

CITY OF CASTLEGAR

BYLAW 653

A bylaw to provide for the establishment of a debt repayment fund No.3.

WHEREAS under the provisions of Section 375 of the Municipal Act, where for any cause it appears expedient to provide money in advance of the requirements for retirement at maturity of outstanding municipal debentures, the Council may by bylaw, with the approval of the Minister, provide for setting aside in each year money as may be deemed necessary for a proposed scheme of debt financing and for the administration and investment of money so set aside;

AND WHEREAS the City of Castlegar has entered into an agreement with Her Majesty the Queen in right of the Province of British Columbia as represented by the Deputy Minister of Finance and Corporate Relations dated September 5, 1992, wherein there is owing to the Province an aggregate sum of One Million Six Hundred and Thirteen Thousand Eight Hundred and Eighteen Dollars and Ninety-two Cents (\$1,613,818.92) comprised of One Million Two Hundred and Thirty-Three Thousand Six Hundred and Ninety-Two Dollars (\$1,233,692.00) for principal and Three Hundred and Seventy-Nine Thousand Nine Hundred and Twenty-Six Dollars and Ninety-Two Cents (\$379,926.92) for interest accrued and unpaid to and including July 31, 1987 (the "Capitalized Loan");

AND WHEREAS the Capitalized Loan, or so much thereof as shall from time to time remain unpaid, will bear interest and such interest as has then accrued will be added to the principal amount of the Capitalized Loan on the sooner of the date the Capitalized Loan and all accrued interest is repaid in full and August 1, 2009;

AND WHEREAS under the provisions of said agreement the City is obliged to set up a debt repayment fund to retire the indebtedness incurred by the borrowing;

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

1. This bylaw may be cited as the "Debt Repayment Fund No. 3 Bylaw".
2. There shall be, and is hereby, established a fund to be known as "Debt Repayment Fund No. 3".
3. There shall be deposited into the fund sums in accordance with the following schedule:

August 1, 1993	\$50,000.00
August 1, 1994	60,000.00
August 1, 1995	70,000.00
August 1, 1996	80,000.00
August 1, 1997	90,000.00

and \$90,000.00 on August 1, annually thereafter

4. When the Debt Repayment Fund No. 3, including the interest earned on that fund, equals or exceeds the outstanding balance of the Capital Loan and the accrued interest, the City will pay to the province the whole of Debt Repayment No. 3, including the interest earned on that fund. If the monies paid to and received by the Province exceed the amount or aggregate sum required to pay in full any and all aforesaid interest and the Capitalized Loan, then the City will forthwith pay such excess to the City.

- 5. Schedule "A", attached hereto and forming a part of this bylaw, is a copy of the agreement hereinbefore referred to and the intent of this bylaw is that it shall operate in conformity with the terms of the said agreement as to the establishment of Debt Repayment Fund No. 3 and the repayment of the loan of One Million Six Hundred and Thirteen Thousand Eight Hundred and Eighteen Dollars and Ninety-two Cents (\$1,613,818.92) in the manner set forth in said agreement.

READ A FIRST TIME on the 17th day of August, 1993.

READ A SECOND TIME on the 17th day of August, 1993.

READ A THIRD TIME AND PASSED on the 17th day of August, 1993.

RECEIVED THE APPROVAL OF THE INSPECTOR OF MUNICIPALITIES on the 19th day of October, 1993.

RECONSIDERED, AND ADOPTED on the 2nd day of November, 1993.

*A. L. Mene*  
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Mayor

*Dianne Kwoz*  
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Clerk

THIS AGREEMENT is dated for reference the 17th day of July, 1992 and is made the 25  
day of September, 1992

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA, represented by the Minister of Finance and  
Corporate Relations (the "Province")

OF THE FIRST PART

AND:

CITY OF CASTLEGAR, a municipality incorporated under the  
*Municipal Act* of the Province of British Columbia (the "City")

OF THE SECOND PART

WHEREAS:

- A. Pursuant to an agreement (the "Agreement") dated August 5, 1981 and between the Province and the City the Province loaned to the City an amount, for principal, of \$1,233,892.00;
- B. The Province and the City wish to amend the Agreement as hereafter set forth:

