

MISSION CREEK GREENWAY REGIONAL PARK/SCENIC CANYON REGIONAL PARK  
MANAGEMENT AND REGULATION CONTRACT

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BETWEEN:

CITY OF KELOWNA  
A municipal corporation having offices at  
1435 Water Street  
Kelowna, British Columbia, V1Y 1J4

(the "City")

OF THE FIRST PART

AND:

REGIONAL DISTRICT OF CENTRAL OKANAGAN  
A regional district having offices at  
1450 KLO Road  
Kelowna, British Columbia, V1W 3Z4

(the "Regional District")

OF THE SECOND PART

WHEREAS the parties are acquiring lands along the corridor of Mission Creek for use as a park known as the *Mission Creek Greenway Regional Park* (the "Greenway");

AND WHEREAS the Greenway presently consists of a linear park having a length of approximately 16.5 kilometers as shown in Schedule A, maps 1, 2, 3 and 4;

AND WHEREAS the parties intend to acquire more lands to be added to and form part of the Greenway and accordingly all references to the Greenway in this Agreement is to all present and future lands forming part of the Greenway;

AND WHEREAS for the purposes of this Agreement it is acknowledged and agreed that all lands constituting the Greenway are deemed to be acquired for use as a Regional Park pursuant to the *Local Government Act*

AND WHEREAS the Regional District may by bylaw make rules and regulations governing the management, regulation, operation and maintenance of lands in a Regional Park and exercise all powers of a Regional District pursuant to the *Local Government Act*.

AND WHEREAS the parties have entered into this Agreement pursuant to the Community Charter and the *Local Government Act* to establish the terms and conditions of the management, regulation, operation and maintenance of the Greenway by the Regional District.

NOW THEREFORE in consideration of the mutual promises set out in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. Term and Fee**

The term of this Agreement shall be for five (5) years commencing the 1st day of April, 2019. The Fee for the Term is \$1.00, the receipt of which we acknowledge.

**2. Greenway as Regional Park**

The parties hereby agree that for the purposes of this Agreement the lands acquired and to be acquired constituting the Greenway are deemed to be acquired for use as a Regional Park pursuant to the *Local Government Act*.

**3. Management, Regulation, Operation and Maintenance of the Greenway**

The Regional District shall manage, regulate, operate and maintain the Greenway as a Regional Park including the following:

- a) Operate, maintain, and manage the Greenway in accordance with set practices for operating, maintaining, and managing Regional Parks and the standards as set forth in Schedule 'B';
- b) Enforcement of all rules, regulations and policies applicable to the Greenway including Regional District Regional Parks Regulation Bylaw No. 1427 and Regional Parks Services and Facilities Fees and Charges Bylaw No. 1428 as amended from time to time;
- c) Provision of all public information services concerning the Greenway.

**4. Limitation on Regional District Responsibilities**

- a) The Regional District shall be solely responsible for management, regulation, operation and maintenance of the surface of the lands and amenities of the Greenway including, flora and fauna, weed control, trees, trail surfaces, pest control, vandalism, snow and ice control, park furniture and structures, traffic control on the Greenway, litter control, management of any hazards (including fire hazards), and responsibility for any other park amenities of the Greenway. The obligations of the Regional District shall include:
  - i) Pedestrian bridges;
  - ii) Viewing platforms;
  - iii) Washrooms;
  - iv) Signs and kiosks;
  - v) Benches;
  - vi) Picnic tables and shelters;
  - vii) Trail heads;

- viii) Parking areas and security gates;
  - ix) Pedestrian Underpasses (maintenance of the surfaces only, structure remains the responsibility of the City);
  - x) Log Building (3975 Field Road).
- b) The Regional District operates a Log Building at 3975 Field Road as part of Scenic Canyon Regional Park and the Greenway. All repairs, replacement or removal of the Log Building is the responsibility of the Regional District. Also, the Regional District shall maintain all appropriate and applicable insurance for the residence as per typical Regional District requirements for insurance.
- c) The obligations of the Regional District under this Agreement shall not include any aspect of the control of Mission Creek, dikes, flood control, highways or vehicular bridges, provided that the Regional District shall not engage in any undertaking that inhibits Mission Creek flood control works including, without limitation, works involving the creek, dikes, bridges or highways.
- d) The Regional District agrees to notify and inform the City when a project of significance which is outside of regular maintenance is being considered.

