

Board Report

Date of Report: April 22, 2019

Date of Meeting: May 7, 2019/
June 25, 2019

Report Number: 2019-PAC-010

File: 2019BOARD0625

Subject: FirstOntario Performing Arts Centre – Relationship Framework Agreement with Board of Management

Recommendation

That the Board receive and approve the Relationship Agreement attached in Appendix 2.

Background

At its meeting of July 9, 2018, Council approved the transition of the operational control of the FirstOntario Performing Arts Centre (PAC) to a new municipal service board and directed staff to take all necessary steps and actions required to transition the PAC business to the Board. The finalization of a Relationship Agreement between the City and the Board is the next step in this process.

Report

The Relationship Agreement was developed by a City Council directed working group that included senior city staff from the PAC, legal, finance, building services and human resources. Representing City Council on the working group were Councillor Mark Elliot and Councillor Carlos Garcia. The Relationship Agreement as developed by the working group was approved at the April 29, 2019 Council Meeting.

The Relationship Agreement provides that the Board is to manage, operate and maintain the PAC in the public interest and in a fiscally-sustainable and business-like manner. The City and the Board are to work together frequently, co-operatively, reasonably and in good faith to achieve the objectives of the Agreement.

The City will remain the owner of the lands and building. The City is solely responsible for the integrity and funding of the capital assets. The Board will be the owner and operator of the PAC business, solely responsible for the administration of the PAC including strategic planning, employing and managing all employees and volunteers, administering the day to day business and financial operations, programming and organizing, as well as implementing marketing and fundraising campaigns.

Similar to the Library and Transit Boards, the PAC Board of Management must prepare and present an annual operating budget for approval. In addition, the Board, in cooperation with the City, will prepare an annual capital budget. The budget will set out requirements during the ensuing year and include a five-year capital plan, which will also be submitted to the Budget Standing Committee as part of the City's budget process. The City will establish a reserve to be used for the sole purpose of paying for the cost of replacements or planned renewals to the capital assets.

A detailed schedule to the Relationship Agreement sets out the responsibilities related to repair and maintenance of the grounds and building including major building components, clearly delineating the duties of the City and the PAC. Utilities, routine building maintenance, repairs, caretaking, grounds maintenance and insurance are all expenses of the PAC.

The City's Code of Conduct is also applicable to the members of the Board and the City's auditor is the auditor for the Board. Should the auditor identify any audit or financial reporting issues the Board is required to submit a letter to the City Treasurer indicating how and when the Board intends to address the issues.

There are a number of services that the City will continue to provide to the PAC on a fee for service basis. These include connection to the City's information technology network for access to City provided IT services such as email, shared storage and internet connection, standard hardware and software and telephone equipment. At the request of the Board, on a cost recovery basis, Financial Management Services will continue to process the PAC employee's payroll and make all statutory remittances, provide support assistance with the annual preparation of T4 forms, preparation of annual financial statements and any tendering of large operating expense contracts.

Financial Implications

Any financial implications to the Board will be addressed in the 2020 budget submission to the City. All costs associated with the transition and operation of the Board this year are presently included in the PAC's 2019 budget.

Prepared and submitted by:

Steve Solski, Executive Director

RELATIONSHIP AGREEMENT

THIS AGREEMENT is made as of the day of ,2019 and authorized by By-law No. 2018-177 of the City of St. Catharines.

BETWEEN:

THE CORPORATION OF THE CITY OF ST. CATHARINES

(the “**City**”)

- and –

FIRSTONTARIO PERFORMING ARTS CENTRE BOARD

(the “**Board**”)

WHEREAS:

- A. The City is a municipal corporation duly established under the laws of the Province of Ontario;
- B. Pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “**Act**”) the City has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act and any other act, and has statutory authority to acquire, own and dispose of lands and buildings, including the lease and operation of such facilities, as well as for the provision of financial assistance in relation thereto;
- C. The City is the owner of lands municipally known as 250 St. Paul Street, St. Catharines, Ontario legally described in Schedule D (the “**Lands**”);
- D. The City has constructed the FirstOntario Performing Arts Centre on the Lands with funding from the Government of Canada, Province of Ontario, and the City, and is the current owner and operator of that performing arts centre and the associated business;
- E. The Board is a municipal service board that was established pursuant to section 196 of the Act on October 1, 2018 by By-law No. 2018-177 of the City of St. Catharines;
- F. The Board was established for purposes that include promoting, developing and encouraging the performing arts in the City of St. Catharines, and for operating the FirstOntario Performing Arts Centre and the associated business on an independent and financially sound basis;
- G. The City and the Board have agreed that, in recognition of the nature of the FirstOntario Performing Arts Centre, the associated business, the municipal duties and responsibilities of the City, and the accountability of the City to its taxpayers, other levels of government and individuals who have provided funding and private donations respectively for the FirstOntario Performing Arts Centre, the City and the Board should enter into this Agreement to set out and establish certain rights, expectations and obligations of the Parties.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements contained in this Relationship Agreement and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties covenant and agree as follows:

ARTICLE 1 - INTERPRETATION

- 1.1 **Recitals and Schedules.** The recitals to this Agreement and the following attached schedules (including any exhibits to them) are incorporated by reference and form an integral part of this Relationship Agreement:

- (a) Schedule A - Defined Terms;
 - (b) Schedule B - Facilities Maintenance and Repair Requirements;
 - (c) Schedule C - Services to be Provided by the City to the Board;
 - (d) Schedule D - Legal Description of the Lands.
- 1.2 **Defined Terms.** In this Agreement, certain capitalized terms and similar terms have the meanings specified in Schedule A.
- 1.3 **Headings.** The headings in this Agreement are for convenience only and do not form a part of this Agreement. These headings are not intended to interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions.
- 1.4 **Division of Agreement.** The division of this Agreement into articles, sections, subsections, and paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part of it. A reference in this Agreement to a recital, article, section, subsection, paragraph, or other division is to the specified recital, article, section, subsection, paragraph, or other division of this Agreement, and to no other agreement or document, unless otherwise expressly stated or the context otherwise requires.
- 1.5 **Statutes and By-laws.** Any reference to a statute or municipal by-law in this Agreement includes a reference to all regulations made pursuant to such statute, all amendments made to such statute or by-law and regulations in force from time to time, and all statutes, by-laws or regulations which may be passed and which have the effect of supplementing or superseding such statute, by-law or regulations.
- 1.6 **Inclusion.** In this Agreement, the word “including” means “including, without limitation”, and the word “includes” means “includes, without limitation”.
- 1.7 **Gender and Number.** In this Agreement, words importing the singular include the plural and vice versa, words importing gender include all genders and words importing persons include municipal service boards. The terms “he/she/they”, “him/her/them”, “his/her/their”, and “himself/herself/themselves” are intended to be read as automatic alternatives to be used dependent upon the gender identification of the person to whom the relevant alternative applies.
- 1.8 **Day Not a Business Day.** If any day on or before which this Agreement requires any action to be taken is not a Business Day, then such action will be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.
- 1.9 **Precedence.** If a provision of a schedule or other attachment to the main body of this Agreement is inconsistent with, or conflicts with, a provision of the main body of this Agreement, the terms of this Agreement preceding the signatures on behalf of the Parties shall take precedence and govern to the extent of any such inconsistency or conflict.

