

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT dated for reference the ____ day of _____ 2016 is BETWEEN:

CITY OF KELOWNA, a municipal corporation having offices at 1435 Water Street,
Kelowna, B.C. V1Y 1J4

(the "City")

AND:

YMCA of OKANAGAN ASSOCIATION (Inc. No. S-16706), a society under
the *Society Act* (British Columbia), 375 Hartman Road, Kelowna, B.C., V1X
2M9, Facsimile 250-765-7962 email ceo@ymcaokanagan.ca

(the "Y")

WHEREAS:

- A. The City is the registered owner of the lands in fee simple located at 4075 Gordon Drive, Kelowna, B.C. and legally described as:

PID: 026-563-355

Lot 2 District Lot 168 and Section 2 Township 26 ODYD Plan KAP80134

- B. By a Management and Operating Agreement dated May 31st, 2012 (the "Agreement"), the City assigned the operation and management of the Facility named, branded and marketed as the H2O Adventure and Fitness Centre to the Y for a term commencing January 1st, 2012 and terminating December 31st, 2016;
- C. The Agreement grants the Y a five (5) year right to renew the Agreement (the "Renewal Agreement"), with the term of the Renewal Agreement being from January 1st, 2017 to December 31st, 2021 (the "Renewal Term"), there are no further options to renew the Agreement;
- D. The City and the Y wish to further amend the Agreement to reflect a corporate name change and certain operational updates; and,
- E. The City and the Y wish to document their agreement as to the terms of this amendment (the Amending Agreement).

NOW THEREFORE; in consideration of the mutual covenants, conditions and agreements herein contained, the City and the Y agree to amend the Agreement (the "Original Agreement") as follows;

The Original Agreement is amended as follows:

REPLACE

"YMCA YWCA of the Central Okanagan" wherever it appears in the Agreement

WITH

"YMCA of Okanagan Association"

REPLACE

7a)ii "An amount for Y overhead in each operating year equal to the Annual YMCA and YWCA Canada Affiliation Fees paid by the Y with respect to the Facility for that operating year, calculated by a formula set by YMCA and YWCA Canada"

WITH

7a)ii "An amount for Y overhead in each operating year equal to the Annual YMCA Canada Affiliation Fees paid by the Y with respect to the Facility for that operating year, calculated by a formula set by YMCA of Canada"

CHANGE

8g) DELETE "The City retains all rights to internal and external naming opportunities related to the Facility. Name changes need to take into consideration the impact on the Brand & Visual Identity Guidelines"

ADD

9f) "The City retains all rights to internal and external naming opportunities related to the Facility. Name changes need to take into consideration the impact on the Brand & Visual Identity Guidelines".

ADD

9g) "During the month of November of each year, the Y is authorized to run it's Membership Sponsorship Assistance Campaign (the "Sponsorship Campaign") where it is mutually agreed and understood that there may be an increased Y presence through marketing and branding materials which may include the Y's vision and mission statements. If the Y proposes to run any further campaigns where there is to be an increased Y presence, in addition to the Sponsorship Campaign, at the time of annual budget submission from the Y to the City (on or before August 31 of each Operating Year), the Y will provide to the City a list of

Y branded campaigns that are proposed to take place during the following Operating Year for the City's approval. The list shall include the dates and duration that each campaign is proposed to take place, and a description of the each proposed campaign."

CHANGE

17 b)iii) DELETE "summarized by age group and"

CHANGE

17 b)iv) DELETE "Fitness Activity Report identifying traffic patterns and peak demand times"

CHANGE

17 c)iii) DELETE "and summarizing complaint types and subsequent resolutions"

CHANGE

17 e)iii) DELETE "customer and user comments, including any collected from customer comment boxes at the facility"

CHANGE

17f) DELETE "Facility" and REPLACE WITH "the Y's Head Office"

CHANGE

17h) DELETE "within 120 days of such operating year" and REPLACE WITH "as required"

REPLACE

Schedule B (Operating Budget Funding Requirements) of the Original Agreement

WITH

Appendix A (Operating Budget Funding Requirements) to this Amending Agreement

REPLACE

Schedule E (Furnishings and Equipment Plan) of the Original Agreement

WITH

Appendix B (Furnishings and Equipment Plan) to this Amending Agreement

CHANGE

SCHEDULE C 13 DELETE “Active Networks (CLASS) as well as other”

CHANGE

SCHEDULE C 15 DELETE “YM/YWCA” and REPLACE WITH “YMCA”

CHANGE

SCHEDULE C 15(d) DELETE “YWCA Girls Space”

REPLACE

SCHEDULE F 6 “\$18,000”

WITH “\$20,000 for the 2017 budget year, increasing by 2.0% per annum thereafter”

CHANGE

SCHEDULE I DELETE the 9th bullet point “Secret Shopper – phone and visit; conducted by SQM for YMCA Canada; random with reports provided for each test and year-to-date; compared to other YMCA facilities”

This Amending Agreement will be read and construed together with the Original Agreement, and the Agreement, as amended hereby, will continue in full force and effect in accordance with the terms thereof and hereof.

