

VILLAGE OF CHASE

Bylaw No. 772, 2011

WHEREAS

- A. The purpose of this bylaw is to authorize the Village of Chase to enter into the Partnering Agreement dated for reference the 8th day of November, 2011, between the Village of Chase and Chase and District Recreation Centre Society ("Partnering Agreement"); and
- B. The Partnering Agreement provides that the Village of Chase will incur a liability, and the term of the Partnering Agreement is for more than five years; and
- C. As required by the *Community Charter*, SBC Ch. 26, 2003, as amended, the approval of the electors has been obtained by the alternate approval process on August 8, 2012.

Now therefore the Council of the Village of Chase, in open meeting assembled, enacts as follows:

TITLE

1. This bylaw may be cited for all purposes as "Art Holding Memorial Arena Partnering Agreement Bylaw No. 772, 2011".

PARTNERING AGREEMENT

2. The Village of Chase is authorized to enter into the Partnering Agreement, a copy of which is attached to and forms part of this bylaw as Schedule "A".
3. The Mayor and Clerk are authorized to execute and affix the corporate seal of the Village of Chase to the Partnering Agreement and any further documents which are necessary to give effect to the Partnering Agreement.

REPEAL

4. The Bylaw cited as the "Arena Partnering Agreement No. 585-1999" bylaw is hereby repealed.

INTERPRETATION

5. In this bylaw:
 - (a) The headings contained in this bylaw are for convenience only and are not to be construed as defining, or in any way limiting the scope or the intent of the provisions of this bylaw.

- (b) If any portion of this bylaw is held invalid by a court of competent jurisdiction, then that invalid portion shall be severed and the remainder of this bylaw shall be deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.
- (c) The Schedule attached to this bylaw is incorporated into and forms part of this bylaw and is enforceable in the same manner as this bylaw.

READ A FIRST TIME THIS 8th DAY OF November, 2011

READ A SECOND TIME THIS 8th DAY OF November, 2011

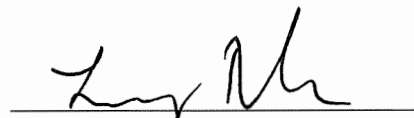
READ A THIRD TIME THIS 8th DAY OF November, 2011

APPROVED BY THE ELECTORS THIS 8th DAY OF August, 2012

ADOPTED THIS 14th DAY OF **AUGUST, 2012.**



Mayor



Corporate Officer

Schedule "A" to Bylaw No. 772, 2011

PARTNERING AGREEMENT

THIS AGREEMENT dated for reference November 8, 2011.

BETWEEN:

VILLAGE OF CHASE

PO BOX 440
Chase, BC V0E 1M0

(the "Village")

OF THE FIRST PART

AND:

**CHASE AND DISTRICT RECREATION CENTRE
SOCIETY**, a Society incorporated within the Province of
British Columbia (Incorporation No.: S-0029734)
PO Box 1239, Chase, BC V0E 1M0

(the "Society")

OF THE SECOND PART

WHEREAS:

- A. As of the date of this Agreement, the following are located upon Lot 1 (as hereinafter defined): the Art Holding Memorial Arena; a large parking lot storage shed(s); sidewalks; the sales office and zipline practice tower of Chase Canyon Eco-Adventures Ltd.; a recycling facility and large grassy vacant areas.
- B. The Landlord and the Tenant desire to enter into this Partnering Agreement, pursuant to which the Tenant will operate the Art Holding Memorial Arena and recreational activities on Lot 1.
- C. The Landlord and the Tenant have or will enter into a Lease Agreement to govern the Society's use of Lot 1 during the term of this Agreement.
- D. The Village is authorized to enter into partnering agreements pursuant to section 21 of the *Community Charter*.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the promises and the covenants, agreements, representations, warranties and payments hereinafter contained, the parties hereto covenant and agree as follows:

DEFINITIONS

- (d) In this agreement:
 - (i) “Board” means the Recreation Board of Management appointed under Part 0 of this Agreement;
 - (ii) “Lot 1” means that parcel of land legally described as PID: 007-819-750, Lot 1, DL 517, KDYD, Plan 20201, except plan KAP49449;
 - (iii) “Recreation Centre” means the Art Holding Memorial Arena which is located on Lot 1 as of the date of this Agreement;
 - (iv) “Recreation Service” means the use of Lot 1 for public recreational activities.
 - (v) “Service Area” means the Village of Chase and Electoral Areas L and P of the Thompson-Nicola Regional District;

TERM:

- (e) This Partnering Agreement will take effect and all the terms and conditions contained herein will be enforceable on the date that the Arena Partnering Agreement No. 585-1999 bylaw is repealed, and until such time this Partnering Agreement will be of no force and effect. This Partnering Agreement will terminate on May 31, 2019.