ARTICLE 2 - PRINCIPLES

- 2.1 The following principles (the “**Principles**”) represent the basic and fundamental principles upon which the Parties’ relationship and this Agreement are based:
- (a) The City and the Board shall work together frequently, co-operatively, reasonably and in good faith to achieve the objectives of this Agreement;
 - (b) The PAC shall be managed, operated and maintained by the Board in the public interest and in a fiscally sustainable and business-like manner;
 - (c) The purposes and goals of the PAC and PAC Business shall include:
 - i. to be a catalyst for downtown development, and to be the centre of performing arts for the Niagara Region with emphasis on diversity, high quality, and quantity of activity;
 - ii. to be a highly professional, independent entity that is an aggressive,

- risk-taking presenting organization, and a fundraising and promotional organization, that will be a focal point for the cultural and artistic life of the community and an advocate for the arts; and
- iii. to provide essential infrastructure and services to support the development and health of the professional arts community.

ARTICLE 3 –GENERAL RIGHTS AND OBLIGATIONS OF THE PARTIES RE. OPERATING THE PAC AND PAC BUSINESS

- 3.1 The City shall be the owner of the Lands and the FirstOntario Performing Arts Centre and shall be solely responsible for the integrity of the Lands and capital assets, including funding and undertaking such repairs and replacement to the capital assets as identified in Schedule B.
- 3.2 The Board shall be the owner and operator of the PAC Business, and shall through its employees be solely responsible for the administration of the FirstOntario Performing Arts Centre and the PAC Business, including the following:
- (a) establishing and updating the strategic plan and business plans of the Board and PAC Business;
 - (b) employing and managing all employees, volunteers, agents and contractors of the PAC Business, except as specified in Schedules B and C of this Agreement, it being the intention of the Parties that the Board will:
 - (i) be the sole employer of each employee of the PAC Business;
 - (ii) exercise independent direction and control over each employee of the PAC Business;
 - (iii) have sole responsibility for the hiring, remuneration, discipline, and dismissal of each employee of the PAC Business;
 - (iv) exercise collective and fundamental control over all employees of the PAC Business;
 - (v) provide the funds necessary to cover the cost of payroll to the City, in advance of the payroll being completed which is to be held in a payroll clearing account; and
 - (vi) track and prepare all employees time and vacation and submit the information to the City for the completion of the payroll services.
 - (c) administering the ongoing day-to-day business and financial operations of the PAC Business, including compliance with industry standards for financial controls, accounting and financial reporting;
 - (d) maintaining, reviewing and approving rates and fees;
 - (e) purchasing in relation to PAC business in accordance with Board approved procurement policy;
 - (f) recording, monitoring and paying its accounts payable, and recording and collecting its accounts receivable;
 - (g) cheque requisitions in accordance with Board approved policy;
 - (h) maintaining a capital asset inventory list;
 - (i) collecting, remitting, and paying all applicable income, realty, payroll, business, excise and sales taxes of every nature and kind with respect to the PAC Business;
 - (j) preparing monthly HST filings to be submitted to the CRA;

- (k) obtaining and complying with all permits, consents and licenses that may be required for the conduct of any business, performance or program;
 - (l) all Programming;
 - (m) organizing and implementing programs and events;
 - (n) organizing and implementing marketing campaigns and fundraising campaigns;
 - (o) developing and updating operational policies such as Board procedures, procurement, records retention, workplace health and safety, hiring, accessibility, advertising, public involvement, sponsorships, financial controls (including signing authorities), accounting and financial reporting, inclusivity, and alcohol (except as provided in Schedule C of this Agreement);
 - (p) purchasing and maintaining all insurance as required in this Agreement, and carrying out associated risk and claims management responsibilities;
 - (q) adhering to the City's public art policy and public art management program with respect to public art in the PAC or on the Lands;
 - (r) complying with all applicable laws, regulations and by-laws.
- 3.3 The Board shall be responsible for the administration and implementation of all new and existing donor agreements in accordance with such donor agreements and in a manner compliant with Canada Revenue Agency requirements; the City shall approve all new donor agreements and will continue to accept and manage donations in its fundraising reserve fund for the construction of the PAC for existing donor agreements.
- 3.4 The Board shall have an ongoing right and licence to carry on in the PAC and on the Lands:
- (a) all or any of the operations of a performing arts centre;
 - (b) receptions, exhibitions, corporate functions and civic events;
 - (c) commercial activities for the convenience of customers and patrons;
 - (d) any other operations which are capable of being carried on in connection with the operation of the PAC Business and that will, as determined in the discretion of the Board, directly or indirectly contribute to the financial viability of the Board in a manner consistent with the Principles and the strategic and business plans adopted by the Board from time to time; and
 - (e) any other activities in connection with exercising its rights or meeting its obligations in accordance with this Agreement.
- 3.5 In operating the PAC, the Board shall comply with the terms of the Umbrella Agreement between Brock University and the City dated March 05, 2012, or as subsequently amended or replaced by the Parties. The City will discuss with the Board in advance any proposed changes to the Umbrella Agreement and the City will not amend or agree to any changes to the Umbrella Agreement (in a manner that impacts the Board), without the Board's prior written consent, which consent shall not be unreasonably withheld or delayed.
- 3.6 The City's auditor shall be the auditor of the Board and all books, documents, transactions, minutes and accounts of the Board shall, at all times be open to the auditor's inspection.

- 3.7 Where the auditor has identified audit or financial reporting issues through the preparation of a management letter, the Board shall submit a letter to the City Treasurer indicating how and when the Board intends to address the issues.

