

WEST SHORE PARKS, RECREATION AND COMMUNITY SERVICES AGREEMENT

THIS AGREEMENT dated for reference March 1, 2025 is

BETWEEN

CITY OF LANGFORD, 877 Goldstream Road, Victoria, B.C. V9B 2X8

CITY OF COLWOOD, 3300 Wishart Road, Victoria, B.C. V9C 1R1

DISTRICT OF HIGHLANDS, 1980 Millstream Road, Victoria, B.C. V9B 6H1

DISTRICT OF METCHOSIN, 4450 Happy Valley Road, Victoria, B.C. V9C 3Z3

TOWN OF VIEW ROYAL, 45 View Royal Avenue, Victoria, B.C. V9B 1A6

(each a "**Municipality**" and collectively, the "**Municipalities**")

WHEREAS:

- A. Section 8(2) of the *Community Charter* authorizes each Municipality to provide any service that the council considers necessary or desirable and to do this directly or through another public authority or another person or organization,
- B. Pursuant to section 8(1), each Municipality has the capacity, rights, powers and privileges of a natural person of full capacity and, accordingly, may become a member of a society under the *Societies Act* (British Columbia),
- C. The Municipalities are members of the West Shore Parks and Recreation Society (the "**Society**") and have entered into an Operating, Maintenance and Management Agreement with the Society dated July 1, 2002, as amended and extended, (the "**Current Operating Agreement**"), pursuant to which the Society provides Parks, Recreation and Community Services (as defined below) for the Municipalities,
- D. In connection with their membership in the Society and the provision of such services the Municipalities are parties to a Members Agreement dated December 12, 2001, as amended and extended, (the "**Members Agreement**") and a Co-Owners Agreement dated March 31, 2007, as amended and extended, (the "**Co-Owners Agreement**"), and
- E. The Municipalities now wish to enter into this Agreement to replace and update the arrangements set out in the Members Agreement and the Co-Owners Agreement.

NOW THEREFORE IN CONSIDERATION of the promises below and other good and valuable consideration, the receipt and sufficiency of which each Municipality acknowledges, the Municipalities agree as follows:

Definitions

1. In addition to those terms defined in the recitals to this Agreement, or elsewhere in this Agreement, the following definitions shall apply in this Agreement:
 - (a) **“Approved Financial Plan”** means the five-year financial plan for the provision of Society Services for a calendar year, agreed upon or established in accordance with this Agreement, as such financial plan may be amended from time to time in accordance with this Agreement.
 - (b) **“Increase in Taxes”** means the estimated change in property taxes to be imposed by a Municipality for municipal purposes resulting from the estimated cost of a New Facility, calculated by dividing the Municipality’s Operating Contribution Share of the estimated cost of a New Facility (including acquisition, construction and operating costs) by the most recent total property tax amount imposed under section 197(1)(a) of the *Community Charter* (British Columbia).
 - (c) **“Facilities”** means the parks, buildings and facilities identified in **Schedule A**, as that Schedule may be amended from time to time in accordance with this Agreement.
 - (d) **“Lands”** means the lands legally described in **Schedule B**, as that Schedule may be amended from time to time in accordance with this Agreement.
 - (e) **“Operating Agreement”** means the Current Operating Agreement, as that agreement may be amended, extended or replaced from time to time by way of written agreement between the Municipalities and the Society.
 - (f) **“Operating Contribution Share”** has the meaning given in **Schedule C**.
 - (g) **“Ownership Share”** means each Municipality’s undivided interest in the Lands as tenant in common, as indicated on title to the Lands from time to time.
 - (h) **“Parks, Recreation and Community Services”** means arenas, facilities, programs and services the Society provides at the Facilities that the citizens of the Municipalities can participate in, including:
 - (i) public open space areas, including parks and greenbelts, and the normal planning, development, maintenance, scheduling and coordination of activities related to these areas;
 - (ii) recreation facilities, including pools, golf courses, outdoor playing fields, arenas, velodromes and trails, and the planning, development, maintenance, scheduling and coordination of activities related to these facilities; and

recreation and community services, including program development and delivery (e.g. youth, seniors and cultural activities), support to community groups (e.g. leadership, development, organizational development, fee for service agreements and promotions), marketing, fund-raising and policy development.

- (i) **“Society Services”** means services to be provided by the Society to the Municipalities under the Operating Agreement, including the operating, maintenance, supervision and management of the Facilities.

