



City of Richmond

Report to Committee

To: Parks, Recreation and Cultural Services *To Parks, Rec & Culture - July 25, 2006*
 Committee **Date:** June 12, 2006

From: Kate Sparrow **File:** 03-1000-03-036
 Director, Recreation & Cultural Services

Re: **Contribution Agreement - Replacement of the Read-o-Graph at the Corner of No.1 Road and Francis**

Staff Recommendation

1. That the contribution agreement between the West Richmond Community Association and the City, be approved and executed;
2. That the installation of the Digital Display Board coincide with Hugh Boyd Park redesign.

Kate Sparrow

Kate Sparrow
 Director, Recreation & Cultural Services
 (4129)

FOR ORIGINATING DIVISION USE ONLY					
ROUTED TO:		CONCURRENCE		CONCURRENCE OF GENERAL MANAGER	
Facility Management.....	Y	<input checked="" type="checkbox"/>	N	<i>[Signature]</i>	
Law.....	Y	<input checked="" type="checkbox"/>	N		
Parks Design, Construction & Programs..	Y	<input checked="" type="checkbox"/>	N		
REVIEWED BY TAG		YES	NO	REVIEWED BY CAO	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>		
		6J		<i>[Signature]</i>	
				YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	

Staff Report

Origin

Parks Recreation and Cultural Services Department have entered jointly into many projects with various community groups and agencies to enhance the liveability of the City. To ensure it is clear as to who is responsible and accountable for which aspects of the projects before, during and after each one, contribution agreements have been written to define roles and responsibilities.

West Richmond Community Association has expressed an interest in replacing the existing Read-o-Graph at the corner of No.1 Road and Francis with a new Digital Display Board.

Recreation and Cultural Services met with the Law department to draft a contribution agreement, which outlines the roles and responsibilities of each party. (Attachment 1).

Ownership of the Digital Display Board will be transferred to the City after installation yet the Association will maintain priority use. The Association will also be responsible for annual operating cost excluding Hydro cost which will be part of the City's operating budget.

Analysis

On January 16, 2006 the West Richmond Community Association passed a motion to spend up to \$60,000 for capital costs. This amount includes \$50,000 for the sign and \$10,000 for installation.

A new Digital Display Board allows for;

- the ability to post multiple messages throughout the day. Currently, two messages are posted at a time. Messages are posted twice a week.
- electronic access from any computer via the internet. Currently messages are manually posted and labour intensive.
- greater visibility and promotional opportunities for the West Richmond Community Association, the City, and other community groups.
- flexible operating hours. It can be programmed to shut off during early morning hours when traffic does not warrant promotional messages.

The current sign is outdated and needs upgrading. A new Digital Display Board fits in with the park improvements and the installation will coincide with the construction of the sports fields at Hugh Boyd Park.

Financial Impact

The Association will be responsible for capital and installation costs along with all other annual operating, maintenance and repair costs.

The City's operating budget will continue to cover the Hydro cost of \$750/year.

Conclusion

The replacement of the Read-o-Graph with a new Digital Display Board (corner of No.1 Road and Francis) will compliment the new sports fields and provide West Richmond, the City and other community groups with a new focal point for promoting community events. This project is a good example of the ongoing relationship between the City and its community partners.

The Contribution agreement outlines the details of West Richmond Community Association's contribution to the City.



Scott Schroeder
Area Coordinator, West Richmond
(3108)

SS:ss

CITY OF RICHMOND CONTRIBUTION AGREEMENT

THIS AGREEMENT dated the ____ day of _____, 2006 at the City of Richmond, BC.