ARTICLE 4 – FIRSTONTARIO PERFORMING ARTS CENTRE OPERATIONS

- 4.1 **Utilities.** The Board shall assume responsibility for the cost of all utilities including water, sewer, hydro, natural gas, telephone and internet associated with facility operation.
- 4.2 **Grounds Maintenance.** The Board shall be responsible for all grounds maintenance including turf, plant materials, fixtures, furniture amenities and pavement (including winter control services) as set out in Schedule B.
- 4.3 **Routine Repair.** The Board shall be responsible for building repairs in accordance with the scope provisions as set out in Schedule B.
- 4.4 **Operation of the Physical Plant.** The Board shall be responsible for operation, preventative maintenance and repair of the physical plant as set out in Schedule B.
- 4.5 **Signage.** The Board shall not install any sign, advertisement or other notice on any part of the outside of the building without the prior written consent of the City.
- 4.6 **Rules and Regulations.** The Board shall be responsible for appropriate building use and patron behaviour and has all of the rights and duties of an occupier of the Lands for the purposes of the *Trespass to Property Act*.

ARTICLE 5 – CAPITAL RESERVES

- 5.1 The City shall establish a reserve to be used for the sole purpose of funding the cost of replacements or planned renewals to the capital assets, excluding equipment (the “**PAC Capital Reserve**”). The Council shall have sole approval authority on the usage of PAC Capital Reserve and the City finance staff shall be responsible for managing the reserve.
- 5.2 The City shall establish a reserve to be used for the sole purpose of paying for the cost of repair, replacements and/or planned renewals to the Board Equipment, Specialized Equipment, Trade Fixtures and Common Areas and for the cost of significant repairs (the “**PAC Equipment Reserve**”).
- 5.3 The Board shall establish and apply to every performance ticket sold, excluding film and children’s presentations a capital surcharge for capital replacement purposes. The amount of such surcharge will be identified on each ticket and determined by the Board. The funds generated from the capital surcharge will be apportioned as follows:
- i) As determined by Council a portion of the surcharge will be earmarked for the St. Catharines Cultural Investment Program (SCCIP).
 - ii) The remaining surcharge balance will be split between the PAC Capital Reserve and the PAC Equipment Reserve, defined above, with a minimum of 50% being allocated to the PAC Capital Reserve.
- 5.4 When disposing of capital assets, the proceeds received shall be used to offset the cost of the replacement asset and the excess, if any shall be allocated to either the PAC Capital Reserve or the PAC Equipment Reserve based on the criteria above.
- 5.5 As part of the monthly reconciliation process the Board shall calculate and submit to the City the portion of capital surcharge collected relating to both the PAC Capital Reserve and the PAC Equipment Reserve.
- 5.6 Each year, representatives of the Board, in cooperation with the City, shall prepare an annual capital plan, including an annual capital budget, setting out the replacements and planned renewals contemplated at some point during the ensuing

year, together with a five-year capital forecast including the current year ("**Capital Plan**"). The Board shall submit the Capital Plan to the Budget Committee as per the City's budget process.

- 5.7 In the event of an emergency which necessitates the making of a replacement or renewal not contemplated in the current capital budget, the City or the Board shall advise the other of such emergency . The City may make the necessary replacement or planned renewal and pay the costs of such replacement or planned renewal in accordance with the City's procurement policy and consultation with the Board. Costs will be reimbursed to the City out of the PAC Capital Reserve, but if there are not sufficient monies in the PAC Capital Reserve to pay the costs of such emergency replacement or planned renewal, the City will be entitled to be repaid such monies out of future payments made to the PAC Capital Reserve.
- 5.8 Neither the PAC Capital Reserve nor the PAC Equipment Reserve shall be used to pay for those costs which the City or Board is entitled to receive insurance proceeds.

ARTICLE 6 – GOVERNANCE

- 6.1 The Board is a local board of the municipality for all purposes and shall be operated in accordance with and comply fully with all provisions of Bylaw No. 2018-177 of the City of St. Catharines which established it.
- 6.2 All Board Members shall adhere to the *Municipal Conflict of Interest Act* and the City of St. Catharines Code of Conduct for Members of Council, Local Boards and Advisory Committees. Code of conduct complaints are administered by the City Clerk and the Board or the Executive Director shall inform the Clerk forthwith upon the receipt of any complaint, and shall cooperate fully with the Clerk and the Integrity Commissioner appointed to investigate the complaint.
- 6.3 For the purposes of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), the Board shall be the Head, unless the Board designates an individual or committee from themselves to be the Head or otherwise delegates the responsibilities of the Head to the Executive Director.

ARTICLE 7 – FINANCIAL ASSISTANCE

- 7.1 During the Term, the Board shall prepare and submit to the City, in accordance with the timelines established by the City Treasurer, a budget for the Board's next fiscal year, and report to the Council or the appropriate committee on its financial status and the operation and Programming of the PAC for the immediately preceding period.
- 7.2 The Board shall provide to the City quarterly variance and any other interim reports in each year of the Term as reasonably requested by the City from time to time providing such information as the City shall require and specify.
- 7.3 The City's approval will be required for any unexpected expenditures by the Board that cannot be accommodated within the Board's current operating or capital budget prior to the expenditure being incurred. The City may refuse to approve any such expenditure in its sole and absolute discretion.
- 7.4 Unless and until the City approves a proposed expenditure in excess of the approved budget, the Board shall be prohibited from making such an expenditure or from entering into a binding commitment with a third party involving such an expenditure.
- 7.5 The payment and distributions regarding operations between the City and the Board will be as follows:
- i) The City shall provide distributions to the PAC based on an agreed upon schedule in accordance with the Councils approved annual funding.
 - ii) The Board shall pay services rendered by the City on a monthly basis as per an agreed upon amount between the City and the Board.

7.6 The PAC annual operating budget is expected to be a Net Expenditure (i.e. expenses exceeding revenues) with this amount being funding by the City of St. Catharines. The following section addresses how year end actual results compare to the Board's Annual Net Expenditure Budget:

- i) When actual year end results are a net expenditure amount that is less than the Board's annual operating budget amount, the amount would be referred to as a "surplus" from budget. This "surplus" will be held in a "PAC Sustainability Reserve" and will be maintained by the Board.
- ii) The PAC Sustainability Reserve will be used based on the Board's discretion to smooth annual operating budgets or to fund one-time or unplanned expenditures.
- iii) Amounts spent from the reserve greater than the larger of \$175,000 or 20% of the total reserve yearly will need to be done in consultation with the City; and
- iv) The reserve balance may not exceed 50% of Board's Annual Operating budget

ARTICLE 8 – ACCOUNTABILITY

- 8.1 City staff and the Executive Director will meet on a regular basis to discuss matters of interest to the Parties, including strategic, operational, and financial matters and opportunities.
- 8.2 The City and Board shall meet on a semi-annual basis, or more frequently as determined by the parties, regarding the integrity of the PAC's infrastructure, the capital funds required to be established pursuant to this Agreement, necessary renovations, additions or expansions to the PAC and the annual maintenance and services budget. The City will be represented by its Chief Administrative Officer or designate and the Board will be represented by its Chair or designate.

