



Agenda No: 6.2

Mtg. Date: March 24/14

Regional Board Report

TO: Regional Board

FROM: Brian Reardon
Chief Administrative Officer

DATE: March 18, 2014

SUBJECT: Sustainable Transportation Partnership Intermunicipal Service Agreement

Prepared by: Mary Jane Drouin, Corporate Services Manager

Purpose:

To formally establish and approve the Sustainable Transportation Partnership Intermunicipal Service Agreement, a strategic partnership of local and regional governments in the Central Okanagan to coordinate the regional delivery of sustainable transportation programs and projects in support of common regional policy, plans and interests.

Executive Summary:

In 2012, the Regional Board approved a Memorandum of Understanding for the Sustainable Transportation Partnership of the Central Okanagan (STPCO). Since that time, Kelowna, West Kelowna, Peachland, Lake Country, RDCO and Westbank First Nation elected officials and staff have been meeting to work together on transportation initiatives in the Central Okanagan. A formal agreement has been drafted and is being circulated to all partners for approval.

RECOMMENDATION:

THAT the Regional Board approve the Sustainable Transportation Partnership Intermunicipal Service Agreement.

Respectfully Submitted:

Brian Reardon
Chief Administrative Officer

Background

The Regional Board at its May 10, 2012 meeting approved the following resolution:

“THAT the Regional Board approve the Memorandum of Understanding between Local Governments of the Central Okanagan for a Sustainable Transportation Partnership subject to development of an Inter-local Agreement to more formally establish the new partnership;
AND THAT the Regional District’s Chief Administrative Officer be directed to work with his counterparts with local and regional governments in the Okanagan to draft an Inter-local Agreement for Sustainable Transportation Partnership;....”

Since that time, the partner CAO’s have worked to draft an Agreement for this partnership and it is now brought forward for approval by each partner. Each of the partners, except the RDCO and Westbank First Nation (WFN), has enacted a Bylaw to establish an intermunicipal scheme in relation to the service. The RDCO has limited authority through a Transportation Demand Management (TDM) bylaw to provide regional TDM service to its electoral areas. The WFN has authority through the Westbank First nation Self-Government Act and Self-Government Agreement.

The STP Agreement outlines membership in the Intermunicipal Advisory Board and CAO committee, the appointments and powers, finances and budget including cost apportionment, as well as withdrawal mechanism (notices must be given before November 1st of the second calendar year of the three-year period).

At this time, the Regional Board is being requested to approve the Agreement.

Attachment: STP Intermunicipal Service Agreement
City of Kelowna Report to Council (STPCO Agreement Background)

**Sustainable Transportation Partnership Intermunicipal Service Agreement
Between the Local Governments of the Central Okanagan**

THIS AGREEMENT dated for reference the _____ day of _____, 2013

AMONG:

DISTRICT OF LAKE COUNTRY, a municipal corporation incorporated under the *Local Government Act*, 10150 Bottom Wood Lake Road, Lake Country, BC V4V 2M1
("Lake Country")

AND:

CITY OF KELOWNA, a municipal corporation incorporated under the *Local Government Act*, 1435 Water Street, Kelowna BC V1Y 1J4
("Kelowna")

AND:

DISTRICT OF WEST KELOWNA, a municipal corporation incorporated under the *Local Government Act*, #4 - 2466 Main Street, West Kelowna BC V4T 1Z1
("West Kelowna")

AND:

WESTBANK FIRST NATION, a self-governing First Nation as described in the *Westbank First Nation Self-Government Act and Self Government Agreement*, 201 515 Highway 97 South, Kelowna BC V1Z 3J2
("WFN")

AND:

DISTRICT OF PEACHLAND, a municipal corporation incorporated under the *Local Government Act*, 5806 Beach Avenue, Peachland BC V0H 1X7
("Peachland")

AND:

REGIONAL DISTRICT OF CENTRAL OKANAGAN, a regional corporation incorporated under the *Local Government Act*, 1450 KLO Road, Kelowna BC V1W 3Z4
("RDCO")

WHEREAS:

- A. Section 14 of the *Community Charter* provides that two or more municipalities may establish an intermunicipal scheme in relation to one or more matters for which they have authority under the *Community Charter* or the *Local Government Act*;
- B. Each of the Participants except the RDCO and the WFN has enacted a Bylaw under section 14 to establish an intermunicipal scheme in relation to the service of the Sustainable Transportation Partnership defined in the Bylaw. The RDCO has limited authority to provide regional TDM services. The WFN has authority through the Westbank First Nation Self-Governance Act and Self Governance Agreement.