BETWEEN:

WEST RICHMOND COMMUNITY ASSOCIATION,
a society incorporated in British Columbia under No. S-0012798,
having a registered office at
9180 No. 1 Road, Richmond, BC V7E 6L5

(the "Association")

AND:

CITY OF RICHMOND, a City under the *Local Government Act* and
having its offices at
6911 No. 3 Road, Richmond, BC V6Y 2C1

(the "City")

WHEREAS:

- A. The City is the owner of Hugh Boyd Park located at 4040 Francis Road and having a legal description as follows:

Parcel Identifier 009-298-371
Lot 4, Section 26, Block 4 North Range 7 West
New Westminster District Plan 24055

(the "Park");

- B. The parties wish to replace the current read-o-graph on the corner of the Park with a new digital display board ("Project");

NOW THEREFORE in consideration of the covenants contained herein and the sum of One Dollar (\$1.00), now paid by the Association to the City, and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the parties agree as follows:

1.0 ASSOCIATION OBLIGATIONS

The Association shall:

- 1.1 provide, deliver and install the Project within the Park in a location acceptable to the City;

- 1.2 pay directly for the cost of any service or product related to the installation of the Project up to a maximum expenditure by the Association of SIXTY THOUSAND DOLLARS (\$60,000.00 CDN);
- 1.3 after awarding the contract for installation and at least 2 weeks prior to installation of the Project, coordinate the installation with the City of Richmond's Parks Department; and provide, in writing, a construction schedule and a proposed point of access to the park site for any vehicular equipment. The construction schedule and access shall include measures or conditions to ensure the safety of park patrons and avoid damage to the surrounding grass landscape area.
- 1.4 be responsible for any costs associated with the remediation of the landscape area surrounding the Project as a result of the installation.
- 1.5 ensure that any contracts awarded for the supply and installation of the Project follow the City's "Terms and Conditions – Supply and Install" agreement, attached hereto as Schedule "A" and forming part of this agreement, and without limitation shall include clauses requiring the contractor to obtain general public liability insurance in the amount of TWO MILLION DOLLARS (\$2,000,000.00 CDN), for which the Association and City shall be named as additional insured, including without limitation provisions for cross-liability.
- 1.6 at its sole expense, be responsible for ongoing operational costs of the Project, other than charges billed for the supply of hydro services;
- 1.7 at its sole expense, ensure that the Project is inspected and maintained in good condition and repaired as reasonably necessary to the satisfaction of the City; and
- 1.8 on receiving reasonable notice, reimburse the City for any costs or expenses that may result from the City exercising its right to order work to be done on the Project to ensure it is maintained in a satisfactory state and repaired as reasonably necessary.

2.0 CITY OBLIGATIONS

The City shall:

- 2.1 monitor the installation of the Project to ensure it complies with current bylaws and licensing;
- 2.2 upon installation, be responsible for matters other than those stated in Clause 1 of this Agreement; except that it shall in no circumstance be

liable for the cost of capital repairs or improvements related to the Display Board; and

2.3 be responsible for all hydro costs associated with the Display Board.

3.0 OWNERSHIP AND PRIMARY USE

3.1 The City shall be the sole owner of the Project after it is installed in the Park.

3.2 The Association shall have the right to use the Project in priority to other persons who may wish to use it, as long as the use is for a purpose consistent with the constitution of the Association and is not inconsistent with the purposes and objectives of the City.

4.0 TERM

4.1 This Agreement will be for a term of ten (10) years from the date this Agreement is deemed to have come into effect, and may be renewed upon the mutual agreement of the parties.

4.2 Breach of a material term of this Agreement by the Association shall entitle the City to terminate this Agreement by providing 30 days' notice in writing to the Association.

5.0 ASSIGNMENT

This Agreement or any part of it may not be assigned or transferred without first obtaining the approval of the City in written form.

6.0 MODIFICATION

The terms of this Agreement may be modified upon mutual written consent of the parties.

6.0 GENERAL

6.1 Every reference to each party is deemed to include the heirs, executors, administrators, successors, assigns, employees, agents and officers of such party whenever the context so requires or allows.