ARTICLE 9 – INSURANCE AND INDEMNIFICATION

- 9.1 The Board shall indemnify and save harmless the City and its elected officials, officers, employees, agents, invitees or licensees or any of them; from and against any and all claims, demands, awards, judgments, actions and proceedings by whomever made, brought, filed or prosecuted in respect of the PAC and in respect of the Board's breach, violation or non-performance of any term, condition, covenant or obligation under this Agreement and from and against any and all loss of, damage to or destruction of property and expenses and costs suffered or incurred by the City by reason of the act, omission, negligence or misconduct of the Board or its members, officers, employees, agents, invitees or licensees or any of them while in the course of exercising any right, licence or privilege or doing anything which is required or permitted by reason of this Agreement.
- 9.2 The City shall indemnify and save harmless the Board and its members, officers, employees, agents, invitees or licensees or any of them; from and against any and all claims, demands, awards, judgments, actions and proceedings by whomever made, brought, filed or prosecuted in respect of the PAC and in respect of the City's breach, violation or non-performance of any term, condition, covenant or obligation under this Agreement and from and against any and all loss of, damage to or destruction of property and expenses and costs suffered or incurred by the Board by reason of the act, omission, negligence or misconduct of the City or its elected officials, officers, employees, agents, invitees or licensees or any of them while in the course of exercising any right, licence or privilege or doing anything which is required or permitted by reason of this Agreement.
- 9.3 The Board shall obtain and maintain in force during the Term of this Agreement, at its cost, the following insurance policies:

- (a) general liability insurance on an occurrence basis insuring all obligations, services, operations, and work as described in this Agreement. The policy will be extended to include bodily injury (including death) and property damage, personal injury, advertising liability and contractual liability to a limit of no less than \$10,000,000.00 per occurrence. The policy will include a cross liability and severability of interest clause and be endorsed to name the City and Brock University as an additional insured;
- (b) non-owned automobile insurance to a limit of no less than \$5,000,000; including accident benefits insurance and non-owned automobile liability, covering all licensed vehicles owned, leased, or operated by or on behalf of the Board;
- (c) directors' and officers' liability insurance protecting the Board, its board members, trustees, councillors, directors and officers from and against any claim and all claims made against the Board, its board members, trustees, councillors, directors and officers or any of them, jointly or severally, for a wrongful act to a limit of no less than \$2,000,000.00;
- (d) comprehensive crime insurance insuring:
 - (i) loss of money, securities or other property which the Board may sustain in an amount of no less than \$100,000 resulting from one or more fraudulent or dishonest acts committed by the Board's employee, acting alone or in collusion with others;
 - (ii) loss of money and securities by the actual destruction, disappearance or wrongful abstraction thereof within the PAC or within any banking premises or similar recognized places of safe deposit in an amount of no less than \$25,000.00; and
 - (iii) loss of money and securities by the actual destruction, disappearance or wrongful abstraction thereof outside the PAC while being conveyed by the Board or any employee who is duly authorized by the Board to have the care and custody of the money and securities while outside the PAC in an amount of no less than \$25,000.00 and
- (e) cyber liability insurance providing first party and third party protection against security and privacy liability, regulatory actions, event management, cyber extortion and network interruption.

9.4 The Board shall ensure that all policies of insurance will:

- (a) be written with an insurer licensed to do business in the Province of Ontario;
- (b) be non-contributing with and will apply only as primary and not excess to any other insurance or self-insurance available to the City; and
- (c) contain an undertaking by the insurers to notify the City in writing no less than 30 Business Days prior to any termination or cancellation of coverage unless otherwise required by law. Any deductible amounts will be borne by the Board.

9.5 Upon request, the Board shall provide to the City each proof of insurance on a form of a certificate of insurance which has been signed by an authorized representative of the insurer. The Board will make available complete certified copies of all applicable insurance policies for examination if required by the City.

9.6 The Board shall deliver to the City certificates of insurance evidencing renewal or replacement of policies required under this Agreement at least 15 Business Days prior to the expiration or replacement of the current policies without demand by the City.

9.7 Upon the request of the City, the Board shall purchase such additional insurance coverage and in such higher limits of insurance or otherwise alter the

types of insurance coverage.

- 9.8 The above insurance requirements will not be read to limit the liability of the Board and will not be deemed a waiver by the City of its right to damages and indemnity from the Board for default under this Agreement or for any loss arising out of or related to the performance or non-performance by the Board of its obligations under this Agreement.

ARTICLE 10 – TERM; TERMINATION

- 10.1 The term of this Agreement shall commence on the Effective Date and continue until terminated in accordance with its terms (the “**Term**”).
- 10.2 The City may terminate this Agreement at any time upon reasonable written notice to the Board. The City may make any change that it deems necessary to the Board and change or assume any powers or duties of the Board, in accordance with, and to the extent permitted by, the Act.

ARTICLE 11 – NOTICES

- 11.1 Any notice, consent, approval or other communication required or permitted to be given in connection with this Agreement (in this Section referred to as a “**Notice**”) shall be in writing and shall be effectively given if delivered (including delivery in person, electronic mail, or by commercial courier service) to the following individual:
- (a) If to the Board at: FirstOntario Performing Arts Centre Board
250 St. Paul Street
St. Catharines, Ontario
L2R 3M2

Attention: Executive Director
- (b) To the City at: City of St. Catharines
50 Church Street
St. Catharines, Ontario
L2R 7C2

Attention: Chief Administrative Officer

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 4:00 p.m. (Eastern time). However, if the Notice is delivered or transmitted after 4:00 p.m. (Eastern time) or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day. Any Party may, from time to time, change its address by giving Notice to the other parties in accordance with the provisions of this Section.