THIS AGREEMENT WITNESSES that in consideration of their mutual covenants and agreements, and the payment by each Party of ten (\$10.00) dollars to each of the other Parties, the receipt and sufficiency of which is acknowledged by each of the Parties, the Parties covenant each with the others as follows:

PART 1 DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Agreement,

- (a) "Bylaw" means the Sustainable Transportation Partnership Intermunicipal Service and Regulation Bylaw adopted by each of the Parties except the RDCO and the WFN. The RDCO is entering the partnership under existing limited authority to provide regional TDM services only.
- (b) "Participant" means Lake Country, Kelowna, West Kelowna, WFN, Peachland or RDCO, their respective successors and permitted assigns, and Participants means the applicable combination of them;
- (c) "STP" means the Sustainable Transportation Partnership service as defined in the Bylaw;
- (d) "STP Materials" means all studies, reports, software, drawings, data, plans, models, designs, photographs, specifications, tender documents and other materials prepared or developed by or on behalf of the STP.

1.2 The definitions in the Bylaw apply to any term not otherwise defined in this Agreement.

Interpretation

1.3 For the purposes of this Agreement, except as otherwise expressly provided or as the context otherwise requires:

- (a) "Agreement" means this Agreement as from time to time supplemented or amended by one or more agreements entered into pursuant to the applicable provisions of this Agreement together with all other attachments to it and reference to a Part or a Section means the corresponding Part or Section of this Agreement;
- (b) the word "including", when following any general term or statement, is not to be construed as limiting the general term or statement to the specific terms or matters set forth or to similar items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement;
- (c) an accounting term not otherwise defined in this Agreement is to be interpreted consistently with the standards, guidelines and recommendations issued by the Public Sector Accounting Board as authorized by the Canadian Institute of Chartered Accountants;
- (d) except as otherwise expressly provided, all references to currency mean Canadian currency;
- (e) words in the singular include the plural and words importing a corporate entity include individuals and vice-versa;
- (f) reference in this Agreement to a particular numbered paragraph, article or section, or lettered schedule is a reference to the correspondingly numbered paragraph, article, or section, or lettered schedule of this Agreement;
- (g) reference in this Agreement to an enactment is a reference to an enactment as defined in the *Interpretation Act* (British Columbia), and includes a reference to an enactment of British Columbia, Kelowna, West Kelowna, Peachland, Lake Country, Westbank First Nation or the Regional District of Central Okanagan, as applicable;
- (h) reference in this Agreement to an enactment is a reference to that enactment as amended, revised, consolidated or replaced; and
- (i) reference in this Agreement to a party is a reference to a party of this Agreement.

PART 2 – INTERMUNICIPAL ADVISORY BOARD and CAO Committee

- 2.1 The Intermunicipal Advisory Board (IAB) established under the Bylaw of each Participant, except for the RDCO and the WFN, shall exercise the authority provided under the Bylaw. In the case of the RDCO, their IAB member will have the limited authority to participate in regional TDM services.
- 2.2 A committee comprised of the Chief Administrative Officers and City Manager, respectively, of the Participants (the "CAO Committee") is established with duties and responsibilities as set out in the CAO Committee Terms of Reference, attached as Annex A to this Agreement.

- 2.3 The CAO Committee will oversee and provide such direction to the Director, appointed in accordance with Part 3, as the CAO Committee considers necessary.
- 2.4 The IAB may receive and require reports and information regarding the operations of the STP from the CAO Committee or Director as the IAB considers necessary.