#### **5. Authority to Regulate, Prohibit and Control**

The Regional District shall have full power and authority to regulate, prohibit and control entry to and use of the Greenway by all persons to the full extent of authority mandated for a Regional Park. The Regional District acknowledges and agrees that all authorities having jurisdiction shall be entitled to unlimited access to the Greenway for the purposes of flood control.

#### **6. Permits**

The Regional District shall have full power and authority to require and authorize permits from individuals, groups, corporations, or others for all special event uses, maintenance access, and any other such access deemed appropriate by the Regional District of the Greenway from time to time.

#### **7. New Contract**

The parties agree that at the end of the term of this Agreement the parties shall, without obligation, review the terms of this Agreement for the purpose of negotiation of a new agreement for a further term of five (5) years. During the period of negotiation, the terms and conditions of this Agreement shall continue to be in full force and effect until either party advises the other that negotiations are at an end or the parties enter into a new agreement.

#### **8. Notice of Termination**

Either party may terminate this Agreement by resolution of the Regional Board or City of Kelowna Council with one (1) year's notice delivered in writing to the CAO for the Regional District or City Manager for the City.

#### **9. Insurance**

**General:**

- a) Without in any way limiting the obligation or liabilities of the Regional District, the Regional District shall keep in force during the term of this Agreement, the insurance coverage listed in this article.
- b) The Regional District shall at the date this Agreement is signed, submit to the City, a certificate for all the insurance policies required under this article or certified copies of these insurance policies (if required), and shall also provide to the City from time to time, as may be required, satisfactory proof that such policies are still in full force and effect.
- c) The Regional District agrees to give the City at least thirty (30) days written notice in advance of any change, amendment or cancellation of any insurance policy required under this Agreement to be delivered to the City or forwarded by registered mail.

**Comprehensive General Liability Insurance:**

- d) The Regional District shall maintain comprehensive general liability insurance for an inclusive limit of not less than \$5,000,000.00 for each occurrence or accident, the City of Kelowna shall be added as additionally insured.

**Environmental Impairment Liability Insurance:**

- e) The Regional District shall use reasonable efforts to obtain Environmental Impairment Liability insurance in an amount of no less than \$1,000,000.00 for all claims for:
  - i) bodily injury and illness (including death);
  - ii) loss of use of or loss or impairment of or damage to property;
  - iii) impairment or diminution of or other interference with any other right or amenity protected by law caused by environmental impairment in connection with the performance of this Agreement.
- f) In the event that the Regional District is successful in obtaining Environmental Impairment Liability insurance the City shall be an additional insured on the policy. The policy shall preclude subrogation claims by the insurer against anyone insured thereunder.

**Automotive Insurance:**

- g) Automobile Liability Insurance covering all motor vehicles, owned, operated and used or to be used by the Regional District directly or indirectly in the performance of this agreement. The Limit of Liability shall not be less than \$2,000,000 inclusive, for loss or damage including personal injuries and death resulting from any one accident or occurrence.

**10. City Responsibilities**

The City shall be responsible for all roads, vehicular bridges, and pedestrian crossings located and associated with the Greenway including traffic control. In addition, the City will be responsible for the maintenance, inspection and upkeep of the 3 art installations along the Greenway known as the "Run".

With exception to an emergency situation, the City agrees to provide the Regional District with reasonable notice of works that are minor in nature that are being completed by the City or designated contractor which may have operational impact to the Greenway. In the event of

major works projects which may have significant impacts to the Regional District's operation of the Greenway, the City agrees to include the Regional District in stakeholder consultation.

**11. Mutual Indemnification**

The parties agree to indemnify and save harmless each other and their respective elected representatives, officers, authorized agents and employees against all liabilities, actions, damages and claims arising out of or in any way connected with the exercise, or failure to exercise, by the Regional District or the City of their respective obligations pursuant to the terms of this Agreement.