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto agree as follows:

1. There was owing by the City to the Province under the Agreement on July 31, 1987 an aggregate sum of \$1,613,818.92 (the "Capitalized Loan") comprised of \$1,233,892.00 for principal and \$379,926.92 for interest accrued and unpaid to and including July 31, 1987.
2. The following is added to the Agreement as subparagraph (e3) of paragraph 1:  
  
"(a1) "Bank of Montreal Loan" means a loan payable by the City to the Bank of Montreal in the approximate amount of \$105,244.00 together with interest thereon;"
3. The following is added to the Agreement as subparagraph (e1) of paragraph 1:  
  
"(e1) " Interest Review Date" means July 31, 1993;"

4. The following is added to the Agreement as subparagraph (e2) of paragraph 1:

"(e2) "Loan Rate" means 4.75% per annum;"

5. Subparagraph (f) of paragraph 1 of the Agreement is deleted and the following is substituted therefor:

"(f) "Net Lease Proceeds" mean the gross rent payable and paid to the City by each and every person to whom the City has leased the Lots or any of them without any adjustment and without deduction of other than

- (i) any monies bona fide paid by the City to a third party dealing at arm's length with the City for,
  - (a) advertising the availability of the Lots or any of them for rental or lease from the City for industrial purposes;
  - (b) real estate or brokerage commission relative to the leasing of the Lots or any of them; or
  - (c) any audit required under this Agreement,
- (ii) any development cost charge paid by the City, as the developer, upon subdivision for or in respect of the particular Lot or Lots leased, and
- (iii) the monies paid by the City in order to obtain a discharge of any mortgage registered against title to the particular Lot or Lots leased where the payment of such monies is a term or condition of the agreement for the lease of the particular Lot or Lots or is, in consequence of the leasing of the particular Lot or Lots, required under any aforesaid mortgage;"

6. Subparagraph (g) of paragraph 1 of the Agreement is deleted and the following is substituted therefor:

"(g) "Net Sale Proceeds" means the gross sale price payable and paid to the City by each and every person to whom the City has sold the Lots or any of them without any adjustment and without deduction of other than

- (i) any monies bona fide paid by the City to a third party dealing at arm's length with the City for,

- (a) advertising the availability of the Lots or any of them for purchase from the City for industrial purposes;
  - (b) real estate or brokerage commission relative to the sale of the Lots or any of them; or
  - (c) any audit required under this Agreement,
- (ii) any development cost charge paid by the City, as the developer, upon subdivision for or in respect of the particular Lot or Lots sold, and
  - (iii) the monies paid by the City in order to obtain a discharge of any mortgage registered against title to the particular Lot or Lots sold where the payment of such monies is a term or condition of the agreement for the sale of the particular Lot or Lots or is, in consequence of the sale of the particular Lot or Lots, required under any aforesaid mortgage;"
7. Subparagraph (j) of paragraph 1 of the Agreement is amended by deleting the words "Loan or of the interest on the Loan" and substituting therefor the words "Capitalized Loan or the interest on the Capitalized Loan".
8. The following is added to the Agreement as subparagraph (j1) of paragraph 1:
- "(j1) "Payment Date" means August 1 of each year commencing in 1993.
9. The following is added to the Agreement as subparagraph (k1) of paragraph 1:
- "(k1) "Prime Rate" means the annual rate of interest, regardless of compounding frequency, designated or established by the Canadian Imperial Bank of Commerce from time to time as the reference rate for determining interest rates on Canadian dollar commercial loans in Canada and was, on September 30, 1987, 10.0% per annum; "
10. Subparagraph (o) of paragraph 1 of the Agreement is amended by deleting the words "Loan or of the interest on the Loan" and substituting therefor the words "Capitalized Loan or the interest on the Capitalized Loan".
11. Paragraph 23 of the Agreement is deleted.