6.2 Any opinion which the City is entitled by virtue of this Agreement to form may be formed on behalf of the City by the General Manager of Parks,

Recreation and Cultural Services or his or her delegate, in which event the opinion of the City is determinative for the purpose of this Agreement.

6.3 If any part of this Agreement is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

6.4 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.

This Agreement shall be deemed to have come into effect on _____ and shall be effective to _____ inclusive.

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

The Corporate Seal of the **CITY OF RICHMOND** was hereunto affixed in the presence of:

Mayor

City Clerk

West Richmond Community Association by its authorized representative in the presence of:

Authorized Representative of the
West Richmond Community Association

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor
DATE OF COUNCIL APPROVAL (if applicable 1000-18-027

Supply and Installation - General Conditions of the Contract

Definitions

The two parties to this contract are the Contractor and the City, defined as follows:

The Contractor: The successful bidder for the work upon receipt of a purchase order and written acceptance of his Quotation from the City.

The City: City of Richmond.

Contract Documents: Means and includes the Instructions to Bidders, Quotation Form, Schedule of Quantities and Prices, Specifications, General Conditions of the Contract, and the awarding Purchase Order to the successful bidder.

Responsibility For Supplies

The Contractor shall be responsible for the supplies covered by this contract until they are delivered at the designated delivery point, regardless of the point of inspection; and the contractor shall bear all risks of loss or damage to rejected supplies after notice of rejection.

Inspection

All supplies shall be subject to inspection and test by and shall meet the approval of the Purchasing and Insurance Department and his decision shall be final and binding upon all parties.

In case any supplies or lots of supplies are defective in material or workmanship otherwise not in conformity with the specifications of the contract, the Purchasing and Insurance Department shall have the right either to reject them or to require their correction.

Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, but failure to inspect and accept or reject supplies shall not relieve the contractor from responsibility for such supplies as are not in accordance with the specifications.

Warranty

Unless otherwise specified, the contractor warrants that in the manufacture of the supplies only the best workmanship and materials have been employed and if, within a period of one (1) year from the date of acceptance of the supplies by the City, such supplies or any portion thereof are found by the City to be defective or faulty due to imperfect or bad workmanship or material, the contractor agrees, to replace such defective supplies forthwith without expense to the City.

Payments

The contractor shall be paid within 30 Days after the submission by the contractor of properly prepared invoices to the Purchasing and Insurance Department for supplies delivered and accepted or services rendered and accepted. However, the City may withhold an amount equal to two times the value of goods or services not provided by the Contractor from any amounts owing to the Contractor.

Indemnification and Insurance

The Contractor will indemnify, hold and save harmless the City from and against all claims, losses, damages, costs, actions and other proceedings, made, sustained, brought or prosecuted in manner, based upon, occasioned by attributable to any injury, including death, property damage, infringement or damage arising from any act or omission of the Contractor, his employees, officers, volunteers, servants or agents or persons from whom the Contractor has assumed responsibility in the performance or purported performance of this agreement.

Liens

The Contractor shall fully indemnify the City from and against any and all liability or expenses by way of legal costs or otherwise in respect of any claim which may be made for a lien or charge at law or inequity or to any claim or liability under the Builders Lien Act, or to any attachment for debt, garnishee process, or otherwise.

Patent Fees

The Contractor shall pay all royalties and licence fees and shall save the City harmless from loss on account of suits or claims of infringement of patents in the doing of the work.

Default

- (a) The City may, by notice of default to the contractor, terminate the whole or any part of this contract if the contractor fails to make delivery of the supplies within the time specified, or to perform any other provisions of this contract.
- (b) In the event the City terminates this contract in whole or in part as provided in clause (a) the City may procure supplies or services similar to those so terminated, and the contractor shall be liable to the City for any excess costs for such similar supplies or services.
- (c) The contractor shall not be liable for any excess costs under clause (b) if failure to perform the contract arises by reason of strikes, lockouts, acts of God or acts of the City.