**12. Enurement**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors at law.

**13. Statutory Functions**

Nothing contained in this Agreement, except as expressly provided, shall impair or affect in any way the exercise by the parties of their respective functions or authority under the enactment, letters patent, bylaw, resolution or other source of authority.

IN WITNESS WHEREOF the parties have executed this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

CITY OF KELOWNA  
by its authorized signatory(ies)

\_\_\_\_\_  
  
\_\_\_\_\_

REGIONAL DISTRICT OF CENTRAL OKANAGAN  
by its authorized signatory(ies)

\_\_\_\_\_  
  
\_\_\_\_\_

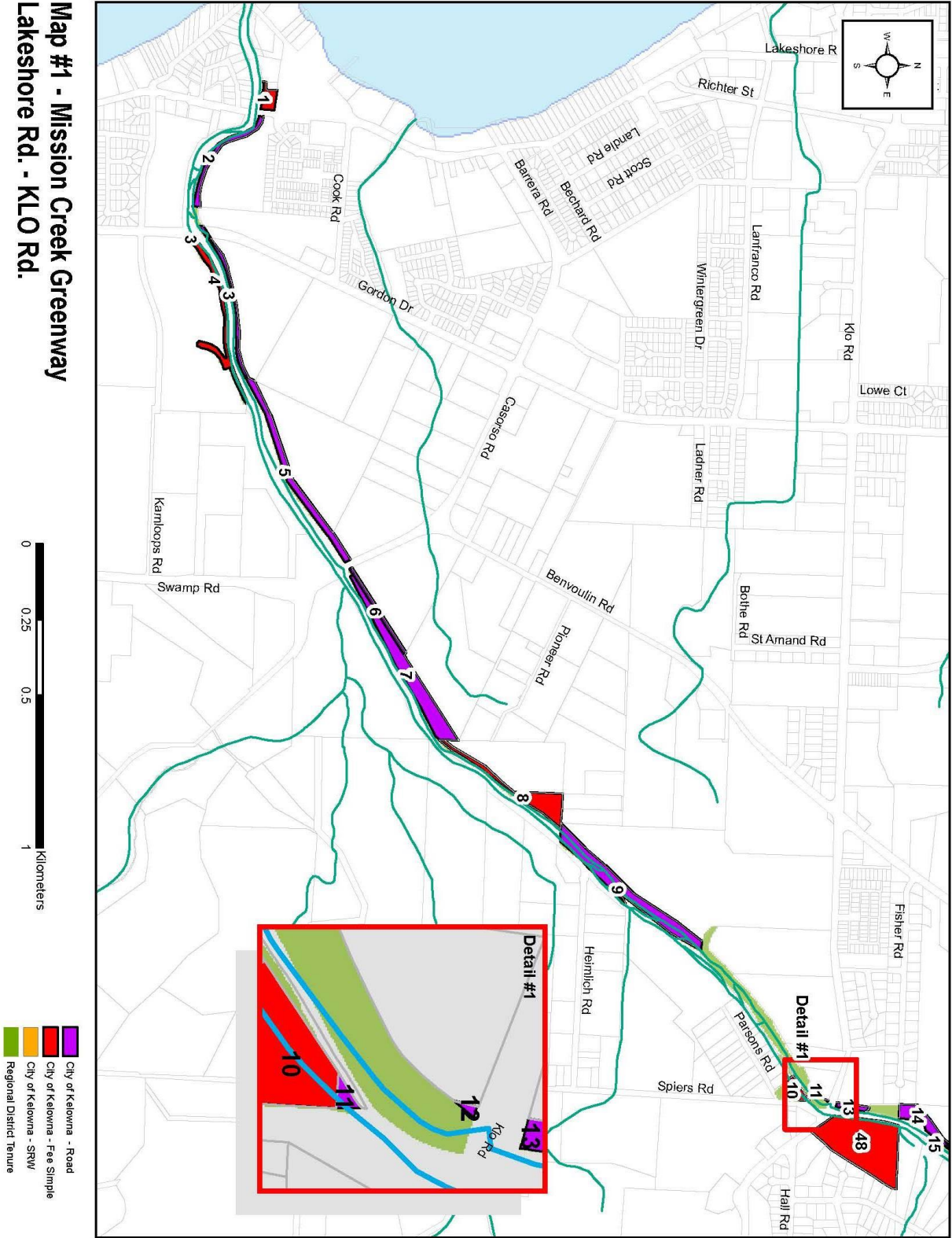
1/10/2020

## **Schedule 'A'**

- a. Map #1 Lakeshore – KLO
- b. Map #2 KLO – East Kelowna
- c. Map #3 East Kelowna – Walburn
- d. Map #4 Walburn – Scenic Canyon
- e. Listing - City of Kelowna Lands Associated with the Management and Regulation Agreement

