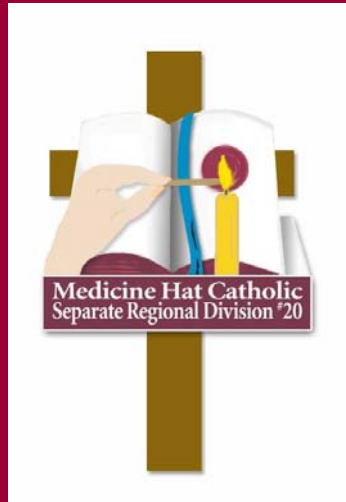


# Medicine Hat Catholic Board of Education



## PUBLIC AGENDA Special Board Meeting

**Tuesday, June 27, 2017 @ 6:00 p.m.**

Catholic School Board Office  
1251 – 1<sup>st</sup> Avenue SW Medicine Hat, AB

# *Medicine Hat Catholic Board of Education*

## **ACTION AGENDA** **Special Board Meeting**

**DATE: June 27, 2017**

**Place: Catholic Education Centre**

**Time: 6:00 p.m.**

	<p><b>WE ARE CALLED Always and Everywhere to:</b>  <b>Model Christ, Pray and Serve, Build a Faith Community</b></p> <p><b>Theme for 2016-2017: BLESSINGS FROM GOD</b></p>		
1.	<p><b><i>Opening Prayer – Blessing before a Meeting</i></b>  <i>Lord, bless us as we gather today in your name.</i>  <i>Send us the guidance of your Spirit to bring us wisdom and understanding.</i>  <i>Help us to open our minds and our hearts so that we may listen respectfully to the viewpoints of others and make decisions in accordance with your will.</i>  <i>Help us to grow in faith so that we may serve you and others in all that we do.</i>  <i>We ask this grace through Christ our Lord. Amen.</i></p>	Peter Grad	
2.	<p><b><i>Approval of the Special Board Meeting Action Agenda</i></b>  <b><u>♦Recommendation:</u></b>  “THAT the Action Agenda dated June 27, 2017 be approved as circulated”.</p>	DM	<i>Encl. 1-3</i>
3.	<p><b><i>Approval of the Special Board Meeting Non-Action Agenda</i></b>  <b><u>♦Recommendation:</u></b>  “THAT the Non-Action Agenda dated June 27, 2017 be approved as circulated”.</p>	DM	<i>Encl. 4</i>
4.	<p><b><i>ASBA</i></b>  <b><u>♦Recommendation:</u></b>  “THAT the Board of Trustees for the Medicine Hat Catholic Board of Education donate their portion of the defeated 2017 Spring budget proposal increase, as indicated in Appendix B on page 49 of the ASBA Budget and Bylaws Bulletin 2017, in the amount of \$559 to the ASBA”</p>	PG	
5.	<p><b><i>Early Retirement Incentive Plan – ERIP</i></b>  <b><u>♦Recommendation:</u></b>  “THAT the Board of Trustees for the Medicine Hat Catholic Board of Education consider the Early Retirement Incentive Plan application, in accordance with Article 14 of the ATA Collective Agreement for Employee # 10165 in the amount of \$20 000 for June 30, 2017”.</p>	DM	
6.	<p><b><i>Secretary-Treasurer Report</i></b>  <b><u>6.1 2017 – 2018 Budget</u></b>  <b><u>♦Recommendation:</u></b>  “THAT the Board of Trustees for the Medicine Hat Catholic Board of Education approve the 2017 -2017 Budget as presented”.  <b><u>6.2 Administrative Procedure 505 – School Fees</u></b>  <b><u>6.3 2017 – 2018 School Fees</u></b>  <b><u>♦Recommendation:</u></b></p>	GM	<p><i>Report 5 – 8</i>  <i>Handout</i></p> <p><i>Handout</i>  <i>Handout</i></p>

	<p>“THAT the Board of Trustees for the Medicine Hat Catholic Board of Education approve the 2017 -2 018 School Fees as presented”.</p> <p><b><u>6.4 South Ridge Recreational &amp; Wellness Centre Ownership and Operating Agreement</u></b>  <b><u>♦Recommendation:</u></b>  “THAT the Board of Trustees for the Medicine Hat Catholic Board of Education ratify the South Ridge Rercreational and Wellness Centre Ownership and Operating Agreement as presented”.</p> <p><b><u>6.5 Lease of Former St. Louis School to CAPE</u></b>  <b><u>♦Recommendation:</u></b>  “THAT the Board of Trustees for the Medicine Hat Catholic Board of Education ratify the lease extension of the former St. Louis Schoool to CAPE to expire July 31, 2018”.</p> <p><b><u>6.6 Running Track Request</u></b></p> <p><b><u>6.7 Brier Run</u></b></p> <p><b><u>6.8 Tennis Courts Upgrade – Monsignor McCoy</u></b></p>		<p><i>9 – 54</i></p> <p><i>55 – 56</i></p> <p><i>57 – 60</i></p> <p><i>61 – 64</i></p> <p><i>65 - 66</i></p>
7.	<p style="text-align: center;"><i><b>Closing Prayer</b></i></p> <p style="text-align: center;"><i>Lord, we come to you today to seek the peace that you alone can give.  Strengthen us in our work as we seek to build a peaceful community.  Amen</i></p>	Peter Grad	
8.	<i><b>Adjournment</b></i>	Dick Mastel	

