

LAND LEASE AGREEMENT

THIS LEASE AGREEMENT dated the _____ day of April 2019.

BETWEEN:

REGIONAL DISTRICT OF CENTRAL OKANAGAN
1450 K.L.O. Road,
Kelowna, B.C.
V1W 3Z4

(hereinafter called the "Tenant 1")

OF THE FIRST PART

AND:

REIMUND SCHOENHERR
c/o ALFONS SCHOENHERR
1457 Alta Vista Road
Kelowna, B.C. V1Y
6K9

(hereinafter called the "Landlord")

OF THE SECOND PART

WHEREAS:

- A. The Landlord is the registered owner in fee simple of a parcel of land legally described as PID: 013-539-442 – The South ½ of Section 36 Township 29 Osoyoos Division Yale District (the "Lands")
- B. The Landlord has agreed to lease to Tenant 1 a portion of the Lands consisting of a trail corridor which runs alongside KLO Creek, as shown in crosshatch on the map of the Lands attached hereto as Schedule "A" (the "Leased Lands"), on the terms and conditions contained herein for:
 - (a) The construction, repair, maintenance and operation of a non-motorized public access route as a linear park over the Leased Lands to link or connect Tenant 1's regional park lands to the north of the Lands (the "Regional Park") to Provincial Crown Land to the south of the Lands (the "Crown Land"); and
 - (b) a public ingress and egress route for non-motorized access across the Leased Lands to and from the aforesaid Regional Park and Crown Lands as a linear park during the term of the Lease; and
- C. This Lease is necessary for the operation and maintenance of the Regional Park.

NOW THEREFORE in consideration of the premises and other good and valuable consideration, the receipt and sufficiency are acknowledged by the parties, the parties hereto agree as follows:

1. **RECITALS:** The recitals are true and together with the Schedules referred to therein, they form part of this Lease.
2. **LEASED LANDS:** The Landlord hereby leases to Tenant 1 the Leased Lands.
3. **USE:** Tenant 1, its servants, agents, workers, general contractors, licensees, emergency and maintenance personnel and the general public, may use the Leased Lands for the purposes of:
 - (a) construction, repair, maintenance and operation of a non-motorized public access route as a linear park over the Leased Lands to and from the Regional Park and the Crown Lands; and
 - (b) a public ingress and egress route for non-motorized access across the Leased Lands to and from the Regional Park and Crown Lands as a linear park during the term of the Lease;
 - (c) and all other related purposes, including without limitation, the following:
 - a. to enter over, on, in, and under the Leased Lands to:
 - i. conduct surveys and examinations;
 - ii. remove hazardous trees;
 - iii. construct and install improvements related to the use of the Leased Lands as an access route and as a linear park (all of which are collectively called the "Improvements");
 - iv. maintain, alter, relocate, inspect, repair, and replace the Improvements;
 - b. to bring onto the Leased Lands all materials and equipment Tenant 1 requires, and store same provided that Tenant 1 shall consult the Landlord as to the duration and location of such storage, which is to be limited to the time and place necessary to complete the work for which it is needed; and
 - c. to clear the Leased Lands of anything which constitutes or may constitute an obstruction to the use of, or access to the Leased Lands or to the Improvements.
4. **TERM:** The term of this Lease is from the date of its execution until April 30, 2021, unless terminated earlier under section 5 herein.
5. **EARLY TERMINATION – REPLACEMENT TENURE:** This Lease shall terminate in the event that Tenant 1 obtains a tenure of the Leased Lands that is satisfactory to Tenant 1 that provides that Tenant 1 may continue to use the Leased Lands as provided

for under section 3 herein on a perpetual basis. Such tenure may be provided by a transfer of the fee simple of the Leased Lands, dedication of the Leased Lands as park, by grant of statutory right of way in favour of Tenant 1 or some other tenure satisfactory to Tenant 1. Tenant 1 shall determine, in its sole and absolute discretion, the form of tenure that is satisfactory.