SOCIETY’S OBLIGATIONS

- (f) In the event that the Society desires to construct further improvements upon Lot 1, the Society shall:
 - (i) obtain the Village’s permission in writing, which may be withheld at the Village’s sole discretion;
 - (ii) diligently seek a source or source of funding for the construction and development of the improvements, which may include contributions, donations and loans;
 - (iii) carry out all planning and retain consultants as appropriate, and submit drawings and full construction program to the Village for its approval;
 - (iv) obtain all permits, authorizations and inspections and pay all fees, charges and levies; and

- (v) carry out all construction and development of the improvements.
- (g) The Society, through the Board, shall:
 - (i) manage the use of Lot 1 for the purpose of providing the Recreation Service;
 - (ii) operate the Recreation Centre until May 31, 2019; and
 - (iii) provide all equipment, supplies and operating personnel necessary to provide the Recreation Service which may include entering into contracts for management, maintenance and the provision of food or other services in the Recreation Centre and on Lot 1”.
- (h) No member of the Society or the Board shall be a party to any contract entered into by the Society as per this Agreement.
- (i) The Society shall provide the Recreation Service on behalf of the Village to the residents of the Service Area. The Recreation Centre shall not be committed to use by any group made up primarily of non-residents of the Service Area without the prior written consent of the Village.
- (j) All residents of the Service Area shall have an equal opportunity to participate in the recreational services provided by the Society, in accordance with the programs and policies established by the Board.
- (k) No distinction shall be made between residents of the Service Area in the establishment of user fees and other charges.
- (l) The Society shall provide the Recreation Service as an independent contractor under this Agreement. The Society shall not represent to any person that it is the agent or partner of the Village in respect of any matter.

OTHER USES OF LOT 1

- (m) Notwithstanding the foregoing, the Society may, with the Village’s permission, either at no charge or at a fee set by the Society, use or permit the whole or any part of Lot 1 to be used by any group or person for any purpose which is ancillary to or supportive of the Recreation Service and the business of the Society, including without limitation commercial, public or private uses.
- (n) For clarity, generating revenue for the Society from any source is considered a purpose ancillary to or supportive of the Recreation Service and the business of the Society.

RECREATION BOARD OF MANAGEMENT

- (o) The Board shall consist of four representatives appointed by the Society and three representatives appointed by the Council of the Village. No alternate members shall be appointed.
- (p) The Board shall meet regularly.
- (q) The members of the Board shall serve for a term of two years, ending on June 30 in each odd-numbered year. A member may be reappointed for one or more subsequent terms.
- (r) The Board shall be responsible for establishing policies for the operation of the Recreation Centre, the provision of the Recreation Service, and for approving recreational programs and other public, private or commercial activities taking place on Lot 1. Without limitation, the Board shall establish policies for hours of operation, admission fees, rental charges, licence fees, booking priorities and special events. The Board shall obtain the Village's permission before permitting the whole or any part of Lot 1, including the Recreation Centre, to be used by a third-party for commercial, private or public activities.
- (s) The Board shall make recommendations to the Society concerning the form, contents and renewal of all contracts and licences related to the operation of the Recreation Centre and other activities occurring on Lot 1, including management, concession, maintenance and repair contracts.

LOAN GUARANTEE

- (t) The Village shall continue to guarantee the repayment of the principal and interest of the loan obtained by the Society from the Royal Bank of Canada, pursuant to the Guarantee and Postponement of Claim signed by the Village of Chase on August 26, 1999.

GRANTS OF ASSISTANCE

- (u) The Village will continue to provide grants of assistance to the Society on the following terms:
 - (i) On an annual basis and no later than two (2) months following the end of the Society's fiscal period, the Society shall provide to the Village financial statements for that fiscal period, as well as a budget for the upcoming fiscal period.
 - (ii) The Village, upon being satisfied with the Society's financial reporting and on-going budget, shall provide the Society with a grant of up to \$75,000 on or before every August 1 during the term of this Agreement, to be used for the purpose of meeting the Society's obligations to operate the Recreation Centre and provide Recreation Services.