1. Agreement Applies

This Amending Agreement is expressly made a part of the Original Agreement to the same extent as if incorporated therein, *mutatis mutandis*, and the parties agree that all agreements, covenants, conditions, and provisos contained in the Original Agreement, except as amended or altered herein, shall be and remain unaltered and in full force and effect during the Renewal Term. The City and the Y acknowledge and agree to perform and observe, respectively, the obligations of the City and the Y under the Original Agreement as renewed and modified hereby. The City and the Y hereby confirm and ratify the Original Agreement and renewal thereof as hereby further renewed and amended.

2. Enurement

This Amending Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.

IN WITNESS WHEREOF the City and the Y have executed this Agreement as of the dates written below.

DATED the _____ day of _____, 20____

CITY OF KELOWNA by its authorized signatories:

C/S

DATED the _____ day of _____, 20____

YMCA OKANAGAN by its authorized signatories:

authorized signatory:

C/S

Name:

APPENDIX A

Operating Budget Funding Requirement

2017 OPERATING BUDGET SUMMARY

YMCA OF OKANAGAN H2O ADVENTURE & FITNESS CENTRE

2017 BUDGET

Revenue	
Admissions	\$1,183,527
Membership	\$2,474,067
Programs	\$404,499
Rentals	\$162,368
Retail	\$21,953
Operational Funding	\$25,226
Fund Development	\$34,000
Discounts – Membership Assistance Program	(\$175,478)
Discounts – City of Kelowna Access Pass Program	(\$108,037)
Total Revenue	\$4,022,125
Expenditures	
Bad Debt & Write Offs	\$4,802
Bank Charges	\$72,261
Contract Services	\$68,379
Dues & Licenses	\$12,650
Information Technology	\$129,360
Labour	\$2,933,596
Leased Space	\$7,590
Marketing	\$73,019
Meeting & Conferences	\$1,000
Merchandise COGS	\$12,647
Repairs & Maintenance	\$63,996
Staff/Volunteer Expense	\$55,996
Supplies	\$148,987
Utilities	\$7,200
Vehicle	\$5,654
YMCA Affiliation Fees	\$59,232
YMCA Management Fees	\$361,083
Total Expenditures	4,017,452

Y OVERHEAD AND MANAGEMENT

In support of the management of the Facility, the Y shall provide or cause to be provided the following centralized services (collectively, "Y Overhead and Management"):

- (a) Strategic and operational management support and supervision in the areas of budgeting and financial management, human resource management, program development and evaluation, strategic planning, marketing and communication, Facility specific event planning and coordination, directed charitable fundraising, staff training, initiatives, recognition program and events, computer and information technology, City contract management and liaison and reporting;
- (b) Full accounting services including accounts receivable, accounts payable, payroll, group benefits administration, government remittances and reporting, financial statement preparation and reporting, banking and other similar services;
- (c) Independent financial auditing;
- (d) Software support, training and licences. Telephone line charges, long distance, postage, photocopying, paper, office utilities and supplies related to Y Overhead and Management;
- (e) Comprehensive Liability Insurance and All Risks Property Insurance as required through Sections 38-42 ("Insurance"); and
- (f) YMCA Canada program, facility and organizational resources, program standards, training, issue management, best practices, success measures and evaluation through its affiliation and membership in both national bodies.