Taxes

Unless otherwise provided herein, the Contractor shall pay all government sales or excise taxes in force at the date of the Agreement, provided that any increase or decrease in such taxes shall increase or decrease the amount due under the Contract accordingly. Invoices

shall show the appropriate amounts for Goods and Services Taxes and Provincial Sales Taxes separately.

Laws

The laws of British Columbia shall govern the work.

Time

Time shall be the essence in this Contract.

Assignment

Neither party to the Contract shall assign the Contract without the written consent of the other.

Changes

The City may make changes to the Contract and time and value shall be adjusted accordingly, except for emergencies all changes shall be made by written order.

Notices

Any notice required to be given in this Contract shall be deemed to be duly given to the City if sent by registered mail addressed to the City's Purchasing and Insurance Department at "City Hall, 6911 No. 3 Road, Richmond, BC V6Y 2C1" and to the Contractor if sent by registered mail addressed to the Contractor at the address set forth in the Quotation.

Settlement of Complaints Re: Work

If, in the opinion of the Purchasing and Insurance Department, the work is improperly, defectively, or insufficiently performed, or being performed, the Purchasing and Insurance Department may, in writing, order the Contractor to re-execute or correct the work in accordance with such order; and if the Contractor fails to comply with such order within ten working days, the Purchasing and Insurance Department may, at any time thereafter, execute or cause to be executed the order so given, and the Contractor shall, on demand, pay to the City of Richmond, all costs, damages, and expenses incurred in respect thereof or occasioned by reason of the non-compliance by the Contractor with any such orders; and if the Contractor fails to pay such costs, damages, and expenses, the City of Richmond may retain and deduct such costs, damages, and expenses from any amount then or thereafter payable to the Contractor under this Contract.

Other Contractors

The City may have his own work forces and other contractors on the site while the work of this Contract is under way. The City shall coordinate the work of all Contractors on the site and require their coordination with each other.

The Contractor shall report to the City any apparent deficiencies in other contractors' work which would affect the work of this Contract immediately the deficiencies come to his attention.

Changes in the Work

The City may make changes to the work; the Contract price, and time being adjusted accordingly. Except for emergencies, all changes will be made by written order.

Protection

The Contractor shall maintain protection of all his work and materials from damage and shall protect the City's and any adjoining property from injury due to the Contractor's work.

Payments

The City shall make progress payments once a month for work completed and materials on the site upon receipt of the Contractor's invoice.

Except for the final payment, the City shall holdback 10% of the amount of progress claims. The City shall pay the holdback 55 days after completion of the work upon receipt of the contractor's written claim for final payment accompanied by a Statutory Declaration stating that the Contractor has discharged every obligation and paid or satisfied every just claim incurred by him in connection to the Contract, including claims by his subcontractors, and upon receipt of clearance from the Workers' Compensation Board.

Indemnification and Insurance

The Contractor will indemnify, hold, and save harmless the City from and against all claims, losses, damages, costs, actions, and other proceedings, made, sustained, brought or prosecuted in manner, based upon, occasioned by, attributable to any injury, including death, property damage, infringement, or damage arising from any act or omission of the Contractor, his employees, officers, volunteers, servants, or agents or persons from whom the Contractor has assumed responsibility in the performance or purported performance of this agreement.

The Contractor shall, at his own expense, through the terms of the contract secure, maintain, and pay for the following coverages:

- (a) Comprehensive General Liability Insurance with a limit of not less than \$2,000,000 inclusive per occurrence for bodily injury and property damage and \$2,000,000 for personal injury. The policy or policies shall cover all premises and operations necessary or incidental to the performance of this agreement and include but not necessarily be limited to the following coverages:
 1. Contractual liability assumed under this agreement.