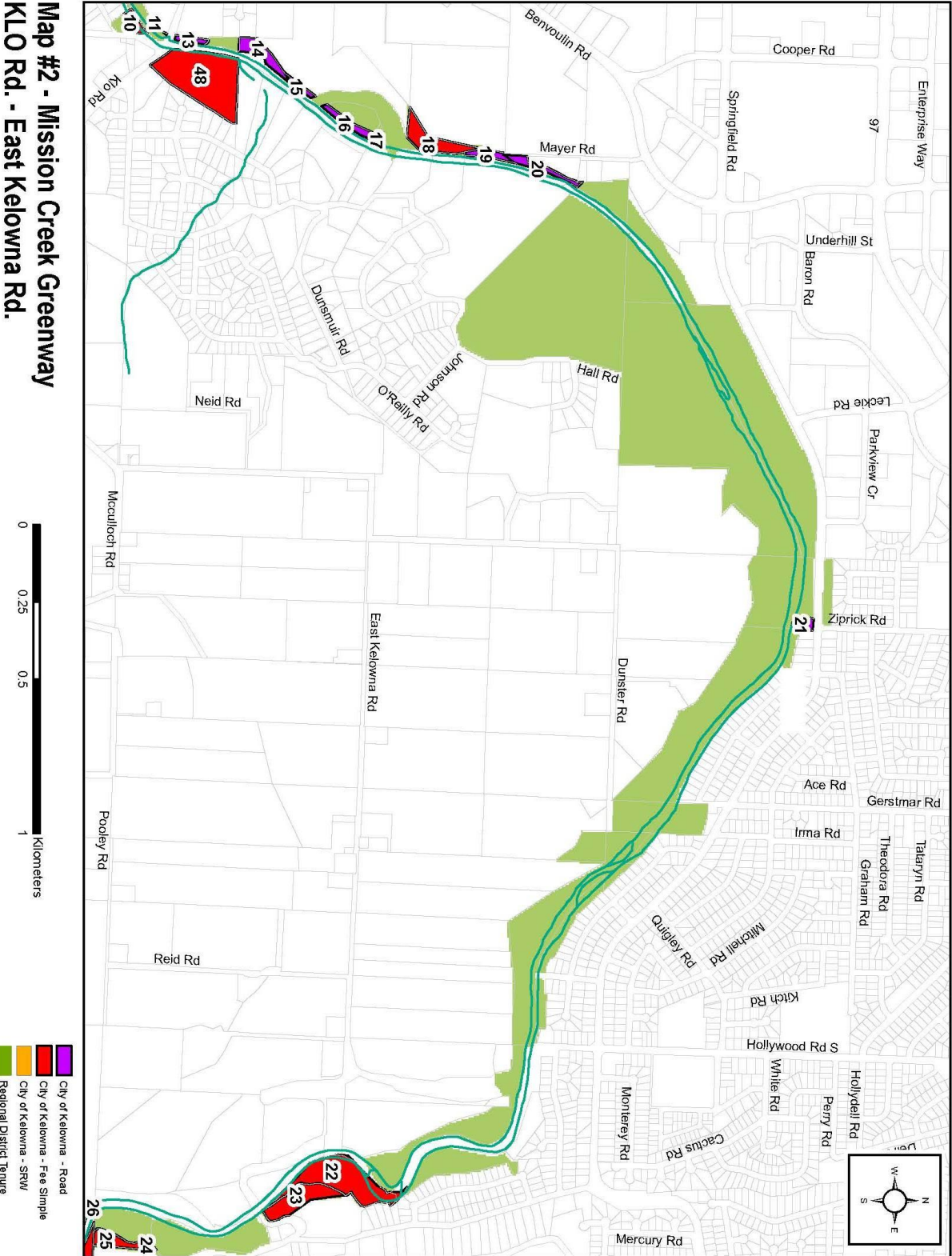
a. Map #1 – Lakeshore Road to KLO Road

Map #1 - Mission Creek Greenway  
Lakeshore Rd. - KLO Rd.



