

## CONTRACTED SERVICES AGREEMENT

THIS AGREEMENT dated for reference January 1, 2018

BETWEEN:

**VILLAGE OF LIONS BAY**, a municipality duly incorporated under the laws of British Columbia and having an address at 400 Centre Road, Lions Bay, BC, V0N 2E0  
(the "Municipality")

AND:

**TAMARA LEGER**, having an address for delivery at 415 Timbertop Drive, Box 703, Lions Bay, BC, V0N 2E0  
(the "Contractor")

WHEREAS section 21 of the *Community Charter* provides that, if a municipality enters into a partnering agreement for the provision of a service on behalf of the municipality, the Council may provide assistance, other than tax exemptions, to a business in accordance with the agreement;

AND WHEREAS the Contractor currently performs a service in the community through the provision of musical entertainment in private dwellings which are open and available to Lions Bay residents and which are considered by Council to provide important social benefits to the community;

AND WHEREAS the Municipality wishes to engage the Contractor to provide the service of musical entertainment in the Village of Lions Bay through the Contractor's House Concerts program, and the Contractor wishes to provide such services to the Municipality in accordance with the terms and conditions of this Agreement;

NOW THEREFORE this Agreement is evidence that, in consideration of payment of \$1.00 by the Municipality to the Contractor (the receipt and sufficiency of which the Contractor acknowledges) and in consideration of the promises exchanged below, the Municipality and the Contractor agree with each other as follows:

### **Definitions**

1. In this Agreement, in addition to the words defined above:
  - a. "Compensation" means the amount of money and In-Kind Consideration to be paid for the Services;

- b. "House Concerts" means the production of musical events staged in private residences within the Village of Lions Bay and also includes any events staged in Broughton Hall and any Eat Together events in Lions Bay Beach Park, similar to the one staged in summer 2017;
- c. "In-Kind Consideration" means the value of services provided by the Municipality for such things as advertisement of upcoming House Concerts in the Village Update electronic newsletter, waiving of booking fees for Municipal facilities such as Lions Bay Beach Park or Broughton Hall (not including required insurance coverages), and time expended by the Public Works department in setting up of facilities;
- d. "Services" means the acts, services and work necessary to produce ten (10) House Concerts, including two (2) events in Broughton Hall and one (1) Eat Together event.

#### **Term**

- 2. The term of this Agreement commences on January 1, 2018 and expires on December 31, 2018, (the "Term"), unless terminated sooner in accordance with this Agreement.

#### **Services To Be Performed By the Contractor**

- 3. The Contractor agrees to perform the Services during the Term, in accordance with the terms and conditions of this Agreement.

#### **Warranty As To Quality of Services**

- 4. The Contractor represents and warrants to the Municipality that:
  - a. the Contractor has the skill, experience, training, resources and supporting personnel, if applicable, necessary to perform the Services; and
  - b. the Services will be performed in accordance with all applicable enactments and laws, and with all relevant codes, rules, regulations and standards of any professional or industry organization or association; and
  - c. The persons noted as the Contractor will perform the Services under this Agreement;

and the Contractor acknowledges and agrees that the Municipality has entered into this Agreement relying on the representations and warranties in this section.

#### **Remuneration and Reimbursement**

- 5. The Municipality agrees to provide the following Compensation to the Contractor for the Services:

(a) \$3,700.00 cash money on or before [date or payment schedule]; and

(b) \$1,300.00 In-Kind Consideration throughout the course of the Term;

PROVIDED THAT the cash portion must be expended on artist performance fees and must be refunded to the Municipality if revenues exceed expenses related to the provision of the Services.

#### **Completion of Services and Final Report**

6. The Contractor expressly acknowledges and agrees that it is a fundamental term of this Agreement that the Services be completed on or before the end of the Term, subject only to circumstances beyond the Contractor's reasonable control.
7. The Contractor shall provide a final report at the end of the Term listing the events held and community benefits achieved, along with a profit and loss statement pertaining the revenues and expenses related to the provision of the Services during the Term.

#### **Termination or Suspension at the Municipality's Discretion**

8. Despite the rest of this agreement, the Municipality may, in its sole discretion, by giving notice to the Contractor, terminate or suspend all, or any part, of the Services.