# NON – ACTION AGENDA

## Special Board Meeting

DATE: June 27, 2017

Place: Catholic Education Centre

Time: 6:00 P.M.

No.	INFORMATION ITEMS	PAGE
1.1	<p><b><u>CELEBRATE CANADA'S 150<sup>TH</sup>!</u></b></p> <p>A yearlong celebration! Canada 150 Happy Birthday Canada (1867–2017)</p>	
1.2	<p><b><i>Interested in being a Catholic School Board Trustee? Municipal Election Day is Mon., Oct. 16, 2017.</i></b></p> <p>→ Are you passionate about Catholic education;</p> <p>→ Do you have ideas for positive change in education;</p> <p>→ Does living a life rooted in faith, while informing political decisions excite you?</p> <p>→ Do you want to be a leader in your faith community? Consider running for Catholic School Board Trustee and put your name forward on Monday, September 18<sup>th</sup></p> <p><b>NOMINATION <u>PACKAGES</u> AVAILABLE NOW at the Catholic School Board Office, 1251 – 1<sup>st</sup> Avenue S.W., Medicine Hat</b></p> <p><b><i>General Election: October 16, 2017</i></b></p> <p><b><i>Nomination Day: September 18, 2017</i></b></p>	
1.3	<p><b><u>TAXES – DECLARE YOUR SUPPORT for CATHOLIC SCHOOLS</u></b> – <i>The Medicine Hat Catholic Board of Education</i> reminds our community of the importance of declaring your <b>PROPERTY TAXES</b> in support of Catholic Education <b>How do you declare your support?</b> - To ensure your property taxes are supporting Catholic Schools, you must declare your Catholic school support as “<b>Separate</b>” on your annual property assessment notice. <i>Contact the Taxation Office at the City of Medicine Hat, or the Town or Municipal Office in your area.</i> Changes made on or before Dec 31 will be in effect for the next taxation year. <b><i>Thank you for your supporting Catholic Schools.</i></b></p>	

### Notice of Public Board Meetings

- All regularly scheduled Public Board Meetings are held the **2<sup>nd</sup> Tuesday** of each month at the Catholic Education Centre located at 1251 – 1<sup>st</sup> Avenue SW (unless otherwise advertised).
- Public Board Meetings for the Medicine Hat Catholic Board of Education begin at **6:00 pm** with **presentations at 6:00 pm** (unless otherwise advertised). General Public welcome to attend - Information @ [www.mhcbce.ab.ca](http://www.mhcbce.ab.ca) or 403.527.2292.

**Secretary Treasurer**  
**Board Report June 27, 2017 Public Meeting**

**1. 2017-18 Budget**

Annually the Board of Trustees approves the annual budget in accordance with Board Policy 2 section 9.2. Administration has prepared the budget using the board approved assumptions and strategic priorities along with the three-year plan. The overall budget has been presented to DLT and feedback received was considered.

**Recommendation:** That the Board of Trustees for the Medicine Hat Catholic Board of Education approve the 2017-18 Budget as presented.

**Attachment:** Budget to be distributed separately

**2. Administrative Procedure 505 - School Fees**

With the implementation of *Bill 1 – An Act to Reduce School Fees* along with the associated regulations, the existing Administrative Procedure on school fees needs to be modified. This administrative procedure will be submitted to the Ministry for review along with the school fee schedule.

As this is an administrative procedure, no board motion is required.

**Recommendation:** None

**Attachment:** Draft AP505 – School Fees to be distributed separately

**3. 2017-18 School Fees**

The 2017-18 School Fees, based on *Bill 1 – An Act to Reduce School Fees* and the associated regulations, require board approval. Policy 2 – Role of the Board, Section 9.2 states one of the board's specific areas of responsibility is to annually approve instructional/general fees for all students and with Selected Responsibility Section 11 to Approve Transportation fees (from policy 11).

**Recommendation:** That the Board of Trustees for The Medicine Hat Catholic Board of Education approve the 2017-18 School Fees as presented.

**Attachment:** 2017-18 School Fees – to be distributed separately



#### 4. South Ridge Recreational & Wellness Centre Ownership and Operating Agreement

The attached agreement regulates and outlines the roles and responsibilities of the partners of the SRRWC, a recreational complex combined with two schools and shared outdoor facilities, providing flexible multi-use, community and school based recreation and wellness facilities.

