

THE CORPORATION OF THE CITY OF KENORA

BY-LAW NUMBER 35-2006

A BY - LAW TO EXECUTE AN AGREEMENT BETWEEN THE CORPORATION OF THE CITY OF KENORA AND ANDREW B. PATERSON FOR DONATION OF A BEAR STATUE FOR DONATIONS

WHEREAS the Corporation of the City of Kenora deems it necessary to execute an Agreement between the Corporation of the City of Kenora and Andrew B. Paterson for donation of a Bear Statue containing a safe box for donations to the Kenora and Lake of the Woods Regional Community Foundation;

NOW THEREFORE the Council of the Corporation of the City of Kenora enacts as follows:

1. **That** the Mayor and Clerk of the Corporation of the City of Kenora are hereby authorized to execute an Agreement between The Corporation of the City of Kenora and Andrew B. Paterson for donation of a Bear Statue containing a safe box for donations to the Kenora and Lake of the Woods Regional Community Foundation, in accordance with the terms and conditions therein and affix the Seal of the Corporation thereto.
2. **THAT** this by-law shall come into force and be in effect from and after the final passing thereof.

**BY-LAW READ A FIRST AND SECOND TIME THIS 27TH DAY OF MARCH, 2006.
READ FOR A THIRD & FINAL TIME THIS 27TH DAY OF MARCH, 2006.**

THE CORPORATION OF THE CITY OF KENORA

.....**MAYOR**
David S. Canfield

.....**CITY CLERK**
Joanne L. McMillin

THIS AGREEMENT is made as of the 27th day of March, 2006.

BETWEEN:

THE CITY OF KENORA
(hereinafter the "City")

- and -

ANDREW B. PATERSON
(hereinafter "Paterson")

WHEREAS Paterson is desirous of donating an approximate 10,200 pound statue containing a safe box for donations to the Kenora and Lake of the Woods Regional Community Foundation (the "Bear") to the City;

AND WHEREAS the City is desirous of receiving such donation;

NOW THEREFORE the parties hereto for the consideration of ten (\$10.00) dollars paid by each party to the other party hereto and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

1. Donation. Paterson shall donate the Bear to the City on the following terms and conditions:
 - a) Paterson shall transport the Bear via truck to a convenient location close to the Bear's display location as set out in Schedule "A" attached hereto. The City shall be responsible to off load the Bear and transport same to its display location. From point of delivery all right, title, interest, risk and potential liability in, and associated with, the Bear shall transfer to the City;
 - b) The City shall be responsible for transporting the Bear from its off load location referred to in 1(a) above, to the display location as set out in Schedule "A" hereto;
 - c) The Bear shall be permanently displayed on the Kenora waterfront at the location set out on Schedule "A" hereto. If, in order to facilitate new construction in the renewal of the Kenora waterfront, the Bear is required to be temporarily relocated, it shall be relocated to another high profile location in close proximity to the location marked on Schedule "A" hereto. Such temporary alternate location to be approved by Paterson. Upon the substantial completion of the new construction with respect to the renewal of the Kenora waterfront, the Bear shall be returned to its permanent location on the Kenora waterfront;
 - d) The Bear shall be maintained by the City in a condition satisfactory to Paterson and commensurate with such a work of art. In particular, the Bear shall be protected and maintained, free from graffiti and damage, in a dignified manner;
 - e) Paterson shall provide on the Bear a plate identifying the artist, project, and contributor (Paterson);
 - f) The City shall provide Paterson with a donation receipt for the fair market value of the Bear being in the approximate amount of \$10,000.00;
 - g) All donations collected in the safe box in the Bear shall be for the benefit of Kenora and Lake of the Woods Regional Community Foundation.
2. Further Assurances. Each party agrees to do and cause things to be done and execute and deliver all such documents as may be required in order to carry out the provisions of this Agreement.

3. Time of the Essence. Time will be of the essence of this Agreement.
4. Waiver. Except as this Agreement may otherwise expressly provide, no party will be deemed to have waived the exercise of any of its rights under this Agreement unless such waiver is made in writing. No waiver made with respect to any instance involving the exercise of any right under this Agreement will be deemed to be a waiver with respect to any other instance or with respect to any other right.
5. Counterparts. This Agreement may be signed in one or more counterparts, either originally or by way of facsimile (each of which will be deemed to be an original), all of which together will constitute one and the same document.
6. Binding Effect. This Agreement enures to the benefit of, and will be binding on, the parties and their respective legal representatives, successors and permitted assigns.
7. Entire Agreement. This Agreement and the Schedules referred to herein constitute the entire agreement between the parties hereto and supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. None of the parties hereto shall be bound or charged with any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Agreement or in the Schedules. The parties hereto further acknowledge and agree that, in entering into this Agreement and in delivering the Schedules, they have not in any way relied, and will not in any way rely, upon any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this Agreement or in such Schedules.
8. Amendments. No modification or amendment to this Agreement may be made unless agreed to by the parties hereto in writing.

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

THE CITY OF KENORA

Per:

Mayor David S. Canfield

City Clerk Joanne McMillin

ANDREW B. PATERSON

Andrew B. Paterson