The costs as agreed by the Y and the City which are expected to be incurred while providing the above centralized services are included in the budget as a Management Fee and Y Affiliation Fees as described in section 6 Financing, Reporting and Obligations

2017 ADMISSION FEES (EXCLUDING TAXES)

Single Admission to entire Facility		Monthly pass to entire Facility	
Adult	\$10.48	Adult	\$52.00
Senior	\$8.10	Senior	\$42.00
Youth	\$8.10	Young Adult	\$42.00
Child	\$5.71	Youth	\$42.00/\$21.00*
Family	\$26.67	Child	\$42.00/\$21.00*
		(\$21.00 if parent is a member)	

Fees subject to annual increases of 2%

APPENDIX B

H2O Capital Equipment Replacement Plan

Type of Equipment	2012		2013		2014		2015		2016	
Cardio										
Treadmill	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Ellipticals	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Recumbant Bikes	4	22,634.90	0	\$ -	0	\$ -	0	\$ -	0	\$ -
AMT's	0	\$ -	0	\$ -	2	23,413.42	0	\$ -	0	\$ -
Upright Bikes	4	21,627.50	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Step Mill	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Spin Bikes	0	\$ -	0	\$ -	0	\$ -	0	\$ -	26	67,457.60
S-Drive	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Crank Cycles	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Rowers	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Strength										
TRX	0	\$ -	0	\$ -	0	5,063.75	0	\$ -	0	\$ -
Barbells	0	\$ -	0	\$ -	0	6,188.00	0	\$ -	0	\$ -
Benches	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Queenax - Functional Fitness	0	\$ -	0	\$ -	0	\$ -	0	\$ -	2	96,404.02
Olympic Flat Bench	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Kenisis One	0	\$ -	0	\$ -	0	\$ -	2	24,887.90	0	\$ -
Cable Machine	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	3,540.96
Squat Rack	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	16,576.99
Aquatic										
Rolling Bleachers	0	\$ -	0	\$ -	3	7,688.80	0	\$ -	0	\$ -
Lane Ropes	0	\$ -	0	\$ -	0	\$ -	0	\$ -	8	8,256.22
Lane Rope Spools	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Ability Lift	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Facility										
Robot Pool Vacuum	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Auto Scrubber 36"	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	14,021.73
Auto Scrubber 17"	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Total	\$ 44,262.40		\$ -		\$ 42,353.97		\$ 24,887.90		\$ 208,297.52	

Type of Equipment	2017		2018		2019		2020		2021		Total	
Cardio												
Treadmill	0	\$ -	1	\$ 10,500.00	3	\$ 31,500.00	3	\$ 31,500.00	3	\$ 31,500.00	10	\$ 105,000.00
Ellipticals	2	\$ 18,600.00	2	\$ 18,600.00	2	\$ 18,600.00	2	\$ 18,600.00	2	\$ 18,600.00	10	\$ 93,000.00
Recumbant Bikes	0	\$ -	1	\$ 6,363.00	1	\$ 6,363.00	1	\$ 6,363.00	0	\$ -	7	\$ 41,723.90
AMT's	0	\$ -	1	\$ 11,628.00	0	\$ -	0	\$ -	0	\$ -	3	\$ 35,041.42
Upright Bikes	0	\$ -	1	\$ 6,077.00	1	\$ 6,077.00	4	\$ -	0	\$ -	10	\$ 33,781.50
Step Mill	1	\$ 8,719.00	0	\$ -	0	\$ -	0	\$ -	1	\$ 8,719.00	2	\$ 17,438.00
Spin Bikes	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	26	\$ 67,457.60
S-Drive	1	\$ 4,800.00	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	\$ 4,800.00
Crank Cycles	0	\$ -	1	\$ 2,398.00	0	\$ -	0	\$ -	0	\$ -	1	\$ 2,398.00
Rowers	1	\$ 1,270.00	0	\$ -	0	\$ -	0	\$ -	1	\$ 1,270.00	2	\$ 2,540.00
Strength			0									
TRX	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 5,063.75
Barbells	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 6,188.00
Benches	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Queenax - Functional Fitness	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	2	\$ 96,404.02
Olympic Flat Bench	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Kenisis One	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	2	\$ 24,887.90
Cable Machine	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	\$ 3,540.96
Squat Rack	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	\$ 16,576.99
Aquatic												
Rolling Bleachers	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 7,688.80
Lane Ropes	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 8,256.22
Lane Rope Spools	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Ability Lift	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Facility												
Robot Pool Vacuum	1	\$ 4,600.00	0	\$ -	0	\$ -	1	\$ 4,600.00	0	\$ -	0	\$ 9,200.00
Auto Scrubber 36"	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 14,021.73
Auto Scrubber 17"	0	\$ 5,000.00	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ 5,000.00
Total	\$ 42,989.00		\$ 55,566.00		\$ 62,540.00		\$ 61,063.00		\$ 60,089.00		\$ 600,008.79	