b. Map #2 – KLO Road to East Kelowna Road

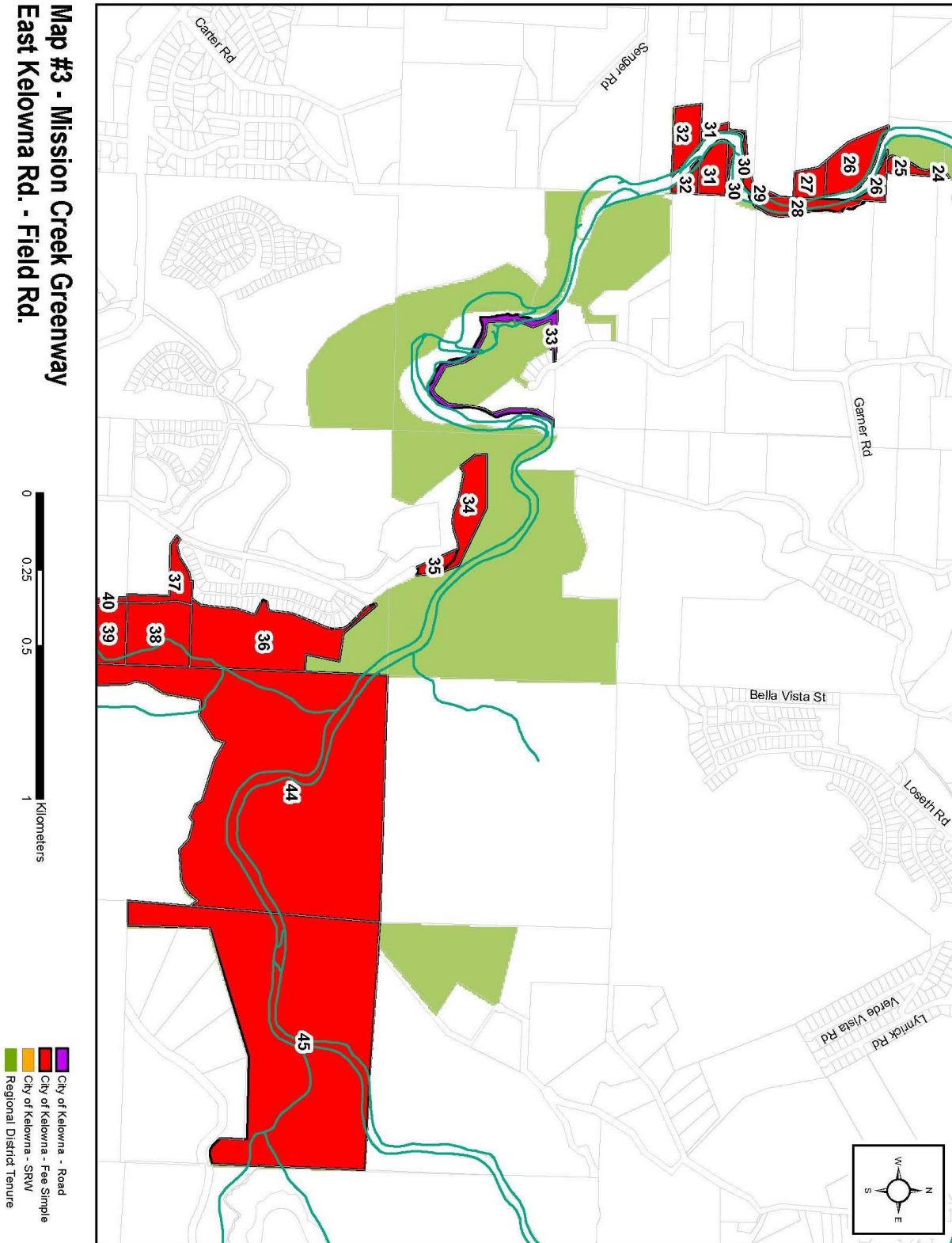
Map #2 - Mission Creek Greenway  
KLO Rd. - East Kelowna Rd.