- (iii) The grants provided under this section shall be used only to balance any deficiency in the net operating and maintenance costs of providing the Recreation Service, after taking into consideration all revenue derived from operations. In the event that the entire \$75,000 amount of annual grant monies is not required for that purpose, the balance shall be accounted for in the budget for such following year and where any budget shortfall is less than \$75,000.00 then the grant provided pursuant to this section 7.1(c) shall be reduced accordingly.
- (iv) The Village will provide the Society with an additional annual grant of up to \$132,000 to be paid on or before August 1 of each year during the term of this Agreement. This grant will be used only for the repayment of the principal and interest of the loan obtained by the Society. If the annual principal and interest payment is less than \$132,000, the grant provided shall be reduced to the actual amount required.
- (v) If the revenue from the Recreation Centre and Recreation Service exceeds the operating costs, any balance shall be paid by the Society towards the repayment of any loan obtained by the Society towards the capital costs of the construction and development of the Recreation Centre and the cost of providing the Recreation Service.
- (vi) In the event that the Society defaults upon any required payment under its loan agreement, no further grants shall be payable by the Village under this section (u).
- (vii) The Village may, at its sole discretion, require the Society to undertake an independent audit of its financial reports, and to provide a copy of the audit to the Village.

TAX EXEMPTION

- (v) Provided that the Society continues to provide the Recreation Service in accordance with this Agreement, the Village shall, by bylaw, exempt the buildings and improvements on Lot 1 from the municipal portion of property taxes during the term of this Agreement.

TERMINATION

- (w) Despite section (e), this Agreement may be terminated by the Village upon 14 days notice to the Society if:
 - (i) the Arena Lands remain vacant or not used for a period of Ninety (90) without the written consent of the Landlord;
 - (ii) the Village is required to make any payment on any loan guarantee agreement entered into by the Village under this Agreement.

TERMINATION FOR NON-COMPLIANCE

- (x) If the Society is not in compliance with any terms of this Agreement, the Village may deliver written notice of non-compliance to the Society, setting out the particulars of the Society's violation of this Agreement.
- (y) Upon receiving notice of non-compliance under section (x), the Society shall have 14 days to fully remedy the non-compliance. If the Society does not completely correct the non-compliance within 14 days then despite section (e) this Agreement may be terminated without further notice upon written notification from the Village to the Society.

MISCELLANEOUS

- (z) No waiver of any default under this Agreement by either party shall be effective unless expressed in writing by the party waiving default, and no condoning, overlooking or excusing by either party of a previous default shall be taken to operate as a waiver of any subsequent default or continuing default, or to in any way defeat or affect the rights and remedies of the non-defaulting party.
- (aa) Upon not less than 24 hours notice to the Society, the Village shall have unrestricted access to the records of the Society relating to the development and operation of the Recreation Centre. The Village shall also have the right to inspect any portion of the Recreation Centre or other improvements constructed or controlled by the Society which are located upon Lot 1.
- (bb) Any notice to be given pursuant to this Agreement shall be in writing, and may be delivered personally or sent by registered mail.
- (cc) Any approvals given by the Village under this Agreement shall only be effective if authorized by a resolution adopted by Council of the Village.
- (dd) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision and any such invalid or unenforceable provision shall be deemed to be severed.
- (ee) This Agreement may be executed in any number of counterparts, each of which when delivered, whether by facsimile copy or otherwise, shall be deemed to be an original and all of which together shall constitute one and the same document.

(ff) No amendment to this Agreement shall be valid unless in writing and executed by the parties.


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

SIGNED, SEALED AND DELIVERED)
in the presence of:)
LARRY RANDLE)
Name)
826 OKANAGAN AVE.)
Address CHASE)
CORPORATE OFFICER)
Occupation)



VILLAGE OF CHASE

SIGNED, SEALED AND DELIVERED)
in the presence of:)
Joni Heinrich)
Name)
826 Okanagan Ave, Chase)
Address)
Chief Administrative officer)
Occupation)



CHASE AND DISTRICT RECREATION
CENTRE SOCIETY