Term

- 2. This Agreement shall be for a term of 5 years (the **“Term”**) commencing on March 1, 2025 and expiring at midnight on February 28, 2030, unless terminated earlier pursuant to this Agreement.

General Obligations

- 3. Each Municipality:
 - (a) shall remain a member in good standing of the Society and will at all times comply with the constitution and bylaws of the Society;
 - (b) shall make appointments to the board of directors and alternate directors of the Society in accordance with the bylaws of the Society and in sufficient time that a new director may take office upon the expiry of the term of a retiring director, or within 30 days of a vacancy, as the case may be;
 - (c) agrees that Parks, Recreation and Community Services shall be provided jointly through a contract with the Society;
 - (d) agrees that the Society’s constitution and bylaws may only be amended with the unanimous approval of all of the Municipalities;
 - (e) shall review and indicate approval or disapproval of:
 - (i) proposals from one or more Municipalities for new parks, buildings and facilities to be added to this Agreement and the Operating Agreement, or
 - (ii) funding requests from the Society for Society proposals for new parks, buildings and facilities to be operated by the Society and added to the Operating Agreement; and
 - (f) shall execute such amendments to this Agreement and the Operating Agreement as required by this Agreement to add new parks, buildings and facilities as Facilities under this Agreement and as Society Services.

Municipal Representatives

4. Each Municipality shall appoint one of its council members as its representative for the purposes of this Agreement and to represent it at Society members meetings, including annual general meetings, and those representatives may from time to time meet to discuss this Agreement, the Operating Agreement, the Facilities, the Parks, Recreation and Community Services and current issues and concerns that each Municipality may have in relation to the foregoing (each such appointee is a “**Municipal Representative**” and together they are the “**Municipal Representatives**”).

Financial Plan Approval

5. Following receipt of the Society’s proposed five-year financial plan for the provision of Society Services as provided for under the Operating Agreement, the following approval process shall apply:
 - (a) The Municipalities shall endeavor to reach agreement on unanimous approval of the proposed financial plan, or with such amendments as may be agreed to by the Municipalities and the Society.
 - (b) If, on or before March 1, the Municipalities do not unanimously approve the proposed financial plan (with or without amendments), the five-year financial Plan may be approved or otherwise established by a majority of Municipalities whose Operating Contribution Share is, in total, at least 75% based on the then most-recent requisition.
6. The process under the preceding section shall apply to amendments to an Approved Financial Plan that are from time to time requested by the Operator pursuant to the terms of the Operating Agreement, except that there shall be a 60 day period (following receipt of the amendment request from the Operator) for the Municipalities to endeavour to reach agreement before the amendment may be approved or established pursuant to paragraph (b) of the preceding section.

Funding of Society Services

7. Each Municipality shall pay to the Society its Operating Contribution Share of the annual requisition amount indicated in the Approved Financial Plan for the calendar year, in such installments and at such times as specified in the Operating Agreement. The Municipalities acknowledge that their Operating Contribution Share may change from time to time depending upon the assessments provided by the British Columbia Assessment Authority. For any payments required before an Approved Financial Plan is in place for a calendar year, the requisition amount for the period shall be based on the previous year’s Approved requisition amount, and, once the Approved Financial Plan is in place, an appropriate adjustment shall be made to the next requisition payment.

New Facilities and Improvements

8. If the Society or one or more Municipalities propose the construction or acquisition of a new park, buildings or facility (including additions, expansions and improvements to existing parks, buildings and facilities) (a **“New Facility”**) that will benefit all of the Municipalities for inclusion as a Facility under this Agreement and the Operating Agreement, the following process shall apply:
- (a) The proposing Municipality or Municipalities or the Society shall submit the proposal for review by all of the Municipalities.
 - (b) The proposal shall include estimated costs of the New Facility, including all acquisition, design and construction costs, and operating costs over a five-year period. Following receipt of such a proposal, the Municipal Representatives will meet to discuss the proposal. Those Municipalities that support the proposal will endeavor to reach an agreement respecting the acquisition, design and construction (as applicable) of the New Facility and on any necessary consequential amendments to this Agreement and the Operating Agreement, with each Municipality paying towards the aforementioned costs based on its Operating Contribution Share (collectively, the **“Implementation Agreements”**).
 - (c) If a majority of the Municipalities, whose Operating Contribution Share is, in total, at least 75%, agree to proceed with the proposal by entering and executing the Implementation Agreements, each Municipality that has not done so (each, a **“Dissenting Municipality”**) shall provide a Withdrawal Notice, withdrawing from participation in this Agreement as described in paragraph 13.
 - (d) A Dissenting Municipality that provides a Withdrawal Notice rather than entering into and executing Implementation Agreements under the preceding paragraph shall not be required to contribute to the costs of the New Facility (including acquisition, construction and operating costs).
 - (e) Despite the rest of this section, a Municipality shall not be required to contribute towards the costs of the New Facility (including acquisition, construction and operating costs), if the Increase in Taxes attributed to the New Facility for the Dissenting Municipality is at minimum 2% higher than the average Increase in Taxes of the other Municipalities, and the Implementation Agreements shall reflect this. Where this paragraph (b) applies, the Approved Financial Plan shall separate the applicable park, building or facility, and the costs and revenues attributable thereto, and include a separate requisition amount with respect thereto and the calculation of each Municipality’s Operating Contribution Share in respect of such separate requisition amount shall exclude the Dissenting Municipality.

