



May 24, 2023

Honourable Rob Fleming
PO Box 9055
Stn Prov Govt
Victoria, BC, V8W-9E2

Dear Minister Fleming:

Re: Request for an Agreement under Section 52 of the *Transportation Act*

In April of 2022, senior Ministry of Transportation and Infrastructure (MoTI) staff extended an informal invitation to local governments interested in entering into an agreement under Section 52 (Development near controlled access highway) of the *Transportation Act*.

This offer was made in the spirit of the provincial government's on-going Development Approval Process Review (DAPR) and stated objective of identifying "opportunities for improvement in the current development approvals process, and to support local governments in eliminating barriers to affordable housing and accelerate the construction of the homes they need in their communities."

As a result, the Regional District of Okanagan-Similkameen (RDOS) completed a review of current processes and identified that the Ministry is advising that its interests are unaffected in more than 97% of bylaw referrals from the RDOS involving lands within 800 metres of a controlled area.

Yet, due to the current requirements of the *Transportation Act*, the Regional District must wait between 2-4 weeks after third reading and prior to adoption of such bylaws in order to formally obtain Ministerial approval in accordance with the requirements of Section 52 of the Act.

To streamline what appears to be a redundant step in the bylaw adoption process, Regional District staff have, over the past 12 months, been working in collaboration with Ministry staff on a draft Section 52 agreement (a copy of which is attached with this letter).

This agreement was endorsed by the RDOS Board at its meeting of May 4, 2023, and I am pleased to be writing to formally request that you give your consideration to entering into this agreement with the RDOS.

Should you or your staff have any further questions, please contact the Regional District's Senior Manager of Planning, Christopher Garrish at 250-492-4101 or by email at cgarrish@rdos.bc.ca.

Sincerely,



Mark Pendergraft
RDOS Chair

p.c. Board Correspondence
C. Garrish, Senior Manager of Planning



Find us on

CONTROLLED AREAS AGREEMENT

This agreement dated for reference the __ day of _____, 2023.

BETWEEN:

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

101 Martin Street
Penticton, B.C. V2A 5J9
(the “Regional District”)

AND

MINISTER OF TRANSPORTATION AND INFRASTRUCTURE

(the “Minister”)

WHEREAS the Regional District and the Minister wish to enter into an agreement under section 52 of the *Transportation Act*, so that certain zoning bylaws adopted by the Regional District can apply to controlled area without the approval of the minister;

THEREFORE Minister and the Regional District agree as follows:

1.0 INTERPRETATION

- 1.1 The terms “controlled area”, and “zoning bylaw” shall be defined in accordance with the *Transportation Act*.
- 1.2 The term “proposed bylaw” means a draft of a zoning bylaw referred to the minister in a bylaw referral under s. 3 of this agreement.

2.0 APPLICATION

- 2.1 This agreement applies to Electoral Areas “A”, “B”, “C”, “D”, “E”, “F”, “G”, “H” and “I” of the Regional District.

3.0 ZONING BYLAWS

- 3.1 If the Regional District refers a draft of a zoning bylaw to the Minister along with a brief summary of the purpose of the bylaw (a “bylaw referral”), the Minister shall respond to the bylaw referral in writing within 30 days, or such other period as the parties may agree in respect of any particular bylaw referral.

3.2 If the Minister does not respond to a bylaw referral, or responds but indicates any of the following:

- (a) preliminary approval of the bylaw is granted;
- (b) the Minister’s interests are unaffected by the proposed bylaw;
- (c) the Minister does not anticipate that the proposed bylaw would have any negative impact on a controlled area;
- (d) there are no specific conditions or requirements the Minister wishes the Regional District to consider, or consider imposing, in relation to the bylaw;

then a zoning bylaw substantially in accordance with the proposed bylaw is deemed to be in compliance with this agreement and may be adopted without any further review or approval by the Minister.

4.0 TERM OF AGREEMENT

4.1 This agreement shall commence on the date it is executed by both parties, and shall continue until it is terminated, by one of the parties giving 30 days’ advance notice of termination to the other party.

