

**BRITANNIA COMMUNITY SERVICES CENTRE
TRANSFER OF RESPONSIBILITY FOR POOL AND RINK**

THIS AMENDING AGREEMENT is made as of the ^{8th}7th day of March, 2017,

AMONG:

**THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 39
(VANCOUVER)**

(the "**School Board**")

AND:

CITY OF VANCOUVER

(the "**City**")

AND:

BRITANNIA COMMUNITY SERVICES CENTRE SOCIETY

(the "**Society**")

BACKGROUND:

- A. By way of a Letter of Agreement dated January 1, 1981, the School Board, the City and the Society (collectively, the "**Parties**") entered into a tri-partite agreement (the "**TPA**") on how to manage, operate, maintain, program, and share in the costs of the Britannia Community Centre (the "**Centre**") located on the Said Lands (as defined in the TPA).
- B. The Centre consists of the Said Lands, the Britannia Secondary School and eight other buildings on the Said Lands.
- C. The Said Lands are comprised of land owned by the City as well as land owned by the School Board.
- D. Two of the eight other buildings on the Said Lands are defined in the TPA as "Building No.5 composed of the Swimming Pool, Locker rooms, Multi-purpose Room and Lounge" (in this Agreement the "**Pool**") and "Building No. 8 being the Ice Rink" (in this Agreement the "**Rink**").
- E. The Rink is entirely on City property. The Pool is mostly on School Board property.

- F. The Parties wish to formally record their mutual agreement to amend the TPA, on and subject to the following terms and conditions.

NOW THEREFORE in consideration of \$1.00 paid by each party to the other (the receipt and sufficiency of which is acknowledged) and the mutual covenants contained herein, the Parties agree as follows:

1. Effectiveness of Agreement.

This Agreement takes full legal force and effect and is binding on the Parties upon execution. However, the amendments to the TPA pursuant to Section 2 of this Agreement, and the Lease to be granted in the form of Schedule C, shall only take effect on May 7, 2017 (the "**Effective Date**").

2. Amendment to TPA

- 2.1 The following Section 1.1A is now added to the TPA, to take effect on the Effective Date:

"1.1A In this Agreement, the following terms have the following meanings:

"**Capital Costs**" means the cost of Capital Services.

"**Capital Services**" means the procurement, installation and commissioning of goods and all related services required to replace or repair as opposed to maintain an asset or improvement. In effect this is anything that cannot normally be performed by the Operating Services personnel.

"**Land Exchange**" means the proposed transfer to the School Board of the City-owned land utilized by the School Board for its track and field in exchange for the transfer to the City of the School Board-owned land utilized for the Pool and such other land the School Board and the City may agree upon in their respective discretion, provided always that the amount of land exchanged shall be equal in value, as confirmed by survey, appraisal and agreement.

"**Operating Costs**" means the cost of providing Operating Services.

"**Operating Services**" means day-to-day and periodic maintenance, custodial, and operations services to operate and maintain an improvement or asset, and insuring the Rink and Pool, in accordance with Article VII of the TPA.

"**Pool**" and "**Rink**" have the meanings ascribed to them in the Amending Agreement dated as of March 7, 2017 entered into amongst the Parties.

"**Utility Costs**" means the costs incurred to connect, receive and decommission municipal, energy and telecommunications services from the City of Vancouver (in its regulatory capacity), utilities such as FortisBC and BC Hydro, and bulk building

(as opposed to individual) telecommunications services from providers such as Rogers, Telus, Shaw or Bell.”

- 2.2 The following new Section 5.02A is added to the TPA, to take effect on the Effective Date:

“5.02A Utilities on Pool and Rink. Provided always that the School Board provides unfettered access to all meter readings, utility bills, invoices, and other documents and information relevant to the payments made by the School Board for utilities within the Centre, the Society will reimburse the School Board for 100% of all Utility Costs in respect of the Pool and the Rink, as provided for in Section 5.02 of the TPA based on the actual meter readings for the Pool and Rink when allocating these expenses as provided for under Article IV of this Agreement.”

- 2.3 The following new Section 5.02B is added to the TPA, to take effect on the Effective Date:

“5.02B

(1) Rink

- (a) The School Board hereby transfers all right, title and interest in and to the Rink and quitclaims all rights it has to the Rink over to the City.
- (b) The School Board acknowledges that it no longer has any rights of access to or use of the Rink except as any other public member or group booking ice time or requesting a permit to use the Rink.
- (c) The City hereby unconditionally and irrevocably releases the School Board from any and all obligation under the TPA or otherwise to provide any Operating Services or Capital Services or to pay any Operating Costs, Utility Costs or Capital Costs with respect to the Rink.
- (d) The City hereby agrees to pay all Utility Costs shown by proper metering to be properly allocable to the Rink.

(2) Pool

- (a) The School Board hereby grants the Lease to the City on the terms set out in Schedule C.
- (b) The School Board acknowledges that while the Lease is in effect, the School Board will no longer have any rights of access to or use of the Pool except as any other public member or group booking Pool time or requesting a permit to use the Pool.
- (c) Subject to the terms of the Lease and for the term of the Lease only, the City hereby unconditionally and irrevocably releases the School Board from any and all obligation under the TPA or otherwise to

provide any Operating Services or Capital Services or to pay any Operating Costs, Utility Costs or Capital Costs with respect to the Pool.

