

NO: R023

COUNCIL DATE: February 1, 2010

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **January 26, 2010**

FROM: **General Manager, Parks, Recreation
and Culture** FILE: **6140-20/N**

SUBJECT: **Agreement with Kwantlen Polytechnic University to Develop an Artificial Turf
Field at Newton Athletic Park**

RECOMMENDATION

The Parks, Recreation and Culture Department recommends that Council:

1. Receive this report as information; and
2. Authorize the appropriate City officials to execute the Agreement, which is attached as Appendix 2 to this report, between the City of Surrey and Kwantlen Polytechnic University for the development and operation of an artificial turf field at Newton Athletic Park.

INTENT

The intent of this report is to inform Council about an agreement that has been negotiated with Kwantlen Polytechnic University for the development and operation of an artificial turf field at Newton Athletic Park and to obtain Council's authorization to execute this Agreement.

BACKGROUND

Kwantlen Polytechnic University (KPU) contacted the City in 2009 to discuss the possibility of developing a joint-use artificial turf field. The discussions ultimately focused on the Newton Athletic Park (NAP), which is located in close proximity to the main Surrey Campus of KPU on 72nd Avenue at 128 Street.

The NAP was deemed suitable for the joint use field for the following reasons:

- It is in close proximity to the KPU main campus, located on 72nd Avenue and 128 Street;
- It has field house facilities to support additional athletics at the park;
- There are already two artificial turf fields and several additional high quality grass fields at NAP and an additional artificial turf field would add to the capacity of the park and assist in creating a centre of excellence suitable for hosting high-level soccer tournaments; and
- KPU would make use of the field for its men's and women's soccer teams which are based at the Newton campus with the remainder of the time available for use for community soccer booked through the City.

In September 2009, KPU agreed to fund approximately 50% of the cost of planning and designing an artificial turf field at NAP. The planning and design work is now nearing completion. The field concept plan is illustrated in Appendix 1. The design includes spectator seating, high intensity field lighting, equipment storage area and a score-clock. Based on this design, the project budget has been set at \$2.6 Million plus a contingency and GST.

DISCUSSION

In parallel with the work of developing a concept plan, a draft Agreement has been prepared that documents the responsibilities of each party in relation to the planning, design, construction, operation and maintenance of the field. The main elements of the draft Agreement, which is attached as Appendix 2 to this report, are as follows:

KPU responsibilities and prerogatives:

1. KPU is responsible for \$50,000 of the costs of planning and design of the field and related amenities;
2. KPU will pay the City \$1,000,000 towards construction of the field, over and above the \$50,000 contribution for planning and design;
3. KPU will have access to the facility on weekdays before 6:00 PM, and on weekends for pre-season and league games but in accordance with the City's field allocation process;
4. KPU and the City agree to share on a 50/50 basis the costs of major capital repairs and/or renovations to the field and amenities;
5. The Agreement will cover the construction of the field and the use of the field for five years with KPU having an option to renew the agreement for a further five-year period.

City responsibilities and prerogatives:

1. The City is responsible for constructing by September 2010 at Newton Athletic Park a 70 m by 100 m artificial turf soccer field and related amenities including spectator seating for 500, field lighting of 500 lux, a score clock, an equipment storage area and a KPU logo on the artificial turf;
2. The City will operate and maintain the field and associated infrastructure, with KPU to be responsible for annually reimbursing the City for 50% of the gross operating costs of the field and related amenities;
3. The City is placing the net revenues from bookings in a reserve to be used for turf replacement;
4. The City will have unrestricted use of the field for public bookings at all other times outside of those times for which KPU has priority as referenced above (clause 3);

The KPU Board of Governors has adopted a resolution approving the subject Agreement with the City.

Upon completion of the field, the City will have access to approximately 85% of the prime field time on the subject field for community soccer programs. Weekday afternoons when KPU will have the right to use the field is a time of low demand for community use.

KPU's requirement for spectator seating will also serve the City well, as no other fields at NAP have spectator seating. Such seating will be useful for the final games in any major soccer tournaments held at the park. The City normally installs lighting at artificial turf fields to maximize play on the fields. In this case, the lighting intensity is being increased to meet KPU specifications and will allow televising and filming of night games. The increased cost associated with the increased intensity of lighting is very low. The score-clock is an amenity that will enhance the usefulness of the field for high level play.

The Agreement is advantageous to both KPU and the City. The addition of another artificial turf field will make NAP among the best soccer parks in the Province and the cost of its development is being partially off-set by the KPU contribution. The artificial turf field will make KPU a more attractive school for athletes, which is an advantage to the university.