PART 3 – DIRECTOR (APPOINTMENT AND POWERS)

- 3.1 The position of Director, Sustainable Transportation Partnership (“Director”) is established, who shall be responsible for the operation and administration of the service of the Sustainable Transportation Partnership (“STP”).
- 3.2 From the date of this Agreement coming into effect the Director shall be the Director, Regional Services of the City of Kelowna and that appointment shall remain in effect until the IAB appoints a different individual or office holder to be the Director.
- 3.3 Without limiting the scope of the Director’s responsibility under Section 3.1, the Director shall be responsible for the following specific matters:
- (a) preparation of an annual budget for the STP to be presented to the Participants;
 - (b) hiring staff to undertake the work of the STP, including obtaining the secondment of staff from among the Participants;
 - (c) developing workplans on an annual basis, or more frequently if considered necessary, in respect of the matters undertaken by the STP.
 - (d) reporting to the CAO Committee, and the IAB at the direction of the CAO Committee, with respect to the work undertaken by the STP, the STP’s work plans and any other matter the Director considers appropriate.

PART 4 – FINANCES AND BUDGET

- 4.1 The IAB must appoint a person to act as the STP’s Financial Officer (“the Financial Officer”), who shall have the responsibility of financial administration, including, in relation to the STP, the power, duties and functions of a financial officer under section 149 of the *Community Charter*, S.B.C. 2003, c.26. For the purposes of this section any reference in s.149 to the “municipality” means the STP and any reference to the “council” means the council or board of the Participants.
- 4.2 The Financial Officer may be a person employed by one of the Participants as its financial officer or acting in a position where the primary responsibility is financial administration.

- 4.3 In discharging the responsibility of keeping, investing and expending funds and securities, the Financial Officer may administer the financial affairs of the STP within the accounts of one of the Participants.
- 4.4 The fiscal year for the STP is the calendar year.
- 4.5 For fiscal years subsequent to 2013, a financial plan for the STP must be prepared annually and submitted to the Participants no later than August 31 in the year preceding the fiscal year. The financial plan, modified for the circumstances of the STP, will follow the format of a financial plan under s.165 of the *Community Charter* except that:
- (a) the planning period is three years :
 - (b) in respect of funding sources the plan need not identify the types of funding sources set out in s.165(7), it being a matter within the discretion of the Participants as to how each will fund their contribution to the STP.
- 4.6 The Participants shall contribute to the cost of the STP in accordance with the formula in Section 5.1.
- 4.7 The budget for the fiscal year 2013 for the STP is established as \$332,970, based on previous year (2012) figures.

PART 5 – COST APPORTIONMENT

- 5.1 The Participants shall contribute to the cost of the STP in accordance with shares based on converted assessment. The following cost apportionment are for 2013 (based on previous year figures) and may change annually:

(a) Lake Country:	\$20,679 (6.95%)
(b) Kelowna:	\$225,065 (64.85%)
(c) West Kelowna:	\$52,765 (16.89%)
(d) WFN:	\$11,604 (3.49%)
(e) Peachland:	\$9,282 (3.17%)
(f) RDCO:	\$13,575 (4.66%)

- 5.2 In the event of the withdrawal of one or more of the Participants from the STP, the withdrawing Participant(s)' portion of costs shall be re-apportioned among the remaining Participants and section 5.1 shall be amended accordingly.

PART 6 – ASSETS

- 6.1 Any real or personal property acquired or produced for, or in the course of the operation of, or for the benefit of, the STP, including the STP Materials, and any copyright, patent and trademark rights therein (the "Assets"), shall be the joint property of the Participants.
- 6.2 Effective upon the Withdrawal Date, the withdrawing Participant grants, assigns, transfers, releases and quitclaims to and in favour of the remaining Participants all of the withdrawing Participant's estate, right, title, interest, claim and demand whatsoever, both at law and equity, in and to any and all Assets.
- 6.3 Each of the Participants, including the withdrawing Participant, will at all times execute and deliver such further documents, deeds and instruments, and do and perform such other acts, as may be reasonably necessary to effect the transfer of the withdrawing Participant's interest in any Assets to the remaining Participants.

PART 7 – WITHDRAWAL

- 7.1 Before withdrawing from the STP, a Participant must provide notice in writing of its intention to withdraw to the other Participants. Notice may be given only before November 1st of the second calendar year of the three year period commencing January 1, 2013 and only before November 1st of the second calendar year of the successive three year periods commencing January 1, 2016. The withdrawal of the notifying Participant shall take effect at the end of the three period.

