

City Staff Report

Original signed by: City Manager Johnson

Report Date: Dec 8, 2021
Meeting Date: Dec 14, 2021

To: City Manager
From: Recreation Manager
Subject: Parkland Three-Year Lease Agreement

Purpose

This report is to propose a lease renewal for Parkland Elementary School with School District 28 to enable use as a community centre by the Parkland Recreation Commission.

Summary

In 2011, the Cariboo Regional District entered into a lease with School District 28 for operating a community centre in an unused portion of the Parkland Elementary School. This proposal is to renew the lease agreement with no required fee increase from SD28, over a Three (3) year term. The term of the current lease will expire December 31, 2021.

Recommendation

Recommend to the Cariboo Regional District that they approve the attached lease agreement with School District 28 with the amended Three-year term requiring no additional increase in rental fees.

TERM/LOCATION/FEE STRUCTURE
<ul style="list-style-type: none">• January 1, 2022 to December 31, 2025 (3 Years)• Rooms 106, 107, 108, 109, study areas and washrooms and exterior space• \$750.00 per month + applicable taxes & utilities

Financial Implications

The proposed fees to be absorbed by the Parkland Recreation Commissions operating subsidy budget. No additional funds are required.

Background

At the North Cariboo Joint Planning Committee meeting held October 11, 2011, the Committee endorsed the North Cariboo Recreation and Parks establishment bylaw amendment that enabled service delivery utilizing properties not owned by the Regional District but under the direct management of established recreation commissions. This permitted a licence agreement providing exclusive use of four classrooms, study space and washrooms at the school, which were currently not in use. The licence also provides for use of other space in the school, such as



the gym or grounds with prior approval of the principal.

The previous yearly fees were \$750 per month; however, the School District has agreed to roll over for the 3-year term at the same rate.

The fees will be absorbed within the operational budget given to the Commission. At this time, we are not expecting a request for any further alterations to the Parkland Recreation Commission annual operating subsidy.

Attachments

Proposed Three (3) year Lease agreement

Concurrence

Director of Community Services – City of Quesnel

LICENSE TO OCCUPY
This "**Agreement**" made the ____ day of

BETWEEN:
THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO.
28 (QUESNEL)
A BODY CORPORATE OF 401 NORTH STAR ROAD
QUESNEL, BC V2J 5K2
(the "Licensor")

AND:

Name: CARIBOO REGIONAL DISTRICT
A Local Government Established by Letters Patent
Address: Suite D, 180 North 3rd Avenue
Williams Lake, BC V2G 2A4
Telephone: (250) 392-3351
(the "Licensee")

AND, in partnership as operator:

Name: PARKLAND RECREATION COMMISSION (PRC)
As Established by CRD Bylaw 4271 (2007)
Address: 5296 Bjornson Road
Quesnel, B.C. V2J 6X9
Telephone: (250) 992-3744
(the "Licensee operator")

WHEREAS the Licensor is the registered owner of the lands located at the following address, and improvements thereon: **5016 Bjornson Road, Quesnel, BC V2J 6X7.**

AND WHEREAS the Licensee wishes to obtain, and the Licensor wishes to grant to the Licensee, a non-exclusive license (the "**License**") to occupy that portion of the Premises indicated on Schedule "A" attached hereto, or such other areas as may be designated by the Licensor hereunder, on the terms and conditions set forth herein.

GRANT OF NON-EXCLUSIVE LICENSE

In consideration of the covenants of the Licensee contained herein, and subject to the terms and conditions hereof, the Licensor does hereby grant the License to the Licensee. The interest granted pursuant to this Agreement constitutes a license only and does not constitute a lease or a sublease, nor create any other interest in land, nor any partnership, joint venture or agency relationship between the Licensor and the Licensee (collectively, the "**Parties**", and individually, a "**Party**"). The Licensor may in its discretion relocate the License Area to a comparable area of the Premises upon reasonable notice to the Licensee.

