

BYLAW NO. 1591-25
OF THE
TOWN OF BONNYVILLE
IN THE PROVINCE OF ALBERTA

BEING A BYLAW OF THE TOWN OF BONNYVILLE IN THE PROVINCE OF ALBERTA, CANADA, THAT AUTHORIZES THE TOWN OF BONNYVILLE TO LEND FUNDS TO THE CLAYTON BELLAMY FOUNDATION FOR THE ARTS TO COMPLETE THE CONSTRUCTION OF THE STRATHCONA PERFORMING ARTS CENTRE.

WHEREAS under the provisions of the Municipal Government Act, R.S.A. 2000, Chapter M-26, Section 264(2) a municipality may lend money to a non-profit organization if Council considers that the money loaned will be used for a purpose that will benefit the municipality;

AND WHEREAS under the provisions of the Municipal Government Act, R.S.A. 2000, Chapter M-26, Section 265(1) a municipality may only lend money to a non-profit organization if the loan is authorized by bylaw;

AND WHEREAS The Clayton Bellamy Foundation for the Arts is a non-profit organization;

AND WHEREAS The Clayton Bellamy Foundation for the Arts requires funds to complete the construction of the Strathcona Performing Arts Centre located within the Bonnyville Centralized High School at 4808-49 Street;

AND WHEREAS the Council for the Town of Bonnyville deems it to be in the public interest that the money loaned will be used for a purpose that will benefit the municipality;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE TOWN OF BONNYVILLE IN THE PROVINCE OF ALBERTA DULY ASSEMBLED, HEREBY ENACTS THE FOLLOWING:

1. LOAN

- 1.1 The Town of Bonnyville hereby authorizes a loan to The Clayton Bellamy Foundation for the Arts for the purpose of completing the Strathcona Performing Arts Centre Project up to a maximum amount of \$800,000.00.
- 1.2 The source of the funds to loan to The Clayton Bellamy Foundation for the Arts is sourced from the General Capital Reserve.
- 1.3 The term of the loan is over a maximum period of four (4) years beginning on March 31st, 2025.
- 1.4 The interest rate on the loan is 5.00% (per annum).

- 1.5 The loan will be repaid by The Clayton Bellamy Foundation for the Arts on or before March 31st, 2029, in accordance with the Loan Agreement outlined in Schedule "A" attached to and forming part of this Bylaw.
- 1.6 The Town of Bonnyville and The Clayton Bellamy Foundation for the Arts will enter into a loan repayment agreement consistent with the terms of this Bylaw.

2. EFFECTIVE DATE

- 2.1 That this Bylaw shall come into force and have effect from and after the date of third and final reading thereof.

INTRODUCED AND GIVEN FIRST READING this _____ day of _____, A.D., 2025.

Mayor

Chief Administrative Officer

GIVEN SECOND READING this _____ day of _____, A.D., 2025.

Mayor

Chief Administrative Officer

GIVEN THIRD AND FINAL READING this _____ day of _____, A.D., 2025.

Mayor

Chief Administrative Officer

**Bylaw No. 1591-25
Schedule A**

THIS LOAN AGREEMENT made this 26th day of March, 2025.

BETWEEN:

The Town of Bonnyville
(referred to as the "Town")

AND

The Clayton Bellamy Foundation for the Arts
(referred to as the "Foundation")

WHEREAS:

- A) Pursuant to Sections 264 and 265 of the Municipal Government Act, R.S.A. 2000, Chapter M-26 and amendments thereto, a municipality may loan funds to a non-profit organization;
- B) The Foundation is a non-profit organization duly incorporated under the laws of the Province of Alberta;
- C) The Foundation is a tenant of and is in the progress of constructing the Strathcona Performing Arts Centre, located at 4808-49 Street, Bonnyville AB;
- D) The Foundation is seeking the assistance of the Town to fund the remaining construction of the project through a loan; and
- E) The Town gave the 3rd and final reading to Bylaw No. 1591-25 on March 25th, 2025, which was subsequently passed, and the Town shall provide the loan to the Foundation subject to the terms, covenants and conditions contained within this loan agreement (the "Loan Agreement");

NOW THEREFORE IN CONSIDERATION of the Town advancing funds to the Foundation as evidenced by this Loan Agreement, the Foundation's promise to pay the sums required within this Loan Agreement and the mutual covenants contained within this Loan Agreement, the Town and the Foundation covenant, promise and agree as follows:

- 1) The Town hereby promises to lend to the Foundation an amount up to a maximum of EIGHT HUNDRED THOUSAND (\$800,000.00) Dollars (the "Loan") for the purpose of completing the construction of the Strathcona Performing Arts Centre, upon the following terms:

