

AGENDA FOR THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
TO BE HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2011-NOV-07, COMMENCING AT 4:30 P.M.

1. **CALL THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING TO ORDER:**
2. **INTRODUCTION OF LATE ITEMS:**
3. **ADOPTION OF AGENDA:**
4. **ADOPTION OF MINUTES:**
 - (a) Minutes of the Regular Finance / Policy Committee of the Whole Meeting held in the Board Room, City Hall, on Monday, 2011-OCT-24 at 4:30 p.m. Pg. 3-7
5. **PRESENTATIONS:**
 - (a) Mr. I. Howat, Director of Strategic Relationships, introducing Ms. Susan Cudahy, Chief Executive Officer, Nanaimo Economic Development Corporation, to Council.
6. **DELEGATIONS PERTAINING TO AGENDA ITEMS: (10 MINUTES)**
7. **COMMISSION REPORTS:**
 - (a) **Parks, Recreation and Culture Commission – Maffeo Sutton Park Improvement Plan Update** Pg. 8-11

Commission's Recommendation: That Council approve the Maffeo Sutton Park Improvement Plan Update Process as presented and include Park areas as identified in Schedule "A".
8. **COMMITTEE REPORTS:**
 - (a) **School District 68 / City of Nanaimo Joint Use Committee – License to Occupy Land Adjacent to May Richards Bennett Pioneer Park** Pg. 12-22

Committee's Recommendation: That Council approve the License to Occupy agreement between the City of Nanaimo and School District 68 for the land located at 6700 Dickinson Road, Nanaimo, British Columbia, which is owned by School District 68.

9. **STAFF REPORTS:** *(blue)*
10. **INFORMATION ONLY ITEMS:**
11. **CORRESPONDENCE:**
12. **NOTICE OF MOTION:**
13. **OTHER BUSINESS:**
14. **DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA:**
(10 MINUTES)
 - (a) None.
15. **QUESTION PERIOD:** *(Agenda Items Only)*
16. **PROCEDURAL MOTION:**

It was moved and seconded that Council move "In Camera" in order to deal with the following matters under the *Community Charter* Section 90(1):

 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*.
17. **ADJOURNMENT:**

MINUTES OF THE REGULAR FINANCE / POLICY COMMITTEE OF THE WHOLE MEETING
HELD IN THE BOARD ROOM, CITY HALL,
ON MONDAY, 2011-OCT-24 COMMENCING AT 4:30 P.M.

PRESENT: Mayor J. R. Ruttan, Chair

Members: Councillor W. L. Bestwick
Councillor G. E. Greves
Councillor W. J. Holdom
Councillor D. K. Johnstone
Councillor J. A. Kipp
Councillor J. F. K. Pattje
Councillor L. J. Sherry
Councillor M. W. Unger

Staff: A. C. Kenning, City Manager
D. W. Holmes, Assistant City Manager and General Manager of Corporate Services
E. C. Swabey, General Manager of Community Safety and Development
T. L. Hartley, Director of Human Resources and Organizational Planning
B. E. Clemens, Director of Finance
R. J. Harding, Director of Parks, Recreation and Culture
T. M. Hickey, General Manager of Community Services
T. P. Seward, Director of Development (Arrived at 5:55 p.m.)
S. Clift, Director of Engineering and Public Works
B. Sims, Manager, Water Resources
P. Kristensen, Director of Information Technology
J. E. Harrison, Manager of Legislative Services
T. Wilkinson, Recording Secretary

1. CALL THE OPEN MEETING TO ORDER:

The Regular Finance / Policy Committee of the Whole Meeting was called to order at 4:30 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 6 (a) – Delegations Pertaining to Agenda Items – Mr. Dan Appell regarding Strategic Planning.
- (b) Councillor Bestwick advised that he would be bringing forward an item under Notice of Motion regarding low-barrier housing project on Uplands Drive.
- (c) Councillor Sherry advised that he would be bringing forward an item under Other Business regarding the Resort Municipality of Whistler.