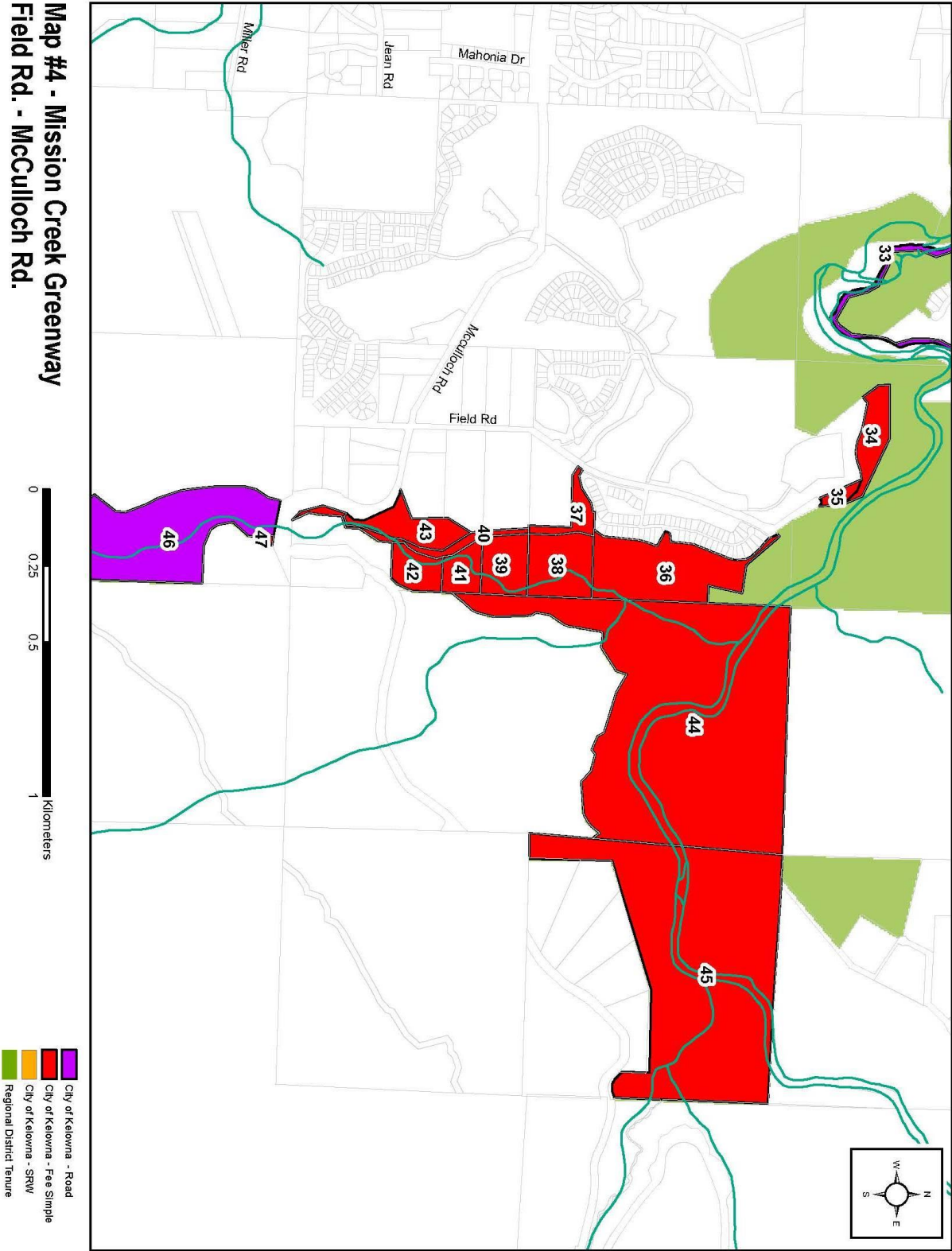
c. Map #3 – East Kelowna Road to Field Road