The Licensee shall have a right of access, in common with the Licensors, over those portions of the common areas of the Premises that are reasonably required by the Licensee for proper use of the License Area. The Licensors may stipulate access limits and routes, and the Licensee shall ensure that its staff and invitees respect those stipulations. The Licensee shall have exclusive use of the Licensed Area, subject to the terms and conditions of the License contained herein.

a) **TERM AND LICENSE FEES:**

Subject to early termination or renewal as may be provided herein or otherwise agreed in writing, the License shall be for a term of three (3) years commencing on the 1st day of January, 2022; subject to the Licensee's compliance with all the terms hereof, including timely payment to the Licensors in advance of license fees throughout the term as follows:

TERM/LOCATION/FEE STRUCTURE

- January 1, 2022 to December 31, 2025 (3 Years)
- Rooms 106, 107, 108, 109, study areas and washrooms and exterior space
- \$750.00 per month + applicable taxes & utilities

b) **USE OF LICENSE AREA:**

The Licensee shall not use the License Area nor allow the License Area to be used for any other purpose other than that for which the License is granted, that is to say, for a Community Centre Hall and related activities/events, unless the consent in writing of the Licensors is first obtained, which consent may, in the Licensors' absolute discretion, be withheld or granted subject to conditions.

c) **NO NUISANCE:**

The Licensee shall not at any time during the said term or any renewal thereof permit anything to be done or kept on or around the License Area that shall be deemed a nuisance.

d) **COMPLY WITH LAWS:**

The Licensee shall observe, fulfill and comply at its expense with all laws, ordinances, regulations, requirements and recommendations, which may be applicable to the Licensee, or to the manner of use of the License Area, or any and all Federal, Provincial, Civic, Municipal, and other authorities and all notices in pursuance of same and whether served upon the Licensors or the Licensee. The Licensee shall save the Licensors harmless from all costs, charges or damages which the Licensors may incur or suffer by reason of the Licensee's breach of any such law, rule or regulation.

Without limiting the foregoing, the Licensee acknowledges that the Ministry of Education has introduced legislation that prohibits the use of tobacco and smoking in all School District buildings and on School District lands (the "Smoking Ban"). During the term and while the Licensee remains in possession of the Property, the Licensee will comply with

the Smoking Ban and will use its best efforts to enforce the Smoking Ban on the Property.

e) **DAMAGE BY LICENSEE:**

The Licensee shall pay the cost of any damage to any property of the Licensor arising from the use of the License Area or the Licensor's property by the Licensee or its staff or invitees. Without limiting the foregoing, the Licensee shall reimburse the Licensor for costs incurred by the Licensor in making good any damage caused to the said License Area or any part thereof as a result of the negligence or willful act or omission of the Licensee, its invitees, licensees, agents, servants, clients or other persons from time to time in or about the License Area.

f) **INSURANCE:**

The Licensee shall maintain at its own expense content and liability insurance as the Licensor may require and shall provide the Licensor with evidence of such coverage upon request. The Licensee shall be responsible for securing its own property and the property of others in its care and control in the License Area, and for ensuring the safety of its staff and invitees, and hereby releases the Licensor from any and all liability whatsoever in respect thereof.

g) **ASSIGNMENT OR SUBLICENSING:**

This Agreement and the License are personal to the Licensee and may not be assigned or sublicensed, including by succession or operation of law, except with the prior written consent of the Licensor, which may be withheld in the absolute discretion of the Licensor. In no event shall any assignment or sub-licensing release or relieve the Licensee from its obligations fully to perform all the terms, covenants and conditions of this License on its part to be performed. It is agreed that any change from the present control of the Licensee shall constitute an assignment of the License requiring the prior written consent of the Licensor.

h) **INDEMNITY OF LICENSOR:**

The Licensee shall indemnify and save harmless the Licensor (which indemnity shall survive the expiry or sooner determination of this License) from any and all liabilities, damages, costs, claims, suits, or actions, including all costs and actual legal fees and disbursements incurred, in connection with:

- (i) any breach, violation, or non-performance of any covenant, regulation, condition or agreement in this License set forth and contained on the part of the Licensee, to be fulfilled, kept, observed and performed;
- (ii) any act or omission of the Licensee;
- (iii) any damage to property while said property shall be in or about the License Area;
or
- (iv) any injury to any licensee, invitee, agent or employee of the Licensee, including death resulting at any time therefrom, occurring in or about the License Area

except to the extent such results from the wrongful act or failure to act or negligence of the Licensor, or of the Licensor's agents or employees.

i) **CONDITION OF LICENSE AREA, REPAIRS AND MAINTENANCE:**

The Licensee hereby accepts the License Area on an "as is" basis, and the Licensee shall, during the said term and any extension thereof, sufficiently repair, maintain, and keep all improvements on the License Area in good repair

The licensee shall maintain the exterior space at a standard acceptable to the Licensor. If the area is not maintained to the standard acceptable to the Licensor, the Licensor will give the Licensee notice under Section U of the License. If the facility has not been brought up to the standard that the Licensor has identified in the letter to the Licensee within two weeks, the Licensor shall bring the area up to the standard of the licensor and charge the cost of the work to the Licensee.