PART 8 – LIABILITY

- 8.1 Any amount required:
- (a) to satisfy a judgment or other order of a court against a Participant or Participants;
 - (b) to satisfy an award or other order of an arbitrator against a Participant or Participants;
 - (c) for a payment authorized under section 287.2 of the *Local Government Act*;
- arising out of or in connection with the STP shall be apportioned as a cost among the Participants in accordance with the formula in section 5.1

- 8.2 As an exception to section 8.1, if the legal action or proceedings arose from the negligence or fault of a Participant or more than one Participant, the cost shall be borne by only that Participant or by those Participants negligent or at fault, reflecting their respective cost shares under section 5.1, with such modification as necessary.

PART 9 – GENERAL

Governing Law

- 9.1 This Agreement will be governed by and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada.

Headings

- 9.2 The headings given to paragraphs, articles and sections in this Agreement are for convenience of reference only and do not form part of this Agreement and must not be used in the interpretation of this Agreement.

Severance

- 9.3 If any clause or portion of this Agreement is declared or held invalid for any reason, the invalidity does not affect the validity of the remainder of that clause or this Agreement, and the terms and provisions of this Agreement continue to be in force and in effect and are to be construed as if the Agreement had been executed without the invalid portion.

No Partnership

- 9.4 The Parties expressly disclaim any intent to create a partnership with respect to the Intermunicipal Services or the ownership or operation of the Intermunicipal Services Assets, and disclaim any intent to create a partnership or joint venture with respect to the exercise of their rights under this Agreement, the administration of the Intermunicipal Services Assets or any other matter relating to this Agreement. Except as provided in a Service Agreement, none of the Parties will have any authority, actual or implied, to act for the other as agent or otherwise or to bind the others, without the prior written consent of the others.

Amendments

- 9.5 This Agreement may not be modified or amended except by written agreement of all the parties hereto and in accordance with the Bylaw.

Notices

9.6 Any notice or other communication hereunder will be in writing and will be given by the delivery or rendering thereof to its addressee by hand, by prepaid first class mail, email or by facsimile transmission, to the following addresses:

(a) If to Lake Country:

District of Lake Country
10150 Bottom Wood Lake Road
Lake Country, BC V4V 2M1
ATTENTION: Corporate Officer

(b) If to Kelowna:

City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4
ATTENTION: City Clerk

(c) If to West Kelowna:

District of West Kelowna
#4 – 2466 Main Street
West Kelowna, BC V4T 1Z1
ATTENTION: City Clerk

(d) If to WFN:

Westbank First Nation
201 515 Highway 97 South
Kelowna, BC V1Z 3J2
ATTENTION: Administrator

(e) If to Peachland:

District of Peachland
5806 Beach Avenue
Peachland, BC V0H 1X7
ATTENTION: Corporate Officer

(f) If to RDCO:

Regional District of Central Okanagan
1450 KLO Road
Kelowna, BC V1W 3Z4
ATTENTION: Corporate Officer

Any notice or other communication so given will be deemed to have been received at the time of its delivery if delivered by hand, three Business Days after the date of mailing if mailed and at the time the sender receives a confirmation of dispatch if transmitted by email or facsimile transmission. Each party will notify the other parties of any change of address.

Entire Agreement

- 9.7 This Agreement contains the entire agreement among the parties hereto with respect to the subject matter hereof and replaces and supersedes all previous agreements between the parties relating to the subject matter hereof.

Enurement

- 9.8 This Agreement will be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns hereunder.

Further Assurances

- 9.9 Each party will perform any act and execute and delivery any document reasonably required by any other party to carry out the terms of this Agreement in accordance with the true intent and meaning hereof.

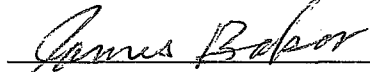
Statutes

- 9.10 The obligations of the parties under this Agreement are always subject to the requirements of the *Community Charter, Local Government Act*, and other applicable enactments.

IN WITNESS WHEREOF THE parties have executed this Agreement as of the date first above written.