6. **RENEWAL:** Tenant 1 may renew this Lease for a further term of two years on the same terms and conditions, except for this right of renewal, by providing notice to the Landlord at least 30 days before the expiry of the Term.
7. **RENT:** The Landlord acknowledges payment from Tenant 1 of rent in the amount of \$1.00 and other good and valuable consideration including the necessary permission, permits and authorizations to allow the Landlord to conduct its business over the balance of the Lands, which cumulatively is the sole payment or consideration provided by Tenant 1 under this Lease on account of rent and all other amounts due for the occupation and use of the Leased Lands for the entire Term of this Lease.
8. **IMPROVEMENTS:** Any Improvements remain chattels and the property of the Tenant 1, despite the fact that the same may be annexed or affixed to the Leased Lands. The Improvements may at any time be removed in whole or in part by Tenant 1 in its discretion. In the event that Tenant 1 abandons the Improvements or any part thereof Tenant 1 may, if it so elects on notice to the Landlord with their consent, leave the whole or any part thereof in place but in good order, reasonable wear and tear excepted; provided that the Landlord may accept the abandonment of some Improvements and request the removal of others, in which case Tenant 1 shall remove the Improvements which must be removed and leave the Improvements that are accepted as abandoned by the Tenant 1. Tenant 1 agrees to leave the Leased Lands in good condition at the expiration or earlier termination of this Lease.
9. **TENANT 1'S COVENANTS:** Tenant 1 shall:
 - (a) consult with the Landlord as to the location of any Improvements on the Leased Lands and not construct or place any Improvements on the Leased Lands without the prior written consent of the Landlord, which shall not be unreasonably withheld
 - (b) construct and place Improvements so as to reasonably minimize interference with the uses and potential future uses of the Leased Lands by the Landlord;
 - (c) permit the Landlord and its agent to cross over the Leased Lands and the Improvements together with the public for the purpose of advancing a development application to Tenant 1's board;
 - (d) trim, prune, cut down and remove any branches, trees, brush, or other growth on the Leased Lands which in the reasonable opinion of the Tenant 1 constitutes or may constitute a danger or obstruction to those using the Leased Lands, provided such work shall, except in emergency situations, only occur with the prior written consent of the Landlord, which consent shall not be unreasonably withheld;

- (e) carry out the design, construction, maintenance, repair and replacement of the Improvements, in a good and workmanlike manner;
- (f) bear and pay all costs associated with designing, constructing, maintaining, repairing and replacing the Improvements and maintaining the physical condition of the Leased Lands as an access route or a linear park for the public;
- (g) ensure that the public, its own personnel, and emergency and maintenance personnel, are not exposed to any unusual or unreasonable hazards while using the Leased Lands as an access route or a linear park;
- (h) keep the Leased Lands insured and to extend Tenant 1's regular insurance coverage which it holds over its own property and park lands to the Leased Lands as part of or an extension of the Regional Park, with such coverage being for the benefit of the Landlord;
- (i) exercise care not to damage the Leased Lands or any improvements on the Leased Lands, and should Tenant 1 cause any damage to the Leased Lands or adjacent Lands to promptly restore or remediate all such damage as close to their pre-damaged condition as is reasonably practical;
- (j) comply with all applicable laws and regulations relating to the use of the Leased Lands, all work done on the Leased Lands, and in relation to the design, construction, and installation of the Improvements, including, without limitation, all environmental regulations applicable to the cutting of any timber on the Leased Lands and in relation to KLO Creek;
- (k) notwithstanding anything else to the contrary set out herein, only permit the public to use the Leased Lands:
 - i. during the hours that the Regional Park is open for public access, as may be determined by Tenant 1's by-laws in force from time to time;
 - ii. without using motorized vehicles or other powered methods of transportation which may be restricted by its by-laws or policies, in force from time to time; and
 - iii. take reasonable steps to enforce Tenant 1's by-laws in relation to the public's access to and use of the Leased Lands as part of or an extension of the Regional Park.