ARTICLE 12 - ENTIRE AGREEMENT

- 12.1 Except as otherwise expressly provided in this Agreement, this Agreement constitutes the entire agreement between the Parties with respect to its subject matter and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, whether express, implied or statutory, between the Parties other than as expressly set forth in this Agreement.

ARTICLE 13 – AMENDMENTS; WAIVER

- 13.1 No amendment, supplement, waiver or modification of this Agreement shall be binding on the Parties unless same is in writing and signed by duly authorized representatives on behalf of each of the Parties to be bound thereby.

13.2 Amendments to Schedules B and C may be authorized by the Executive Director and the City's Chief Administrative Officer on behalf of the Parties.

13.3 Except as otherwise expressly provided in this Agreement, no waiver of any provision of this Agreement shall constitute a waiver of any other provision of this Agreement. No delay by or failure of either Party to exercise any right or remedy will operate as a waiver.

ARTICLE 14 ASSIGNMENT; INUREMENT

14.1 The Board shall not assign or transfer any or all of its rights or its duties or obligations hereunder without the prior written consent of the City, which consent may be arbitrarily or unreasonably withheld.

14.2 This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors, legal personal representatives and permitted assigns.

ARTICLE 15 - GOVERNING LAW; ATTORNMENT

15.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario (other than Ontario principles of conflicts law) and the laws of Canada applicable in the Province of Ontario and shall be treated in all respects as an Ontario contract.

ARTICLE 16 – GENERAL

16.1 The Parties are independent contractors, and this Agreement is not intended to create an agency, partnership, joint venture, employer-employee or franchisor-franchisee relationship between the Parties.

16.2 The Parties do not intend to create, and this Agreement, including ARTICLE 4, does not create, the relationship of landlord and tenant between the Parties.

16.3 If for any reason whatsoever any term or other provision of this Agreement, or the application of that term or provision to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term or other provision:

- (a) is deemed to be independent of the remainder of this Agreement and to be severable and divisible therefrom, and its invalidity, unenforceability or illegality shall not affect, impair or invalidate the remainder of this Agreement or any part thereof; and
- (b) continues to be applicable and enforceable to the fullest extent permitted by law against any person or circumstance other than those as to which it has been held or rendered invalid, unenforceable or illegal.

16.4 Time shall be of the essence of this Agreement and no extension or variation of this Agreement shall operate as a waiver of this provision.

16.5 The Board shall not make any express or implied agreements, guarantees or representations or incur any debt or obligation in the name of or on behalf of the City and the City will not be obligated by or have any liability under any agreements or representations made by the Board unless otherwise set out herein.

Signing Page Follows

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

SIGNED, SEALED AND DELIVERED
in the presence of:

**THE CORPORATION OF THE CITY OF
ST. CATHARINES**

Mayor

Clerk

We are authorized to bind the City.

**FIRSTONTARIO PERFORMING ARTS
CENTRE BOARD**

Name:
Title:

Name:
Title:

We are authorized to bind the Board.

SCHEDULE A

DEFINED TERMS

In this Relationship Agreement, unless there is something in the subject matter or the context inconsistent therewith, the following capitalized terms shall have the meanings set out below:

- (a) **“Agreement”** means this Relationship Agreement, as supplemented or amended from time to time in accordance with its terms, including its recitals, schedules, exhibits, and addenda annexed to it;
- (b) **“Board”** means FirstOntario Performing Arts Centre Board, a municipal service board established by By-law No. 2018-177 of the City;
- (c) **“Business Day”** means any day which is not a Saturday, Sunday, statutory holiday observed in the Province of Ontario, or a day on which the City’s offices are not open for business, and **“Business Days”** shall have a corresponding meaning;
- (d) **“City”** means The Corporation of the City of St. Catharines;
- (e) **“Council”** means the Council of the City;
- (f) **“Effective Date”** means the date first written above;
- (g) **“Executive Director”** means the Executive Director of the PAC who shall be the chief executive officer with carriage of the general supervision of the PAC Business;
- (h) **“Members”** means the members of the Board, and **“Member”** means one of the Members, as applicable;
- (i) **“Municipal Act”** means the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended;
- (j) **“Ordinary Course”** means, with respect to an action taken or to be taken by a Person, that such action is consistent with the past practices of the Person and is taken in the ordinary course of the normal operations or activities of the Person;
- (k) **“PAC”** and **“FirstOntario Performing Arts Centre”** mean the building, and all related facilities for the operation of the building, which are located on the Lands;
- (l) **“PAC Business”** and **“FirstOntario Performing Arts Centre Business”** mean the business of operating the PAC as an arts and entertainment facility for the performance, promotion, development and encouragement of the performing arts in the City of St. Catharines, including:
 - (i) all Programming, fundraising, marketing, sales, and strategic planning activities;
 - (ii) the provision of services to patrons, community members, other organizations, and the City in accordance with this Relationship Agreement;
 - (iii) the acquisition, maintenance and disposition of equipment, supplies, and services; and
 - (iv) the creation, registration and licensing of intellectual property to and from third parties.
- (m) **“Parties”** means the City and the Board, and **“Party”** means one of them, as applicable.
- (n) **“Principles”** has the meaning given to that term in section 2.1 of this Agreement;
- (o) **“Programming”** means the designing, planning, selecting, scheduling, and implementing of theatrical, dramatic, musical, dance, and artistic work at the PAC, including artistic control, together with educational activities and other activities that

maximize the value of the PAC to the City, its residents, and the Board;

(p) **“Term”** has the meaning given to that term in section 10.1 of this Agreement.

DRAFT

Facilities Maintenance and Repair Requirements

Summary of Information		Building Address:		250 St. Paul Street			
Property Rights - Land		Owned		DRAFT	Tenant Information		
Property Rights - Building		Owned			Tenant Name		Owned
Year built		2015			Lease Contact		n/a
Area / Area Occupied							
Parking Space		None			Maintenance Contact		See call out list
Occupancy Date		Nov-15					
Lease Expiry Date		na/			Emergency Contact		See call out list
Building Company/ Owner name		First Ontario Performing Arts Centre					
Owner's address		50 Church Street, St. Catharines			Comments / Change Factors:		
Owner's phone number		905-688-5601					
Landlord Contacts for emergencies		See Callout List					
Contact for Consultation							
Annual Basic Rent paid		n/a					
Common Area Maintenance CAM		none					
Additional Rent		none					
Recapture of Buildout or Improvements		none					
Total Rent (not including H.S.T..)		none			Colour Legend		
Cost Centre					City TES Joint Brock Joint TES PAC		

