

**Central Cariboo Arts Centre
MANAGEMENT AND OPERATIONS AGREEMENT**

THIS AGREEMENT made the ___ day of _____, 2020.

BETWEEN:

CITY OF WILLIAMS LAKE
450 Mart Street
Williams Lake, BC V2G 1N3
(hereinafter called the “City”)

OF THE FIRST PART

AND:

CENTRAL CARIBOO ARTS AND CULTURE SOCIETY
90 Fourth Avenue North, Williams Lake, BC V2G 2C6
(hereinafter called the “Society”)

AND:

CARIBOO REGIONAL DISTRICT
180D North third Avenue
Williams Lake, BC V2G 2A4

(hereinafter called the “Regional District”)

OF THE SECOND PART

WHEREAS:

- A. The City is the registered owner of the property and the Central Cariboo Arts Centre (hereinafter referred to as the “Arts Centre”) building located at 450 Mart Street, Williams Lake, BC.
- B. The Regional District has established the Central Cariboo Arts and Culture service through Bylaw 4420 (2008) to support arts and cultural activities in the City of Williams Lake and Electoral Areas D, E and F and has determined that participation in this agreement to be an eligible cost for this service.
- C. The City has agreed to hire the Society as an independent Society to be responsible for the maintenance, operation and supervision of the Arts Centre.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the covenants and conditions hereinafter contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, CRD and the Society covenant and agree each with the other as follows:

1. Appointments

The City retains the Society to provide the services more particularly set out in Schedule A attached hereto (hereinafter called “the Services”) under the terms and conditions set out in this Agreement.

2. Term

The Society shall provide the Services for a term of five (5) years, commencing **January 1, 2021** and ending **December 31, 2025** (hereinafter called the “Term”) unless earlier terminated as herein provided. Upon expiry, the parties have the option to negotiate an additional term provided all obligations under the agreement are met.

3. Payment

For and in consideration of the Society providing the Services under the Terms of this Agreement, the Regional District shall pay the Society in accordance with Schedule B attached hereto.

4. Arts Centre

The Society shall be responsible for the operation and maintenance of the Arts Centre. The Society shall further have the right of occupancy of appropriate office space within the Arts Centre building.

The Arts Centre is for the primary purpose of growing, promoting and enhancing Arts in the Central Cariboo region and all activities within it should be related to this purpose.

The Arts Centre is a public facility and appropriate spaces within the facility should be made available to Arts groups, at reasonable rates, for the purposes of promoting and enhancing the Arts.

6. Payment of Expenses

The Society shall, during the Term, pay all rates, levies or charges incurred for the provision of all utilities (Natural Gas, Hydro, etc..), telephone communication, internet access, etc.. provided for, and into, the Arts Centre building. Should the utility costs estimated vary greatly from time of initial agreement the City, CRD and Society shall revisit the funding agreement in Schedule B.

7. Arts Centre Fees

Appropriate fees for use, or rental of spaces within, the Arts Centre shall be determined by the Society.

8. Revenue

All revenues derived from the Arts Centre shall accrue in accordance with Schedule B of this Agreement.

9. Facilities and Equipment

The Society shall, at its sole cost, provide all equipment necessary to perform the Services.

10. Independent Society

The Society shall be deemed to be an independent Society for the purposes of this agreement and not the servant, employee or agent of the City or the Regional District. The Society shall not in any manner whatsoever commit or purport to commit the City or the Regional District to the payment of any money to any person, firm or corporation unless specifically provided for herein and first authorized by the City or the Regional District.

11. Insurance

The Society shall place, and at all times, shall maintain during the Term, liability insurance of not less than THREE MILLION DOLLARS (\$3,000,000) against claims for personal injury or death or damage to property arising out of any omissions of the Society, or their respective servants, agents or employees in relation to the operation of the Arts Centre. Said insurance shall include public liability coverage for all Arts Centre operations and include the City and the Regional District as named insured parties to the coverage.

12. Assignment and Sub-Contracting

This Agreement as a whole is non-transferable and may not be assigned to another party. No sub-contract entered into by the Society in relation to the provision of the Services shall relieve the Society from any of his obligations or liability to the City under the Terms of this Agreement.

13. WorkSafe BC Coverage

It is the responsibility of the Society to make its own arrangements for WorkSafe BC coverage. Activities under the Contract shall be carried out at all times in conformity with the WorkSafe BC Health and Safety Regulations. Confirmation of coverage and status of account must be submitted to the City.