- (d) The City hereby agrees to pay all Utility Costs shown by proper metering to be properly allocable to the Pool."

3. **School Board Remains Liable.** Despite Section 5.02A and Section 5.02B, while the TPA is in effect the School Board remains liable under Article IV (Maintenance and Repair) and Article V (Utilities) to perform all of its obligations not otherwise expressly assumed by the City and Society pursuant to Section 5.02A and 5.02B, subject always to the other provisions of the TPA and the fulfilment by the City and the Society of their respective obligations thereunder.
4. **Agreement to Further Cooperate.** The Parties agree to work co-operatively together to do such acts and negotiate in good faith and execute such documents as are required to implement the terms of this Agreement.
5. **Ratification.** The Parties now confirm, ratify, and agree that all pre-existing legal agreements (including without limitation and by way of example only all easements and other instruments registered on title to the Said Lands) remain in full force and effect and are not amended or modified in any way except for the TPA and then only to the extent expressly provided in the TPA as amended by this Agreement.
6. **Land Exchange.** The City and School Board now agree to negotiate in good faith the Land Exchange on the terms attached hereto as Schedule A, provided always that neither the City nor the School Board shall be obligated to proceed with the Land Exchange unless and until they have negotiated, executed and delivered a Land Exchange Agreement on terms and conditions and in a form that is acceptable to each of them, in their respective discretion.
7. **School Board Condition.** This Agreement is conditional upon the School Board adopting a bylaw by March 8, 2017 approving the granting of the Lease to the City.

SIGNED at Vancouver by the authorized signatories of the Parties.

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 39 (VANCOUVER)

By: _____

Authorized Signatory

CITY OF VANCOUVER

By: Frances J. Connell
Authorized Signatory

FRANCES J. CONNELL
Director of Legal Services

By: _____
Authorized Signatory

THE BRITANNIA COMMUNITY SERVICES CENTRE SOCIETY

By: _____
Authorized Signatory

By: _____
Authorized Signatory

CITY OF VANCOUVER

By: _____
Authorized Signatory

By: _____
Authorized Signatory

THE BRITANNIA COMMUNITY SERVICES CENTRE SOCIETY

By:  _____
Authorized Signatory

By: _____
Authorized Signatory

SCHEDULE A
TERMS FOR NEGOTIATION OF LAND EXCHANGE

- (a) **Good Faith Negotiations.** From and after the Effective Date, the City and the School Board agree to expeditiously negotiate in good faith the terms of a written land exchange agreement (the "**Land Exchange Agreement**") pursuant to which the City and the School Board would agree to subdivide the Said Lands and the City would transfer to the School Board a portion of the City Parcel (the "**VSB Portion**") in exchange for the School Board transferring to the City a portion of the School Board Parcel (the "**COV Portion**"). The COV Portion and VSB Portion are to be of equal value and located generally as shown on the draft land exchange map attached hereto as Schedule B. In order to facilitate the negotiation of the Land Exchange Agreement in parallel with the planning, design, public consultation, survey, appraisal, and permit and approval process referred to below (the "**Land Exchange Conditions**"), the Land Exchange Agreement will be in a form that permits the parties to sign as soon as possible, with the completion of the land exchange being subject to the parties working co-operatively together to satisfy or waive the Land Exchange Conditions.
- (b) **Public Consultation.** The public consultation process will be led by the City but in consultation with and in cooperation with the School Board and the Society. The City will commence the public consultation process within six months after the Effective Date and provide at least one month's prior written notice to the School Board and the Society prior to the City commencing the public consultation process. The Parties intend that such public consultation process will be concluded within six months of its commencement.
- (c) **Target Date for Completion of Negotiations.** The City and the School Board intend to use best efforts to reach agreement on the terms of the Land Exchange Agreement (including the framing and timing of the Land Exchange Conditions) within 15 months after the Effective Date (the "**Target Date**").
- (d) **Target Date for Completion of Land Exchange.** The School Board and City intend to complete the actual Land Exchange and register the required subdivision plan and transfers of title within two years and no later than five years after the Effective Date. For certainty, the proposed Land Exchange Conditions will not include any rezoning or development or building permit approvals relating to the Said Lands (although if the City (in its regulatory capacity) requires a rezoning or other condition as a pre-condition to the subdivision contemplated by the parties, then the parties will work co-operatively together to seek the waiver of such requirement, failing which such requirement may need to be included as a Land Exchange Condition.

- (e) **Land Exchange Conditions.** The City and the School Board are not obligated to enter into the Land Exchange Agreement unless the terms are settled to their respective satisfaction, each in their absolute discretion, by the Target Date. For example (but without limitation) the Land Exchange Agreement will need to address (1) the School Board's need to have continued access to and use of the Elementary School Gym on the COV Portion following the transfer of the land on which it is located to the City, and (2) the modification or discharge of the various easements and other interests registered on title to the Said Lands, and (3) formal approval by the City's council, the School Board's trustees and the Minister of Education.
- (f) **Independent Operations.** The purpose of the Land Exchange Agreement is to re-configure the Said Lands so that the primary user of each building owns the land on which the building is located and the TPA will no longer be required.

**SCHEDULE B
DRAFT LAND EXCHANGE MAP**