No equipment or materials shall be located outside of the designated area.

Garden Area: It is understood that in the event the Parkland Recreation Commission cannot maintain the exterior 'Garden Area' as required; AND after initial consultation with Parkland School and its PAC for potential school use and/or partnership; that the Parkland Recreation Commission will:

- * Notify the Secretary-Treasurer- SD28, Recreation Manager – City of Quesnel; of your intention to return the 'Garden Area' back to SD28
- * Confirm approval with SD28 prior to any work proceeding
- * Bring back the garden space to its original state (takes fencing down, all equipment removed, ground leveled as best as possible- minus grass)
- * Upon completion – Provide notification of completion to SD28 and City of Quesnel representatives.

j) **ALTERATIONS AND INSTALLATIONS:**

The Licensee shall not make any alterations, repairs, installations, removals or improvements in or about the License Area or the improvements thereon without the Licensor's prior written consent, in the Licensor's absolute discretion, as to suitability and acceptability and only after having submitted adequate plans and specifications thereof to the Licensor. Such consent shall be at the approval of the Secretary Treasurer and the Manager of Operations of the Licensor, and in the event of such consent, all work shall be done in good and workmanlike manner to a standard acceptable to the Manager of Operations of the Licensor. For any maintenance issues, please call 250-983-1000. The Parkland Recreation Commission can call for an updated contact list for direct SD28 maintenance supervisor's phone numbers at any time as required.

k) **FIXTURES:**

At the expiration of the term hereby granted or if the License shall be otherwise terminated, all improvements erected or placed upon the License Area by the Licensee and all fixtures in or about the License Area placed by the Licensee shall become the property of the Licensor.

The Licensor shall have the right upon the termination of this License by effluxion of time or otherwise to require the Licensee by notice in writing, to remove the chattels and equipment located on the License Area and if the Licensee does not remove its personal

property forthwith after written demand, the Licensor shall not be responsible for any loss or damage to such property because of such removal.

l) LIENS AND ENCUMBRANCES:

The Licensee covenants to forthwith discharge any liens and other encumbrances at any time filed against the License Area arising by reason of any work done or materials supplied at the direction of the Licensee, and to keep the said License Area free from any and all liens and other encumbrances, arising as a result of its acts or omission, and if the Licensee fails to do so, the Licensor may, but shall be under no obligation, to pay into court, the amount required to obtain a discharge of any such lien in the name of the Licensee and any amount so paid together with all disbursements and costs in respect of such proceedings on a solicitor and client basis shall be forthwith due and payable by the Licensee to the Licensor as additional license fees. The Licensee shall allow the Licensor to post and keep posted on the License Area any notices that the Licensor may desire to post under the provisions of the *Builders Lien Act* or any other legislation.

m) UTILITIES:

The Licensee shall pay utilities (electric, gas, water, and other utility charges) in connection with its use or occupancy of the License Area at the rate of 21% of total building costs.

The Parties agree to review the actual usage and cost of utilities after two years of operating experience. The baseline average cost used for estimate purposes was \$31,000 per annum for hydro and natural gas consumption.

n) OTHER COSTS:

The Licensee shall pay and be responsible for insurance, janitorial and maintenance costs, repairs, assessments, painting, security protection, and all other costs, charges, outlays and expenses in connection with the License Area or any improvements thereon. Should any taxes be levied against the License Area or improvements by any authority, then the Licensee shall be responsible for those taxes relating to the License Area, and improvements located thereon or if no separate tax notice shall be issued for the License Area, then in such event the Licensee shall pay its proportionate share of the Licensor's taxes attributable to the Licensee's occupancy of the License Area.