Financial Considerations

The City applied for and was successful in receiving a grant in the amount of \$667,000 through the RInC (Recreational Infrastructure Canada) Program of the Federal government for this project. KPU has committed to providing \$1,050,000 toward the project. The remainder of the funding for the project is available through the approved capital program in 2010-2014 Five Year Financial Plan.

Timeline for Construction

Subject to Council approval of the recommendations of this report, construction will commence in the spring of 2010 with completion expected by the end of 2010.

Legal Services Review

Legal Services has reviewed the subject draft Agreement and has no objections.

SUSTAINABILITY CONSIDERATIONS

The development of this project promotes social sustainability through involving youth and adults in community recreation, which will act to build a stronger and healthier community. In addition, the artificial turf field conserves water, does not require fertilizer, and does not require much motorized equipment for maintenance, thereby promoting environmental sustainability. The artificial field will yield as much playing time as seven conventional grass fields, reducing the need to purchase additional land for grass fields, and thereby promoting fiscal sustainability.

CONCLUSION

Kwantlen Polytechnic University and the City have developed a draft Agreement for the joint development and operation of an artificial turf field at Newton Athletic Park. This joint project will be advantageous to both KPU and the City. Based on the above discussion, it is recommended that Council authorize the appropriate City officials to execute the Agreement which is attached as Appendix 2 to this report, between the City of Surrey and Kwantlen Polytechnic University for the development and operation of an artificial turf field at Newton Athletic Park.

Laurie Cavan
General Manager,
Parks, Recreation and Culture

Appendix 1 – Concept Plan for Newton Athletic Park
Appendix 2 – Draft Agreement between KPU and the City of Surrey

Appendix 1 – Concept Plan



DRAFT

APPENDIX 2

THIS LICENCE AGREEMENT, DATED FOR REFERENCE

January 19, 2010

BETWEEN

CITY OF SURREY

14245 – 56th Avenue
Surrey, B.C.
V3X 3A2

Attention: _____
(City)

(OF THE FIRST PART)

AND:

KWANTLEN POLYTECHNIC UNIVERSITY

12666 - 72nd Ave
Surrey B.C
V3W 2M8

Attention: _____
(Kwantlen)

(OF THE SECOND PART)

WHEREAS:

- A. The City, under the Community Charter, SBC 2003, Sections 8 (1) and 8 (2), may enter into an Agreement with Kwantlen for the provision of facilities and services; and
- B. Kwantlen, established by the Government of British Columbia as a Special Purpose Teaching University with authority under the *University Act* (2008), may enter into an agreement with the City of Surrey for the provision of facilities and services; and
- C. Kwantlen and the City, also referenced as “the Parties”, have a number of mutual goals for developing a stronger community in Surrey; and
- D. The Parties may from time to time enter into mutually beneficial projects that assist the respective organizations in meeting their goals; and
- E. The City has lands and facilities that it will make available for select projects and Kwantlen activities; and
- F. Kwantlen has lands and facilities that it will make available for select projects and public programs; and
- G. The Parties agree to develop an artificial turf field (the “Facility”) at Newton Athletic Park; and
- H. The Parties will both contribute, as described herein, to the cost of planning and designing the Facility with a cost estimated to be \$100,000; and

- I. The Parties will both contribute, as described herein, to the cost of constructing the Facility with a total cost estimated to be \$2,850,000 (excluding GST and including the costs referred to in Recital H); and
- J. It is the intention of the Parties that this document set out the relationship between the Parties and which will set out the Parties' obligations and authority related to the development of one select project, namely the development of the Facility on City park land.

NOW THEREFORE THIS LICENCE AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Licence Agreement and for other good and valuable consideration now paid by each of the parties hereto to the other (the receipt and sufficiency of which are hereby acknowledged), the City as licensor and Kwantlen as licensee hereby covenant and agree as follows:

1.0 Land Tenure, Facility Ownership and Start-up Costs

- 1.1 The Facility will be developed at Newton Athletic Park, located at 7395 – 128th Street Surrey, with a description as set out below:

PID: 027-435-466

Property Number: 234868

Legal: LT 1 SEC 19 TWP 2 PL BCP35417 NWD

Plan Number: BCP35417

(the "Lands")

The City is the sole owner of the Lands on which the park is located, and no part of this Licence Agreement will alter the ownership of the Lands.