- (i). The Loan is to be used for the sole and only purpose of funding the construction of the Strathcona Performing Arts Centre, and its associated activities;
- (ii). The Loan shall be advanced to the Foundation upon the Foundation providing a request for funds in a form prescribed by the Town, accompanied with invoicing and supporting documentation, as determined and required by the Town, to evidence contractor engagement on the construction of the Strathcona Performing Arts Centre. The Town, in its sole and absolute discretion, shall advance funds to the Foundation upon review of each request for funds;
- (iii). Interest shall accrue on the outstanding indebtedness at a rate of five (5%) percent per annum, and is based on interest rates offered by financial institutions as of February 4th, 2025;
- (iv). The term of the Loan is to a maximum of four (4) years commencing from March 26th, 2025;
- (v). The interest on the Loan amount shall be repaid by the Foundation in equal monthly instalment payments on or before the last day of each month of the term, (hereafter called the "Due Date");
- (vi). The balance of the principal Loan amount shall be repaid to the Town by the Foundation on or before the term of this Loan Agreement, either from funds held by the Foundation, or through funds received by the Foundation from grants, sponsorships, or other monies;
- (vii). The Foundation may make payments in advance of the Due Date without penalty, resulting in the recalculation of future interest payments; and
- (viii). Interest shall accrue and be due and payable on the outstanding balance at the time of each instalment.

2) The Town covenants and agrees:

- (i). The source of the funds loaned to the Foundation shall be from the general capital reserve held by the Town. All interest and repayments received by the Town from the Foundation shall be returned to this reserve; and
- (ii). This Loan Agreement is consistent with the terms of Bylaw No. 1591-25.

3) The Foundation covenants and agrees:

- (i). To pay to the Town when due all amounts owing by it to the Town as provided for under the terms of this Loan Agreement;
- (ii). Use the proceeds of the Loan only for the purpose for completing the Strathcona Performing Arts Centre and approved by the Town;

- (iii). Do, observe and preform all obligations and covenants to the Town under this Loan Agreement, and do, observe and perform all obligations and covenants in respect to any other indebtedness owing to other persons and permitted by the Town;
- (iv). Pay all subcontractors, laborers, suppliers, and any other parties providing goods or services related to the construction of the Strathcona Performing Arts Centre funded by this Loan Agreement. The Foundation further agrees to ensure that no construction lien or mechanic's lien, or any other legal encumbrance, is filed or registered against the property subject to the construction of the Strathcona Performing Arts Centre as a result of any unpaid debts or obligations arising from the work performed by subcontractors, laborers, suppliers, or other service providers. In the event that any lien or encumbrance is filed, the Foundation shall immediately take all necessary actions to discharge or remove such lien or encumbrance, at their sole cost and expense, and shall provide the Town with proof of such discharge or removal within ten (10) days of notification. Failure to comply with this obligation shall constitute an event of default under this Loan Agreement.
- (v). Insure, and keep insured, all property and assets of an insurable nature against loss or damage by fire and other hazards for such an amount of amounts as is expedient and prudent in the circumstances, and at least in the amount which the Town may require from time to time; and
- (vi). In the event that any amount of the Loan is not used during the term by the Foundation for the purposes established in either this Loan Agreement or they Bylaw No. 1591-25, the Foundation shall immediately return all Loan amounts to the Town.

4) The Foundation warrants and represents:

- (i). That the Foundation is duly organized, and is a validly subsisting Alberta non-profit corporation in good standing under the laws of the Province of Alberta and has the power and authority to carry on its business as presently conducted and to enter into and perform its obligations under this Loan Agreement;
- (ii). That the execution, delivery and performance by the Foundation of this Loan Agreement have been duly authorized by all necessary actions of the parties and all necessary consents and approvals have been obtained respecting this Loan Agreement;
- (iii). That it is fully experienced and properly qualified to carry out the project provided herein, and that it is properly licensed, equipped, organized, and financed to construct the Strathcona Performing Arts Centre. The Foundation shall act as an independent contractor and not as the agent of the Town in performing this Loan Agreement, maintaining complete control over its employees, volunteers, and all of its subcontractors. Nothing in this Loan Agreement or any subcontract awarded by the Foundation shall create any contractual relationship between any subcontractor or the Town.