Map #3 - Mission Creek Greenway  
East Kelowna Rd. - Field Rd.



d. Map #4 – Field Road to McCulloch Road

Map #4 - Mission Creek Greenway  
Field Rd. - McCulloch Rd.



e. Listing - City of Kelowna Lands - Management and Regulation Agreement

MISSION CREEK GREENWAY - OPERATION AND MAINTENANCE AGREEMENT CITY OF KELOWNA PROPERTIES							CURRENT AS OF JANUARY 6, 2020	
PROPERTY ID	PARK ID	TENURE	TENURE TYPE	PID	FOLIO	LEGAL DESCRIPTION		
1	16	16-50	City of Kelowna - Fee Simple	029-586-933	21703818.010	Plan EPP48512, Lot 2, Township 25		
2	16	16-6	City of Kelowna - Road		21700000.000	Plan KAP51798, Lot ROAD		
3	16	16-32	City of Kelowna - Road		21700000.000	Plan KAP61927, Lot ROAD		
4	16	16-32	City of Kelowna - Fee Simple		21700000.000	Part of Lot C, Except Plan KAP46592, Part of Lot C, Except Plan KAP46592		
5	16	16-17	City of Kelowna - Road			Plan 3034, District Lot 168, Lot ROAD		
6	16	16-28	City of Kelowna - Road			Plan 1829, District Lot 133, Lot ROAD		
7	16	16-19	City of Kelowna - Road		21700000.000	Plan KAP77893, Lot ROAD		
8	16	16-20	City of Kelowna - Fee Simple	024-008-184	21704118.208	Plan KAP60920, Lot 1, Section 8, Township 26		
9	16	16-21	City of Kelowna - Road		21700000.000	Plan 35770, Lot ROAD		
10	16	16-26	City of Kelowna - Fee Simple	009-417-834	21704102.002	Plan 12010, Lot 10, Section 8, Township 26		
11	16	16-36	City of Kelowna - Road			Plan 12010, Lot ROAD, Section 17, Township 26		
12	16	16-18	City of Kelowna - Road			Plan KAP60317, Lot ROAD		
13	16	16-22	City of Kelowna - Road			Plan KAP61419, Lot ROAD		
14	16	16-16	City of Kelowna - Road		21700000.000	Plan KAP62332, Lot ROAD		
15	16	16-23	City of Kelowna - Road		21700000.000	Plan KAP62332, Lot ROAD		
16	16	16-24	City of Kelowna - Road		21700000.000	Plan KAP61083, Lot ROAD		
17	16	16-51	City of Kelowna - SRV			Plan 75818, Lot SRV, Section 16, Township 26		
18	16	16-52	City of Kelowna - Fee Simple	030-597-587	21704426.001	Plan EPP64039, Lot A, Section 16, Township 26		
19	16	16-39	City of Kelowna - Road		21700000.000	Plan KAP77058, Lot ROAD		
20	16	16-4	City of Kelowna - Road		21700000.000	Plan KAP60319, Lot ROAD		
21	16	16-29	City of Kelowna - Road			Plan H12895, Lot, Section 22, Township 26, Part of Parcel 11, includes parcel 12		
22	16	16-49	City of Kelowna - Fee Simple			Plan EPPC48, Lot, Section 14, Township 14, Township 26, Free crown grant.		
23	16	16-34	City of Kelowna - Fee Simple	011-357-282	21704341.000	Plan 1751, Lot 4, Section 14, Township 26		
24	16	16-11	City of Kelowna - Fee Simple	025-147-803	21704360.532	Plan KAP69980, Lot, Section 14, Township 26, Parcel B, THAT PART LOT 9		