The licensor shall be responsible for any major structural, roofing, furnace, system failures and all normal maintenance costs attributable to the main supply of heat, air conditioning, electricity, water, and septic services to and for the premises.

o) SECURITY AND PARKING:

The Licensee will provide caretaker and security service at its own expense and will ensure adequate and proper parking of vehicles to a standard acceptable to the School Principal and Manager of Operations of the Licensor.

p) FINANCIAL INFORMATION:

The Licensee shall if requested provide financial information the Licensor may require. Such information shall include but not be limited to proposed budgets, and/or profit & loss statements.

q) **LICENSOR'S ACCESS TO LICENSE AREA:**

The Licensor shall be entitled to enter, inspect and otherwise have access to the License Area throughout the term of the License, and upon the expiration or sooner determination of the term, or of any renewal thereof, the Licensee shall forthwith peaceably vacate and cease occupancy of the License Area without notice from the Licensor.

r) **TIME:**

N/A

s) **TERMINATION:**

The Licensor may terminate the License on one week's notice in the event of non-payment of license fees, continued nuisance or any other default or non-performance of any covenant hereunder by the Licensee. This license may also be terminated for any reason by either party by providing 90 days advance notice.

t) **RENEWAL:**

This agreement may be renewed upon agreement of both parties for a further specified term as agreed upon.

u) **ACCESS TO OTHER AREAS OF THE PREMISES AND PROPERTY:**

The licensee may, in discussion and agreement with the School Principal, arrange for the use of other areas and property within the premises. Details and specific use requirements for each agreed upon occasion of use shall be negotiated and detailed in a document for the specified occasion. The Principal agreement or non-agreement shall be full and final.

v) **ENTIRE AGREEMENT:**

This Agreement contains the entire agreement between the Parties. There are no other conditions, representations or warranties, express or implied, by either of the Parties to the other, and no amendment or addition hereto shall be valid unless set out in writing and executed on behalf of each of the Parties.

u) **NOTICES:**

Any notice, request, demand, direction or statement required or permitted to be given hereunder, shall be sufficiently given if mailed in Canada by registered mail, postage prepaid, to the appropriate Party at the address first set out above for that Party, or such other address as may be designated by written notice given by that Party to the other Party in accordance with this provision.

Any notice mailed as aforesaid shall be conclusively deemed to have been received on the third business day following the day on which such notice is mailed as aforesaid.

v) **REGISTRATION:**

The Licensee shall not in any circumstances apply to register this License or any other interest or notice of interest against or in respect of the License Area, the Premises or

any part thereof. The Licensee further covenants not to mortgage or otherwise encumber this License or any interest hereunder.

w) **EXPROPRIATION:**

During the term of this License, if the whole of the License Area shall be expropriated, or otherwise taken by virtue of any power or authority having the power for such acquisition or condemnation, then the term of this License shall be deemed terminated from the date of entry of such authority without any liability to the Licensor or recourse by the Licensee to the Licensor whatsoever including, without limitation, for any refund of prepaid license fees or for any costs or damages. Nothing herein contained shall prevent the Licensor nor the Licensee or both from recovering damages from such authority for the value of their respective interests or for such other damages and expenses allowed by process of law.

x) **LIABILITY FOR DAMAGE TO PERSONS OR PROPERTY:**

The Licensor shall not be responsible in any way for any injury to any person or for the loss of or damage to any property belonging to the Licensee or to the employees, invitees, or licensees of the Licensee while such person or persons or property is in or about the buildings on the License Area or any part of the License Area, and the Licensee covenants to indemnify the Licensor against all loss, costs, claims or demands in respect of any injuries, loss or damage referred to in this paragraph.

y) **OVERHOLDING:**

If the Licensee continues to occupy the License Area with the express consent of the Licensor after the expiry of the term of this License without any further written agreement, the Licensee shall be a monthly licensee on the terms and conditions herein set out.

z) **COMMENCEMENT:**

The covenants expressed herein shall be binding on the Parties from the commencement of the term set out herein notwithstanding the dates of execution of this Agreement by the Parties.

aa) **ENUREMENT:**

All of the provisions of this License shall be binding upon and enure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF the Parties have duly executed and delivered this Agreement as of the day and year first above written.