10. LANDLORD'S COVENANTS: The Landlord shall:

- (a) provide quiet enjoyment of the Leased Lands, subject to Tenant 1's ability to access and use the Leased Lands for similar purposes as the public, and subject to the Landlord's ability to cross the Leased Lands to access the remainder of the Lands for the purposes of its own business;

- (b) take all steps necessary to comply with the Lease in relation to the Landlord's use of the Lands and to keep and maintain the Lease in good standing;
 - (c) notwithstanding this Lease, be responsible for the parcel taxes, or users fees and/or any other charges which may be applicable to the Leased Lands; and
 - (d) not do or permit to be done any act or thing which may interfere with, injure, impair the operating efficiency of, or obstruct access to or the use of, the Leased Lands or the Improvements.
- 11. DEFAULT BY TENANT 1:** If Tenant 1 is in default in the observation and performance of any of the terms, covenants or conditions to be observed or performed pursuant to this Lease, and such default continues for twenty-one (21) days after notice thereof to Tenant 1, the Landlord may exercise any and all of their respective rights in this Lease in order to cure such default, and the Landlord may at its sole option terminate this Lease and if the Landlord exercises its right to termination, it may re-enter the Leased Land as though Tenant 1 had not been in possession thereof, whereupon the Term of this Lease shall expire and be at an end as though the day of such re-entry were the day following the last day of the term hereof.
- 12. INDEMNIFICATION:** Tenant 1 shall indemnify and save harmless the Landlord and their respective officers, directors, employees or agents against all actions, suits, debts, dues, accounts, damages, claims, losses, costs or liabilities of any nature whatsoever, arising from anyone's use of the Leased Lands as a public, emergency, or maintenance access route or linear park, whether as Tenant 1's servant, agent, employee, licensee, invitee or anyone for whom it is responsible, as well as any member of the public, excepting and to the extent that such losses, costs, damages, expenses and liabilities that are the result of the negligence of the Landlord
- 13. ASSIGNMENT BY TENANT 1:** Tenant 1 shall not assign or lease, nor grant licenses or concessions in respect of, this Lease nor any interest therein or any portion thereof, without written consent of the Landlord, which consent may not be unreasonably withheld. If such consent is granted, Tenant 1 shall not be released or relieved of its obligations under this Lease.
- 14. ASSIGNMENT BY LANDLORD:** The Landlord may assign, or transfer their respective interests in the Lands, subject to this Lease, as provided for in the Lease; and Tenant 1 shall be given written notice thereof.
- 15. NOTICES:** Whenever it is required or desired that any party to this Lease must deliver or serve a notice on another, delivery or service is deemed to be satisfactory if and deemed to have occurred when:
- (a) party has been served personally at the address provided herein or to whatever address the party may from time to time provide to the other party; or

- (b) mailed by prepaid registered mail, on the date received or on the sixth day after receipt of mailing by any Canada post office, whichever is earlier, so long as the notice is mailed to the party at the address provided herein or to whatever address the party may from time to time provide to the other party.

- 16. **TIME OF THE ESSENCE:** Time shall be of the essence for all purposes of this Lease.
- 17. **SEVERABILITY:** If any term or condition of this Lease or the application of any term or condition to any person or circumstance is held by a Court having jurisdiction to be to any extent invalid or unenforceable, then to the extent so held it is separate and severable and shall be severed from this Lease. The remainder of this Lease or the application of the term or condition to persons or circumstances other than those to which it is held to be invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.
- 18. **SURVIVAL OF COVENANTS:** The terms, provisions, covenants, conditions and obligations contained in this Lease which, by their nature or terms, require their performance by Tenant 1 after the expiration or other termination of this Lease shall be and remain valid and enforceable notwithstanding such expiration or other termination of this Lease for any reason whatsoever.
- 19. **COUNTERPARTS/FACSIMILE:** This Lease may be executed in any number of original counterparts, with the same effect as if all the parties had signed the same document, and will become effective when one or more counterparts have been signed by all of the parties and delivered to each of the other parties. This Lease may be executed by the parties and transmitted by facsimile and if so executed and transmitted this Agreement will be for all purposes as effective as if the parties had delivered an executed and complete original Lease.
- 20. **NO REGISTRATION:** This Lease shall not be registered against the Lands at the Kamloops Land Title Office.
- 21. **GOVERNING LAW:** This Lease is governed by the laws of the Province of British Columbia.

22. ENUREMENT: This Lease shall enure to the benefit of and be binding upon the parties hereto and their respective executors, administrators, legal personal representatives, heirs, estates, successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this Lease.

