



## **Committee of the Whole Report**

### **For the Meeting of April 1, 2021**

---

**To:** Council **Date:** March 15, 2021  
**From:** Thomas Soulliere, Director of Parks, Recreation and Facilities  
**Subject:** Donation Proposal – Gorge Waterway Swim Platform

---

### **RECOMMENDATION**

That Council approve receipt of the donation of the swim platform from Aryze Developments Ltd, and direct staff to;

1. Complete a donation agreement with Aryze Developments Ltd, with terms satisfactory to the Director of Parks, Recreation and Facilities, and Chief Financial Officer; and in a form satisfactory to the City Solicitor;
2. Include the cost of maintaining the platform in the draft 2022 Financial Plan.

### **EXECUTIVE SUMMARY**

In July 2020, Aryze Developments Ltd (Aryze) installed a swim platform in the Gorge Waterway adjacent to Banfield Park without authorization from the City, provincial or federal governments. At the same time, the City received a letter from Aryze claiming responsibility for the platform and proposing to donate the amenity to the City. In late 2020, Transport Canada issued a work permit to Aryze, following an assessment of the navigation impacts under federal jurisdiction.

Over the past several months, the City has conducted a review of the donation proposal, including alignment with City regulations and applicable legislation, the City's licence agreement with the Province for this area, the asset condition, and life safety implications for swimmers.

The floating swim platform is constructed of high-quality materials, and although minor improvements are required, it does not present a significant risk to public safety, is not obstructing marine navigation, nor adversely affecting the marine environment. The platform has remained in place since it was installed and has become very popular with park users.

Based on the analysis to-date, it is recommended that Council approve receipt of the donation, subject to an agreement with Aryze that meets the City's risk management, financial and regulatory requirements.

### **PURPOSE**

The purpose of this report is to present Council with information regarding the proposed donation of a swim platform in the Gorge Waterway Park District.

## BACKGROUND

The floating swim platform is anchored in the Gorge Waterway northwest of the Selkirk Trestle between Cecelia Creek and Banfield Park. The Province of British Columbia owns the land covered by water in this area, and the City has acquired a licence for the water lots adjacent to Banfield Park from the Province. This area is zoned as *Gorge Waterway Park District Zone* (GWP), which was adopted by the City in 2014.

In July of 2020, the City received a donation proposal from Aryze Developments Ltd for the swim platform installed without authorization in the GWP. The donation proposal and reference plan are appended to this report (Attachment A). Since that time, the platform has become a popular attraction for swimmers to nearby Banfield Park.

Council adopted a motion on October 1, 2020, indicating the City's support for the platform to Transport Canada as part of the federal agency's public consultation process for a temporary occupancy permit application. Transport Canada approved the permit application in December 2020 and authorized a work permit for the structure until it could be determined if the City wished to retain the asset.

## ISSUES & ANALYSIS

Over the past several months, the City has conducted a review of the associated benefits, issues, and implications of the proposed donation.

This work included discussions with residents and members of the Victoria West Community Association who use the Gorge Waterway for recreation, and with Transport Canada representatives regarding marine navigation implications. The City also completed a physical condition assessment of the swim platform and engaged two other organizations to assist with further investigations. These studies produced recommendations to mitigate risks, however they did not identify any major issues with the structure that would negatively impact users of the Gorge Waterway nor the environment.

The City contracted Golder Associated Ltd to complete an assessment to identify and assess potential adverse effects to the marine environment. The study included a comprehensive underwater inspection by a qualified dive team to assess potential fish and wildlife habitat. The study identified that the swim platform's placement is unlikely to adversely affect the marine environment, fish, or wildlife habitat.

In addition, the Canadian Life Saving Society completed a safety audit that outlined a series of recommendations focused on the safe use of the floating swim platform. The City will work with Aryze to address these recommendations as part of the donation agreement.

To ensure the platform is effectively maintained, regular safety inspections are required during the warmer months and less frequent inspections for the remainder of the year. The City will conduct structural assessments on a five-year cycle for the asset's life, which is projected to be 20 years. The annual expenditures to maintain the asset are estimated to be no more than \$12,000 per year.

### *Regulatory Requirements*

The City has the authority to regulate land use, including land covered by water, through its *Zoning Regulation Bylaw* and has done so with the adoption of a site-specific zone for GWP. In addition, the City has possession of the GWP through the licence granted by the Province in 2014. The

development of a GWP Management Plan is a requirement of the license agreement that has yet to be fulfilled. In April, staff will present a report to Council with project updates on the Banfield Dock Expansion and a proposal to develop the GWP Management Plan.

The swimming platform is located in the GWP, which allows “parks and accessory uses to parks” and “water-related recreational activities” as permitted uses. Docks are prohibited within this zone, however, the *Zoning Regulation Bylaw* defines a dock as “a floating structure with a level surface, to which a boat, ship or other vessels may be moored or tied.” In this instance, the amenity is considered a floating platform to support recreational swimming and is not designed to moor vessels. Therefore, it is consistent with activities which are expressly permitted in the applicable zoning.

The Federal government (Transport Canada) has jurisdiction over navigation and shipping to ensure the navigation channel is safe for marine transport. The federal Navigation Protection Program sets terms and conditions for works in navigable waters. Aryze has received a works permit to anchor the floating swim platform. The process included a 30-day public consultation period and engagement with local First Nations. The engagement results identified strong community support for the swim platform, and public concerns raised through consultation have been addressed in this report.

The City is also responsible for ensuring compliance with relevant provisions under the *Fisheries Act* and the *Species at Risk Act*, as assessed by the Department of Fisheries and Oceans (DFO). Should the DFO identify any further risks the City will need to address such potential impacts as necessary.

## **OPTIONS & IMPACTS**

### **Option 1: That Council accept the swimming platform donation. (Recommended)**

Council has previously indicated formal support for the Gorge Waterway swim platform and the value of expanding the adjacent City-owned dock for recreational use. This amenity has been well received by the community and improves recreation access to the Gorge Waterway. If Council chooses to accept the donation, Aryze will be asked to enter a donation agreement with the City, and the necessary operating budget allocation will be included in the 2022 draft Financial Plan. In addition, the City will comply with the necessary provincial and federal regulatory processes.

### **Option 2: That Council decline the donation proposal.**

Council may decide to decline the donation proposal and direct staff to arrange for the swim platform’s immediate removal at the owner’s expense.

#### *Accessibility Impact Statement*

This sheltered waterway is a popular area for recreation and swimming. The addition of this platform makes swimming in the Gorge Waterway more accessible for many citizens. The platform is designed with two safe access points, a swim ladder and a transferring ramp. Given the platform is not connected to the shoreline, some individuals may not be able to access it without assistance.

#### *Impacts to Financial Plan*

Pending Council approval of the donation, the platform will be incorporated into the City’s asset management program. Annual inspection and life cycle maintenance costs are estimated at

\$12,000 per year and will be incorporated into the draft 2022 Financial Plan. This is equivalent to a 0.01% tax increase. It is anticipated that operating costs for 2021 can be accommodated within existing budgets.

## **CONCLUSIONS**

The Gorge Waterway adjacent to Banfield Park offers extensive swimming and recreational opportunities, which Council has supported over many years. The proposed donation of the swim platform offers a high-quality addition to the supporting infrastructure in the area to complement the existing uses of the Gorge.

Respectfully submitted,

Thomas Soulliere  
Director

Derrick Newman  
Asst Director, Construction and Facilities Management

**Report accepted and recommended by the City Manager.**

## **List of Attachments**

**Attachment A** - Donation Proposal from Aryze Developments Ltd (2020)