- 1.2 The City and Kwantlen will each pay ½ of the planning and design costs (including geotechnical investigations) of the Facility, estimated at \$100,000; provided that Kwantlen's contribution to such costs shall be capped at a maximum of \$50,000. The City acknowledges receipt of \$50,000 from Kwantlen as full payment towards such costs and the City agrees that it will be responsible for any cost overruns or unforeseen costs or expenses in excess of the estimated \$100,000.
- 1.3 The estimated total cost of construction of the Facility is \$2,850,000 (excluding GST and including the costs referred to in Section 1.2). Kwantlen will make a contribution to the costs of construction of the Facility in the amount of One Million (\$1,000,000) Dollars which will be paid by Kwantlen to the City upon the approval by Kwantlen's Board of Governors referred to in Section 7.4 (the "Kwantlen Contribution"). All construction costs of the Facility, other than the Kwantlen Contribution shall be paid by the City, including all hard and soft construction costs, overhead, cost-overruns and unforeseen costs or expenses.

2.0 Planning and Design

- 2.1 The City will develop a draft Master Plan for Newton Athletic Park, and will identify a proposed location within the park for the Facility.
- 2.2 Kwantlen will review the Master Plan and provide comments on the proposed location of the Facility.

- 2.3 The City and Kwantlen will strive for mutual agreement on the Facility location within the Master Plan. The final location of the Facility will be at the sole discretion of the City.
- 2.4 The Facility will include, but not be limited to: an in-fill artificial turf field having a playing surface area of 7,000 square metres; spectator seating for a minimum of 500; an equipment storage area; score clock; Kwantlen Polytechnic University logos at centre field; and lighting as requested by Kwantlen and agreed to by the City with field illumination not less than 500 LUX.
- 2.5 The City will take the lead in designing the Facility.
- 2.6 The final design of the Facility will be mutually acceptable to the City and Kwantlen.

3.0 Development

- 3.1 The City will manage construction and development of the Facility and the City will use reasonable efforts to complete construction of the Facility by September 1, 2010.
- 3.2 Kwantlen will appoint a liaison to the construction project to act in an advisory capacity; the City agrees to consider suggestions brought forward by the Kwantlen liaison. The Kwantlen liaison will serve to sign off on the project(s) at mutually agreed to stages of the project and at substantial completion of the project, provided that time is of the essence, and if Kwantlen does not within ten (10) days of such dates of completion of the mutually agreed to stages of the project or such date of substantial completion either: (a) provide their sign off and approval; or (b) acting reasonably, raise an issue or deficiency to be resolved or remedied, then the City is authorized to continue with the project.
- 3.3 The City will place on or about the Facility media that conveys acknowledgement of Kwantlen's contribution to the Facility, in the form of logos or other graphic materials in such location and in such format as agreed to by the Parties and in accordance with the City's Sponsorship Policy.

4.0 Operation and Maintenance

- 4.1 Use of the Facility will be governed by this Licence Agreement and by the Surrey Parks, Recreation and Cultural Facilities Regulation By-law N0. 13480 and any other applicable City bylaws.
- 4.2 The City and Kwantlen intend to establish a Facility Committee that will advise on maintenance issues, operating issues and programming of the Facility. The Committee shall consist of two members of the City and two from Kwantlen.
- 4.3 The operation and maintenance of the Facility will be under the purview of the City, who will ensure best practices in sustainability and standards of maintenance consistent with other similar turf fields maintained by the City are applied in carrying out such operation and maintenance.
- 4.4 The City will carry out the operation and maintenance referred to in Section 4.3 so as to cause minimal interference with Kwantlen's use of the Facility. The

Parties will communicate and cooperate with each other in an ongoing manner to identify scheduling conflicts.

- 4.5 Once the Facility is available for use by Kwantlen, Kwantlen will annually, on or about January 15th, reimburse the City for 50% of the City's gross operating costs of the Facility in the previous calendar year. Maximum gross operating costs (2009 dollars) are estimated at \$20,000.