- (d) Councillor Kipp advised that he would be bringing forward an item under Other Business regarding Ten Percent Shift.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. ADOPTION OF MINUTES:

It was moved and seconded that the Minutes of the Regular Finance / Policy Committee of the Whole Meeting held in the Board Room, City Hall on Monday, 2011-SEP-19 at 4:30 p.m. be adopted as circulated. The motion carried unanimously.

5. DELEGATIONS PERTAINING TO AGENDA ITEMS:

- (a) Mr. Dan Appell, #142 – 940 Hecate Street, Nanaimo, advised that he would like Council to defer the decision on the extent of the community consultation to be used in the strategic planning process to the new City Council to address this problem thoroughly.

6. STAFF REPORTS:

CORPORATE SERVICES:

(a) Strategic Planning

It was moved and seconded that Council:

1. direct Staff to initiate the selection process for a consultant who specializes in the area of strategic planning to work with the new City Council and Senior Staff to create a strategic plan; and,
2. defer the decision on the extent of the community consultation to be used in the strategic planning process to the new City Council.

The motion carried unanimously.

COMMUNITY SERVICES:

(b) South Fork Water Treatment Plant Membrane System Supplier Selection

It was moved and seconded that Council award the Submerged Membrane Equipment Supply RFP No. 1220 to GE Water & Process Technologies Canada. The motion carried.

Opposed: Councillor Kipp

7. INFORMATION ONLY ITEMS:

- (a) Report from Mr. K. Felker, Manager of Purchasing and Stores, re: Quarterly Direct Award Purchases.
- (b) Report from Mr. K. Felker, Manager of Purchasing and Stores, re: Quarterly Single Bid Submission Purchases.

8. CORRESPONDENCE:

- (a) Letter dated 2011-OCT-13 from BC Community Living Action Group (BC-CLAG) requesting that Council adopt the attached resolution regarding funding and supports for adults with developmental disabilities.

It was moved and seconded that Council adopt the following resolution:

WHEREAS

- 1. The Provincial Government is cutting funding and supports for adults with developmental disabilities, resulting in the closure of group homes and mounting waiting lists for services;
- 2. These group homes form a vital and necessary part of the housing continuum that has won broad support from members of the public at large, families of adults with developmental disabilities and the communities in which they are located;
- 3. We support the creation of new supportive housing options to provide appropriate options for parents and their adult children with developmental disabilities; and,
- 4. The BC Community Living Action Group, which represents more than 65 affected agencies and organizations, thousands of families, and adults with developmental disabilities, has called for an end to service cuts and the closure of group homes.

THEREFORE BE IT RESOLVED

THAT Council urge the Provincial Government to end funding cuts, implement a moratorium on the closure of group homes and provide sufficient financial resources both to maintain this vital housing resource and address growing waiting lists.

BE IT FURTHER RESOLVED THAT this motion be circulated to the AVICC and the UBCM for their consideration.

The motion carried unanimously.

9. NOTICE OF MOTION:

- (a) Councillor Bestwick provided notice that he will be bringing forward the following motion for Council's consideration at the next Regular Council Meeting to be held 2011-OCT-31:

"That Council direct Staff to place the Uplands Site for low barrier housing on hold and submit a review of other site options to Council and the Provincial Government for consideration."

10. OTHER BUSINESS:

- (a) Councillor Sherry commented on the service review done for the Resort Municipality of Whistler.

It was moved and seconded that Council direct Staff to contact the Resort Municipality of Whistler and request a full copy of the outcome of their service review for circulation to Council and Senior Staff. The motion carried unanimously.

- (b) Councillor Kipp spoke regarding Ten Percent Shift which talks about the best way to bring back vibrant and sustainable local economies.

11. DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA:

- (a) Ms. Joanne Jonas, 5728 Malibu Terrace, Ms. Sally Ramsay, 5775 Broadway Road, and Ms. Edna Chadwick, 3261 Poppleton Road, Save Linley Valley West, spoke regarding Linley Valley West and how they would like to see Linley Valley West designated as parkland.

Mayor Ruttan vacated the Board Room at 5:52 p.m.

Councillor Greves assumed the Chair.

12. QUESTION PERIOD:

- Fred Taylor, re: bylaws.