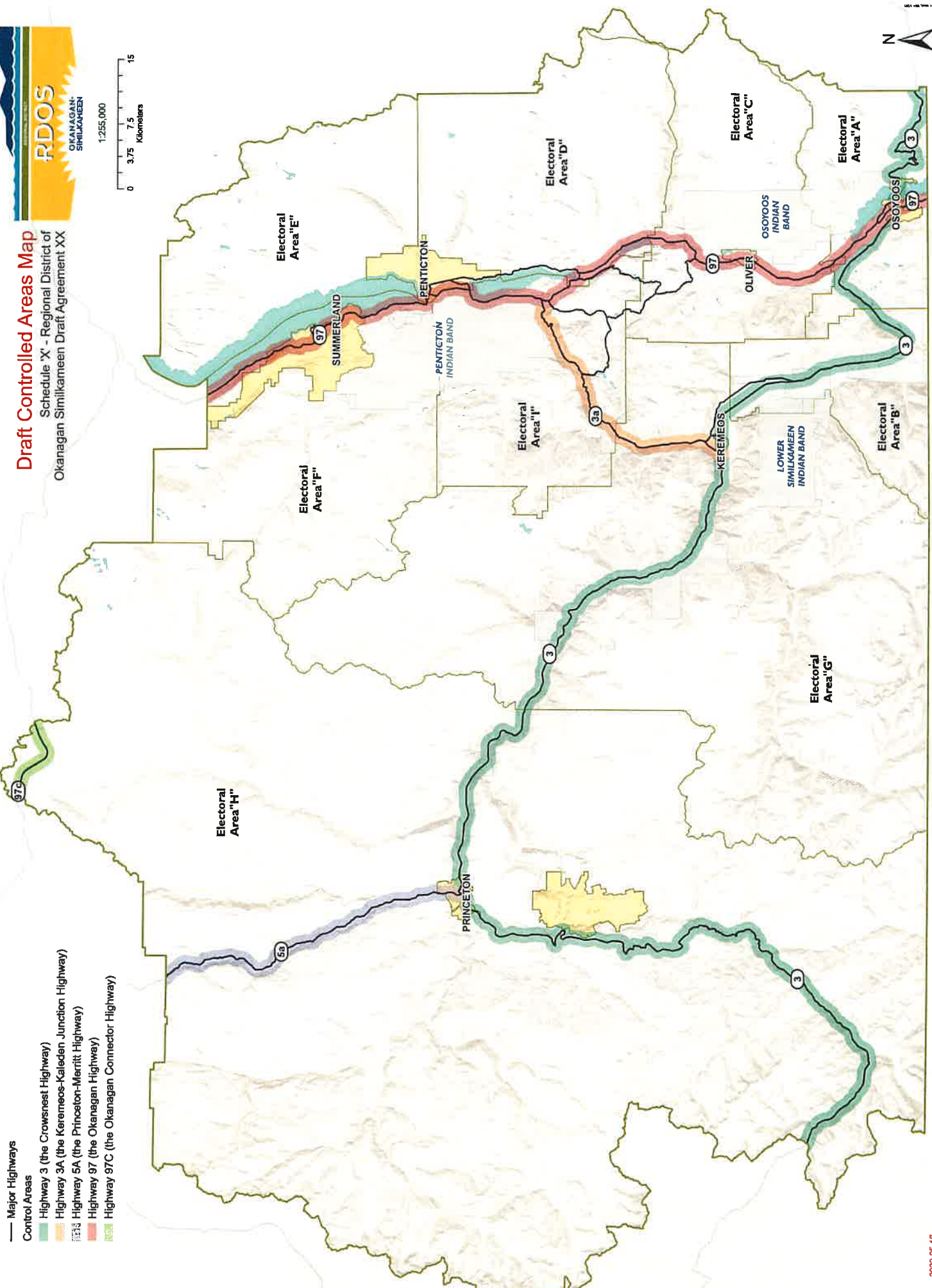
REGIONAL DISTRICT OF OKANAGAN-)
SIMILKAMEEN by its authorized signatories)
_____)
Chair)
_____)
Chief Administrative Officer)

MINISTER OF TRANSPORTATION AND)
INFRASTRUCTURE)
by its authorized signatories)
_____)
Name:)
_____)
Name:)
_____)



Draft Controlled Areas Map

Schedule 'X' - Regional District of Okanagan Similkameen Draft Agreement XX



- Major Highways
- Control Areas
- Highway 3 (the Crowsnest Highway)
- Highway 3A (the Keremeos-Kaleden Junction Highway)
- Highway 5A (the Princeton-Merritt Highway)
- Highway 97 (the Okanagan Highway)
- Highway 97C (the Okanagan Connector Highway)

UNITED STATES OF AMERICA