

CITY OF CASTLEGAR

BYLAW 467

A bylaw to authorize the leasing of a parcel of municipal land to the Castlegar Chamber of Commerce.

WHEREAS under Section 542 of the Municipal Act Council may by bylaw lease real property owned by the municipality for any term or terms, including an option for renewal not exceeding in the aggregate 99 years;

AND WHEREAS the Castlegar Chamber of Commerce has requested the City to lease to the Chamber a parcel of municipal land as the site for a visitor information and reception centre and Chamber office;

NOW THEREFORE the Council of the City of Castlegar, in open meeting assembled, enacts as follows:

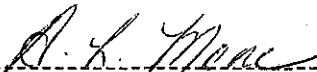
1. This bylaw may be cited as "Chamber of Commerce Lease Bylaw 467".
2. The City of Castlegar is hereby authorized to enter into a lease with the Castlegar Chamber of Commerce in the form, and under the terms and conditions, set out in Schedule "A" attached to and forming a part of this bylaw.
3. The Mayor and City Clerk are hereby authorized to execute the said lease on behalf of the municipality, and to affix thereto the seal of the City.

INTRODUCED AND READ A FIRST TIME this 24th day of June, 1986.

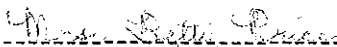
READ A SECOND TIME this 24th day of June, 1986.

READ A THIRD TIME this 24th day of June, 1986.

RECONSIDERED AND ADOPTED, signed by the Mayor and City Clerk and sealed with the corporate seal this 15th day of July, 1986.



Mayor



City Clerk

THIS INDENTURE made the _____ day of _____ 1986, in pursuance of the
"LAND TRANSFER FORM ACT", PART 2

BETWEEN:

THE CITY OF CASTLEGAR
460 Columbia Avenue, in the City
of Castlegar, Province of British
Columbia

(hereinafter called the "Lessor")

OF THE FIRST PART

AND:

THE CASTLEGAR CHAMBER OF COMMERCE,
duly incorporated under the Canada
Boards of Trade Act; date of recording
of Certificate of Formation is
February 28, 1980 (file number 01209,
film number 450, document 54)
Box 3001, in the City of Castlegar,
Province of British Columbia

(hereinafter called the "Lessee")

OF THE SECOND PART

WHEREAS the Lessor is the registered owner of certain lands and premises
lying and being in the Province of British Columbia, and more particularly
known and described as:

Lot 1
Plan 8285
District Lot 7173
Kootenay District, (hereinafter called "Lot 1")

AND WHEREAS THE Lessor wishes to grant a leasehold interest of that portion
of Lot 1 which is shown outlined in red on the explanatory plan, a copy which
is attached hereto as Appendix A, and which comprises that portion of Lot 1,
Plan 8285, District Lot 7173, Kootenay District more particularly described as
follows:

Commencing at the intersection of the easterly boundary of the
right-of-way of 6th Avenue and the easterly projection of the
northerly boundary of 20th Street; thence northerly along the said
easterly boundary of 6th Avenue a distance of 45.7 metres to a
point; thence westerly on a bearing of 71° 28' 50" a distance of
36.1 metres to a point; thence southerly and parallel to the said
easterly boundary of 6th Avenue a distance of 39.7 metres to a
point; thence westerly along the easterly projection of the
northerly boundary of 20th Street to the point of commencement; the
parcel containing by admeasurement .154 hectares (.380 acres), more
or less.

(hereinafter called the "Lands")

to the Lessee in order that the Lessee may conveniently carry on activities
of benefit to the Lessee and of benefit to the Lessor and to the citizens
of Castlegar.

AND WHEREAS the Lessee intends to construct, at its own expense, a building
or buildings on the said Lands, (the "Lessee's Buildings"), which buildings
shall remain the exclusive possession of the Lessee despite being affixed
to the soil.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the rents, covenants, conditions and agreements hereinafter reserved and contained, the Lessor does demise and lease the Lands unto the Lessee, its successors and assigns.

TO HAVE AND TO HOLD the same unto the Lessee, its successors and assigns, for so long as this lease has not been terminated as hereinafter provided, for a term of twenty years commencing on the 1st day of January, 1986 and ending on the 31st day of December, 2005.

