

THIS LEASE AGREEMENT made 26th day of September, 2019.

BETWEEN:

City of West Kelowna
2760 Cameron Road
West Kelowna, British Columbia, V1Z 2T6

(hereinafter called the “City”)

OF THE FIRST PART

AND:

WESTSIDE SENIOR CITIZENS SERVICE ASSOCIATION
A society duly incorporated pursuant to the laws of the
Province of British Columbia Society Number S-0010062
3661 Old Okanagan Highway
Westbank, British Columbia, V4T 1P6

(hereinafter called the “Association”)

OF THE SECOND PART

WHEREAS:

A. The City is the registered owner of that certain parcel of land and building known as the Westside Seniors Centre at or near West Kelowna, British Columbia and legally described as:

Parcel Identifier: 001-972-901
Block C of District Lot 5055
Osoyoos Division Yale District
Except Plan H17628

(hereinafter called the “Seniors Centre”);

B. The Seniors Centre is legally restricted to be used exclusively for senior citizen centre purposes pursuant to the original Crown Grant to the City;

C. The City has agreed to lease the Seniors Centre to the Association for a term of five years for the use by and purposes of the Association.

NOW THEREFORE IN CONSIDERATION of the mutual covenants, terms and conditions set forth in this Lease the parties agree as follows:

1.0 LEASE OF SENIORS CENTRE

1.01 The City does hereby lease the Seniors Centre to the Association on the terms and conditions hereinafter set forth.

2.0 TERM

2.01 The term of this Lease shall be for a term of five years commencing on the 1st day of January, 2020 and terminating on the 31st day of December, 2024 unless otherwise terminated by mutual agreement or until such time as another suitable facility becomes available or determined as provided herein.

3.0 RENT

The annual payments paid by the Association shall remain in reserve for improvements to the existing Seniors Centre, unless otherwise directed by the City. Annual payments will be as described in Schedule A.

4.0 CITY'S COVENANTS

4.01 Association's Use

The City agrees to permit the Association, its members and invitees to exercise the full right of access to and from the Seniors Centre for the purposes of the Association. The Association agrees to control and properly manage all use of the Seniors Centre.

4.02 Utilities

The City agrees to pay all utility rates and charges in respect of all water, gas, sewer, electric, power, and telephone used in connection with the Seniors Centre.

4.03 Maintenance and Repair

The City agrees to maintain and repair in a timely manner the Seniors Centre during the term of this Lease. The City further agrees to maintain the exterior grounds and undertake snow removal using a separate contract and associated terms.

The list of items the City will be responsible for maintaining will be listed in Schedule B.

4.04 Building Replacement Insurance

The City agrees to obtain and maintain throughout the term of this Lease a policy of insurance for the Seniors Centre to the full insurable replacement value against

risk of loss or damage caused by or resulting from fire, lightning, tempest, earthquake or additional peril against which the City normally insures.

4.05 Quiet Enjoyment

The Association shall have quiet enjoyment of the Seniors Centre during the term of this Lease.

4.06 Seniors Centre Programs

The City agrees that the Association is responsible for managing the use of the Seniors Centre and the programs of the Association during the term of this Lease. The City may require the use of the Senior Centre from time to time and the Association agrees to offer the Senior Centre to the City on those dates that can be mutually agreed upon by both parties. The Association must receive 30 days written notice on all requests that the City hopes to use the Senior Centre. The City acknowledges that more opportunities to utilize the Senior Centre are during the months of June, July, and August.

5.0 ASSOCIATION'S COVENANTS

5.01 Reserve Fund Payments

The money received as rent payment described in Schedule A is intended to go into reserves, however; The City reserves the right to allocate this money elsewhere.

5.02 Access by City

The Association agrees that during the term of this Lease any officials, officers, employees or authorized agents of the City may have access to and conduct inspections of the Seniors Centre.

5.03 Maintenance Assistance

The City will provide a contractor to do general cleaning and stocking of soap / paper products, but the Association agrees to assist with the maintenance of the Seniors Centre and to keep the Seniors Centre in a neat, tidy, and safe condition throughout the term of this Lease. These duties will include but are not limited to cleaning dishes, mopping up spills, wiping down counters, sweeping floors, and tidying up after themselves.