This agreement was a major housekeeping exercise to modernize the terms and conditions and consolidate the two original agreements and associated amendments as well as to acknowledge the new public school on the site. This was completed for the benefit of all the parties who have players on the Alliance Management Board. The intent is still that this Agreement is a cooperative agreement between the four partners (COMH, YMCA, SD76 and MHCBE).

Some of the changes include:

- Update and clarify the roles and responsibilities of the AMB;
- Clarified the difference between Community User Fees (Charged by the YMCA to community groups) and Member fees (between SRRWC parties);
- Updated the language in the Dispositions;
- One of the biggest issues is with the shared Use Schedule, facilities and fees for Gymnasium use. Parties have tried to soften the language so that each party has a choice or opportunity to share versus entitlement;
- Refined information regarding tournaments;
- Beefed up Termination clause
- Schedule 3 Common Areas – who coordinates and pays for maintenance;
- Cleaned up insurance to ensure that both buildings and liabilities of the Owners and Operator are covered by policy in a prudent manner, who is responsible for the coverage and claim coordination and who pays for premiums, deductibles, investigations and claims;
- The YMCA amortization schedule – Return of Investment was determined for the Phase II expansion project

We had ASBA review the agreement as well as our insurer and no major issues were identified. Minor ones were generally addressed. Facilities and Operations along with NDA Administration were active participants in the process.

**Recommendation:** That the Board of Trustees for The Medicine Hat Catholic Board of Education ratify the South Ridge Recreational and Wellness Centre Ownership and Operating Agreement as presented.

**Attachment:** South Ridge Recreational and Wellness Centre Ownership and Operating Agreement

## **5. Lease of Former St. Louis School to CAPE**

The lease agreement with CAPE for the former St. Louis School expires July 31, 2017. The lease is to be extended for one year to July 31, 2018. There is not lease payment needed on the school as the government prohibited that activity. We will continue to be reimbursed for our Plant Operations and Maintenance expenditures on the building. Included in our IMR funding from the province is the CAPE portion for the former St. Louis School.

**Recommendation:** That the Board of Trustees for The Medicine Hat Catholic Board of Education ratify the lease extension of the former St. Louis School to CAPE to expire July 31, 2018.

**Attachment:** Draft Lease Agreement Amendment to CAPE for the former St. Louis School

## **6. Running Track Request**

The Medicine Hat and District Track and Field Society is looking for a donation of \$7,000 for enhance the existing Rotary Track/Soccer Complex at CHHS.

Our students use the track for the applicable track teams and for certain track and field days. There is no cost except for the rental of certain track equipment.

While the request went to the Education Foundation, it was MHCBE who provided the funds during the initial development.

**Recommendation:** For board direction

**Attachment:** Letter and attachment from Dr. Sauer

## **7. Brier Run**

As part of the Brier Run Development, we have been approached to determine if there is a need for a potential school site.

Discussions with the committee of the whole indicated it was the Board's desire to request that there is a need for land to be made available in the development area for a K-9 school for 600 students. This was articulated in our response the

**Recommendation:** For information

**Attachment:** Letter and attachment from Dr. Sauer

**8. Tennis Courts Upgrades – Monsignor McCoy**

The City of Medicine Hat and the Gas City Roller Derby Association are looking to performing certain upgrades at the tennis courts located at Monsignor McCoy.

It is understood that while the tennis courts are located on school board property, the upkeep of the courts are the City's responsibility. We are working with the City of Medicine Hat to develop an agreement on these types of situations which outlines the responsibilities and other issues, including insurance and liability. We have a draft agreement in the works for the outdoor rink at St. John Paul II School which can be used as a template for these types of situations.

**Recommendation:** For information

**Attachment:** Email from the City of Medicine Hat.



**OWNERSHIP AND OPERATING AGREEMENT  
FOR SOUTH RIDGE RECREATIONAL FACILITY**

**BETWEEN:**

**MEDICINE HAT CATHOLIC BOARD OF EDUCATION**

**-and-**

**CITY OF MEDICINE HAT**

**-and-**

**THE MEDICINE HAT FAMILY  
YOUNG MENS' CHRISTIAN ASSOCIATION**

**-and-**

**MEDICINE HAT SCHOOL DISTRICT No. 76**

April 1, 2017

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## **SCHEDULES**

Schedule 1 – Form of Annual Budget

Schedule 2 – Common Areas

Schedule 3 – Premises

Schedule 4 – Lands

Schedule 5 – Insurance

Schedule 6 – Shared Facilities

Schedule 7 – Guiding Principles for the YMCA as a Charity

Schedule 8 – YMCA Amortization Schedule – Return of Investment

(the "Agreement")