The Foundation shall perform all work in accordance with its own methods subject to compliance with this Loan Agreement;

- (iv). This Loan Agreement has been duly and validly executed and issued and constitutes valid and legally binding obligations of the Foundation enforceable in accordance with their respective terms, except to the extent that enforcement thereof may be limited by any applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally; and
 - (v). That compliance by the Foundation with this Loan Agreement will not violate its articles or by-laws or any other instrument or agreement binding upon such party or, to the best of the knowledge of the Foundation, any law.
- 5) The occurrence of any one or more of the following shall constitute an event of default for all purposes of this Loan Agreement:
- (i). If the Foundation fails to pay the Indebtedness or any portion thereof upon the same becoming due;
 - (ii). If the Foundation fails to observe or perform any of the agreements, terms, covenants, conditions, provisions, stipulations or provisos contained in this Loan Agreement to be performed by them;
 - (iii). If the Foundation shall:
 - i. become insolvent or unable to pay their debts as they mature;
 - ii. file a voluntary petition in bankruptcy or a voluntary petition seeking reorganization, or effect a plan or other arrangement with creditors;
 - iii. make an assignment for the benefit of their creditors;
 - iv. apply for or consent to the appointment of any receiver or trustee for the Foundation or all or any portion of the property of the Foundation;
 - v. makes an assignment to an agent authorized to voluntarily liquidate or liquidate in any winding up or other proceeding any part of their assets;
 - vi. have an involuntary petition shall be filed with any court or other authority seeking the adjudication of the Foundation as bankrupt or insolvent;
 - vii. have an order of any court or other authority entered appointing any receiver or trustee for the Foundation for all or any substantial portion of the property of the Foundation;
 - viii. have a writ of execution, judgement, or writ of attachment or any similar process issued by any court or other authority against all or any portion of the property of the Foundation;
 - ix. have a judgement filed against the Foundation or any such process seeking adjudication, judgement or such order appointing a receiver or trustee, which is not vacated or stayed, or such writ of execution, writ of attachment or similar process which is not vacated, released, bonded or secured by a letter of credit issued by

a financial institution acceptable to the Town within ten (10) days after its entry or levy; and

- (iv). If any representation or warranty made by the Foundation in this Loan Agreement or otherwise, proves to have been untrue or misleading in any material respect as of the date made or deemed made.
- 6) The Foundation agrees to promptly inform the Town in writing upon the occurrence of any event of default, and agree to provide to the Town written details of the nature of any such event of default.
- 7) At any time after the occurrence of any event of default, the Town shall have the right, at its option:
 - (i). To declare the unpaid balance of the indebtedness (including all principal thereof and all interest then accrued thereon) to be immediately due and payable; and
 - (ii). To enforce or avail itself of any and all remedies provided for in this Loan Agreement or in any of the Loan documents at law or equity:

Without prejudice to the Town's rights to pursue any remedies against the Foundation.

- 8) All powers, rights and remedies of the Town set forth in this Loan Agreement shall be cumulative and not exclusive of any other power, right or remedy available to the Town under this Loan Agreement or the law to enforce the performance or observance of the covenants and agreements contained in this Loan Agreement and any other Loan documentation and no delay or omission of the Town to exercise any power, right or remedy shall be construed to be a waiver of the right to exercise any such power, right or remedy except to the extent, if any, expressly waived in writing by the Town. Upon the occurrence of an event of default, every power, right and remedy of the Town set forth in this Loan Agreement or afforded by law may be exercised from time to time and as often as may be deemed expedient by the Town.
- 9) The extension of time for payment of all or any part of the amounts outstanding from time to time under this Loan Agreement at any time or times shall not release the Foundation of or from its obligations hereunder.
- 10) The Foundation hereby waives demand and presentment for payment, notice of non-payment and notice of protest of this Loan Agreement.
- 11) Time shall be of the essence of this Loan Agreement.
- 12) Each of the parties to this Loan Agreement shall at the request of the other party hereto, execute and deliver any further documents and to all acts and things as that party may reasonably require to carry out the full intent and meaning of this Loan Agreement.

- 13) This Loan Agreement shall be governed by the laws in force in the Province of Alberta and the courts of the Province of Alberta shall have exclusive jurisdiction with respect to any dispute, matter or thing arising herefrom.
- 14) This Loan Agreement shall be binding on all parties hereto and their successors and assigns.
- 15) This Loan Agreement embodies the entire agreement between the Foundation and the Town. The parties shall not be bound by or liable for any statement, representation, promise, inducement, or understanding of any kind or nature not stated in this Loan Agreement. No additional changes, amendments, or modifications of any of the terms or conditions of the Loan Agreement shall be valid unless reduced to writing and signed by both parties.

THIS LOAN AGREEMENT has been signed by a person or persons duly authorized to do so.

THE CLAYTON BELLAMY FOUNDATION FOR THE ARTS

The Clayton Bellamy Foundation for the Arts Representative

TOWN OF BONNYVILLE

Mayor

Chief Administrative Officer