5.04 No Assignment or Subletting

The Association agrees not to assign or sublet this Lease without the consent of the City, which consent shall not be unreasonably withheld, provided that the

Seniors Centre must be used exclusively for senior citizen recreation centre purposes.

5.05 Senior Citizen's Recreation Centre Restriction

The Association acknowledges that pursuant to a term of the Crown Grant of the Seniors Centre to the City that the lands and building may only be used for senior citizen purposes (see Schedule C). The Association agrees that it will not carry on or permit to be carried on any activity or use of the Seniors Centre which is contrary to the restriction contained in the aforesaid Crown Grant.

5.06 No Nuisance

The Association agrees not to do or allow to be done anything at the Seniors Centre which may constitute a nuisance or which may increase the hazard of fire or liability of any kind or constitute a violation of any policy of insurance with respect to the Seniors Centre.

5.07 Constitution and Bylaws

The Association agrees that membership in the Association shall be in accordance with the Constitution and Bylaws of the Association

5.08 Association Management

The Association agrees that the City is not responsible in any way for managing the use of the Seniors Centre or the programs of the Association, with the exception of future seniors oriented joint programming opportunities with the Association and the City.

The Association will be responsible for all costs in relation to managing the use of the building including office supplies, program supplies, and kitchen supplies.

The City will be responsible for building maintenance and repairs as listed in Schedule B.

5.09 No Alterations

The Association agrees that no additions, alterations, renovations and/or modifications to the Seniors Centre shall be effected without the written consent of the City.

5.10 Compliance with Laws

The Association agrees that it shall at its own expense comply with all laws and regulations of any authority having jurisdiction applicable to the Seniors Centre

including any requirements of fire or other insurance underwriters and insurers. The Association agrees to comply with all notices requiring compliance whether delivered to the City or the Association.

5.11 Insurance

The Association agrees to obtain and maintain during the term of this Lease a policy of general public liability insurance against any and all claims whether for bodily injury, death or property damage arising out of the use and occupation of the Seniors Centre by the Association in an amount of not less than \$5,000,000.00 for each occurrence or such increased amount as the City may require. The City shall be named as a named insured in the insurance policy and shall be provided with a certified copy of all policies upon request.

5.12 Indemnification

The Association agrees to indemnify and save harmless the City and its respective elected representatives, officers, authorized agents and employees against all liabilities, actions, damages, claims and costs, including costs on a solicitor and own client basis, arising out of or in any way connected with the negligence of the Association.

The City agrees to indemnify and save harmless the Association and its respective elected representatives, officers, authorized agents and employees against all liabilities, actions, damages, claims and costs, including costs on a solicitor and own client basis, arising out of or in any way connected with the negligence of the City.

5.13 Builders' Liens

The Association agrees to indemnify and save harmless the City from and against any and all claims for payment for services rendered to the Association or contracts of any kind including any claims of builder's lien, wages, material supply or for any other liabilities of any kind arising out of the use and occupation of the Seniors Centre by the Association.

5.14 Builders' Lien Notices

The Association agrees that the City shall be permitted at any time to post notices that the City will not be responsible for any liability under the provisions of the *Builders' Lien Act* or other liability as described in article 5.13.

6.0 RIGHT OF RENEWAL

The parties agree that one year prior to the expiry of the term of the Lease the City and Association will enter into negotiations for a new Lease on such terms and conditions as the parties may mutually agree.

7.0 ARBITRATION IN THE EVENT OF A DISPUTE

In the event of a dispute between the City and the Association as to the interpretation of any term or condition of this Lease, such dispute shall be resolved if necessary by a single arbitrator appointed pursuant to the provisions of the *Commercial Arbitration Act*.

8.0 EARLY TERMINATION

The Association may terminate this Lease by giving the City a period of one year's notice in writing, at the expiry of which the Association shall have no further obligation to the City, save and except for any obligation arising prior to the expiry of such notice period.

The City may terminate this Lease by giving the Association a period of one year's written notice in conjunction with any notices of consideration of possible future City developments for senior facilities in West Kelowna. The City agrees that the Association will be provided an opportunity for designated representatives to participate in further feasibility and detailed design processes associated with the development of a new comprehensive community recreation facility that would have specific consideration of future seniors programming uses.