Mayor Ruttan resumed the Chair at 6:18 p.m.

- Ron Bolin, re: strategic planning.

13. PROCEDURAL MOTION:

It was moved and seconded that Council move "In Camera" in order to deal with the following matters under the *Community Charter* Section 90(1):

- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure might reasonably be expected to harm the interests of the municipality;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*; and,
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

Council moved into "In Camera" at 6:30 p.m.

Council moved out of "In Camera" at 7:00 p.m.

14. ADJOURNMENT:

It was moved and seconded at 7:00 p.m. that the meeting terminate. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

MANAGER,
LEGISLATIVE SERVICES

REPORT TO: MAYOR & COUNCIL

FROM: DIANA JOHNSTONE, CHAIR, PARKS, RECREATION AND CULTURE COMMISSION

RE: MAFFEO SUTTON PARK IMPROVEMENT PLAN UPDATE

RECOMMENDATION:

That Council approve the Maffeo Sutton Park Improvement Plan Update Process as presented and include Park areas as identified in Schedule "A".

EXECUTIVE SUMMARY:

At their meeting of 2011-SEP-21, the Parks, Recreation and Culture Commission recommended that Council direct that an updated Maffeo Sutton Park Improvement Plan be developed in 2012.

At their meeting held on 2011-OCT-03, it was moved and seconded that Council direct Staff to: prepare an updated Maffeo Sutton Park Improvement Plan to be developed in 2012; prepare a planning process to guide the updated plan, to be presented at the October regular meeting of the Commission for review and consideration; and, put the amenity building capital project currently being planned for the park on hold until an updated plan is developed and adopted.

At their meeting held on 2011-OCT-26, the Parks, Recreation and Culture Commission reviewed the Maffeo Sutton Park Improvement Plan Update and passed a motion recommending that Council approve the Maffeo Sutton Park Improvement Plan Update Process as presented and include Park areas as identified in Schedule "A".

The original Maffeo Sutton Park Improvement Plan was developed in 2008 with significant public input. However, with changes since 2008 plus the addition of 2.3 acres of property at 150 Comox Road it is recommended an updated park improvement plan be developed to reassess public desires and take into account the larger park site.

BACKGROUND:

Maffeo Sutton Park has developed over the years from an industrial site into a destination urban waterfront park. The site was awarded a \$500,000 Spirit Square Grant from the Provincial Government in 2008. Planning for the Spirit Square, and overall park redevelopment, provided an opportunity to enhance this premier waterfront park. The following goals guided the Improvement Plan process in 2008 and are recommended to guide the proposed updated park improvement plan process for 2012:

- Enhance the park for special events and public use.
- Increase public open space along the waterfront.
- Enhance key park features such as performance spaces, play spaces and waterfront access.
- Improve pedestrian and multi-use circulation routes.
- Improve public amenities in the park.
- Add historical and industrial interpretation within the park.
- Include a phasing plan to maintain access through development.
- Maintain existing amount of parking stalls and enhance access to the park.

Council ☐ Committee ☒ Open Meeting ☒ In-Camera Meeting
Meeting Date: 2011-NOV-07

Improvements to the park that were identified in the 2008 “Spirit Square” phase of the plan have been very successful. Many of the distinctive features of the park are unique to Nanaimo and are not found in other urban parks in North America such as tent tie downs and potable water at the street trees. The power options, potable water, and hard surface provide a space that meets the requirements of the many event permitting bodies (such as VIHA, LCB, and safety authorities).

Since opening, the Spirit Square has been a venue for over 60 annual special events (big and small) such as Marine Festival, Dragon Boat, Blues Festival, Silly Boat Regatta, fund raisers, and the Olympic Torch Relay. Feedback from the users has overall been positive and many people have asked what improvements are coming next.

With the pending addition of the 2.3 acres of property at 150 Comox Road to Maffeo Sutton Park plus a desire from Commission and Council to review the future phases of the plan, it is an opportune time to step back and conduct an update to the overall park plan. The following planning process would be conducted in 2012:

Stage 1: Review Existing Conditions of sites and public feed back on existing plan and improvements (Fall 2011).