5.0 Use of the Facility

- 5.1 The City grants to Kwantlen the unrestricted use of the Facility weekdays (including statutory holidays) until 6:00 PM and at other times as mutually agreed to between the Parties, all such use at no charge to Kwantlen.
- 5.2 Kwantlen shall have access to the Facility after 6:00 PM and on Weekends for occasional pre-season and in-season practices and on weekends for all pre-season and league games at no cost. Kwantlen shall have priority booking privileges for other activities and will reimburse the City at the then market rate for public bookings. It is understood by the Parties that the City's field allocation process will be followed.
- 5.3 The City shall have the unrestricted use of the Facility for public bookings at all times other than those times specified in 5.1 and 5.2 above, unless otherwise mutually agreed to between the Parties.
- 5.4 Kwantlen may erect banners and other sponsorship media at the Facility during those times when Kwantlen is using the Facility, provided that all such media complies with the guidelines outlined in the City's Sponsorship Policy.
- 5.5 Any dispute arising between the Parties in connection with the interpretation of this Licence Agreement or with the maintenance, operation and use of the Facility shall be referred to the Manager of Parks (City), and to the Director of Athletics and Recreation (Kwantlen). If these individuals are unable to resolve the dispute, then the dispute will be referred to the City's General Manager, Parks Recreation and Culture and Kwantlen's Vice-President, Finance and Administration. If they are unable to resolve the dispute, either may serve notice on the other to refer the matter to mediation, and if unresolved after mediation, at either party's option, to the British Columbia Supreme Court.

6.0 Major Repairs, Renovations and Surface Replacement

- 6.1 The City will strive to identify any major capital repairs or required renovations, in amounts greater than \$25,000, other than full replacement of the infill artificial field surface, by September 15th of the year preceding the year of the year in which the work will be required. The Parties agree to share the costs of such repair and renovation work, and will submit to their respective Finance Authorities budget requisitions in the amount of 50% of the budgeted cost of such work.
- 6.2 The City agrees to establish a designated Artificial Turf Field Replacement Reserve - Kwantlen/City Field at Newton Athletic Park (the "Replacement Reserve") and to annually contribute net revenues from the rental of the Facility to the Replacement Reserve. The City will provide annually, in April of each

year, an accounting of the amount in the replacement reserve, upon written request of Kwantlen.

- 6.3 The Parties recognize that the Facility has a limited life span, with replacement of the infill artificial turf surface anticipated to be in approximately ten years from the date of installation, at a cost of approximately \$600,000 (present value dollars). The City agrees that funds will be drawn from the Replacement Reserve when the field surface is replaced. The balance of funds required to replace the field surface, should there be an insufficient amount in the Replacement Reserve, will be split evenly between the Parties.

7.0 Term of Agreement and Renewal

- 7.1 This Licence Agreement shall be effective for an initial term ending on August 31, 2015 (the "Initial Term"); thereafter, unless either party provides notice of its intention to terminate this Licence Agreement in accordance with Section 7.2, shall automatically renew for a further period of five (5) years and thereafter then automatically renew for further renewal periods of one (1) year successively.

- 7.2 No later than six (6) months prior to the expiry of the Initial Term, or no later than six (6) months prior to any subsequent date of commencement of a renewal period under Section 7.1, either party may notify the other in writing of its intention to terminate this Licence Agreement effective on the expiry of the Initial Term or the expiry of the then current renewal period, as the case may be. If the City terminates this Licence Agreement effective on the expiry of the Initial Term, it will provide compensation to Kwantlen in amount equal to 25% of the total construction cost of the project.

- 7.3 Any notice required to be given under this Licence Agreement shall be deemed to be sufficiently given:

- (a) to be delivered at the time of delivery; and
- (b) if mail from any government post office in the Province of British Columbia by prepaid registered mail addressed as set out on page 1

or at the address a party may from to time designate, then the notice shall be deemed to have been received 48 hours after the time and date of mailing. If, at the time of mailing the notice, the delivery of mail in the Province of British Columbia has been interrupted in whole or in part by reason of a strike, slow-down, lock-out or other labour dispute, then the notice may only be given by actual delivery of it.

- 7.4 The obligation of the Parties to proceed with the project contemplated in this Licence Agreement is subject to the approval of this Licence Agreement by each of the Board of Governors of Kwantlen and by the City's Municipal Council. If either party does not obtain such approval by January 31, 2010, this Licence Agreement shall be at an end and neither party shall have any further obligation to the other pursuant hereto.

THIS LICENCE AGREEMENT EXECUTED BY THE CITY OF SURREY THIS ____ DAY OF _____ 2010.

CITY OF SURREY

by its authorized signatories:

Per

Print Name

Signature

THIS LICENCE AGREEMENT EXECUTED BY KWANTLEN POLYTECHNIC UNIVERSITY
THIS ____ DAY OF _____ 2010.

KWANTLEN POLYTECHNIC UNIVERSITY

by its authorized signatories:

Per

Print Name

Signature