14. Improvements

The Society shall not make any major improvements or alterations to the Arts Centre without the written consent of the City. Any improvements made to the Arts Centre by the

Society during the Term shall, upon termination of this Agreement, become the property of the City free and clear of all liens, costs or charges, and the Society shall indemnify and save harmless the City from any and all liability whatsoever for such liens, costs and charges. Upon termination and the vesting of such improvements in the City, the Society shall have no right to compensation whatsoever for such improvements unless otherwise agreed in writing by the City prior to termination.

15. Inspection of Premises

- (a) The City shall conduct an annual inspection of the Arts Centre. This inspection shall be conducted during the months of June, July or August in each year at a mutually agreeable time.
- (b) Notwithstanding the above, the City or the Regional District may enter onto the property, at all times, to inspect or examine any aspect of the Arts Centre facilities or operations or any record or document relating to the Arts Centre or the provision of Services under this Agreement.

16. Indemnity

The Society shall indemnify and save harmless the City and the Regional District and all of its employees, servants, representatives and agents from and against all losses, claims, damages, actions, causes of action, costs and expenses whatsoever that the City and the Regional District and its employees, servants, representatives and agents may sustain, incur, suffer or be put to by reason of any act or omission of the Society or of any servant, employee, officer, director, shareholder or sub-Society of the Society in the performance by the Society of the covenants and conditions to be performed by him under this Agreement.

17. Termination

Notwithstanding any other provision of this Agreement:

- a) If the Society fails to comply with any provision of this Agreement then, and in addition to any other remedy or remedies available to the City, the City, may at its option, terminate this Agreement by giving ninety (90) days written notice of termination to the Society.
- b) The Society may terminate this agreement at any time upon giving to the City ninety (90) days' notice of its intention to so terminate.
- c) The Regional District may terminate this agreement at any time upon giving to the City and the Society ninety (90) days notice of its intention to so terminate.

- d) Should option (a), (b), or (c) be exercised, the City or the Regional District will be under no further obligation to the Society, except to pay the Society such amounts as the Society may be entitled to receive as payment under this Agreement up to the date of such termination.
- e) It is expressly agreed that should the Society at any time become insolvent or bankrupt or make an assignment for the benefit of creditors, or take any action whatsoever, legislative or otherwise, with a view to the winding-up, dissolution or liquidation of the Society, then this agreement shall cease and be at an end, at the option of the City or the Regional District, without notice or any form of legal process whatsoever, and the Society and his assets shall be chargeable for any liability then outstanding to the City and the Regional District.

18. Rules and Regulations

The Society shall, during the Term and in carrying out the provision of Services and otherwise the covenants herein contained to be performed by the Society, abide by and comply with all applicable rules, regulations, enactments and bylaws of any federal, provincial or local government or any authority having jurisdiction whatsoever over the management and operation of the Arts Centre and save harmless the City and the Regional District from any liability arising out of the breach of any of the above.

19. Nuisance

The Society shall not suffer nor permit any act or thing to be done upon the Arts Centre, save activities necessary for normal Arts Centre operations, which is, or would constitute a nuisance to the City or occupiers of any lands or premises adjoining the Arts Centre, or in the vicinity of the Arts Centre, or to the public in general and shall indemnify and save harmless the City from any liability therefore.

20. Non-Waiver

No provision of this Agreement and no breach by the Society of any such provision shall be deemed to have been waived unless the waiver is in writing, signed by the City and the Regional District. The written waiver by the City and the Regional District of any breach of any provision of this Agreement by the Society shall not be deemed to be a waiver of such provision of this Agreement.

21. Notices

Any notice required to be given under this Agreement shall be conclusively deemed to be given or delivered to and received by the addressee as follows: if delivered personally on

the date of such personal delivery, or if mailed on the fourth business day after the mailing of the same in British Columbia by pre-paid post addressed, if to the City or the Regional District as first set out in this Agreement and if to the Society, as set out in this Agreement.

Either party may, from time to time, advise the other by notice in writing, of any change of address of the party, giving such notice and from and after the giving of such address specified therein this shall, for the purpose of this paragraph, be conclusively deemed to be the address of the party giving such notice.

Contact Persons:

City of Williams Lake- Ian James, Director of Community Services
525 Proctor St., Williams Lake, BC V2G 4J1
250-392-1786 ijames@williamslake.ca

Cariboo Regional District- Darron Campbell, Manager of Community Services
180 D North 3rd Avenue, Williams Lake, BC V2G 2A4
250-392-3351 dcampbell@cariboord.ca

Central Cariboo Arts and Culture Society- Leah Selk, Executive Director,
90 Fourth Avenue North, Williams Lake, BC V2G 2C6
778-412-9044 info@centralcaribooarts.com

22. Entire Agreement

This Agreement shall be deemed to constitute the entire Agreement between the City, the RD and the Society with respect to the matter hereof and shall supersede all previous negotiations, representations, and documents in relation thereto made by either party to this Agreement.