YIELDING AND PAYING during the said term unto the Lessor, rent to be calculated and paid as follows:

- a. A base rent of One Dollar (\$1.00) per year shall be paid on the 1st day of January, 1986 and on the 1st day of each and every January thereafter to and including January 1, 1990.
- b. The rent to be paid during subsequent years of the term hereof shall be adjusted every five years, to be effective on the 1st day of January in the years 1991, 1996, and 2001. The amount of rent shall be determined pursuant to paragraph 8.

1. LESSEE'S COVENANTS

The Lessee covenants with the Lessor as follows:

- 1.1 RENT - TO pay rent;
- 1.2 ASSIGNING AND SUBLETTING - NOT to assign or sublet without leave, such leave not to be unreasonably withheld;
- 1.3 UTILITIES Subject to paragraph 2.4, to pay all charges and rates for utilities and services used on the Lands.
- 1.4 OBSERVANCE OF LAW - TO abide by and comply with all laws, bylaws, statutes, ordinances, regulations, requirements and recommendations of any and all governmental authorities or insurance underwriters or agents and all notices in pursuance of the same.
- 1.5 INSURANCE - The risk of loss or damage to the Lessee's Buildings and all contents thereof shall be that of the Lessee and nothing herein shall oblige or require the Lessor to pay for or make good, or insure against any loss or damage to the Lessee's Buildings or any contents thereof. The Lessee shall insure and keep insured during the whole of the term the Lessee's Buildings and the Lands, forthwith on commencement of the term herein, by all risk insurance coverage including fire and public liability insurance and such other insurance as it is or may become customary for owners of property to carry for loss of or damage to the Lessee's Buildings or liability arising therefrom:
 - 1.5.1 Such insurance shall be carried in companies acceptable to the Lessor and all policies for such insurance shall be in a form satisfactory to the Lessor. Without limiting the generality of the foregoing, public liability insurance coverage shall include coverage for personal injury, death, or property damage arising from any accident or occurrence on or about the Lands or Lessee's Buildings from any cause in the amount of One Million Dollars (\$1,000,000). If the Lessee shall fail to insure and keep insured, as herein provided, the Lessor shall be free to effect such insurance at the cost and expense of the Lessee, and the sums which were expended by the Lessor shall immediately be payable as rent and recoverable as set out in paragraph 4.5.
 - 1.5.2 Not to do or suffer to be done upon the Lands and Lessee's Buildings anything whereby the policies of insurance in respect to the Lands or Lessee's Buildings may be rendered void or voidable.

- 1.6 TAXES - Subject to paragraph 2.4, to pay all taxes, charges, rates, duties, and assessments levied upon the Lands and/or Lessee's Buildings during the term of the lease.
- 1.7 DEVELOPMENT COST CHARGES - TO pay all development cost charges levied by the Lessor in respect of the Lands forthwith upon receiving an account for the same from the Lessor.
- 1.8 LANDSCAPING - At its own expense, subject to paragraphs 2.2 and 2.3, to develop the Lands in accordance with site development plans prepared by the Lessee and approved by the Lessor; site development in accordance with such site development plans shall be completed by December 31, 1986. Such site development plans shall provide for suitable roads and parking, paved in a good and workmanlike manner and with paving of a quality normally used for medium traffic areas (the "Paving") and shall further provide for landscaping such portions of the Lands as the parties shall agree by planting such trees, shrubs, flowers, and grassed areas as shall appear on the site development plans.
 - 1.8.1 The Lessee shall at all times keep the grassed portions of the Lands properly mowed, maintained and levelled and shall at all times keep all planted portions of the Lands properly watered and fertilized. The Lessee shall at all times keep all paved portions of the Lands properly maintained and shall promptly repair any holes or bumps which may develop in the paving. If the Lessee shall fail to do so, the Lessor shall at its option have the right to enter and to maintain the Lands as herein before provided in this paragraph and the sums which the Lessor pays for such maintenance shall be added to the rent due on the next succeeding payment date and such amount, in addition to the regular payment then due, shall constitute rent hereunder.
- 1.9 VISITOR INFORMATION CENTRE - The Lessee shall, for the duration of the lease, operate a Visitor Information and Reception Centre at its own expense on the Lands. Such Visitor Information and Reception Centre shall be open not less than six hours per day five days per week throughout the year.
- 1.10 KEEP TIDY AND REPAIR - Subject to paragraph 2.4, the Lessee shall be responsible to keep the Lands and Lessee's Buildings in a reasonable state of repair and maintenance, and in a clean and tidy condition.