Stage 2: Assess Priorities for Park Use and Improvements (Spring 2012).

- Meet with stakeholders and assess successes of the improvements to date and future needs and vision for the park.
- Public survey regarding park strengths, weaknesses, and future directions.
- Use a portion of the City website as a communications forum for planning documents and surveys. In addition, use radio, face book, twitter, newspaper, and site signs for communication about the process.
- Hold first Open House #1 by May 2012 with summary of findings and input for review and comment with opportunity to provide further input for vision and options for the park.
- Include Snuneymuxw First Nations (SFN) throughout the planning process so the options work with SFN's short and long-term plans for their property.

Stage 3: Plan Preparation (summer 2012).

- Compile survey results, stakeholder input, and site characteristics.
- Draft park vision and improvement plan options based on input and site opportunities and constraints and present to Parks Recreation and Culture Commission and Council for review and approval to have the draft plan reviewed by the public.

Stage 4: Draft Plan Review and Adoption (fall 2012).

- Draft park vision and improvement plan presented to public and stakeholders for review and input at Open House #2, plus social media (website, face book, twitter, draft plan displayed at the Park and Recreation Centres).
- From public review modify draft plan and summary of public input obtained.
- Present final plan and summary of input to Parks Recreational and Culture Commission and then City Council for review and consideration.

The scope of Park Improvement Plan process is illustrated in the Attached Schedule "A". Similarly, to the original Maffeo Sutton Park Improvement Concept, this process will include other downtown park and trail areas such as Swy-a-lana Lagoon, Georgia Park, the Queen Elizabeth Promenade, Folk Fest Park, and Maffeo Sutton Park. These sites are the busiest parks in Nanaimo and truly make our waterfront a special place today and in the future.

Respectfully submitted,

A handwritten signature in black ink, reading "Diana Johnstone". The signature is fluid and cursive, with a small dot at the end.

Diana Johnstone, Chair
Parks, Recreation and Culture Commission

Attachment – Schedule A

2011-OCT-24
File: A4-1-2 / A2-4 / D1-4-9
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October 20th, 2011

Schedule A | Maffeo Sutton Park
 & Downtown Waterfront Improvements Site

REPORT TO: MAYOR & COUNCIL

**FROM: COUNCILLOR BILL BESTWICK, CHAIR, SCHOOL DISTRICT 68 / CITY OF NANAIMO
JOINT USE COMMITTEE**

**RE: LICENSE TO OCCUPY LAND ADJACENT TO
MAY RICHARDS BENNETT PIONEER PARK**

RECOMMENDATION:

That Council approve the License to Occupy agreement (attached) between the City of Nanaimo and School District 68 for the land located at 6700 Dickinson Road, Nanaimo, British Columbia, which is owned by School District 68.

EXECUTIVE SUMMARY:

The City of Nanaimo, in partnership with School District 68, would like to enter into a "License to Occupy" agreement, such that the City as "Licensee" would have the right to occupy that portion of land as shown on Schedule A for a 60 month term at a fee of \$200/year for the purpose of the land being used as a public park in which off-leash dog walking is permitted.

On 2011-OCT-25, the School District 68 / City of Nanaimo Joint Use Committee met and recommend that the Board of Education District 68 and the City of Nanaimo Council approve the License to Occupy agreement between the City of Nanaimo and School District 68 for the land located at 6700 Dickinson Road, Nanaimo, British Columbia, which is owned by School District 68.

It was agreed that the City of Nanaimo will provide signage, dog litter bags and disposal units, and maintain the property.

BACKGROUND:

Over the past few years Parks staff have been developing a dog off-leash park strategy.

At their meeting of 2011-MAR-23, the Parks, Recreation and Culture Commission endorsed this strategy and at the 2011-APR-04 Council meeting, the Dog Off-Leash Implementation Plan was approved. As part of that plan, the property at 6700 Dickinson Road, adjacent to May Richards Bennett Pioneer Park, was approved as a pilot site.

This property is owned by School District 68 and as such, a "License to Occupy" agreement was developed between School District 68 and the City of Nanaimo. This Agreement gives the City the right to occupy the land for five years at a fee of \$200/year for a public park in which off-leash dog walking is permitted.