- (f) In the event of a dispute under this section that cannot be resolved by meetings and negotiation within 3 months of such dispute first arising, the dispute shall be resolved through arbitration under the *Arbitration Act* (British Columbia) by a single arbitrator agreeable to all of the Municipalities or, failing such agreement, appointed pursuant to that Acts, unless the Municipalities agree to an alternate dispute resolution process.

New Participants

- 9. A Municipality, or the Society by way of a directors' resolution, may recommend that a new member be added to the Society and as a party to this Agreement.
- 10. Admission as a new member will only be considered if:
 - (a) the Society and the Municipalities are satisfied that there will be no negative impact on the quality and cost of the Society's provision of the Parks, Recreation and Community Services; and
 - (b) the proposed new member has developed, in consultation with the Society, a parks and recreation plan that identifies the services to be offered in the community of the proposed member, which plan may provide for its implementation over a period of time.
- 11. Within 2 months of receiving a recommendation from the Society to admit a new member of the Society, each Municipality shall confirm whether or not it supports the admission of the proposed new member.
- 12. A new member shall not be admitted without the unanimous consent of the Municipalities and only if the Municipalities and the proposed new member execute amendments to this Agreement and the Operating Agreement, and the Society's bylaws are amended, as necessary to reflect the admission of the new member, including to provide the new member with representation on the board of directors of the Society as agreed by the new party and the Municipalities.

Participation Withdrawal

- 13. A Municipality may only withdraw from participation in this Agreement by providing notice (a "**Withdrawal Notice**") to all of the other Municipalities, which withdrawal shall be effective at the end of the calendar year after the calendar year in which the notice was given.
- 14. If a Municipality provides a Withdrawal Notice, the Municipality shall, on or before the effective date of the withdrawal:
 - (a) withdraw as a member of the Society;

- (b) execute an amendment to this Agreement and the Operating Agreement to give effect to such withdrawal;
 - (c) convey and transfer, without compensation, all of its right, title and interest in and to the Lands and the Facilities to the other Municipalities; and
 - (d) execute and deliver such further instruments and documents and may be required to properly effect its withdrawal from this Agreement and as a member of the Society and as may be required to complete the requirements of this section.
15. A Municipality that has withdrawn:
- (a) ceases to have rights or obligations under this Agreement or otherwise with respect to the Society, except as provided in this section;
 - (b) shall continue to be obligated for its share of any uninsured claim against the Municipalities or the Society or judgment of a court or tribunal having jurisdiction arising out of circumstances which existed before the date on which the withdrawal of the Municipality is effective;
 - (c) shall continue to be responsible for any outstanding amounts owed by the withdrawing Municipality to the date on which the withdrawal of the Municipality is effective, under this Agreement, the Operating Agreement and any Implementation Agreements to which that Municipality is a party.

Alterations to West Shore Parks Service Model

16. This Agreement may only be amended by way of a written agreement between all of the Municipalities.
17. The Operating Agreement may only be terminated or amended if all of the Municipalities agree in writing to such amendment or termination.
18. The Municipalities acknowledge that if the Operating Agreement is terminated, amendments to this Agreement and other steps will be required to reflect, as may be decided by all of the Municipalities, a new model for operation of the Facilities or to wind-up the operation of the Facilities as a joint service of the Municipalities.