2. LESSOR'S COVENANTS

The Lessor covenants with the Lessee as follows:

- 2.1 For quiet enjoyment.
- 2.2 SANI-DUMP - The Lessor shall install at its own expense a Sani-Dump on the Lands in such location and constructed according to a design agreed to by the parties, and such sani-dump shall be installed and completed by August 31, 1986 or by such later date as the parties shall agree.
- 2.3 The Lessor shall pay the cost of such portion of the Paving as is necessary for the users of the sani-dump to gain access to the sani-dump (the "sani-dump paving"), provided that the cost of constructing the sani-dump and the sani-dump paving shall not be more than ten thousand dollars (\$10,000.00).
- 2.4 Notwithstanding anything to the contrary herein, the Lessor shall at all times be responsible for all charges and rates for utilities and services relating to the operation and use of the sani-dump, and shall at all times maintain the sani-dump in good operating condition at its expense during the term of this lease.

3. LESSEE'S FIXTURES

- 3.1 CONSTRUCTION OF BUILDINGS - Subject to municipal bylaws and applicable provincial and federal statutes, the Lessee may construct on the Lands such buildings as it may require for its purposes (the "Lessee's Buildings") and the Lessee may remove the same at the termination of the lease whether or not the Lessee's Buildings are affixed to the Lands in any degree whatsoever. The Lessee's Buildings shall remain the property of the Lessee. In the event of the Lessee removing the Lessee's Buildings the Lessee will repair any damage caused by such removal and will remove all foundations and will fill in all excavations and will landscape the site of removed Lessee's Buildings to conform to adjacent landscaping if so required by the Lessor. For greater clarity, the parties acknowledge that the sani-dump to be installed pursuant to paragraphs 2.2, and 2.3, the sani-dump paving, and the site development to be completed pursuant to paragraph 1.8 are not Lessee's buildings and that such sani-dump, sani-dump paving, and site development shall, upon being affixed to the Land, become part of the Land and the property of the Lessor.
- 3.2 The Lessor agrees that it will not encumber or transfer the Lands unless it obtains from the prospective lender or purchaser a release of all claims to the Lessee's Buildings and acknowledgement that the Lessee's Buildings remain the property of the Lessee herein. The Lessor shall deliver such release and acknowledgement to the Lessee herein.
- 3.3 The parties agree that if the Lessee fails to remove the Lessee's Buildings as provided in paragraph 3.1 within six months after the expiration of this lease, or any renewal hereof then all the Lessee's right, title and interest in the Lessee's Buildings shall pass to the Lessor and the Lessor shall stand fully possessed and entitled to the Lessee's Buildings.

4. PROVISOS

Provided always, and it is hereby agreed as follows:

- 4.1 HOLDING OVER - In the event that the Lessee shall hold over after the expiration of the term hereby granted and the Lessor shall accept rent, the new tenancy thereby created shall be a monthly tenancy and not a yearly tenancy and may be terminated upon thirty days notice by either party.
- 4.2 RE-ENTRY AND FORFEITURE - Proviso for re-entry by the Lessor on non-payment of rent whether formally demanded or not or non-performance of covenants.
- 4.3 WAIVER - No waiver or no neglect to enforce the right to forfeiture of this lease or the right of re-entry upon breach of any covenant, condition or agreement herein contained, shall be deemed a waiver of such rights upon any subsequent breach of the same or any other covenant, condition or agreement herein contained.
- 4.4 INSOLVENCY OF LESSEE - In the event the Lessee shall become insolvent, bankrupt, or make any assignment for the benefit of creditors, or in case of the non-payment of rent at the times herein provided, or in the case the Lessee vacates the lands for a period of thirty (30) days, or if the term hereby granted shall at any time be seized or taken in execution or in attachment by any creditor of the Lessee, this lease shall at the option of the Lessor, be void and the term hereby created be forfeited and expire, and the then current rent and three (3) additional month's rent (if at such time rent is payable on a monthly schedule) shall thereupon immediately become due and payable, and the Lessor may enter and take possession of the premises, and the term shall be forfeited and void.

