syilx. It will enhance a sense of local identity, and encourage us to consider how circumstances in our Valley came to be so." (see the project website at (<http://sites.google.com/site/pandosysculpture/>)).

The Public Art Committee endorsed the project in principle. It agreed to recommend to Council an amount of \$5,000.00 to help fund the installation phase of the project, pending more information on the artwork including selection of an appropriate site and the details of the foundation upon which the artwork would be placed.

The project budget is \$112,500.00 including a 10% contingency. Funding sources (Attachment B), in addition to the amount requested from the Public Art Fund are: Canadian Heritage Legacy Fund Grant from the Federal Government (\$49,000.00); Central Okanagan Foundation Grant (\$10,000.00); and Okanagan Mission Residents' Association (\$5,000.00). The balance of the funding, both cash and in-kind, has been raised from private sources and other non-profit organizations.

Throughout 2010 Ms. Przybille did research, met with local agencies and organizations to consolidate support for the project, established a website, completed a maquette of the sculpture, and submitted grant applications. In 2011, she completed a full-scale clay sculpture of the artwork, and in December the mold for the final artwork was created. During this time, the project was promoted at events at the Kelowna Art Gallery and the Alternator Gallery, and was profiled in a documentary on the Central Okanagan entitled "Ma Caravane au Canada" which was subsequently aired on Quebec TV5.

In addition to her role as artist and fund-raiser, Ms. Przybille worked with City staff to identify a suitable location for the artwork. In early April 2012, an agreement in principle regarding an acceptable location at Father Pandosy Mission (Attachment C) was entered into among the City, the Bishop of the Archdiocese of Nelson (owner of the Father Pandosy Mission site), and the Okanagan Historical Society (operator and steward of the site).

After careful consideration of other possible sites, staff feel the Father Pandosy Mission site is the best location for the artwork, given that no other site can offer the direct connection to Father Pandosy's legacy and the historical significance of the Mission site.

Assurance of public access in perpetuity is highly desirable and would be achieved through the City's ownership of the artwork. Additionally, as the property on which the artwork would be located is privately-owned, the proposed arrangement would assure public access as long as OHS is the lessee of the property. Moreover, it would not preclude the City from negotiating with a subsequent lessee, or moving the artwork to another publicly-accessible site should the OHS no longer be the lessee.

Legal Considerations

Pending Council's endorsement, the artist would sign a Transfer Agreement, formally donating the artwork to the City. Subsequent to induction of the artwork into the City's public art collection, an agreement (Attachment D) would be ratified between the City as owner of the artwork and the Okanagan Historical Society as the lessee of the property.

The agreement was drafted by the City's Real Estate and Building Services staff and has been signed by the Roman Catholic Bishop of the Diocese of Nelson, and the President of the Okanagan Historical Society. It is based on a template agreement used by the Kelowna Art Gallery setting out the rights and responsibilities of the respective parties when artworks are loaned to the Gallery. In this instance, the City would be the owner of the artwork and the Okanagan Historical Society would be the exhibitor. The agreement as proposed, sets out the following:

- The public has access to the site for the purpose of viewing the artwork as per the operating hours of the Mission (the grounds are open to the public from dawn to dusk from Easter to Thanksgiving);
- The City agrees to maintain the artwork in good condition;
- The City is granted access for the purpose of undertaking inspections and maintenance;
- The Okanagan Heritage Society agrees to maintain adequate general liability insurance at all times and the City is held harmless from any liability associated with the occupancy of the artwork on the site;
- The agreement regarding the loan of the artwork will remain in effect as long as the Okanagan Historical Society has a lease with the Roman Catholic Bishop of the Diocese of Nelson to operate the Father Pandosy Mission site;
- If for any reason the artwork must be removed, the City will remove the artwork at its own expense including if necessary, any removal of the concrete foundation;
- The artwork will be identified on the City's website and the public art brochure at such time as these media are updated.

Once the above documents are signed, the artist would advertise and otherwise promote an unveiling to take place on May 6, 2012 at the Father Pandosy Mission site. Mayor and Councilors, and local dignitaries and the public would be invited to this commemorative ceremony.

The artwork is ready to be installed. City staff have reviewed the finished artwork and the foundation drawings, which have been stamped by a professional engineer, and are satisfied with the work as proposed. Ms. Przybille, in concert with the project partners is therefore seeking the \$5,000.00 funding contribution recommended by the Public Art Committee.

Proposed Sculpture Site (Attachment C)

The proposed location for the artwork is based on:

- Surveillance - the artwork would be visible from the Church office on the adjoining site, as well as from the Mission's caretaker's residence;
- Visibility - the artwork would be visible from the arterial road that runs along the front of the site; also, the artwork would face the main entrance to the site;
- Scale - the artwork is an over-sized replica of Father Pandosy and as such the scale/size of the artwork wouldn't conflict with the scale of the other buildings on the site.