LICENSOR:

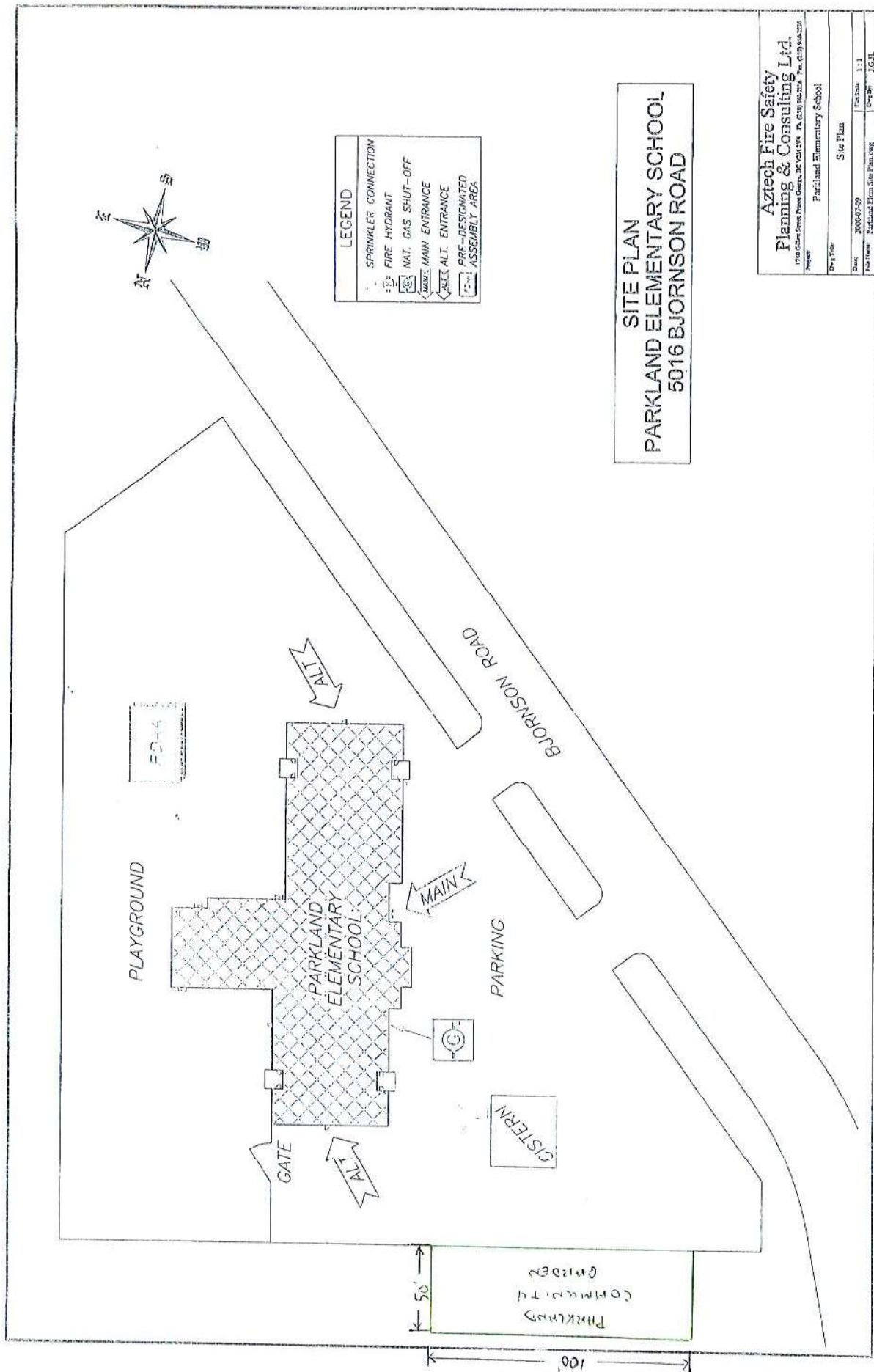
Secretary-Treasurer
School District No. 28 (QUESNEL)

LICENSEE:

Chief Administrative Officer
Cariboo Regional District Office

LICENSEE OPERATOR:

Chair, Parkland Recreation Commission



Aztech Fire Safety Planning & Consulting Ltd. <small>1100 Gower Street, Suite 100, St. John's, NL A1B 4X6 Tel: (709) 582-2222</small>	
Project:	Parkland Elementary School
Drawn By:	Site Plan
Drawn:	2006-07-09
Scale:	1:1
Drawn By:	Parkland Elem Site Plan.dwg
Drawn:	JG:EL