

## **STATUS OF THE NEW LEASE/LICENSE OF OCCUPATION POLICY FOR COMMUNITY ORGANIZATIONS ON CITY-OWNED LAND**

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### **EXECUTIVE SUMMARY**

The City has partnered with community associations and social recreation groups for over 50 years to help create and sustain vibrant, healthy and complete communities. The Lease/License of Occupation to Community Organizations Policy (Policy) provides the framework for community associations and social recreation organizations to occupy City-owned land. This Policy and the standard form legal agreements (Agreements) were updated and approved by Council in 2012 February. Administration has been working diligently with 131 organizations to update their Agreements to the new standard on or before 2013 December. An additional 70 organizations have Agreements that expire thereafter. The Policy and Agreements have been well received by the community and implementation is proceeding on schedule.

During the review of the new Agreements there were six tri-party Agreements with community associations that were solely on school board property. It was determined in consultation with the Law Department that if a community association or social recreation group is on land owned solely by a school board, any Agreement for such amenity should be between the group and the associated school board only. The City is not an owner of those lands and therefore it is not in a position to grant a lease or license. As a result, amenities on school board lands now require a lease/licence of occupation directly with the school board, rather than a tri-party agreement that had been used in the past.

Organizations that hold an Agreement under the Policy are eligible for the Community Capital Conservation Grant. The grant helps organizations maintain community-operated infrastructure through funding for facility lifecycle planning and capital projects. An unintended consequence of the new lease procedure is that amenities with a school board lease or license became ineligible for the Community Capital Conservation Grant based on the current Policy #CSPS006. An adjustment to the grant policy is recommended to allow community associations on school board lands to remain eligible for the grant.

As part of the new Agreement all community associations and social recreation groups must complete and submit to The City a lifecycle study within one year of a new agreement or building a new facility. Financial assistance to complete a lifecycle study is available through the Capital Conservation Grant program. To better serve the needs of community organizations an additional amendment is being sought to the Capital Conservation Grant Policy to include comprehensive engineering consultant reports reimbursed at 100 per cent. This will ensure that an appropriate analysis is being completed on community facilities that are ultimately the responsibility of The City.

The new Policy, agreements and recommended Community Capital Conservation Grant amendments will enable community associations and social recreation organizations to focus on building long-term sustainability, accountability and providing programs and services to meet citizen needs.

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**ADMINISTRATION RECOMMENDATION(S)**

That the SPC on Community and Protective Services recommend that Council:

1. Receive this report for information; and
2. Approve the amendments to the Community Capital Conservation Grant Policy #CSPS006 outlined as follows and specified in Attachment 1:
  - a) allow community associations and social recreation groups with amenities on Calgary Board of Education, or Calgary Catholic School District land and hold an lease/license of occupation agreement with the school board and are in good standing, to access the Community Capital Conservation Grant for amenities on those sites; and
  - b) allow for reimbursement of engineering consultants' reports through the Community Capital Conservation Grant at 100 per cent.

**PREVIOUS COUNCIL DIRECTION / POLICY**

On 2012 February 27, Council approved CPS2012-03 Lease/License of Occupation to Community Organizations Policy which directed Administration to revise the standard form Lease and License of Occupation agreements and authorized the General Manager of Community Services & Protective Services (or their designate) and City Clerks to execute the new agreements in the general form, subject to minor amendments accommodating special conditions.

Administration was further directed to report back to Council through the SPC on Community and Protective Services by 2013 December on the implementation of the new Lease/ License of Occupation with respect to:

- a) any issues experienced with community associations;
- b) any proposed changes to the agreement; and
- c) impact on community associations and social recreation organizations.

**BACKGROUND**

The City recognizes the value of engaging in partnerships with community associations and social recreation organizations as a way to increase the quality of life for Calgarians by providing programs, services and facilities at the community level. Through the Policy, The City recognizes the integral role these partners play to develop complete communities and contribute to community well-being. To facilitate these contributions, the Policy provides a framework for these community organizations to occupy City-owned land for the purpose of serving the needs of Calgary's communities.

Recognizing the social, environmental and economic climate can change over time, the Policy and Agreements are reviewed every 15 years and brought to Council for approval to determine their effectiveness in providing guidance, support and an accountability framework to effectively support community partnership arrangements. A summary of the terms and conditions updated as a result of reporting to Council in 2012 February 27 are outlined in Attachment 2.