At their meeting of 2011-SEPT-06 the Districts Facilities Planning Committee endorsed this license.

☐ Council
☒ Committee.....
☒ Open Meeting
☐ In-Camera Meeting
Meeting Date: 2011-NOV-07

The City accepts the license area "as is". There will need to be some clearing of dead trees as well as improvements made to the trails. This work is budgeted in the Parks, Recreation and Culture operating budget for 2012.

Respectfully submitted,



Richard Harding, Director, Parks, Recreation and Culture for
Councillor William L. Bestwick, Chair
Chair, School District 68 / City Of Nanaimo, Joint Use Committee

Attachment – License to Occupy

2011-OCT-31

File: A3-21-16/ C2-5 / D1-3-6

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RPT111107LicenseToOccupyLandAdjacentToMayRichardsBennettPioneerPark.docx

LICENSE TO OCCUPY

(this "Agreement") made as of the ____ day of _____, 2011 (the "Effective Date"),

**BETWEEN: THE BOARD OF EDUCATION OF
SCHOOL DISTRICT 68 (NANAIMO-LADYSMITH)**
395 Wakesiah Avenue, Nanaimo, B.C. V9R 3K5

(the "Licensor")

AND: CITY OF NANAIMO
455 Wallace Street, Nanaimo, B.C., V9R 5J6

(the "Licensee")

WHEREAS the Licensor is the owner of the lands and improvements located at the following address and improvements thereon (the "Premises"): 6700 Dickinson Road, Nanaimo, B.C., V9V 1A2;

AND WHEREAS the Licensee wishes to obtain, and the Licensor wishes to grant to the Licensee, a non-exclusive license (the "License") to occupy that portion of the Premises indicated by diagonal line shading on Schedule A attached hereto (the "License Area"), or such other reasonably comparable area as may be designated by the Licensor hereunder, on the terms and conditions set forth herein:

GRANT OF NON-EXCLUSIVE LICENSE

In consideration of the covenants of the Licensee contained herein, and subject to the terms and conditions hereof, the Licensor does hereby grant the License to the Licensee. The interest granted pursuant to this Agreement constitutes a license only and does not constitute a lease or a sublease, nor create any other interest in land, nor any partnership, joint venture or agency relationship between the Licensor and the Licensee (collectively, the "Parties", and individually, a "Party").

a) TERM AND LICENSE FEES:

Subject to early termination, delay or renewal as may be provided herein or otherwise agreed in writing, the License shall be for a term (the "Term") of 60 months, commencing on the 1st day of December 2011 and in any event ending no later than 31st day of December, 2016, subject to the Licensee's compliance with all the terms hereof, including timely payment to the Licensor of non-refundable license fees throughout the Term of \$200 per year, plus applicable taxes, due and payable annually in advance on the first day of the Term and every anniversary thereof.

b) USE OF LICENSE AREA:

The Licensee shall not use the License Area nor allow the License Area to be used for any other purpose other than that for which the License is granted, that is to say, for a public park in which off-leash dog walking is permitted, unless the consent in writing of the Licensor is first obtained,

which consent may, in the Licensor's absolute discretion, be withheld or granted subject to conditions.

c) NO NUISANCE:

The Licensee shall not at any time during the said Term or any renewal thereof permit anything to be done or kept on or around the License Area that shall be deemed a nuisance to the Licensor or to any of the Licensee's invitees or neighbors. Without limitation, the Licensee shall not do or permit anything to be done that may disturb, hinder or interfere with the normal operation of any school activities by the Licensor at the Premises outside of the License Area, which shall take priority over any activities of the Licensee. The Licensee shall at its own risk and expense respond to and resolve any public complaints or concerns regarding the use of the License Area during the Term or any renewal thereof, and the Licensee shall erect and maintain throughout the Term and any renewal thereof clear signage at common entry points to the License Area providing public notice that the License Area is owned by the Licensor and temporarily occupied by the Licensee under a license, and that the Licensee is responsible for handling all inquiries and complaints while the license is in effect.

d) COMPLY WITH LAWS:

The Licensee shall observe, fulfill and comply at its expense with all laws, ordinances, regulations, requirements and recommendations, which may be applicable to the Licensee, or to the manner of use of the License Area, of any and all Federal, Provincial, Civic, Municipal, and other authorities including, without limitation, all bylaws and policies of the Licensor, and all notices in pursuance of same. The Licensee shall save the Licensor harmless from all costs, charges or damages which the Licensor may incur or suffer by reason of the Licensee's breach of any such law, rule or regulation.