2. Contingent employer's liability with respect to operations of sub-contractors.
 3. Owner's protective liability.
 4. Cross liability.
 5. Automobile liability (non-owned, hired).
 6. Completed operations liability 24 months after completed operations.
 7. Voluntary medical payments.
- (b) "Course of Construction" Property Damage Insurance covering all risks of physical loss or damage on an occurrence basis, including loss of use of property, and including losses or damage from flood or earthquake. The coverage provided shall amount to no less than 80% of the total value of the work done and material delivered to the site, or under the control of the Contractor, payable to the City and Contractor as their interests may appear, and protecting each in such terms as will preclude subrogation claims by the insurer against anyone insured thereunder.

The City, its officers, officials, and employees shall be added as additional named insured on all such policies. All such insurance provided by these policies shall be primary regardless of any insurance or self insurance that may be enforced at the time of any loss or claim that insures the City, its officers, officials, and employees.

The policy or policies shall be underwritten by an insurance company or companies licensed to do business in the Province of British Columbia and who meet with the reasonable approval of the City. Prior to the commencement of the work defined by this agreement, the Contractor shall furnish the City through the Office of the Purchasing and Insurance Department a certified original copy of all such policies as evidence that such insurance is in force. The Contractor agrees that such insurance policies cannot be cancelled, lapsed, or materially changed without at least 30 days' written notice to the City.

Maintenance of such insurance and the performance of the Contractor of his obligations under this clause shall not relieve the Contractor of liability under the indemnification provisions here and above set forth. The foregoing insurance provisions shall not limit the insurance required by Municipal, Provincial, or Federal law.

It shall be the full responsibility of the Contractor to determine whether any additional insurance coverage is necessary and advisable for its own protection and/or to fulfil its obligations under this Contract. Any such additional insurance shall be provided and maintained by the Contractor its own expense.

It is understood that this agreement is strictly between the Contractor and the City and the Contractor is an independent contractor for the City and no employment relationship, partnership, agency, or joint venture exists between the City, the employees of the Contractor and/or its agents and/or their employees, and/or its Contractors and/or their employees. Any disputes between the Contractor and any of its employees and/or its

agents and/or their employees and/or their Contractors and/or their employees shall be resolved by the Contractor with no involvement by the City.

Workers' Compensation Board Coverage/Prime Contractor

The Contractor agrees that it shall at its own expense procure and carry or cause to be procured and carried and paid for, full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in or upon any work or service which is the subject of this contract. The Contractor agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for such Workers' Compensation Board coverage against any monies owing by the City to the Contractor. The City shall have the right to withhold payment under this contract until the Workers' Compensation Board premiums, assessments or penalties in respect of work done or service performed in fulfilling this contract had been paid in full.

The Contractor agrees that it is the Prime Contractor for the purposes of the Workers' Compensation Board Occupational Health and Safety Regulations for the Province of British Columbia. The Contractor shall have a safety program acceptable to the Workers' Compensation Board and shall ensure that all Workers' Compensation Board safety rules and regulations are observed during performance of this contract, not only by the Contractor but by all subcontractors, workers, material men and others engaged in the performance of this contract. Prior to commencement of construction, the Contractor shall complete and file a "Construction Notice of Project" with the Workers' Compensation Board and shall provide a copy of the same to the City confirming that the Contractor shall be the Prime Contractor responsible for coordination of safety and health under Part 3 of the Workers Compensation Act and Part 20 of the WCB Occupational Health and Safety Regulations.

The Contractor shall provide the City with the Contractor's Workers' Compensation Board registration number and a letter from the Workers' Compensation Board confirming that the Contractor is registered in good standing with the Workers' Compensation Board and that all assessments have been paid to the date thereof prior to the City having any obligation to pay monies under this contract. The Contractor shall also provide a signed copy of the Prime Contractor Designation Document.

The Contractor shall indemnify the City and hold harmless the City from all manner of claims, demands, costs, losses, penalties and proceedings arising out of or in any way related to unpaid Workers' Compensation Board assessments owing from any person or corporation engaged in the performance of this contract or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the Workers' Compensation Board, including penalties levied by the Workers' Compensation Board.