#### **Termination For Default**

9. Despite the rest of this agreement, the Municipality may terminate all, or any part of, the Services, by giving notice of termination to the Contractor, which is effective upon delivery of the notice, if:
  - a. the Contractor breaches this agreement and the Contractor has not cured the breach, or is not diligently pursuing a cure for the breach to the satisfaction of the Municipality, in the Municipality's sole discretion, within five days after notice of the breach is given to the Contractor by the Municipality; or
  - b. the Contractor becomes bankrupt or insolvent, a receiving order is made against the Contractor, an assignment is made for the benefit of its creditors, an order is made or resolution passed for the winding up or dissolution of the Contractor, or the Contractor takes the benefit of any enactment relating to bankrupt or insolvent debtors.
10. Without limiting any other right or remedy available to the Municipality, if the Municipality terminates part or all of the Services under the preceding section, the Municipality may arrange, upon such terms and conditions and in such manner as the Municipality considers appropriate, for performance of any part of the Services remaining to be completed, and

the Contractor is liable to the Municipality for any expenses reasonably and necessarily incurred by the Municipality in engaging the services of another person to perform those Services.

### **Indemnity**

11. Without limiting any other obligation of the Contractor under this Contract or otherwise:
  - a. The Contractor hereby agrees to Indemnify and Save Harmless the Municipality, its elected officials, officers, employees, servants, agents and others for whom the Municipality is in law responsible, from and against any liability, loss, claims, demands, damages, fines and penalties, costs and expenses (including consulting fees), investigatory and legal expenses, and any other actions or causes of actions, suits, caused by or attributed to any wilful or negligent act, omission, delay, or allegations thereof on the part of the Contractor, its officers, employees, subcontractors, agents, licensees, assignees, invitees or other persons engaged in the performance, non-performance or attempted performance of the Services pursuant to this Agreement or anyone else for whom the Contractor is in law responsible.
  - b. Should the Municipality be made a party to any litigation commenced by or against the Contractor, then the Contractor will protect, indemnify and hold the Municipality harmless and will promptly pay all costs, expenses, and legal fees (on a solicitor and own client basis) incurred or paid by the Municipality in connection with such litigation upon demand. The Contractor will also promptly pay upon demand all costs, expenses and legal fees (on a solicitor and own client basis) that may be incurred or paid by the Municipality in enforcing the terms, covenants and conditions in this Contract.
  - c. The Contractor's obligation under this indemnification section will survive the expiry or early termination of this Contract.

### **Insurance**

12.
  - a. The Contractor shall obtain and maintain during the Term, a Broad form Commercial General Liability policy for a limit of not less than five million (\$5,000,000.00) dollars per occurrence with respect to third party liability claims for bodily injury, property damage, personal injury. This policy shall include but shall not be limited to: Premises and Operation Liability, Blanket Contractual Liability, Products and Completed Operations, Tenants' Legal Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Liability, Contingent Employers' Liability, Breach of Conditions clause. The Municipality shall be added as an "Additional Insured" along with Cross-Liability and Severability of Interest clauses.

- b. All such insurance policies shall stay in force and not be amended, cancelled or allowed to lapse and shall contain the necessary "Endorsements" to provide the Municipality with thirty (30) days prior written notice by Registered Mail to the attention of the Municipality Corporate Officer/Secretary.
- c. The Contractor agrees to be responsible for any and all deductible amounts including any claim expenses incurred and policy premiums payments. All of the required Contractor's insurance policies shall be primary, non-contributing with respect to any insurance carried by the Municipality. The Municipality reserves the right to impose such higher limits or other types of insurance as would reasonably be required of a prudent Contractor of similar operations.

### **Records**

- 13. The Contractor:
  - a. must keep reasonably detailed accounts and records of its performance of the Services, including invoices, receipts and vouchers, which must at all reasonable times be open to audit and inspection by the Municipality, which may make copies and take extracts from the accounts and records;
  - b. must afford facilities and access to accounts and records for audit and inspection by the Municipality and must furnish the Municipality with such information as the Municipality may from time to time require regarding those documents; and
  - c. must preserve all accounts and records, for at least two years after
    - (i) completion of the Services, or
    - (ii) termination of this agreement,whichever applies.

### **Confidential Information**

- 14. Except as required by law, the Contractor must not, during or after the Term, divulge or disclose any secret or confidential information, or any information that the Contractor receives in connection with this agreement which in good faith or good conscience ought not be disclosed.