Without limiting the foregoing, the Licensee acknowledges and agrees that:

- i The Licensee shall be responsible for obtaining and maintaining any and all licenses and permits required for the Licensee to lawfully carry on its licensed activities in and from the License Area;
- ii The Licensee shall be responsible for obtaining and maintaining any building permit that may be required in respect of work required by the Licensee;
- iii The Licensee acknowledges that the *B.C. Tobacco Control Act* prohibits the use of tobacco and smoking (the "**Smoking Ban**"), and that the Licensor's policies prohibit the consumption of alcohol (the "**Drinking Ban**"), in all school district buildings and on all school district lands. During the Term the Licensee will comply with and will use its best efforts to enforce the Smoking Ban and the Drinking Ban in and about the License Area.

e) DAMAGE BY LICENSEE:

The Licensee shall pay the cost of any damage to any property of the Licensor arising from the use of the License Area or the Licensor's property by the Licensee or its staff or invitees.

Without limiting the foregoing, the Licensee shall reimburse the Licensor for costs incurred by the Licensor in making good any damage caused to the said License Area or any part thereof as a result of the negligence or willful act or omission of the Licensee, its invitees, licensees, agents, servants, clients or other persons from time to time in or about the License Area.

f) INSURANCE:

The Licensee shall maintain at its own expense liability insurance as the Licensor may require and shall provide the Licensor with evidence of such coverage upon request. The Licensee shall be responsible for securing its own property and the property of others in its care and control in the License Area, and for ensuring the safety of its staff and invitees, and hereby releases the Licensor from any and all liability whatsoever in respect thereof. Without limiting the foregoing:

- i) The Licensee during the Term of the License shall maintain general liability insurance insuring against bodily injury, personal injury and property damage arising out of the use and occupancy of the License Area by the Licensee in an amount of not less than Two Million (\$2,000,000.00) Dollars per occurrence or such greater amount as the Licensor may from time to time designate. The Licensor shall be added as an additional insured and such insurance shall be endorsed to provide the Licensor with 30 days advance written notice of cancellation or material change and be placed with insurers licensed in British Columbia.
- ii) The Licensee shall provide the Licensor with evidence of required insurance prior to the commencement of the License and such evidence shall be in the form of a completed Certificate of Insurance.
- iii) If the Licensee does not provide or maintain in force the insurance required by this Agreement, then the Licensor may take out the necessary insurance and pay the premium for periods of one year at a time, and the Licensee shall pay to the Licensor the amount of the premium immediately on demand.
- iv) If both the Licensor and the Licensee have claims to be indemnified under any insurance required by this Agreement, then the indemnity shall be applied first to the settlement of the claim of the Licensor and the balance, if any, to the settlement of the claim of the Licensee.

g) ASSIGNMENT OR SUBLICENSING:

This Agreement and the License are personal to the Licensee and may not be assigned or sublicensed, including by succession or operation of law, except with the prior written consent of the Licensor, which may be withheld in the absolute discretion of the Licensor. In no event shall any assignment or sub-licensing release or relieve the Licensee from its obligations fully to perform all the terms, covenants and conditions of this License on its part to be performed. It is agreed that any change from the present control of the Licensee shall constitute an assignment of the License requiring the prior written consent of the Licensor.

h) INDEMNITY OF LICENSOR:

- i) The Licensee covenants and agrees to indemnify and save harmless the Licensor, its elected and appointed officials, employees and agents from and against all costs and expenses caused to or incurred by the Licensor and from all claims, demands, liens, losses, damages, actions, suits and other proceedings whatsoever and by whomsoever made, brought or prosecuted caused by or arising out of the operation, use, maintenance or condition of the License Area during the term of this License.
- ii) The Licensee covenants and agrees to indemnify and save harmless the Licensor, its elected and appointed officials, employees and agents from and against any and all liability, actions, causes of actions, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the Licensor arising from any default of the Licensee under or in respect of this Agreement.
- iii) The Licensee shall inform the Licensor promptly in writing of all claims for personal injury or death or loss of or damage to property arising out of the performance of the requirements of this Agreement of which the Licensee has knowledge and on settling any such claims shall use best efforts to obtain a release in respect thereof jointly in the name of the Licensee and the Licensor.
- iv) The Licensee shall on final completion or termination of the License provide the Licensor with a statement containing the particulars of all claims for personal injury or death or loss of or damage to property arising out of the operation and maintenance of the License Area of which the Licensee has knowledge and which are still outstanding at such time.

i) CONDITION OF LICENSE AREA, REPAIRS AND MAINTENANCE:

The Licensee hereby accepts the License Area on an “as is” basis, without any representation or warranty as to its condition, fitness or suitability for any particular purpose.

The Licensee shall, during the said Term and any extension thereof, sufficiently maintain and keep all trails and signage on the License Area in good repair so that the License Area may be safely used for the purposes contemplated herein.

j) ALTERATIONS AND INSTALLATIONS:

The Licensee shall not make any alterations, repairs, installations, removals or improvements in or about the License Area or the improvements thereon without the Licensor’s prior written consent, in the Licensor’s absolute discretion, as to suitability and acceptability and only after having submitted adequate plans and specifications thereof to the Licensor. Such consent shall be at the approval of the Director of Facilities of the Licensor, and in the event of such consent, all work shall be done in a good and workmanlike manner to a standard acceptable to the Director of Facilities of the Licensor.

k) FIXTURES:

At the expiration of the Term hereby granted or if the License shall be otherwise terminated, all improvements erected or placed upon the License Area and owned by the Licensee, and all fixtures in or about the License Area placed by the Licensee and owned by the Licensee, shall at the request of the Licensor be removed by the Licensee.

The Licensor shall have the right upon the termination of this License by effluxion of time or otherwise to require the Licensee by notice in writing, to remove the Licensee's chattels and equipment located on the License Area and if the Licensee does not remove any remaining personal property forthwith after written demand, then the Licensor may remove and dispose of such property and shall not be responsible for any loss or damage to such property because of such removal and disposal.

l) LIENS AND ENCUMBRANCES:

The Licensee covenants to forthwith discharge any liens and other encumbrances at any time filed against the License Area arising by reason of any work done or materials supplied at the direction of the Licensee, and to keep the said License Area free from any and all liens and other encumbrances, arising as a result of its acts or omission, and if the Licensee fails to do so, the Licensor may, but shall be under no obligation, to pay into court, the amount required to obtain a discharge of any such lien in the name of the Licensee and any amount so paid together with all disbursements and costs in respect of such proceedings on a solicitor and client basis shall be forthwith due and payable by the Licensee to the Licensor as additional license fees. The Licensee shall allow the Licensor to post and keep posted on the License Area any notices that the Licensor may desire to post under the provisions of the *Builders Lien Act* or any other legislation.

m) UTILITIES:

The Licensee shall pay any utility charges resulting from or in connection with its use or occupancy of the License Area as and when the same become due. If at any time for any reason the Licensor is required to pay all or any of the foregoing, such amount so paid shall forthwith become due and payable by the Licensee as additional license fees hereunder.

n) OTHER COSTS:

The Licensee shall pay and be responsible for all scavenging, snow removal, insurance and all other costs, charges, outlays and expenses in connection with the License Area or any improvements thereon. Should any taxes be levied against the License Area or improvements by any authority, then the Licensee shall be responsible for those taxes relating to the License Area, and improvements located thereon or if no separate tax notice shall be issued for the License Area, then in such event the Licensee shall pay its proportionate share of the Licensor's taxes attributable to the Licensee's occupancy of the License Area.

o) PARKING:

The Licensee shall at its own risk and expense arrange for adequate and proper off-site parking of vehicles. The Licensee shall ensure that no vehicles are operated or parked within the License Area at any time.