23. Miscellaneous

The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Agreement.

In this Agreement, wherever the singular or masculine is used, it shall be construed as if the plural or feminine or body corporate as the case maybe, had been used where the context of the parties hereto so require.

This Agreement shall ensure to the benefit of and be binding upon the parties hereto and

their respective heirs, executors, successors and assigns.

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

_____)
Mayor)
City of Williams Lake)

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)
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_____)
Corporate Officer)
City of Williams Lake)

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)
)
)

_____)
Chair)
Cariboo Regional District)

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_____)
Corporate Officer)
Cariboo Regional District)

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IN THE PRESENCE OF:)
)

_____)
Name (witness))

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)

_____)
Address)

)
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)
)

_____)
Occupation)

_____)
Name & Position)
Central Cariboo Arts & Culture Society)

)
)
_____)
Name & Position)
Central Cariboo Arts & Culture Society)

SCHEDULE A
LIST OF SERVICES TO BE PERFORMED

1. During the Term, the Society shall provide day-to-day operations, business front and public reception (when applicable), maintenance, supervision, rental, promotion and security of the Arts Centre in a proper and competent businesslike manner. The Arts Centre is a public building and should be made available to Arts groups from within the Central Cariboo, at a reasonable rate, for the purpose of delivering, growing, promoting and enhancing Arts in the Central Cariboo.
2. During the term of this agreement the Society will be responsible for all minor repair and maintenance, (nonstructural, mechanical, electrical or significant upgrades) to the existing building of costs up to \$200. The Society must also notify the City Director of Public Works or City designate of all repair work prior to starting the work fix or replacement.

All planned, or proposed, Society funded capital improvements to the building must first be approved by the City. This includes approval prior to applications for grants or other funding.

Additionally, all planned, or proposed, projects requiring funding from the Regional District must first be approved by the City and then by the Central Cariboo Joint Committee through its appropriate financial planning process.

3.
 - a) The Society shall submit an annual Arts Centre operations reports to the City and the Regional District providing a general overview of the condition and activities of the Arts Centre;
 - b) The Society shall, at any time, upon the request of the City:
 - i) Fully inform the City of work done and to be done by the Society in connection with the provision of the Services; and
 - ii) Permit the City or the Regional District, at all reasonable times, to inspect, examine and review any record or other documents of the Society pertaining to the provision of the Services under this Agreement.
 - c) The Society shall keep, or cause to be kept, true and accurate records and accounts in accordance with Generally Accepted Accounting Principles regarding the management and operation of the Facilities and keep these available for inspection by the Owner during regular business hours;
 - d) The Society shall permit the Owner, at all reasonable times, at the Owner's own cost and expense, to inspect and obtain copies of all records and accounts relating to repairs, replacements, alterations or improvements to the Facilities; and;
 - e) The Society shall turn over to the Owner, forthwith upon the expiration or termination of this Management Agreement, copies of all records and accounts in

respect of repairs, replacements, alterations or improvements throughout the Term and financial records for each year of the Term with respect to the operation of the Facilities. This obligation will survive any expiration or termination of this Management Agreement.

- f) Consistent with all Fee for Service Agreements the Society will be allotted ¼ advertising space at no charge in the City of Williams Lake Active Living Guide for the sole purpose of promoting programs
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- 4. The Society shall be responsible to the City for the building, with direction provided by the Central Cariboo Joint Committee, and shall be familiar with all policies and procedures of the Joint Committee.
 - 5. The Society shall meet with the Joint Committee on behalf of the City and the RD, as required, regarding Arts Centre matters.
 - 6. The Society will manage the core rental spaces in the facility and all rental fees will be paid directly to the Society. Upon expiration of the rental space agreements it is the responsibility of the Society to reach new agreements with the core tenant groups. Any change to rent, rental conditions, or use of allocated space must be mutually agreed to with the core tenants. Any disagreement on these areas between the Society and the core tenant groups that cannot be settled internally will be arbitrated by the City with the final decision becoming binding for the term indicated in the decision.

SCHEDULE B
PAYMENT FOR SERVICES

For and in consideration of the Society providing the Services under the terms of this Agreement, the following payments/distribution of revenues shall accrue to the City and the Society, respectively:

1. Arts Centre Revenues:
 - a) The Society shall collect and retain 100% of rental and other appropriate fees, a statement of all revenues received will be submitted to the City on an annual basis.
 - b) Payment to be paid to the Society in equal quarterly amounts by the Regional District according to the following schedule and upon receipt of the appropriate invoices. Payments noted below will be plus applicable taxes.

Year	2021	2022	2023	2024	2025
Amount	\$25,000	\$27,500	\$30,000	\$32,500	\$35,000