### **Delivery of Records**

- 15. If the Municipality terminates all or part of the Services under this agreement, the Contractor must immediately deliver to the Municipality, without request, all Service-related documents in the Contractor's possession or under its control.

## **Agreement for Services**

16. This is an agreement for the performance of services and the Contractor is engaged under the agreement as an independent contractor for the sole purpose of providing the Services. Except as is otherwise expressly prescribed in this agreement, neither the Contractor nor any of its employees or contractors is engaged by the Municipality as an employee or agent of the Municipality. The Contractor is solely responsible for any and all remuneration and benefits payable to its employees and contractors, and all payments or deductions required to be made by any enactment, including those required for Canada Pension Plan, employment insurance, workers' compensation and income tax. Notwithstanding this partnering agreement, the Contractor has no authority to represent or bind the Municipality in any way.

## **Assignment**

17. No part of this agreement may be assigned or subcontracted by the Contractor without the prior written consent of the Municipality, and any assignment or subcontract made without that consent constitutes a breach by the Contractor of this agreement. The Contractor agrees that, among other things, the Municipality may refuse its consent if the Municipality, in its sole discretion, determines that the proposed assignee or subcontractor has not got the skill, experience or corporate resources necessary to perform the Services. A permitted subcontract does not relieve the Contractor from any obligation already incurred or accrued under this agreement or impose any liability upon the Municipality.

## **Time of the Essence**

18. Time is of the essence of this agreement.

## **Severance**

19. If any portion of this agreement is held to be illegal or invalid by a court of competent jurisdiction, the illegal or invalid portion must be severed and the decision that it is illegal or invalid does not affect the validity of the remainder of this agreement.

## **Notice**

20. Any notice, direction, demand, approval, certificate or waiver which may be or is required to be given under this agreement must be in writing and delivered personally or by courier or sent by fax or e-mail, addressed as follows:

- a. To the Municipality:

Village of Lions Bay  
Box 141, 400 Centre Road

Lions Bay, B.C. V0N 2E0  
Fax Number: (604) 921-6643  
E-mail Address: [cao@lionsbay.ca](mailto:cao@lionsbay.ca)  
Attention: Chief Administrative Officer

b. To the Contractor:

Tamara Leger  
PO Box 703  
415 Timbertop Road  
Lions Bay, BC V0N 2E0  
E-mail Address): [tamara@tamaraleger.com](mailto:tamara@tamaraleger.com)

or to such other address, e-mail address or fax number of which notice has been given as provided in this section. Any notice, direction, demand, approval or waiver delivered is to be considered given on the next business day after it is dispatched for delivery. Any notice, direction, demand, approval or waiver sent by fax or e-mail is to be considered given on the day it is sent, if that day is a business day and if that day is not a business day, it is to be considered given on the next business day after the date it is sent.

### **Interpretation and Governing Law**

21. In this agreement:
- a. reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
  - b. reference to a particular numbered section or schedule is a reference to the correspondingly numbered section or schedule of this agreement;
  - c. the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this agreement;
  - d. reference to any enactment is a reference to that enactment as amended, unless otherwise expressly provided;
  - e. reference to a month is a reference to a calendar month; and
  - f. section headings have been inserted for ease of reference only and are not to be used in interpreting this agreement.
22. This agreement is governed by, and is to be interpreted according to, the laws of British Columbia.

**Binding on Successors**

23. This agreement enures to the benefit of and is binding upon the parties and their respective successors, subcontractors, trustees, administrators and receivers, despite any rule of law or equity to the contrary.

**Entire Agreement**

24. This agreement is the entire agreement between the parties and it terminates and supersedes all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of this agreement.

**Waiver**

25. Waiver of any default by either party must be express and in writing to be effective, and a waiver of a particular default does not waive any other default.

As evidence of their agreement to be bound by the above terms and conditions of this agreement, the parties have executed this agreement below, on the respective dates written below.

**VILLAGE OF LIONS BAY** by its authorized signatories:

\_\_\_\_\_  
Mayor

c/s

\_\_\_\_\_  
Corporate Officer:

Date executed: \_\_\_\_\_, 2018.

Signed by Tamara Leger in the presence of:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Contractor

Date executed: \_\_\_\_\_, 2018.