12. Paragraph 24 of the Agreement is deleted and the following is substituted therefor:

"24. The Capitalized Loan will be paid by the City to the Province as follows:

- (a) the City will pay to the Province \$10,000 in reduction of the principal portion of the Capitalized Loan on each Payment Date until the full principal amount of the Capitalized Loan is repaid;
- (b) the City will deposit into a fund established by the City in accordance and compliance with section 375 of the *Municipal Act* (the "Debt Repayment Fund No. 3") the sums in accordance with the following schedule:

August 1, 1993	\$50,000.00
August 1, 1994	60,000.00
August 1, 1995	70,000.00
August 1, 1996	80,000.00
August 1, 1997	90,000.00

and \$90,000 on August 1, annually thereafter;

- (c) when the Debt Repayment Fund No.3, including the interest earned on that fund equals or exceeds the outstanding balance of the Capitalized Loan and the accrued interest, the City will pay to the Province the whole of the Debt Repayment Fund No.3, including the interest earned on that fund; and
- (d) if any monies paid to and received by the Province under subparagraph (c) exceed the amount or aggregate sum required to pay in full any and all aforesaid interest and the Capitalized Loan, then the Province will forthwith pay such excess to the City."

13. Paragraph 25 of the Agreement is deleted and the following is substituted therefor:

"25. The Capitalized Loan, or so much thereof as shall from time to time remain unpaid, will bear interest:

- (a) at the Loan Rate computed from August 1, 1992 until the Interest Review Date;
- (b) during the 12 month period that commences on the Interest Review Date at a rate per annum equal to the lesser of

- (i) the Loan Rate, and
  - (ii) one-half of the Prime Rate on the Interest Review Date; and
- (c) during each successive 12 month period, the first of which will begin on the first anniversary of the Interest Review Date, at a rate per annum equal, at any particular time, to the least of
- (i) the Loan Rate,
  - (ii) one-half of the Prime Rate on the Interest Review Date or most recent anniversary thereof, and
  - (iii) the interest rate per annum determined in accordance with this paragraph and applicable during any 12 month period that began prior to the 12 month period for which the determination of the applicable interest rate per annum is being made;

and such interest as has then accrued will be added to the principal amount of the Capitalized Loan, on the sooner of

- (i) the date the Capitalized Loan and all accrued interest is repaid in full, and
- (ii) August 1, 2009."

14. Paragraphs 26 and 27 of the Agreement are deleted.

15. Paragraph 28 of the Agreement is deleted and the following is substituted therefor:

"28. The City will, so long as all or any part of the Capitalized Loan remains unpaid, pay, firstly, to the Bank of Montreal, for so long as any amount is owing under the Bank of Montreal Loan, and, secondly, to the Province any Net Lease Proceeds or any Net Sale Proceeds (or both) received by the City prior to any Payment Date on the Payment Date that next follows the date of receipt by the City of any Net Lease Proceeds or any Net Sale Proceeds (or both) and the Province will, upon receipt from the City of any Net Lease Proceeds or any Net Sale Proceeds (or both), apply the same pro tanto firstly, in or towards payment of the Capitalized Loan or so much thereof as remains unpaid and secondly, in or towards payment of interest, if any, then accrued and unpaid and calculated in accordance with paragraph 25 provided that if any monies paid to and received by the Province under this paragraph exceed

the amount or aggregate sum required to pay in full any and all aforesaid Capitalized Loan and the interest then the Province will forthwith pay such excess to the City. "

16. Paragraphs 29, 30 and 31 of the Agreement are deleted.
17. Paragraph 32 of the Agreement is amended:
  - (a) by deleting the word "Loan" and substituting therefor the words "Capitalized Loan";
  - (b) by deleting the words "Ministry of Industry and Small Business Development" and substituting therefor the words "Minister of Finance and Corporate Relations";
  - (c) by adding the word "and" after the semi-colon at the end of subparagraph (b);
  - (d) by replacing the semi-colon at the end of subparagraph (c) with a period; and
  - (e) by deleting subparagraphs (d) and (e).
18. Paragraph 33 of the Amended Agreement is amended:
  - (a) by deleting the word "Loan" and substituting therefor the words "Capitalized Loan";
  - (b) by deleting the words "Ministry of Industry and Small Business Development" and substituting therefor the words "Minister of Finance and Corporate Relations";
  - (c) by adding the word "and" after the semi-colon at the end of subparagraph (c);
  - (d) by replacing the semi-colon at the end of subparagraph (d) with a period; and
  - (e) by deleting subparagraphs (e) and (f).
19. Paragraphs 34 and 35 of the Agreement are amended by deleting the word "Loan" and substituting therefor the words "Capitalized Loan".
20. Paragraph 36 of the Agreement is deleted.