Society Dissolution

19. A Municipality shall not initiate or otherwise proceed with any dissolution of the Society unless all of the Municipalities have agreed to proceed with the dissolution.
20. If the Municipalities decide to dissolve the Society, the Society's money and other property remaining after payment of all Society liabilities shall be distributed among the Municipalities in accordance with their respective contributions to in each asset, unless

otherwise agreed to by the Municipalities at the time the asset was acquired by the Society. In the event of a dispute respecting such distribution that cannot be resolved by meetings and negotiation within 3 months of such dispute first arising, the dispute shall be resolved through arbitration under the *Arbitration Act* (British Columbia) by a single arbitrator agreeable to all of the Municipalities or, failing such agreement, appointed pursuant to that Acts, unless the Municipalities agree to an alternate dispute resolution process.

Ownership Matters

21. Each Municipality will be responsible for paying its Ownership Share of all indebtedness, liabilities, obligations, costs, expenses, claims and judgments whatsoever arising from or incurred in connection with the Lands that have been approved by the Municipalities or that are unforeseen, excepting, for clarity, to the extent that any of the foregoing is the responsibility of the Society under the Operating Agreement in which case the Operating Agreement and each Municipality's obligations under this Agreement in relation to the Operating Agreement shall govern.
22. Except as provided under this Agreement or where agreed to in writing by all of the Municipalities, no Municipality may sell, assign, transfer, lease, mortgage, pledge, encumber or otherwise dispose of any of its right, title or interest in or to the Lands, the Facilities or this Agreement, in whole or in part, or enter into any agreement to do so, without the prior written consent of the other Municipalities.
23. No Municipality will seek to partition the Lands through legal proceedings or otherwise and the disposition of any Municipality's interest in any of the Lands will be governed by this Agreement and each Municipality hereby waives the benefit of all provisions of law relating to actions for a partition or sale in lieu of partition or administration of real and personal property, including under the *Partition of Property Act* (British Columbia).

No Fettering Effect

24. Nothing in this Agreement shall affect the councils of the Municipalities in the exercise of any of their powers under any enactment, including the *Community Charter* or the *Local Government Act*, including with respect to the enactment of any bylaw or passage of any resolution.
25. This Agreement does not preclude any Municipality from operating parks, recreation and community services on its own or from incurring capital expenditures related to the provision of parks, recreation and community services.

Members Agreement & Co-Owners Agreement

26. The Members Agreement and the Co-Owners Agreement are hereby terminated except in relation to any liability any party may have under either of those agreements arising from any breach or other event occurrence prior to such termination.

Notices

27. All notices under this Agreement shall be in writing and delivered personally to each Municipality at the applicable address above (or if the address for a Municipality's municipal hall changes, to such new address) and will be considered given on the date of delivery.

General Provisions

28. Nothing in this Agreement shall give rise to any kind of partnership or agency relationship between any of the Municipalities or to give any Municipality any authority to act for or on behalf of, or bind, any other Municipality in any way.
29. This Agreement and all matters arising under it will be governed by and construed in accordance with the laws of British Columbia and the parties irrevocably agree to attorn exclusively to the courts of the Province of British Columbia in all matters respecting this Agreement.
30. Time is of the essence of this Agreement.
31. This Agreement may only be amended by way of an agreement in writing duly executed by all of the Municipalities.
32. No waiver of any provision of this Agreement shall be effective unless such waiver is expressed in writing duly signed by the Municipality that is providing such waiver of its rights under, or an obligation owed to it under, this Agreement.
33. In this Agreement:
- (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
 - (b) a particular numbered section or lettered Schedule is a reference to the correspondingly numbered section or lettered Schedule of this Agreement;
 - (c) an "enactment" is a reference to an enactment as that term is defined in the *Interpretation Act* (British Columbia) on the day this Agreement is made;
 - (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced from time to time, unless otherwise expressly stated;

- (e) section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
 - (f) a “party” is a reference to a party to this Agreement;
 - (g) time is of the essence; and
 - (h) where the word “including” is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word “including”.
34. This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with its subject matter hereof except as specifically set forth in this Agreement.