Community organizations that hold a Lease/License are eligible for the Community Capital Conservation Grant. The grant recognizes and supports community associations and social

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recreation groups on City-owned land that maintain community-operated infrastructure through funding for facility lifecycle planning and capital projects to maintain safe and relevant facilities for Calgarians. It has been determined that opportunities existed to better align the intentions of the grant to enhance its value to the partners and The City.

### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

Implementing the Policy and new agreements has moved forward at a rapid pace and has been a top priority for Administration. There is a total 131 Agreements to be renewed as of 2013 December 31. Of those, 76 agreements have been formally executed. Another 21 agreements are currently with community organizations and these are expected to be completed by year end. Thirteen agreements are tri-party with the school boards and expect to be finalized by early 2014. Finally, the remaining 21 agreements are either non-standard which require Council approval or are in the process of being executed. See Attachment 3 for a listing of non-standard and tri-party agreements.

The new Agreements are already demonstrating positive results. The community recreation coordinators and sport development liaisons have been supporting community organizations under the Policy to develop current business plans, update operating policies and procedures, develop effective communication strategies, and update governance documents including by-laws to build on the long-term sustainability and capacity of the organizations. As a result of the addition of the business plan requirements and bi-annual meetings between the organizations and their City liaison, business planning has increased from 40 per cent to 67 per cent since 2011. Groups communicating with their City liaison have increased from 85 per cent to 98 per cent. Administration will continue to work with our partners to measure the long-term positive impacts of the Policy from an organizational effectiveness perspective and will report back through the annual Audit Committee with the Status of Third Party Organizations Operating Not-For-Profit Facilities on Land Owned by The City.

Over the course of the year, two issues have arisen in regards to implementation of the Agreements, both in respect to the Community Capital Conservation Grant Policy #CSPS006. The first issue relates to eligibility of sites that hold a lease or license directly with a school board. It was determined in consultation with the Law Department that if a community association or social recreation group is on land owned solely by a school board, any Agreement for such amenity should be between the group and the associated school board only. The City is not an owner of those lands and therefore it is not in a position to grant a lease or license. As a result, amenities on school board lands now require a lease/licence of occupation directly with the school board, rather than a tri-party agreement that had been used in the past. An unintended consequence of this change was that these amenities became ineligible for the Community Capital Conservation Grant based on the current Policy.

The second issue involves funding engineering consultant reports which provide a thorough assessment of facility issues. Currently, all community associations and social recreation organizations must complete and submit to The City a lifecycle study within one year of a new agreement or building a new facility. Financial assistance, at 100 percent, to complete this study is available through the Capital Conservation Grant program. To better serve the needs

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of community organizations an additional amendment is being sought to include comprehensive engineering consultant reports reimbursed at 100 per cent. The past practice was to fund these reports at 75 per cent. It has been determined that comprehensive engineering consultant reports are much more effective in determining facility condition status, than simple lifecycle studies. This will ensure that sound investment decisions will be made promoting continued public use of community facilities and decreasing public safety issues of community facilities.

Both of these issues are outlined in Attachment 4, Issues Arising Pertaining to the Community Capital Conservation Grant, and recommend that amendments be made to the Capital Conservation Grant Policy #CSPS006.

### **Stakeholder Engagement, Research and Communication**

Administration continues to work collaboratively with internal business units including Law, the two school boards, and organizations requiring updated agreements in a timely fashion, while addressing unique circumstances based on the nature of the land, facilities or the amenities. Both Calgary school boards through the Joint Use Coordinating Committee have been engaged in relevant changes and support the recommendations of this report. Internally, Corporate Asset Management was consulted regarding the benefits of using engineering consultant reports versus simple lifecycle studies.

