



ITEM ~~5~~  
DIRECTOR'S REPORT NO. ~~17~~  
COMMISSION MEETING ~~96/09/18~~

**SUBJECT: LICENCE AGREEMENT RENEWAL -  
BURNABY AND REGION ALLOTMENT GARDENS ASSOCIATION**

**RECOMMENDATIONS:**

1. THAT approval be given for the renewal of the licence agreement with Burnaby and Region Allotment Gardens Association for a further five year term commencing the 1st day of December, 1996 and ending on the 30th day of November, 2001.
2. THAT Council be requested to concur.

**REPORT**

The Burnaby and Region Allotment Gardens Association promotes recreational gardening in an area east of Meadow Avenue and north of 14th Avenue in the Big Bend area of Burnaby, under the authority of a five year licence agreement. The current agreement expires on the 30th day of November, 1996.

A new five year term agreement has been prepared and is attached for information. The terms and conditions of the agreement remain unchanged, with the exceptions of the limits of the comprehensive, general liability insurance coverage. These have been increased from \$1,000,000 to \$2,000,000, to bring insurance requirements in line with current City standards. The Association is aware of the changes, and is in agreement with the terms and conditions.

The Association continues to operate within its constitution, and provides a valuable opportunity to the community. The gardens are flourishing and the grounds are well maintained.

The new five year term is for the period 1996 December 01 to 2001 November 30. It is recommended that approval be given for the renewal of the licence agreement.

DD:seo  
Attachment  
c:\dd\leases\allotgar.rep

cc: Director Finance  
City Solicitor

~~ITEM~~ ~~5~~  
~~DIRECTOR'S REPORT NO.~~ ~~17~~  
~~COMMISSION MEETING~~ ~~96/09/18~~

**DRAFT**

THIS LICENCE made the        day of        1996.

**BETWEEN:**

**CITY OF BURNABY**  
4949 Canada Way  
Burnaby, B.C. V5G 1M2

(hereinafter called the "Licensor")

**OF THE FIRST PART**

**AND:**

**BURNABY AND REGION ALLOTMENT  
GARDENS ASSOCIATION**  
(A Society incorporated under the Society Act)  
10554 Main Street  
Delta, B.C. V4C 2P8

(hereinafter called the "Licensee")

**OF THE SECOND PART**

**WHEREAS** the Licensor has resolved to use for the purpose of a recreational garden program certain agricultural lands (hereinafter referred to as "the said lands") situate, lying and being in District Lot 155A, Group 1, New Westminster District and more particularly described in Schedule "A" hereto;

**AND WHEREAS** the Licensee was incorporated because of the desire of its members to encourage and participate in a recreational garden program;

**NOW THEREFORE** in consideration of the fees to be paid and the covenants herein on the part of the Licensee, the Licensor hereby grants to the Licensee on the terms hereof the following licence:

to use the said lands for the purpose of recreational garden plots for members of the Association, and for no other purpose, for a term of five (5) years commencing on the 1st day of December, 1996 and ending on the 30th day of November, 2001 paying therefor on the 1st day of March annually a fee of One (\$1.00) Dollar.

~~ITEM~~ ~~5~~  
~~DIRECTOR'S REPORT NO.~~ ~~17~~  
~~COMMISSION MEETING~~ ~~96/09/18~~

-2-

## 1. LICENSEE'S COVENANTS

The Licensee hereby covenants with the Licensor as follows:

- (a) to make every effort, including the use of public advertisements, to ensure that vacant garden plots are allocated to residents of Burnaby;
- (b) to ensure that the said lands are cultivated in a proper manner according to accepted agricultural practices, and that the soil from the said lands is not removed;
- (c) to abide by all laws and regulations applicable to the said lands and not to carry on or suffer or allow to be carried on any activity that the Licensor deems to be a nuisance;
- (d) to assume all risk of injuries (including death) to any person and damage to any property whatsoever in any way arising out of or in connection with the use of the said lands, or anything done or omitted to be done by the Licensee, its servants, employees, agents, members or invitees;
- (e) to be responsible for and indemnify and save harmless the Licensor from and against all claims, demands, loss, costs, damages, actions, suits or other proceedings by whomsoever suffered, made, brought or prosecuted and howsoever caused, in any manner based upon, occasioned by or attributable to the execution or performance of these presents, or any action taken or thing done or maintained in the exercise or purported exercise in any manner of rights arising hereunder;
- (f) the Licensee shall insure and keep insured while this licence is in force, with such companies and on such forms as are acceptable to the Licensor, at the Licensee's expense, Comprehensive General Liability insurance coverage covering premises and operations liability. The limits of liability shall be not less than the following:

ITEM	5
DIRECTOR'S REPORT NO.	17
COMMISSION MEETING	96/09/18

-3-

Bodily Injury	\$2,000,000.00	each occurrence
Liability	\$2,000,000.00	aggregate products and/or completed operations
Property Damage	\$2,000,000.00	each occurrence
Liability	\$2,000,000.00	aggregate products and/or completed operations

The Licensor shall be added as an additional named insured under the Comprehensive General Liability policy.

A cross liability clause shall be made part of the Comprehensive General Liability insurance.

The Comprehensive General Liability policy shall provide that it cannot be cancelled, lapsed or materially changed without at least thirty (30) days' notice to the Licensor by registered mail.