As evidence of their agreement to be bound by this agreement, the Municipalities have executed this Agreement below:

CITY OF COLWOOD

By its authorized signatories)

)

_____)

Name)

)

_____)

Name)

)

_____)

Date)

DISTRICT OF HIGHLANDS

By its authorized signatories)

)

_____)

Name)

)

_____)

Name)

)

_____)

Date)

CITY OF LANGFORD

By its authorized signatories)

)

_____)

Name)

)

_____)

Name)

)

_____)

Date)

DISTRICT OF METCHOSIN

By its authorized signatories)

)

_____))

Name)

)

_____))

Name)

)

_____))

Date)

TOWN OF VIEW ROYAL

By its authorized signatories)

)

_____)

Name)

)

_____)

Name)

)

_____)

Date)

Schedule A

Facilities

Colwood Location 1767 Island Highway

Indoor facilities:

- JDF Recreation Center
 - JDF Ice Arena
 - Indoor Sports Complex previously Curling facility
 - Swimming Pool
 - Weight Room and Fitness Studio
 - Childcare Centre
- Kinsmen Fieldhouse
- Senior's Activity Centre Hall
- The Q Centre Arena
- Clubhouse (Lawn Bowling Area)
- Kids Cottage

Outdoor Facilities:

- Golf Course
- Tennis Courts
- Playing Fields
- Ball Diamonds
- Lawn Bowling Greens
- Velodrome
- Jogging Track
- Lacrosse Court
- BMX Track
- Beach Volleyball Courts
- Basketball Courts
- Rotary Picnic Shelter
- Concessions
- 3 Playgrounds
- Thrifty Foods Skatepark

Leased to others

- WildPlay

Langford Location 2805 Carlow Road (held by way of lease of a portion of Centennial Park from City of Langford to the Society, and modular building located on that land, owned by the Society)

- Centennial Centre for Arts, Culture & Community

Schedule B

Lands

1767 Island Highway, Victoria, B.C. and legally described as:

PID: 028-002-997

Lot A, Section 1 and 104, Esquimalt District, Plan EPP2923

Licenses of adjacent lands dated January 24, 1977 and May 4, 1984 from Her Majesty the Queen in Right of Canada, represented by the Minister of National Defence

Schedule C

Contribution Share Calculation

1. In this Schedule:
 - a. "**assessment unit cost**" means the requisition amount indicated for the applicable calendar year in the applicable Approved Financial Plan divided by the converted assessed value of property in each of the Municipalities. .
 - b. "**class of property**" means class of property as defined in the Prescribed Classes of Property Regulation, B.C. Reg. No. 438/81.
 - c. "**converted assessed value**" for a Municipality means the converted value, determined under section 3 of this Schedule, of the sum of:
 - i. the assessed value under the *Assessment Act* (British Columbia), in the previous year, of lands and improvements taxed by the Municipality for general municipal purposes in the previous year according to the authenticated assessment roll; and
 - ii. the value of the Crown land under section 4 of this Schedule.
 - d. "**Crown land**" means land and improvements owned by the Crown federal or provincial, or an agent of either of them, in a previous year if the Municipality in which the land and improvements are located received or is due to receive a grant in lieu of taxes, in respect of the year before the current year.
2. Each Municipality shall pay a share (its "**Operating Contribution Share**") of the annual requisition amount for the applicable calendar year indicated in the applicable Approved Financial Plan equal to the product obtained by multiplying the assessment unit cost by the converted assessed value for the Municipality.
3. Despite the rest of this Schedule, where section 8(d) applies to a new park, building or facility, the Approved Financial Plan shall separate the applicable park, building or facility, and the costs and revenues attributable thereto, and include a separate requisition amount with respect thereto and the calculation of each Municipality's Operating Contribution Share in respect of such separate requisition amount shall exclude the Dissenting Municipality.
4. The assessed value of land and improvements and the value of Crown land shall be converted by adding together the products obtained by multiplying the assessed value for each class of property by the percentage set out below for the class:

Class of Property

1	10%
2	35%
3	40%
4	34%
5	34%
6	24.5%
7	30%
8	10%
9	10%

5. The value of Crown land shall be:

- (a) in the case of Crown land owned by the Government of B.C. or an agent of the Government of B.C. other than the British Columbia Hydro and Power Authority, the lesser of the assessed value under the Assessment Act for the previous year and the value which would result in a property tax equal to the grant in lieu of taxes if the land and improvements were not Crown land;
- (b) in the case of Crown land owned by the British Columbia Hydro and Power Authority, the assessed value under the *Assessment Act* for the year before the previous year, and
- (c) in the case of Crown land owned by the Government of Canada or by an agent of the Government of Canada, the value, in the year before the previous year, of land and improvements which would result in a property tax equal to the grant in lieu of taxes if the land and improvements were not Crown land.