Request for Work			TES Henry Colin Ext 1658					
Reviewed By:			Steve Solski, Dan Dillon, Henry Colin, Dave Macklem					
Date of Last Review			November 11, 2015					
Acct	Services	Category	Sub Category	Description	Responsibility for requesting Work	Responsible for completing or monitoring work	Billed to	Level of Service or Comments
Repairs & Maintenance for Grounds								
	Grass Cutting				PAC	PAC	PAC	as required
	Landscaping Gardens, Lawn, cleanup etc.				PAC	PAC	PAC	as required
	Tree removal				PAC	PAC	City TES	as required
	Tree trimming				PAC	PAC	PAC	
	Fences - Maintenance and repair				PAC	PAC	PAC	as required
	Fences - Replacement							
	Lawn Sprinkler System				City TES	City TES	City TES	
	Curb and Sidewalk Repair				PAC	PAC	City TES	1 Year Warrantee End date?
	Curb and Sidewalk Replacement				PAC	PAC	City TES	
	Loading Driveway				PAC	PAC	City TES	
	Loading Driveway		None		PAC	PAC	City TES	
	Catch basin maintenance including shared laneway				City TES	City TES	City TES	as required
	Catch basin Replacement				City TES	City TES	City TES	as required
	Storm Septors (2)				City TES	City TES	City TES	as required
	Snow Removal Parking Lot		None		PAC	PAC	PAC	
	Snow Removal Laneway				PAC	PAC	PAC	?
	Snow Removal Sidewalks				PAC	PAC	PAC	as required
	Snow Removal City Sidewalks				City TES	City TES	City TES	PAC (Steve) to Provide performance schedule to TES
	Salt Boxes				City TES	City TES	City TES	City to provide salt and boxes for use by PAC
	Making, Installing & Maintenance of Exterior Signs		None					
					PAC	PAC	PAC	
	Making, Installing & Maintenance of Ground Signs				TES & PAC	City TES		as required
							PAC	
Pest Control - Exterior				PAC	PAC	PAC	as required	
Survey Available					City TES	City TES		
Pin #								
Repairs & Maintenance for Buildings								
	1.0 Architectural & Structural							
		1.1 Foundations						
			Footings & Foundations	City TES	City TES	City TES	as required	
			Parging	City TES	City TES	City TES	as required	
		1.2 Superstructures						
			Structural Maintenance	City TES	City TES	City TES	as required	
			Chimney repair	City TES	City TES	City TES	as required	
			Chimney replacement	City TES	City TES	City TES	as required	
		1.3 Exterior Closures						
			Walls	PAC	PAC	PAC	as required	
			Walls - removal of grafitti	PAC	PAC	PAC		
			Doors - Maintenance, Weather Stripping	PAC	PAC	PAC	as required	
			Doors - replacement	City TES	City TES	City TES	as required	
			Electronic Accessibility Doors	City TES	City TES	City TES	as required	
			Exterior Door Security systems	PAC	PAC	PAC	as required	
			Stairs, Ramps and Fire Escapes - clear access - Daily Maintenance	PAC	PAC	PAC	as required	
			Stairs, Ramps and Fire Escapes Major maintenance and Replacement	City TES	City TES	City TES	as required	
			Windows - Exterior Cleaning	PAC	PAC	PAC	as required	
			Windows - Exterior Maintenance	City TES	City TES	City TES	as required	
			Windows - Replacement	City TES	City TES	City TES	as required	
			Waste Bin Services: Dumpster	PAC	PAC	PAC	PAC has garbage garage	
			Exterior Painting	City TES	City TES	City TES	as required	
		1.4 Roofing						
			Roof Maintenance	City TES	City TES	City TES	as required	
			Roof Replacement	City TES	City TES	City TES	as required	
			Flashing Repairs	City TES	City TES	City TES	as required	
			Roof Drain Maintenance	PAC	PAC	PAC	as required	
		Fall Arrest Systems	Installation Replacement, Repair	City TES	City TES	PAC	as required	
		Fall Arrest Systems	Inspection	City TES	City TES	PAC	as required	

SCHEDULE "B"

Acct	Services	Category	Sub Category	Description	Responsibility for requesting Work	Responsible for completing or monitoring work	Billed to	Level of Service or Comments
			1.5 Interior Construction					
				Partitions, Millwork, Fittings & Equipment	City TES	City TES	City TES	as required * with Consultation
				Interior Doors: Door Maintenance, Security Doors	PAC	PAC	PAC	as required * with Consultation
				Door Closers	City TES	City TES	City TES	as required
				Interior Electronic Accessible Doors	City TES	City TES	City TES	as required
				Interior Walls: Painting, Cleaning	PAC	PAC	PAC	as required
				Floor Finishes: Carpet Cleaning, Covering Repair, Stripping & Waxing	PAC	PAC	PAC	as required
				Ceiling Finishes: Ceiling Maintenance (ceiling tiles)	PAC	PAC	PAC	as required * with Consultation
				Windows Maintenance: Sealing, Cleaning, Replacement	City TES	City TES	City TES	as required
				Window Coverings	PAC	PAC	PAC	as required
				Washroom Accessories & Supplies	PAC	PAC	PAC	as required
				Interior Stairs & railings - Maintenance	PAC	PAC	PAC	as required * with Consultation
				Interior Stairs & railings - replacement or up-grades	City TES	City TES	City TES	as required
				Making, Installing & Maintenance of Signs	PAC	PAC	PAC	as required * with Consultation
				Moving Furniture	PAC	PAC	PAC	as required
				Caretaking Supplies	PAC	PAC	PAC	as required
				Janitorial Services	PAC	PAC	PAC	as required
				Mat Services	PAC	PAC	PAC	
				Pest Control - Interior	PAC	PAC	PAC	as required
				Recycling Containers, Disposal	PAC	PAC	PAC	compatible with City
				Misc. Maintenance Services	PAC	PAC	PAC	as required
				Asbestos Management	n/a			
				Asbestos Management - Preparing and maintaining documentation	n/a			as required
				Asbestos Management - Training Staff	n/a			
		2.0 Conveying Systems	2.1 Vertical Movement					
				Elevator Replacement & major Repair	City TES	City TES	City TES	City Contract
				Elevator Maintenance & Inspections	City TES	City TES	City TES	City Contract
				Elevator License	City TES	City TES	City TES	
		3.0 Mechanical	3.1 HVAC					
			Cooling	A/C Replacement	City TES	City TES	City TES	as required
				A/C Maintenance (replacing filters, adjusting temperatures and minor repairs not in excess of \$2,000.00)	City TES	City TES	PAC	TES Contract ?
				AC Maintenance - Plan and Contract	City TES	City TES	City TES	as required
				HVAC (Fans, Humidifiers, etc.)	City TES	City TES	City TES	as required
			Heating	Heating Replacement Electric	City TES	City TES	City TES	as required
				Heating Maintenance Electric - Plan and Contract	City TES	City TES	PAC	as required
				Heating Replacement Boiler	City TES	City TES		
				Heating Maintenance Plan and Contract - Boiler	City TES	City TES	PAC	as required
			System	Controls, Building Automation System Monitoring	City TES	City TES	PAC	as required
				Controls, Building Automation System Monitoring	City TES	City TES	PAC	
				Controls, Building Automation System - Replacement	City TES	City TES	City TES	as required
				Controls, Building Automation System - Software License	City TES	City TES	PAC	
			3.2 Plumbing					
				Plumbing Maintenance	City TES	City TES	PAC	as required
				Fixture Replacement	City TES	City TES	City TES	With consultation if necessary
				Cabinets - Mill Work	PAC	PAC	PAC	With consultation if necessary
				Water Heaters maintenance	City TES	City TES	PAC	as required
				Water Heaters replacement	City TES	City TES	City TES	as required
				Storm Pumps	City TES	City TES	City TES	as required
				Piping Systems - interior	City TES	City TES	City TES	Maybe warntee
				Water Storage Tanks	none			
				Water Softeners System	City TES	City TES	City TES	
				Laterals	City TES	City TES	City TES	
				Septic System	none			
				Cistern	none			
				Well	none			
			3.3 Special Systems					
				Compressed Air Systems	none			
				Vacuum Systems	none			
				Water Distillations Units	none			
				Vehicle Fuel system & Distribution	none			