DISTRICT OF LAKE COUNTRY

by its authorized signatory(ies):



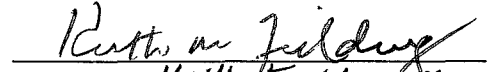
Print Name: **JAMES BAKER**
Mayor



Print Name: **STEPHEN BANMEN**
Chief Financial Officer
& Deputy CAO

DISTRICT OF PEACHLAND

by its authorized signatory(ies):



Print Name: **Keith Fielding, Mayor**



Print Name: **Elsie Lemke, CAO**

CITY OF KELOWNA

by its authorized signatory(ies):

Print Name:

Print Name:

**REGIONAL DISTRICT OF
CENTRAL OKANAGAN**

by its authorized signatory(ies):

Print Name:

Print Name:

DISTRICT OF WEST KELOWNA

by its authorized signatory(ies):

Print Name:

Print Name:

WESTBANK FIRST NATION

by its authorized signatory(ies):

Print Name:

Print Name:

Report to Council



Date: March 13, 2013
File: 0705-25
To: Mayor and Council
From: Director, Regional Services
Subject: Intermunicipal Transportation Service and Regulation Bylaw

Recommendation:

THAT Council approves the "Sustainable Transportation Partnership Intermunicipal Service Agreement between the Local Governments of the Central Okanagan", in the form attached to the Report of the City Manager dated March 13, 2013, in order to formally establish the new partnership known as the "Sustainable Transportation Partnership of the Central Okanagan" ("STPCO") consisting of the City of Kelowna, District of Lake Country, District of West Kelowna, Westbank First Nation, District of Peachland and the Regional District of the Central Okanagan;

AND THAT Council authorizes and requests the withdrawal of the City of Kelowna from the Regional Transportation Demand (TDM) program administered by the Regional District of Central Okanagan;

AND THAT Council appoints the Mayor to the "Intermunicipal Advisory Board" of the STPCO;

AND THAT Council directs the City Manager to work with his counterparts of local and regional governments in the Okanagan to oversee and provide direction to the STPCO through the "CAO Committee";

AND THAT Intermunicipal Transportation Service and Regulation Bylaw No. 10830 be advanced for reading consideration;

AND FURTHER THAT upon adoption of Intermunicipal Transportation Service and Regular Bylaw No. 10830, the Mayor and City Clerk be authorized to sign the Intermunicipal Transportation Service Agreement.

Purpose:

To formally establish the Sustainable Transportation Partnership of the Central Okanagan, a strategic partnership of local and regional governments in the Central Okanagan to coordinate the regional delivery of sustainable transportation programs and projects in support of common regional policy, plans and interests (economic, social and environmental).

Background:

Timeline

During 2011, the Regional Sustainability Steering Committee met on three separate occasions to consider improvements to the delivery of regional sustainable transportation services and infrastructure. The Committee, comprised of the Regional District Chair, the Mayors of local municipalities and the Chief of the Westbank First Nation, reached consensus on the need to improve the coordination and delivery of sustainable transportation in the Central Okanagan. At their last meeting (July 14, 2011), the Committee referred the information to the local municipal councils.

Following the meetings of Regional Sustainability Steering Committee, the area Chief Administrative Officers (CAOs) met on a number of occasions to advance the concept of a new 'enhanced transportation governance strategy'. A status report on their work was made to area Councils during September, 2011. The work of the CAO committee culminated in the concept of an inter-government partnership which will help local governments progress toward the achievement of a more sustainable transportation system that supports the region's economy, social network and ecosystem, while ensuring more cost effective use, operation and expansion of the system.

In April/May 2012, the Councils of the District of Lake Country, City of Kelowna, District of West Kelowna, Westbank First Nation, and the District of Peachland received a report to approve of a Memorandum of Understanding to establish a Sustainable Transportation Partnership in principle. This MOU was subsequently signed by the Mayors of Lake Country, Kelowna, West Kelowna, and Peachland, Chief of Westbank First Nation, and Chair of the Regional District of the Central Okanagan on May 10, 2012.

During the remainder of 2012, an Agreement and corresponding Bylaw to formally establish the STPCO into being was developed, of which the adoption of Bylaw No. 10830 is a subject of this report.