- 4.5 INDEMNITY - If the Lessor shall suffer or incur any damage or loss or expense or be obliged to make any payment for which the Lessee is liable hereunder by reason of the failure of the Lessee to observe and comply with any of the covenants of the lease herein contained, then the Lessor shall have the right to add the cost or amount of any such damage, loss, or expense or payment to the rent hereby reserved, and any such amount shall thereupon immediately be payable as rent and recoverable in the manner provided by law for the recovery of rent in arrears.
5. NOTICE - All notices which may or are required to be given or made hereunder shall be in writing and shall either be served personally or sent by postage prepaid registered mail addressed to the Lessor or the Lessee as the case may be at the address set out in this lease and any notice if mailed as aforesaid, if during periods of normal postal service, shall be deemed to be received three (3) days following the date upon which it was so mailed, provided that either party may change his address by written notice to the other and in such event this paragraph shall be deemed to be amended accordingly, provided further that if there exists a labour dispute or other event at the time of mailing of any notice hereunder or within five (5) days thereafter which would affect the normal delivery of the notice by Canada Post, then notice will be only effective hereunder if actually delivered.
6. LIENS - The Lessee covenants not to create or permit to be created or to retain and covenants to discharge any lien levied on account of any imposition of any mechanics, labourers, or materialman's lien, upon the Lands or any part thereof and if at any time such lien be filed then the Lessee shall immediately after notice of such filing cause the same to be discharged and if the Lessee shall fail to cause such lien to be discharged the Lessor may at its option terminate immediately the said lease.
7. OPTION OF RENEW
- 7.1 If the Lessee shall pay the rent when due under this lease or any renewals hereof, and observe and perform the covenants, provisos, and agreements herein contained, the Lessee shall have the option to renew this lease for a further period or periods which shall not exceed twenty (20) years in total, on the same terms and conditions as contained herein provided that the option to renew in any renewal shall be in substantially the same terms as this paragraph except that where the words and figures "twenty (20)" occur in this lease, the number shall be reduced by the sum of the number of years of renewals which have already been granted at that time, to the intent that in no circumstances shall the Lessor be obliged to renew for any time or period occurring after December 31, 2025. The rental rate under any such renewed lease shall be determined for each renewal in the manner set out in paragraph 8.
- 7.2 If the Lessee wishes to exercise an option to renew herein contained, the exercise shall be in the form of a written notice which shall be delivered before there is two months or less than two months remaining under the term hereof or under the term of any extension or renewal hereof.
8. ARBITRATION - The annual rental rate for the periods set out in subparagraph b of the stipulation for rent following the Habendum and for the periods set out in paragraph 7.1 shall be determined by agreement between the parties hereto, and failing such agreement, by a single arbitrator appointed pursuant to the Arbitration Act of British Columbia and amendments thereto.
9. FURTHER DOCUMENTS - The parties agree to execute such further documents as may be necessary to carry out the purpose and intent of this agreement.

10. HEADINGS - The headings in this document have been inserted as a matter of convenience and for reference only and in no way define, limit, or enlarge the scope or meaning of this lease or any provision herein.

WHEREVER the singular or masculine or neuter gender is used throughout this agreement, the same shall be construed as being the plural or the feminine or the masculine, or the body corporate or politic and shall include the heirs, executors, administrators, successors and assigns of the respective parties hereto and each of them where the context of the parties so require.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above written, the corporate seal of the parties having been duly affixed in the presence of the proper signing officers first duly authorized on that behalf.

THE CORPORATE SEAL OF THE CITY)
OF CASTLEGAR was hereunto)
affixed in the presence of:)

MAYOR)

(SEAL)

CITY CLERK)

THE CORPORATE SEAL OF THE)
CASTLEGAR CHAMBER OF COMMERCE)
was hereunto affixed in the)
presence of:)

AUTHORIZED SIGNATORY)

(SEAL)

AUTHORIZED SIGNATORY)

APPENDIX "A"

LOT 4
PLAN 2494

60.2

LOT 5
PLAN 2494
EXCEPT
WEST 189' FT
(57.607m)

REMAINDER LOT B PLAN 4152

33.6

53.4

4.8

61°

15.5

6th AVENUE

341° 28' 05"
45.7

50"

CHAMBER
OF
COMMERCE
LEASE

71° 28' 05"
36.1

36.6

341° 28' 05"
39.7

HIGHWAY 3
PLAN 6096



20th STREET

39.3

LOT 1
PLAN 8582

18.6

LOT 1
PLAN 8285
DL 7173 KD



CITY OF CASTLEGAR ENGINEERING		CHAMBER OF COMMERCE LEASE - PLAN			
SCALE	DATE	DRN	CKD	APPD	
PLAN: 1:500	85-11-15	WH	<i>UFB</i>		
VERT:	DWG NO. LP 85-1			REV.	
HORIZ:					