SCHEDULE "B"

Acct	Services	Category	Sub Category	Description	Responsibility for requesting Work	Responsible for completing or monitoring work	Billed to	Level of Service or Comments
			3.35 Accessibility					
				Emergency Procedure development and documentation	Joint PAC and Brock			
				Facility Accessibility renovations	City TES	City TES	City TES	
			3.4 Fire Protection					
				Fire Escape Plan Drawings	PAC	PAC	PAC	as required - Fire Consultant for PAC
				Fire Safety Plan documentation	PAC	PAC	PAC	as required
				Monitoring of Fire Alarm	PAC	PAC	PAC	as required
				Alarm Responders	PAC	PAC	PAC	Notify each other and Brock through call out list
				Fire Alarm System: Testing, Repair	PAC	PAC	PAC	as required
				Fire Alarm System: Replacement or up-grades	City TES	City TES	City TES	as required
				Sprinkler Systems: Testing, Maintenance	PAC	PAC	PAC	as required
				Sprinkler Systems: Installation, Replacement & Up-grades	City TES	City TES	City TES	as required
				Fire Extinguishers Purchased	PAC	PAC	PAC	
				Fire Extinguishers Inspection	PAC	PAC	PAC	
				Fire Protection Water Storage Tanks	none			
				Organizing Inspections for Fire Audit, Wet & Dry Systems	PAC	PAC	PAC	as required
				Safety Supplies and Defib equipment	PAC	PAC	PAC	as required
			3.5 Security Systems					
				Monitoring of Security Alarm - for Building	PAC	PAC	PAC	
				Responders to Security Alarm	See call out list			
				Replacement of Security System - For Building	City TES	City TES	City TES	as required
				Monitoring of Security Alarm - for Unit	PAC	PAC	PAC	
				Cameras and card access	See call out list			
				Replacement of Security System - For Unit	City TES	City TES	City TES	
				Security System Maintenance (Equipment and code and swipe cards)	PAC	PAC	PAC	
				Panic Buttons - Washrooms & Elevators	PAC	PAC	PAC	
				Software for Gentec	City TES	City TES	PAC	
		4.0 Electrical						
			4.1 Primary Electrical					
				Primary Switchgear	City TES	City TES	City TES	as required
				Primary Transformer	City TES	City TES	City TES	as required
			4.2 Secondary Electrical					
				Electrical Maintenance	City TES	City TES	PAC	as required
				Electrical Panel	City TES	City TES	City TES	as required
				Electrical Circuits and adding outlets	City TES	City TES	City TES	as required
				Electrical Power Meter	City TES	City TES	City TES	as required
				Inverters	City TES	City TES	City TES	as required
				Rectifiers	City TES	City TES	City TES	as required
				Cabling, Raceways, Bus Ducts	City TES	City TES	City TES	as required
				Capacitors	City TES	City TES	City TES	as required
			4.3 Electrical Service Ground					
				Grounding Systems	City TES	City TES	City TES	as required
			4.4 Lighting Fixtures					
				Lighting Maintenance (Light Fixture Cleaning, Relamping)	PAC	PAC	PAC	as required
				Ballast & Fixture Replacement	PAC	PAC	PAC	as required
				Exit Lighting	PAC	PAC	PAC	as required
				Emergency Lighting	PAC	PAC	PAC	as required
				Emergency & Exit Lighting Testing and repair documentation	PAC	PAC	PAC	as required
				Emergency Power System: Generator Maintenance	City TES	City TES	PAC	Under City Contract
				Emergency Power System: Generator Testing	City TES	City TES	PAC	Under City Contract
				Communication Systems - PA and speakers (does not include Telephone systems)	PAC	PAC	PAC	as required
				Continuous Safety Service (CSS)	City TES	City TES	PAC	

DRAFT

SCHEDULE "B"

Acct	Services	Category	Sub Category	Description	Responsibility for requesting Work	Responsible for completing or monitoring work	Billed to	Level of Service or Comments
			4.6 Special Systems					
				Clock Systems	none			
		5.0 Others						
				Security Gates	none			
				Security Cameras	PAC	PAC	PAC	
				Theatrical Lighting Audio and Video	PAC	PAC	PAC	
				Condition Assessment Reports	none			
				Weigh Scales	none			
				Gas Monitoring	none			
Lease	Basic Rent			None				monthly
				Commercial General Liability Insurance	City FMS	City FMS	PAC	
				Contents Insurance	City FMS	City FMS	City TES	
				Plate Glass Insurance	City FMS	City FMS	City TES	
				Building Insurance	City FMS	City FMS	City TES	
				Event (PAL) Insurance	City FMS	City FMS	PAC	
				Boiler Insurance	City FMS	City FMS	City TES	
	Utilities	Hydro			PAC	PAC	PAC	
	Utilities	Gas			PAC	PAC	PAC	
		Water			PAC	PAC	PAC	
		Cable (Cogeco)			PAC	PAC	PAC	
		Telephone			PAC	PAC	PAC	
		Tenant Insurance			PAC	PAC	PAC	
		Building Condition			City TES	City TES	City TES	
		Building Renovations			PAC	PAC	PAC	
	Labour	Labour for In House Services			PAC	PAC	PAC	
	Revenue	Labour for Building Services			PAC	PAC	PAC	
		Roll Number/ Taxes	To be Exempt					
Total							\$0	