p) LICENSOR'S ACCESS TO LICENSE AREA:

The Licensor shall be entitled to enter, inspect and otherwise have access to the License Area throughout the Term of the License, and upon the expiration or sooner determination of the Term, or of any renewal thereof, the Licensee shall forthwith peaceably vacate and cease occupancy of the License Area without notice from the Licensor.

q) TIME:

Time is of the essence of this Agreement.

r) TERMINATION:

The Licensor may terminate the License immediately and without any liability to the Licensee if license fees are not paid when due, or if any other default or non-performance of any covenant hereunder by the Licensee is not fully cured within fourteen days after the Licensor has given written notice to the Licensee of the default or non-performance. Such termination is without prejudice to any other remedy that may be available to the Licensor, including recovery of damages.

Either Party may elect to terminate the License for convenience and without liability to the other Party on at least six months' written notice, effective at any time after the first two years of the Term.

s) ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the Parties. There are no other conditions, representations or warranties, express or implied, by either of the Parties to the other, and no amendment or addition hereto shall be valid unless set out in writing and executed on behalf of each of the Parties.

t) NOTICES:

Any notice, request, demand, direction or statement required or permitted to be given hereunder, shall be sufficiently given if mailed in Canada by registered mail, postage prepaid, to the appropriate Party at the address first set out above for that Party, or such other address as may be designated by written notice given by that Party to the other Party in accordance with this provision.

Any notice mailed as aforesaid shall be conclusively deemed to have been received on the third business day following the day on which such notice is mailed as aforesaid.

u) REGISTRATION:

The Licensee shall not in any circumstances apply to register this License or any other interest or notice of interest against or in respect of the License Area, the Premises or any part thereof. The Licensee further covenants not to mortgage or otherwise encumber this License or any interest hereunder.

v) EXPROPRIATION:

During the Term of this License, or renewal thereof if the whole of the License Area shall be expropriated, or otherwise taken by virtue of any power or authority having the power for such acquisition or condemnation, then this License shall be deemed terminated from the date of entry of such authority. In such event, the Licensor shall refund to the Licensee the remaining amortized Capital Improvement Charge as provided in paragraph (r) above, but otherwise the Licensor shall have no liability to the Licensee whatsoever including, without limitation, for any refund of prepaid license fees or for any costs or damages. Nothing herein contained shall prevent the Licensor nor the Licensee or both from recovering damages from such authority for the value of their respective interests or for such other damages and expenses allowed by process of law.

w) LIABILITY FOR DAMAGE TO PERSONS OR PROPERTY:

The Licensor shall not be responsible in any way for any injury to any person or for the loss of or damage to any property belonging to the Licensee or to the employees, invitees, or licensees of the Licensee while such person or persons or property is in or about the buildings on the License Area or any part of the License Area, and the Licensee covenants to indemnify the Licensor against all loss, costs, claims or demands in respect of any injuries, loss or damage referred to in this paragraph.

x) OVERHOLDING:

If the Licensee continues to occupy the License Area with the express consent of the Licensor after the expiry of the Term of this License or any renewal thereof without any further written agreement, then the Licensee shall be a monthly Licensee on the terms and conditions herein set out.

y) COMMENCEMENT:

The covenants expressed herein shall be binding on the Parties from the Effective Date, notwithstanding the dates of execution of this Agreement by the Parties.

All of the provisions of this License shall be binding upon and enure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF the Parties have duly executed and delivered this Agreement as of the day and year first above written.

Witness _____

**THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 68
(NANAIMO-LADYSMITH)**
by its Authorized Signatory(ies)

 Authorized Signatory

 Name

 Title

Witness

CITY OF NANAIMO
by its Authorized Signatory(ies)

Authorized Signatory

Name

Title

SCHEDULE A

Forest Land Adjacent to May Richards Bennett Park



-  DOG OFF LEASH AREA
-  TRAILS
-  PARKING
-  ACCESSIBLE AREA
-  SPORTS FIELD
-  TENNIS
-  PLAYGROUND
-  SKATE PARK

 DOG OFF LEASH AREA