REGIONAL DISTRICT OF CENTRAL OKANAGAN

Per:

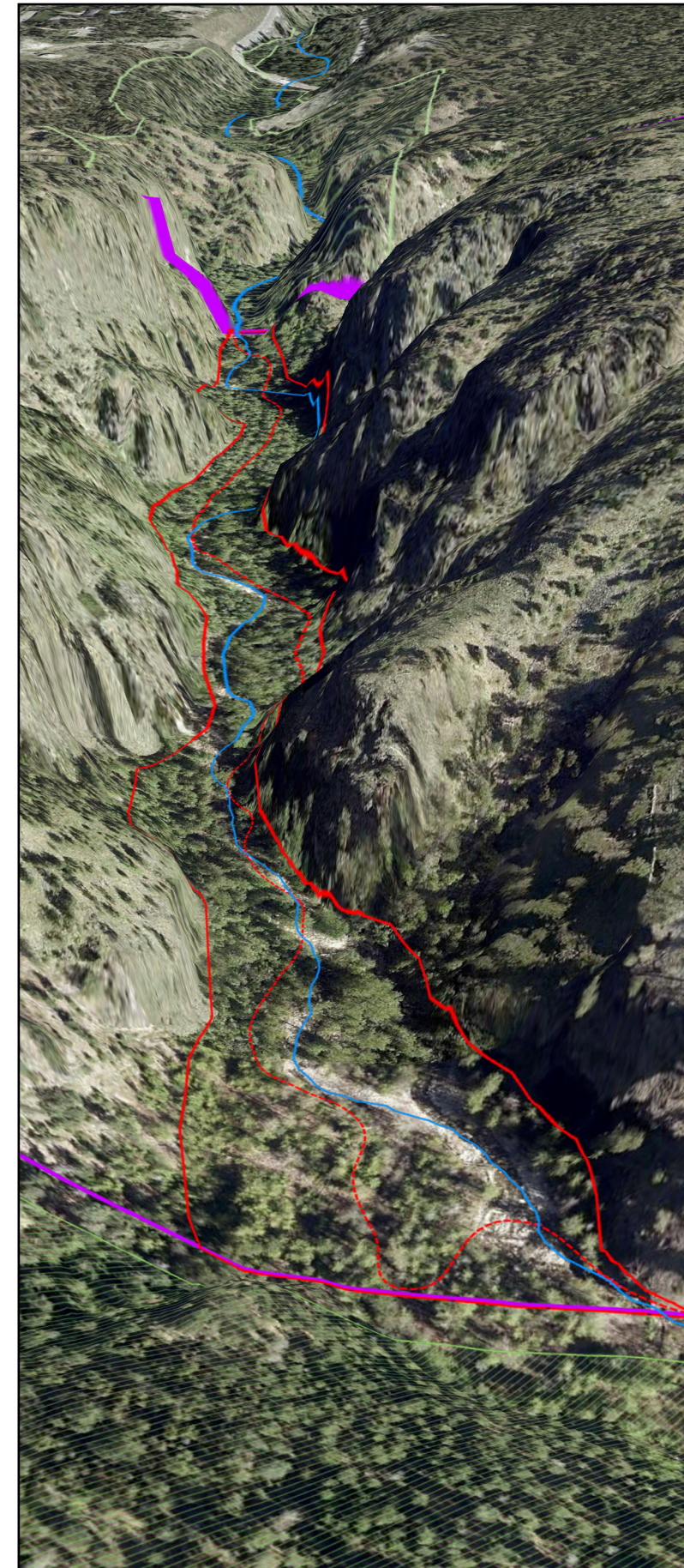
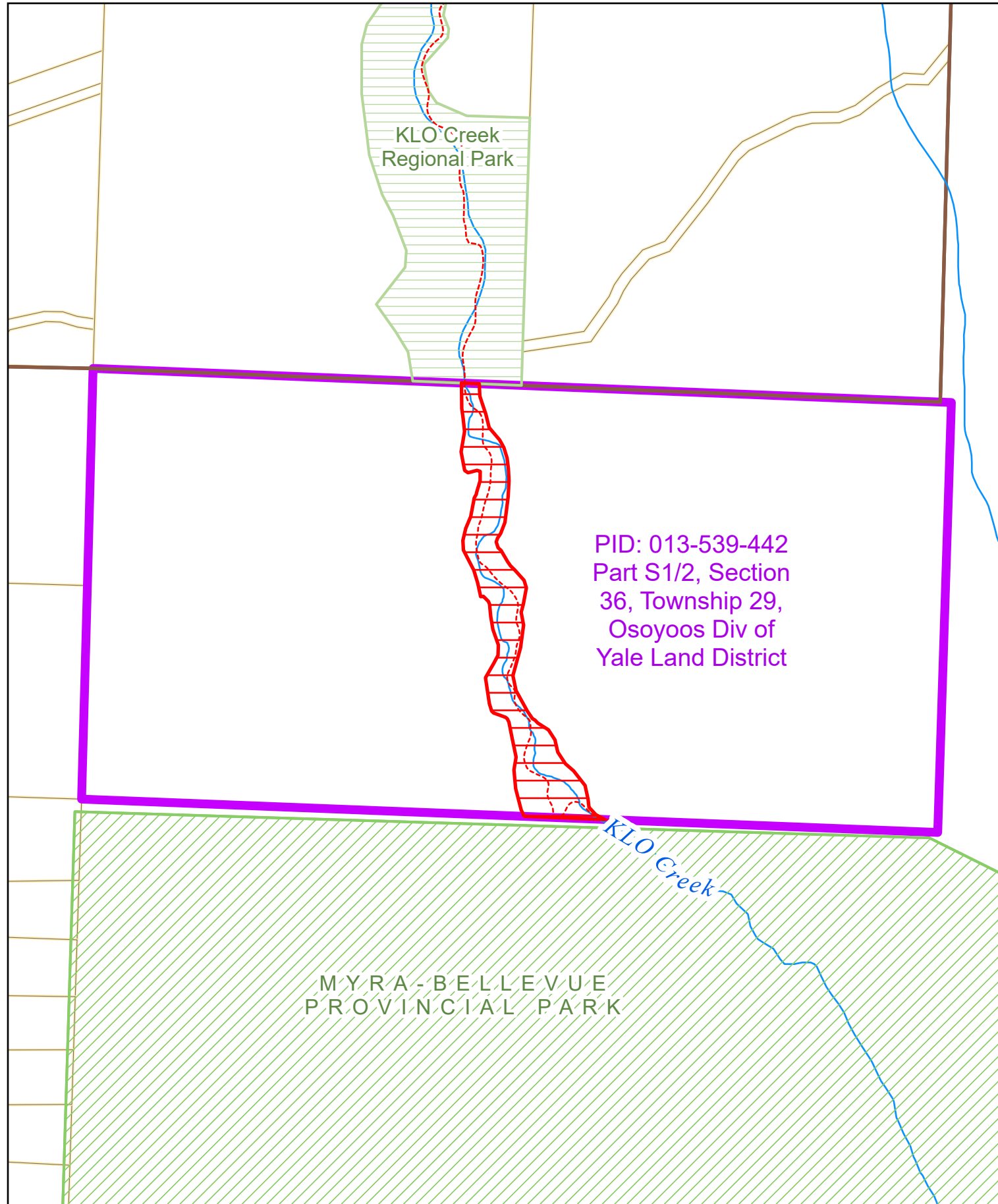
Authorized Signatory

Authorized Signatory








SIGNED, SEALED AND DELIVERED in)
the presence of:)
)
Name: _____)
Address: _____)
Occupation: _____)
)

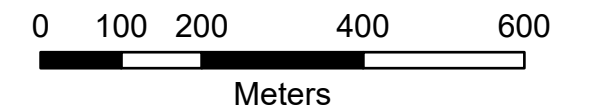
Reimund Schoenherr

Schedule 'A'



RDCO Trail Access Lease

-  Streams
 -  Municipal Boundaries
 -  Regional Parks
 -  Provincial Parks
 -  Subject Property
 -  KLO Creek Trail
 -  Lease Land Trail Corridor
- Lease Corridor = 5.74ha.



Spatial Reference:
NAD 1983 UTM Zone 11N
True North (Degrees): 1.81°
Created: Apr.01,2019