Prior to the 1st day of March annually the Licensee shall file with the Licensor a certified copy of its Comprehensive General Liability insurance policy with the necessary endorsements attached.

Should the Licensee neglect to obtain and/or maintain insurance as aforesaid, or deliver such policy or certificates to the Licensor, then it shall be lawful for the Licensor to obtain and/or maintain such insurance and the Licensee hereby appoints the Licensor its true and lawful attorney to do all things necessary for this purpose. All moneys expended by the Licensor for insurance premiums under the provisions of this clause shall be charged to the Licensee;

- (g) not to make any claim or demand against the Licensor for detriment, damage or injury of any nature and howsoever caused to the said lands or to the Licensee's use or occupation thereof or to any improvements, motor or other vehicles,

~~ITEM 5  
DIRECTOR'S REPORT NO. 17  
COMMISSION MEETING 96/09/18~~

-4-

materials, supplies, articles, goods, effects or things at any time erected, brought, placed, made or being upon the said lands;

- (h) not to assign this licence;
- (i) to furnish the Licensor annually at the end of its fiscal year, with a copy of its operating statement and its balance sheet, together with a current list of the names and addresses of its members.

## 2. PROVISOS

It is hereby agreed between the parties as follows:

- (a) the Licensee is in no sense a servant or agent of the Licensor, and the Licensor shall in no manner be responsible for the debts and liabilities of the Licensee;
- (b) this licence is not to be construed as conferring on the Licensee any legal or equitable estate or tenancy in the said lands;
- (c) in the event of the Licensee at any time not complying with the provisions of this licence or using the said lands to the satisfaction of the Licensor, or in case the Licensee shall not well and truly perform the stipulations, covenants and agreements on its part in these presents contained or in the case of the bankruptcy or insolvency of the Licensor or in the case of its entering into any arrangement or composition with its creditors or in case it shall endeavour to or shall assign, or part with the possession of the said lands or any part thereof, or the privilege hereby granted without the consent in writing of the Licensor, or in the event that the Licensor requires the said lands for its own use then in all, either, or any of such cases, the Licensor may thereupon cancel and terminate this Licence by giving the Licensee ninety (90) days' written notice, but without prejudice to the remedies of either party in respect of any previous breach thereof. And the Licensee shall vacate the said lands on the date mentioned in such notice. No termination as aforesaid shall give rise to any claim whatsoever on account of or

-5-

arising out of such termination;

- (d) any notice required or desired to be given under or in respect of any of the terms of this licence may be given by mailing the same in a pre-paid registered envelope addressed to the party to whom the same is to be given as follows:

If given to the Licensor:

**City of Burnaby  
4949 Canada Way  
Burnaby, B.C. V5G 1M2**

If given to the Licensee:

**Burnaby and Region Allotment Gardens Association  
10554 Main Street  
Delta, B.C. V4C 2P8**

and any notice so given shall be deemed to have been given when in the ordinary course of post it should have been delivered.

**IN WITNESS WHEREOF** the Licensor has caused its corporate seal to be affixed under the hands of its proper officers duly authorized in that behalf and the Licensee has hereunto set his hand and seal as of the day and year first above written.

THE CORPORATE SEAL OF THE CITY OF  
BURNABY WAS HEREUNTO AFFIXED  
IN THE PRESENCE OF:

\_\_\_\_\_  
City Clerk-Authorized Signatory

THE CORPORATE SEAL OF BURNABY AND  
REGION ALLOTMENT GARDENS  
ASSOCIATION WAS HEREUNTO AFFIXED  
IN THE PRESENCE OF:

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

~~ITEM~~ ~~5~~  
~~DIRECTOR'S REPORT NO.~~ 17  
~~COMMISSION MEETING~~ 96/09/18

**SCHEDULE "A"**

Description for proposed rental plot site areas east of Meadow Avenue and north of 14th Avenue in the Big Bend Area of Burnaby

All and singular those certain parcels or tracts of land and premises situate, lying and being in District Lot 155A, Group 1, New Westminster District and known as

**FIRSTLY** Lots 5, 6 and 7 of Plan 1249

**SECONDLY** All that portion of Block 15, Plan 3369 which may be described more particularly as follows:

Commencing at the southwest corner of Block 15, Plan 3369, being the southeast corner of Lot 5, Plan 1249; thence N 12° 50'W, and following the westerly boundary of said Block 15, 106.8 feet, more or less, to a point in the north boundary of said Block 15; thence N 48° 36'E, and following the north boundary of Block 15; 139.11 feet; thence S 40° 12'E, 195.85 feet, more or less, to a point in the southerly boundary of Block 15; thence S 77° 20' W, and following the southerly boundary of Block 15, 212.20 feet, more or less, to the point of commencement.

**THIRDLY** All that portion of Block 16, Plan 3369 which may be described more particularly as follows:

Commencing at the southwest corner of said Block 16; thence N 12° 50'W, and following the westerly boundary of said Block 16, 194.46 feet, more or less, to the northeast corner of Lot 5, Plan 1249; thence N 49° 48'E, and following the easterly production of the north boundary of Lot 5, Plan 1249, 15.14 feet; thence S 40° 12'E, 170.51 feet, more or less, to a point in the south boundary of said Block 16, thence S 48° 36'W, and following the south boundary of Block 16, 104.55 feet, more or less, to the point of commencement.