Scope

With an initial focus on transit services and related governance issues, the rationale for a new inter-governmental partnership is supported by a number of mutual benefits that are of interest to all local governments, such as:

- The establishment of unified regional policies and strategic transportation plans, which incorporate all modes of transportation (walking, cycling, transit, commercial goods movement, private autos, air travel and regional railways)
- Improved responsiveness and accountability to the public and elected officials for the delivery and coordination of regional transportation services by providing a transportation 'one stop shop' for enquiries and concerns relating to active transportation and transportation demand management/social marketing, and better integration of land use and transportation planning at a local and regional level;
- Reduced cost and effort by sharing resources such as staff and expertise, survey data and models, best practices and funding;
- Provides a method through which local governments can monitor and evaluate the benefits and implications of transportation decisions based on more holistic regional

sustainability goals to reduce unintended consequences, while taking into consideration the impacts to society, the economy and the environment.

- Provides a forum and collective voice to effectively communicate and partner with senior governments regarding funding for sustainable transportation investments.
- Respects local autonomy and provides a way to maintain trust and positive relationships among local governments.

Further information regarding the enhanced transportation governance strategy is provided in the Report to Council “Sustainable Transportation Partnership” dated April 18, 2012 (File 0705-25).

Recommendation/Discussion:

Sustainable transportation is not a goal that each jurisdiction can achieve in isolation and can only be achieved by local governments making a deliberate and conscious decision to work together to effectively and efficiently plan, coordinate, manage and monitor the region’s transportation system.

Currently, the City of Kelowna administers the Regional Transit and TDM services in partnership with participating local governments. Likewise, a number of common interests and regionally-significant projects have been identified that would be more cost-effective if delivered in a more central or collaborated-manner. In order to further the benefits of synergies in current and emerging opportunities, and achieve the desired ‘enhanced transportation governance strategy’, a “Sustainable Transportation Partnership of the Central Okanagan” (STPCO) has been defined and described in an Agreement between the local governments of the Central Okanagan (see Schedule A of Bylaw No. 10830).

The Agreement seeks to establish a partnership built on the membership of local governments which include:

- City of Kelowna,
- District of Lake Country,
- District of Peachland,
- District of West Kelowna,
- Regional District of Central Okanagan, and
- Westbank First Nation.

As much of the travel by local citizens and visitors is regional in nature—in that most trips cross multiple jurisdictions—the intent of the partnership is to collaborate in the regional planning and administration of transportation investments, services, and programs in order to best fulfill the collective goals of sustainable transportation. Through this partnership, a sharing of resources (e.g. funds, data, models, staff, equipment, etc.) would be made through proportional contributions from each member partner agency, of which the intent is such that the benefit to each local government is greater than the individual contributions made.

The value of this partnership can be further compounded with similar partnerships and agreements made between neighbouring regions, such as the North and South Okanagan

regions, as well as with provincial agencies such as the Ministry of Transportation and Infrastructure and BC Transit. Through the STPCO, the local governments of the Central Okanagan would speak through the solidarity of 'one voice', providing a more significant and efficient means of communicating and working with senior-level governments.

Overall, the collaborative efforts of the STPCO would allow the Central Okanagan as a whole to improve its ability to achieve the collective goals of sustainability central to the policies adopted in each local government.

Internal Circulation:

City Clerk

Legal/Statutory Authority:

Community Charter, section 14

Financial/Budgetary Considerations:

The Budget for the Partnership will initially be based on the Regional TDM program but in the future may also include funding from Transit Administration and Capital projects.

External Agency Comments:

Due to the timing for all partners to adopt the STPCO agreement and bylaw, the Regional District of Central Okanagan cannot remove the TDM program from its 2013 budget. However, RDCO has agreed to transfer the funding they receive from the City and the District of West Kelowna in 2013 back to the City as a part of the STPCO base funding. The full withdrawal from the RDCO TDM program is expected to occur in 2014.

Personnel Implications:

The City of Kelowna's Director of Regional Services is appointed as the Director of the Partnership as per the Intermunicipal Service Agreement. Other staff of the Partnership will be confirmed through approval of Work Plan and annual Budget.

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements
Existing Policy
Communications Comments
Alternate Recommendation

Submitted by:



Ron Westlake, P.Eng
Director, Regional Services



Approved for inclusion:
J Vos, GM Community Services