DRAFT

CALLOUT LIST

DAYTIME - City				
Name	Phone	Ext.	Cell	Email
Chuck Milne	905-688-5601	1988	905-651-7755	cmiline@stcatharines.ca
Henry Colin	905-688-5601	1988	905-651-7750	hcolin@stcatharines.ca
Sven Madsen	905-688-5601	2155	905-651-6667	smadson@stcatharines.ca
AFTER HOURS - City				
Name	Phone	Ext.	Cell	Email
Lake Street Service Centre	905.935.3813			
DAYTIME - PAC				
Name	Phone	Ext.	Cell	Email
Bill Merwin	905-688-5601	3619		bmerwin@stcatharines.ca
Dave Rapelje	905-688-5601	3603		drapelje@stcatharines.ca
Steve Solski	905-688-5601	3601	289-696-3431	ssolski@stcatharines.ca
AFTER HOURS - PAC				
Name	Phone	Ext.	Cell	Email
Steve Solski	905-688-5601	3601	289-696-3431	ssolski@stcatharines.ca
Dave Rapelje	905-688-5601	3603	905.658.1792	drapelje@stcatharines.ca
Bill Merwin	905-688-5601	3619	1.416.419.6608	bmerwin@stcatharines.ca
DAYTIME MIWSFPA - Brock				
Name	Phone	Ext.	Cell	Email
AFTER HOURS - MIWSFPA - Brock				
Name	Phone	Ext.	Cell	Email

SCHEDULE C

SERVICES TO BE PROVIDED BY THE CITY TO THE BOARD

- A.** The City shall make the following services available to the Board on a fee for service basis (unless otherwise indicated):

Information Technology

- (i) The City shall provide a local area network and related information technology within the PAC with a connection to the City's network for access to City-provided information technology services such as email, shared storage, and an Internet connection. All Information technology will be maintained and implemented under the standards established by the City. Replacement of IT assets will be conducted as per the lifecycle schedule implemented at the City. Any additional technology that will be connected to City Networks must be installed and purchased after consultation with City IT department.
- (ii) The City shall provide a connection from the building automation systems at the PAC to the City network. All connections will be maintained and secured using City generated policies and procedures.
- (iii) The City shall provide standard hardware and software to be used by Board devices (including personal computers, laptops, tablets, printers, multifunction devices, mobile devices, and any other devices that will operate on or be connected to the City's network) for the operation and administration of the PAC and the PAC Business. The City shall not be responsible for third party costs associated with hardware or software or any licensing of such hardware or software. The Board shall not install any third party hardware or software with out prior consultation with City IT department. Procurement of IT needs shall be through the City.
- (iv) The City shall provide to the Board telephone equipment and local lines for backup and elevator telephones in accordance with the City's policies and procedures, but the City shall not be responsible for payment of telephone services. The City shall not be responsible for third-party costs associated with telephone equipment.

The provision of Information Technology services is subject to compliance by the Board with all City information technology policies and security procedures. Any deviation from City information technology policies must be approved in advance by the City.

- B.** At the request of the Board, the City may provide the following services on a cost-recovery (charge-back) basis and subject to terms and conditions as set out below:

Financial Management Services

- (i) Processing PAC employees' payroll.
- (ii) Making all remittances required, including income tax deductions, Employment Insurance, Canada Pension Plan, Employer's Health Tax, OMERS and Workplace Safety and Insurance Board premiums.
- (iii) Providing support and assistance for the annual preparation of T4 forms
- (iv) Assistance in the review and tendering of large operating expense contracts.
- (v) Preparation of its annual financial statements.
- (vi) Research on technical issues related to its financial activities.

Communications

Communication needs for specific community events at the PAC by providing staff and resources as are available.

Digital Copy PAC

Services from its digital copy PAC.

Information Technology

- (i) consulting and advisory services
- (ii) help desk support
- (iii) network support
- (iv) building automation systems connectivity support
- (v) business application support
- (vi) telephone support;

A yearly schedule will be provided by the City IT department to the Board to submit in their budget. A fee for services schedule will be provided based on actual costs of all hardware and communication infrastructure including a predetermine service level agreement of dedicated staff resources to maintain all information technology.

Outdoor Maintenance

The City may provide, through external providers, outdoor maintenance on the Lands, including winter control and horticultural and tree maintenance, in accordance with the City's levels of service.

Procurement

The City may assist the Board with its procurement needs when the City coordinates bulk purchase agreements for its own needs and depending on the nature of the procurement and the availability of the City's purchasing staff. If procurement assistance is provided by the City's purchasing staff at the request of the Board, the City's Procurement By-law will govern.

Legal and Clerk Services

The City Clerk may assist and provide advice to the Board with respect to procedural matters, records retention and freedom of information requests.

The City Solicitor may assist the Board with general legal advice on minor non litigation related matters provided that it is not a conflict of interest and subject to availability of resources.

SCHEDULE D

LEGAL DESCRIPTION OF THE LANDS (as of October 22, 2015)

PIN 46218-0073 (R)

PT LT 61, 63 CP PL 2 GRANTHAM; ST. CATHARINES

46218-0072 (LT)

LT 64 CP PL 2 GRANTHAM T/W & S/T RO533680; S/T INTEREST IN RO219360;
ST. CATHARINES

46218-0248 (LT)

PL LT 65 CP PLAN 2 AS IN RO821015 GRANTHAM; ST. CATHARINES

46218-0070 (LT)

PT LT 65 CP PL 2 GRANTHAM; ST. CATHARINES

46218-0077 (LT)

PT LT 72, 74 CP PL 2 GRANTHAM PT 1, 2 30R-8580; S/T RO714242, RO717139,
RO718069; CITY OF ST. CATHARINES