### **Strategic Alignment**

The Policy and the corresponding Agreements are aligned with the following strategic policies and directions:

- Council's Fiscal Plan for Calgary (2012-2014): Investing in Great Communities and a Vibrant Urban Fabric: Invest in lifecycle maintenance of existing community infrastructure
- Municipal Development Plan: "Building complete strong and great communities; adding to the cultural vitality of the city; sustaining healthy communities by promoting active living; developing community services and facilities to achieve active and vital neighbourhoods."
- Recreation Master Plan: Supports the vision of an active, creative and vibrant Calgary. Developing partnerships and collaborations with both organizations and individuals to support capacity building in an intentional, proactive way.
- 10 Year Sport Strategic Plan for Sport Facility Development and Enhancement: Ensure sport involvement in investment decisions and support facility operating sustainability with consideration that cost should not be prohibitive to sport participation.
- Arts Space Strategy: Accessibility, Availability, Affordability

### **Social, Environmental, Economic (External) Social**

Community associations and social recreation organizations provide valuable programs and facilities that enrich the lives of our citizens. By supporting these organizations and positioning community facilities as community assets, the City encourages healthy, active and creative lifestyles and facilitates opportunities for community involvement and strong social networks.

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### **Environmental**

Good stewardship of City-owned land, facilities and amenities can minimize the impact on the environment. Community associations and social recreation groups adhere to the Sustainable Building Policy and are strongly encouraged to integrate energy efficiency and conservation into their lifecycle plans.

### **Economic (External)**

Community associations and social recreation organizations are able to leverage resources from various funders and other levels of government. As a result, these groups are able to operate their facility and programs at minimal cost to The City. A lease or license of occupation that encourages partners to examine their organizational health, and a Capital Conservation Grant that reflects the changing needs for funding, will ensure organizations continue to thrive and provide programs and services to the community.

### **Financial Capacity**

#### **Current and Future Operating Budget:**

At this time, there are no operating budget implications as a result of this report.

#### **Current and Future Capital Budget:**

The Capital Conservation Grant is \$4M for 2014 and it is expected the funding required for engineering consultant reports to support lifecycle maintenance projects will be accommodated within the existing budget. In 2012, \$280,000 grant dollars went to support engineering reports and in 2013, \$100,000 were allocated in the first two grant rounds. On average, the increase from 75-100 percent funding would have an approximate impact of \$125,000 to the grant budget. The cost of a single engineering report can range from \$2,000-25,000 depending on the complexity of the project. This impact will be monitored for future budget cycles.

### **Risk Assessment**

Amendments to the eligibility criteria of the Community Capital Conservation Grant Policy #CSPS006 will make certain that The City is supporting volunteer organizations operating facilities on school board land. Further, by funding 100 per cent of engineering consultant reports for complex lifecycle maintenance projects, sound investment decisions will be made promoting continued public use of community facilities and decreasing public safety issues, legal liability and risk exposure.

Administration has reviewed the potential risk of providing lifecycle funding to amenities not located on City land, and has deemed the risk to be very low. Similar grant programs fund external amenities (e.g. Calgary Facility Enhancement Program, The Calgary Foundation) and have been able to clearly distinguish funding and ownership. If the amendments are approved, Administration will continue to consult with Law to determine if any additional wording is required in the grant agreement which stipulates The City will not assume any liability for work that is being funded.

The risk for not supporting these amenities could be much more substantial. If community associations and social recreation organizations are not eligible for funding they will likely allow

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the amenity to fall into disrepair. Not only would this create a risk that the amenity would not be available to improve community well-being (thereby inhibiting The City's objectives), but could also pose a public safety risk and cause injury. In this scenario, while The City may not incur any legal liability, there is still a strong possibility that The City would incur a liability relating to public image. The general public does not distinguish between property of The City and the school boards. If an incident was to occur, the public could start blaming The City for allowing this amenity that was once our responsibility, to lapse.

**REASON(S) FOR RECOMMENDATION(S):**

The Policy and agreements are being successfully implemented to build long-term sustainability, accountability and mutually supportive relationships between community partners and The City. By aligning the Capital Conservation Grant Policy #CSPS006 to meet the changing needs of the community partners sound investment decisions will be made allowing The City's partners to focus on the provision of relevant programs and services to citizens contributing to the quality of life in Calgary communities.

**ATTACHMENT(S)**

1. Community Capital Conservation Grant Policy #CSPS006 with Proposed Amendments
2. Lease/License of Occupation - Summary of New Terms and Conditions
3. Status of Non-Standard and Tri-Party Agreements
4. Issues Arising Pertaining to the Community Capital Conservation Grant