Donation to the Public Art Collection

Acceptance of the Artwork to the City's Public Art Collection would mean that the City would accept responsibility for its maintenance. Because of the durability of the Artwork, which is made of bronze, and the base, which would be constructed of concrete, the installation would be expected to be resistant to vandalism and any graffiti could be readily remedied.

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Public Art Committee

Reinstatement of the Public Art Committee is pending completion of a review of the Public Art Program and the Committee has not met since termination of its term on December 31, 2011. It therefore has not had an opportunity to formally endorse the artist's request for funding. The recommendation is being put forth by staff on behalf of the endorsement in principle by the Public Art Committee at its meeting of April 21, 2010.

Existing Policy:

The information in this report is submitted pursuant to the Public Art Committee Terms of Reference, Arts & Cultural Policy 274, the City of Kelowna Cultural Plan (2011), and Chapter 9 of the Official Community Plan.

Financial/Budgetary Considerations:

Funding for the request would come from the 2012 Public Art Capital Budget. On-going maintenance and conservation would come from the Public Art Program's annual maintenance budget.

Considerations not applicable to this report:

Internal Circulation:

Legal/Statutory Authority:

Legal/statutory Procedural Requirements:

Personnel Implications:

Technical Requirements:

External Agency/Public Comments:

Communications Considerations:

Alternate Recommendation:

Submitted by:

P. McCormick, Planner Specialist, Urban Design

Approved for inclusion:

R. Cleveland, Director, Infrastructure Planning

Attachment A: Photos of Maquette of Proposed Artwork

Attachment B: Funding Summary

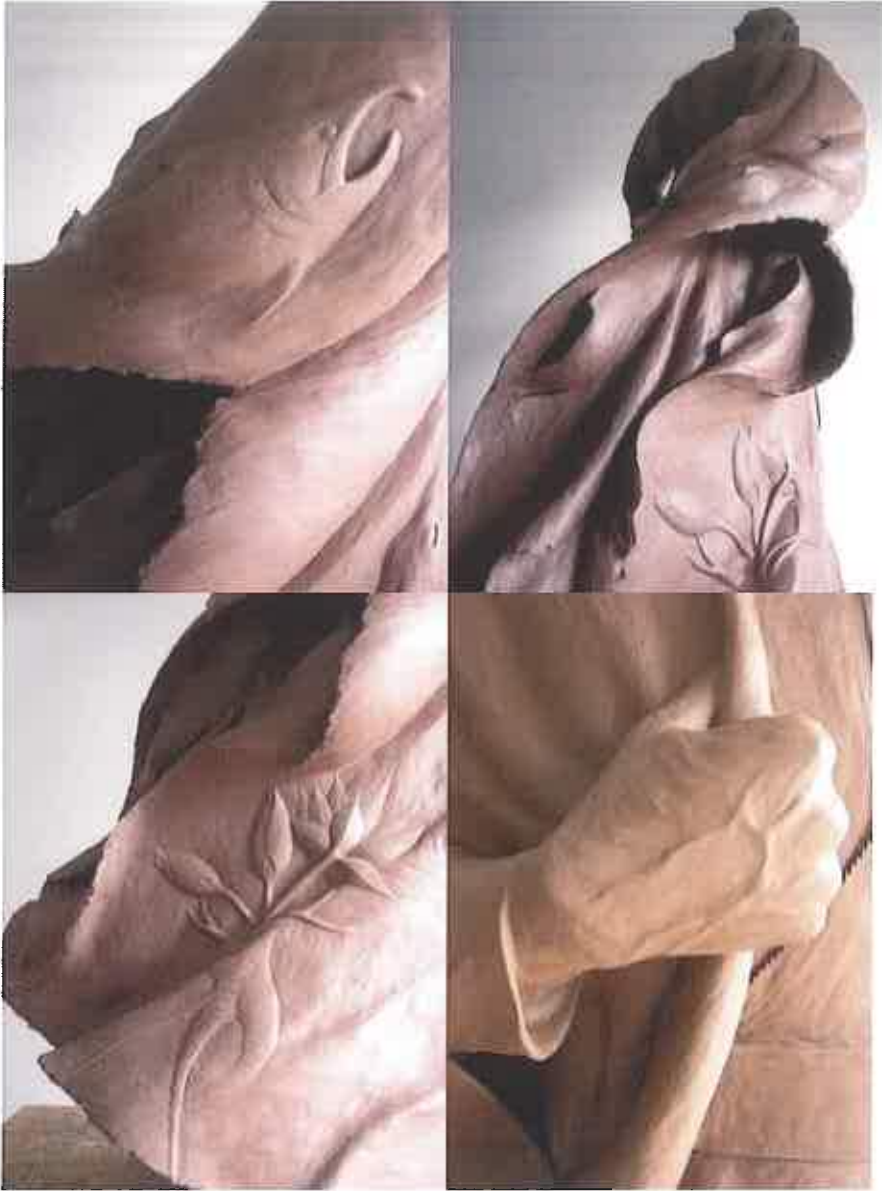
Attachment C: Aerial Photograph of Site

Attachment D: Art Loan & Exhibition Agreement

cc: Director, Communications
Director, Infrastructure Planning
Director, Real Estate and Building Services
Director, Civic Operations
Assistant City Clerk
Cultural Services Manager

Attachment A: Photos of Maquette of Proposed Artwork





All Photos Copyright Crystal Przybille 2011

Attachment B: Funding Summary

Letters of support for the project have been received from:

- Central Okanagan Heritage Society
- Okanagan Mission Residents' Association
- Kelowna Heritage Museum
- Centre culturel francophone de l'Okanogan
- Heritage BC
- Tourism Kelowna
- Policy and Planning Division, City of Kelowna
- Westbank First Nation

Grants have been received from:

- Canadian Heritage Legacy Fund: \$49,000
- Central Okanagan Foundation: \$10,000

Organization Contributions:

- Okanagan Mission Residents' Association: \$5,000

Other sponsors donating cash or in-kind services included Opus Art Supplies, Formashape, RND Precision Imaging, Pyramid Bronzeworks, and Cornerstone Safety. A limited number of artist-signed maquettes have also been sold at \$5,000.00 each.

Attachment C: Aerial Photograph of Site



ART LOAN & EXHIBITION AGREEMENT

THIS Agreement dated for reference the 17 day of April, 2012

BETWEEN

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

(the "City")

and

Okanagan Historical Society
Box 313,
Vernon, BC V1T 6M3
Tel: 250-763-3458
Email: Randy Manuel (rsm46@shaw.ca)

(the "Exhibitor")

and

The Roman Catholic Bishop of Nelson
813 Ward Street
Nelson, BC

(the "Owner")

GIVEN THAT:

The Owner owns the land located in the City of Kelowna, British Columbia legally described as:

PID: 026-765-713
Lot 1 District Lot 133 Osoyoos Division Yale District
Plan KAP81588

(the "Lands");

The Exhibitor has a long term renewable lease of the Lands from the Owner (the "Lease");

The City owns a sculpture created by Chrystal Przybille (the "Artist") and named "*The Father Pandosy Mission 150th Anniversary Commemorative Sculpture*" (the "Sculpture");

The City wishes to have the Exhibitor, and Exhibitor agrees, to display within the Lands, the Sculpture;

This is an agreement between the parties on the loan of the Sculpture to the Exhibitor by the City and the display of the Sculpture within the Lands by the Exhibitor;

I CONDITIONS FOR EXHIBITION:

- A. The Sculpture is to be located on a concrete pad to be constructed by the Artist (the "Support Pad") in a location within the Lands shown on the plan attached as "Schedule A" (the "Site").
- B. This agreement shall remain in effect as long as the Lease is in effect (the "Term").
- C. At the end of the Term, the City can remove the Sculpture and Support Pad from Lands.

II THE CITY AGREES TO:

- A. Provide the Owner and the Exhibitor with Support Pad installation drawings, sealed by a Professional Engineer, prior to the Artist commencing construction of the Pad.
- B. Arrange and pay for shipping and installation of the Sculpture and the Support Pad on the Site.
- C. Maintain the Sculpture and Support Pad in good condition.
- D. If for any reason the Sculpture must be removed, the City will remove the Sculpture at the City's expense including, if necessary, removal of the Support Pad.
- E. Identify the Sculpture on the City's website and the public art brochure at such time as these media are updated.

III THE EXHIBITOR AGREES TO:

- A. Maintain insurance as follows:

The Exhibitor shall, without limiting its obligations or liabilities under this Permit/Contract, procure and maintain, at its own expense and cost, the insurance policies and fulfill the requirements listed in Appendix A-1, attached hereto and made a part hereof. The insurance policies/requirements shall be maintained continuously.

As a minimum, the Exhibitor shall, without limiting its obligations or liabilities under any other contract with the City, procure and maintain, at its own expense and cost, Comprehensive General Liability Insurance providing for an inclusive limit of not less than \$2,000,000 for each occurrence or accident.