9.0 RE-ENTRY ON DEFAULT

The City shall have the right to re-enter the Seniors Centre upon default of the Association in the performance of any terms and conditions contained in this Lease and in the event of failure of the Association to remedy such default, the Association shall peacefully surrender possession of the Seniors Centre to the City upon re-entry or any termination or determination of this Lease.

10.0 RULES AND REGULATIONS

The Association agrees to comply with the rules and regulations that the City may from time to time adopt in connection with the use and occupation of the Seniors Centre, in as such that these rules and regulations do not contravene the terms of the aforementioned crown grant and spirit of this agreement.

11.0 HOLDING OVER

The Association agrees that, should it hold over and retain possession of the Seniors Centre at the end of the term or earlier determination of this Lease, and such holding over or possession and tenancy shall be a tenancy from month to month.

MISCELLANEOUS COVENANTS

11.01 Severability

Should any provisions of this Lease be found by a court to be unenforceable for any reason such provision shall be considered separate and severable from the remaining terms and conditions of this Lease, all of which shall remain in full force and effect.

11.02 Notice

Any notice required to be given hereunder shall be deemed to be sufficiently given if delivered at the time of delivery and if mailed from any government post office in the Province of British Columbia by prepaid, registered mail addressed as follows:

The City:

City of West Kelowna
2760 Cameron Road
West Kelowna, British Columbia, V1Z 2T6

The Association:

Westside Senior Citizens Service Association
3661 Old Okanagan Highway
Westbank, British Columbia, V4T 1P6

Or at such other address as the parties may advise each other in writing from time to time and such notice shall conclusively be deemed to have been received forty-eight (48) hours after the time and date of mailing PROVIDED ALWAYS, HOWEVER, that if at the time of mailing any notice hereunder, the delivery of mail in the Province of British Columbia has been interrupted in whole or in part by reason of a strike, slow-down, lockout or other labour dispute that any notice required to be given hereunder may only be given by actual delivery thereof.

11.03 Enurement

This Lease shall enure to the benefit of and be binding upon the parties hereto and their respective successors at law and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Lease Agreement _____ day
of _____, 2019.

CITY OF WEST KELOWNA
by its authorized signatories

Printed Name

Authorized Signatory

Printed Name

Authorized Signatory

WESTSIDE SENIOR CITIZENS
SERVICE ASSOCIATION
Society Number S-0010062
by its authorized signatories

Printed Name

President

Printed Name

Secretary

SCHEDULE A

The annual payments paid by the Association shall remain in reserve for improvements to the existing Seniors Centre, unless otherwise directed by the City.

Listed below is the annual rate that the City will collect from the Association.

The Association reserves the right to set what rates they will charge Seniors for memberships, however, the Association agrees to pay the City the annual rate listed below:

Year	Money Collected by CWK
2020	\$10 per member
2021	\$10 per member
2022	\$10 per member
2023	\$10 per member
2024	\$10 per member

Full payment of the annual rent is due each calendar year on April 30th.

Any monies spent by the Association on improvements to the Seniors Centre shall be in addition to and separate from the rental payments due under this Lease.

SCHEDULE B

Maintenance and Repair

The City will be responsible for but not limited to maintain the following:

Grounds Repair and Maintenance

- Parking Lot
- Exterior Lighting
- Sidewalks
- Snow Removal
- Turf Maintenance
- Line Painting
- Tree Pruning
- Irrigation
- Fencing
- Garbage Collection / Disposal

Building Repair and Maintenance

- HVAC
- Utilities (water, gas, sewer)
- Security System
- Locks and Keys
- Roofs, Eaves, and Drainage Systems
- Foundations
- Supporting Structures
- Fire Alarm and Sprinklers
- Fire Extinguishers
- Plumbing Fixtures
- Electrical Fixtures
- Light Replacement
- Exterior and Interior Finishes
- Cleaning Contractor
- Cleaning Supplies
- General Building Repairs
- General Equipment Repairs
- Floor Maintenance and Repairs
- Capital Purchases

SCHEDULE C
Crown Grant