21. The first three lines of paragraph 43 of the Agreement are deleted and the following is substituted therefor:

"The City will, so long as all or any part of the Capitalized Loan remains unpaid: "

22. Paragraph 44 of the Agreement is deleted.

23. The words in paragraph 46 of the Agreement commencing "then, at the option of the Province,..." and ending "as the case may be, of the Loan." are deleted and the following is substituted therefor:

"then, at the option of the Province, exercisable by written notice from the Province to the City, the Capitalized Loan or so much thereof as remains unpaid at the date of exercise by the Province of said option and any and all interest thereon then accrued and unpaid and calculated in accordance with paragraph 25 will forthwith become due and be payable by the City to the Province and such amount or aggregate sum, as the case may be, will bear interest at that rate per annum determined in accordance with paragraph 25 and applicable at the date of exercise by the Province of said option from the date of exercise by the Province of said option until such amount or aggregate sum, as the case may be, and said interest thereon is received by the Province."

24. Paragraph 53 of the Agreement is amended by deleting the words "Program Implementation and Coordination Division Ministry of Industry and Small Business Development" and substituting therefor the words "Loan Administration Branch, Ministry of Finance and Corporate Relations".

25. The following is added to the Agreement as paragraph 55:

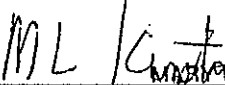
"55. The City may prepay to the Province at any time or times and without notice, bonus or penalty all or any part of the Capitalized Loan subject, however, to payment to the Province of any and all interest on the Capitalized Loan, calculated in accordance with paragraph 25, accrued to and unpaid on the date of any prepayment."

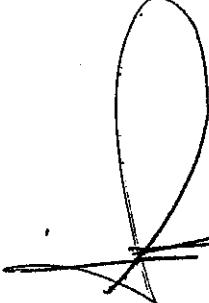
26. The following is added to the Agreement as paragraph 56:

"56. Each reference in this Agreement to this Agreement is a reference to this Agreement inclusive of each and every amendment, if any, made to it after August, 5, 1981."

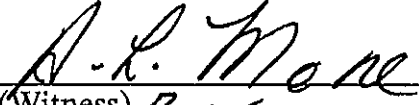
IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

SIGNED on behalf of Her Majesty  
the Queen in right of the  
Province of British Columbia by  
the Deputy Minister of  
Finance and Corporate Relations  
in the presence of:


  
M.L. KIMPTON  
(Witness) Manager, Administration and Collections  
Loan Administration Branch  
Parliament Buildings  
Victoria, B.C. V8V 1X4  
A Commissioner for taking  
Affidavits for British Columbia

  
KENNETH J. DAVIDSON  
Duty Authorized Representative  
of the Minister of Finance  
and Corporate Relations  
Deputy Minister of Finance and  
Corporate Relations

THE Corporate Seal of the City of  
Castlegar was hereunto affixed  
in the presence of:

  
(Witness) *Ray*

(c/s)

  
Acting (Clerk)

Province of British Columbia



No. 930549

# Statutory Approval

*Under the provisions of section 375*

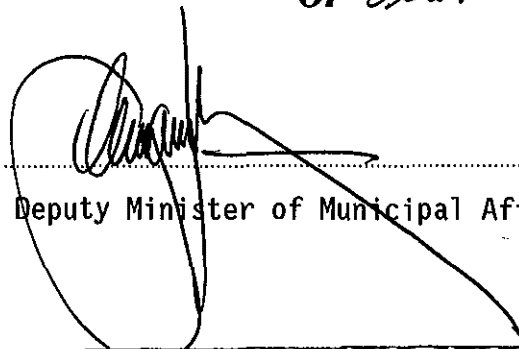
*of the Municipal Act*

*I hereby approve Bylaw No. 653*

*of the City of Castlegar, a copy*

*of which is attached hereto.*

*Dated this 19<sup>th</sup> day  
of October, 1993*

  
Deputy Minister of Municipal Affairs