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

- B. Allow the works in the exhibition to be photographed for purposes of documentation and publicity.
- C. Allow the public to have access over the Lands to the Site to view the Sculpture during normal open hours and subject to any special conditions or restrictions that may occur due to unforeseen circumstances from time to time.
- D. Grants the City, its officers, employees, contractors and agents, the right to enter, use, labour, go, return, pass and re-pass along, over and upon the Lands to facilitate inspections and maintenance of the Sculpture and the Support Pad.
- E. Grants the City and the Artist the right to enter, use, labour, go, return, pass and re-pass along, over and upon the Lands to facilitate installation of the Sculpture and the Support Pad.
- F. The Exhibitor shall be liable for all loss, costs, damages, and expenses whatsoever incurred or suffered by the City, its elected officials, officers, employees and agents (the Indemnities) including but not limited to, damage to or loss of property and loss of use thereof, and injury to or death of a person or persons resulting from or in connection with the performance, purported performance, or non-performance of this permit/contract, excepting only where such loss, costs, damages and expenses are as a result of the sole negligence of the Indemnities.

The Exhibitor shall defend, indemnify and save harmless the Indemnities from and against all claims, demands, actions, proceedings, and liabilities whatsoever and all costs and expenses incurred in connection therewith and resulting from the performance, purported performance, or non-performance of this permit/contract, excepting only where such claim, demand, action, proceeding or liability is based on the sole negligence of the Indemnities.

IV THE OWNER AGREES TO:

As Owner and landlord hereby consents to allow the Support Pad and the Sculpture to be located on the Lands, and subject to this agreement.

V CANCELLATION BY THE CITY:

The City reserves the right to cancel or withdraw this offer of exhibition if the terms and conditions of this agreement are not fulfilled by the Exhibitor. In such an event the City may enter the Lands to remove the Sculpture and the Support Pad.

IN WITNESS WHEREOF the)
authorized signatory(ies) of Okanagan)
Historical Society have SIGNED in the)
presence of:)

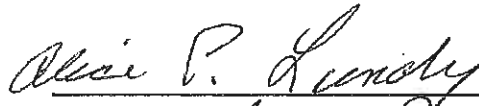
)

Name: PATRICK MCCORMICK)
Occupation:)

PLANNER SPECIALIST)
Address:)

1435 WATER ST.)
KELOWNA, BC.)

AS TO ALL SIGNATURES)


Print Name: ALICE P. LUNDY

Print Name: _____

Witness:

ROMAN CATHOLIC BISHOP OF
THE DIOCESE OF NELSON

Tom Burzuk
Print Name: TOM BURZUK

John Corriveau
Print Name: JOHN CORRIVEAU

DATED at the City of Kelowna, in the Province of British Columbia, this -
_____ day of _____, 20__.

Witness:

CITY OF KELOWNA

Print Name: _____


Print Name: _____

SCHEDULE A



1
3685
PLAN B1588

SCALE N.T.S.
MAILING ADDRESS 3685 BENVOULIN RD
LEGAL DESCRIPTION: LOT NO. 1 PLAN NO. 81588
TWP. 26 SEC. 7

 PROPOSED ROW = 12.57 sq.m±



1435 Water Street
Kelowna, BC V1Y 1J4
250 469-8500
kelowna.ca

APPENDIX A-1
CERTIFICATE OF INSURANCE

City staff to complete prior to circulation

City Dept.: _____
Dept. Contact: _____
Project/Contract/Event: _____

Insured

Name: _____
Address: _____

Broker

Name: _____
Address: _____

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

Type of Insurance	Company & Policy Number	Policy Dates		Limits of Liability/Amounts
		Effective	Expiry	
Section 1 Comprehensive General Liability including: <ul style="list-style-type: none"> • Products/Completed Operations; • Blanket Contractual; • Contractor's Protective; • Personal Injury; • Contingent Employer's Liability; • Broad Form Property Damage; • Non-Owned Automobile; • Cross Liability Clause. 				Bodily Injury and Property Damage \$ <u>2,000,000</u> Inclusive \$ _____ Aggregate \$ _____ Deductible
Section 2 Automobile Liability				Bodily Injury and Property Damage \$ <u>2,000,000</u> Inclusive

- It is understood and agreed that the policy/policies noted above shall contain amendments to reflect the following:
1. Any Deductible or Reimbursement Clause contained in the policy shall not apply to the City of Kelowna and shall be the sole responsibility of the Insured named above.
 2. The City of Kelowna is named as an Additional Insured.
 3. 30 days prior written notice of material change and/or cancellation will be given to the City of Kelowna.

Print Name

Title

Company (Insurer or Broker)

Signature of Authorized Signatory

Date