25	16	16-10	City of Kelowna - Fee Simple	025-147-692	21704360.531	Plan KAP69980, Lot, Section 14, Township 26, Parcel A, THAT PART LOT 1 PLAN 31521.		
26	16	16-15	City of Kelowna - Fee Simple	025-214-179	21704200.002	Plan KAP70463, Lot 2, Section 11, Township 26		
27	16	16-14	City of Kelowna - Fee Simple	025-214-161	21704200.001	Plan KAP70463, Lot 1, Section 11, Township 26		
28	16	16-38	City of Kelowna - Fee Simple	029-153-000	21704200.008	Plan KAP92961, Lot 1, Section 11, Township 26		
29	16	16-12	City of Kelowna - Fee Simple	025-216-139	21704200.003	Plan KAP70445, Lot 1, Section 11, Township 26		
30	16	16-13	City of Kelowna - Fee Simple	025-216-147	21704200.004	Plan KAP70445, Lot 2, Section 11, Township 26		
31	16	16-33	City of Kelowna - Fee Simple	025-408-631	21704237.136	Plan KAP77096, Lot A, Section 11, Township 26, E OF BREWROSE		
32	16	16-37	City of Kelowna - Fee Simple	026-536-660	21700000.000	Plan KAP79952, Lot A, Section 11, Township 26		
33	23	23-9	City of Kelowna - Road		21700000.000	Plan 30451, Lot ROAD		
34	23	23-11	City of Kelowna - Road		21700000.000	Plan KAP48306, Lot PARK		
35	23	23-3	City of Kelowna - Fee Simple		21700000.000	Plan KAP66064, Lot PARK		
36	23	23-10	City of Kelowna - Fee Simple		21700000.000	Plan KAP48306, Lot PARK		
37	23	23-12	City of Kelowna - Fee Simple	008-375-844	21703851.000	Plan 17674, Lot A, Section 1, Township 26		
38	23	23-13	City of Kelowna - Fee Simple	011-700-653	21703841.000	Plan 1247, Lot 11A, Section 1, Township 26		
39	23	23-14	City of Kelowna - Fee Simple	011-700-637	21703837.000	Plan 1247, Lot 9A, Section 1, Township 26		
40	23	23-15	City of Kelowna - Fee Simple	011-700-696	21703843.001	Plan 1247, Lot 12A, Section 1, Township 26, Except Plan 17674.		
41	23	23-16	City of Kelowna - Fee Simple	011-700-981	21703836.000	Plan 1247, Lot 7A, Section 1, Township 26		
42	23	23-17	City of Kelowna - Fee Simple	011-700-566	21703833.050	Plan 1247, Lot 5A, Section 1, Township 26, OFF OF MCCULLOCH RD.		
43	23	23-18	City of Kelowna - Fee Simple		21700000.000	Plan KAP51383, Lot PARK		
44	23	23-20	City of Kelowna - Fee Simple	013-576-755	21703827.000	Plan, Lot, Section 1, Township 26, Part E 1/2, Except Plan KAP48128, EPP8620 (SEE EPP8620 AS TO LIMITED ACCESS)		
45	23	23-21	City of Kelowna - Fee Simple	002-123-861	21706832.001	Plan, Lot, Section, Township 27, Part NW 1/4, Except Plan KAP4344.		
46	12	12-1	City of Kelowna - Road			Plan KAP62910, Lot ROAD, Section 36, Township 29		
47	12	12-2	City of Kelowna - Fee Simple	024-276-979	21707380.010	Plan KAP62910, Lot A, Section 36, Township 29		
48	16	16-53	City of Kelowna - Fee Simple	012-643-211	21704454.002	Plan KAP33058, Lot 3, Section 16, Township 26		

MCC-2019