THIS AGREEMENT made effective April 1, 2017

BETWEEN:

MEDICINE HAT CATHOLIC BOARD OF EDUCATION

(hereinafter referred to as the "MHCBE")

-and-

CITY OF MEDICINE HAT

(hereinafter referred to as the "City")

-and-

THE MEDICINE HAT FAMILY YOUNG MENS'

CHRISTIAN ASSOCIATION

(hereinafter referred as the "YMCA")

-and-

MEDICINE HAT SCHOOL DISTRICT No. 76

(hereinafter referred to as the "MHSD76")

**WHEREAS:**

1. MHCBE, City, YMCA and MHSD76 (herein collectively called the "Alliance") recognized the need for and desire to build in the South Ridge region of the City a flexible multi use, community based recreation and wellness facility to best meet the needs of all residents of the City;
2. The Alliance also recognized the benefits of a recreation and wellness facility which mutually complemented school facilities to be constructed by MHCBE and MHSD76 and other community program areas;
3. Consistent with the "Johnston Sport Feasibility Study" commissioned by the City, the Alliance recognized that the following principles should guide the design and operation of the proposed South Ridge Complex:



- Appropriateness - the Complex must be suitable for the broadest spectrum of its users
  - Adaptability – the Complex must be multi-dimensional and flexible to change and future growth
  - Accessibility – the Complex must be open to all users, regardless of age, skill, income or physical challenges
  - Affordability – the Complex should be efficient in design and economical to operate
  - Accountability – by building community ownership through public awareness and encouraging participation in the planning process and operated in a financially accountable manner
5. The Alliance jointly agreed to develop the Lands (defined below) and to design and have constructed thereon the Complex and related facilities adjacent thereto, for use as a community recreational center, Public and Catholic Schools and certain other ancillary uses;
  6. The Alliance entered into an Ownership and Operating Agreement for South Ridge Recreational Facility (“Original Agreement”) to set out the respective rights and obligations of each of the Members in respect of, inter alia, the use, management and operation of the Complex;
  7. The Members entered into the following agreements amending the Original Agreement: Operating Clarification Agreement, dated November 3, 2006, Amending Agreement, dated September 20, 2007, Amending Agreement to the Operating Clarification Agreement, dated December 10, 2009, and Amending Agreement to the Operating Clarification Agreement, dated April 11, 2013 (“Amending Agreements”);
  8. The purpose of this Agreement is to:
    - (a) clarify the roles and responsibilities of each party; and,
    - (b) replace and supersede the Original Agreement and Amending Agreements.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the sum of Two Dollars (\$2.00) of lawful money of Canada now paid by each of the Members to the other and in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Members, the Members or one or more of them (as the case may be) do hereby covenant and agree as follows:

## **1. DEFINITIONS**

### **1.1. Definitions**

For all purposes of the Agreement and any amendments thereto the terms defined in this section shall have the following meanings, unless the context expressly or by implication otherwise requires namely:

"Alliance" means a strategic, working alliance formed for the purposes set out in the recitals that, currently consists of the City, YMCA, MHSD76 and MHCBE, (also herein defined as "Members") and that included the SCA while the SCA was a validly subsisting Alberta society prior to April 12, 2008;

"Alliance Management Board" or "AMB" a committee consisting of representatives of the Alliance to manage the strategic direction and general operating policies of the Complex, Common Areas, and the Shared Facilities as referred to in Article 4 in accordance with this Agreement;

"Approved" or "Approval" means, in respect of any matter, approval of such matter by the AMB in accordance with this Agreement;

"Arbitration" means arbitration proceedings carried out in accordance with Article 16.2 herein;

"Budget" means, for each Fiscal Year, the approved budget for the Complex substantially in the form as attached in Schedule 1;

"Building" means the principal buildings located on the Property, which are comprised of the Complex, MHCBE School, MHSD76 School and Common Areas (or any final combination of two or more of these facilities), and includes any future expansions;

"Business Day" means any day other than a Saturday, Sunday or statutory holiday under the laws of Canada or the Province of Alberta;

"Capital Expenditures" means, for any period, any expenditures incurred relating to the Property of a nature usually charged to a capital account, determined in accordance with generally accepted accounting principles consistently applied;

"Common Areas" means those portions of the Property which are intended for the common benefit, use and/or enjoyment of the Alliance and/or their respective Invitees as described and shown on Schedule 2;

"Community Events" means community events or activities which are sponsored or organized by, and under the supervision of, recognized and responsible community groups pursuant to and in accordance and which are, during School Hours, compatible with the safe and proper operation of the Schools;

"Complex" means the recreational/wellness portion of the Building, as shown in yellow on Schedule 3, and any future expansions;

"Complex Gymnasiums" means the gymnasiums located in the Complex, shaded in yellow in Schedule 6;

"Defaulting Party" means any Party in respect of whom an Event of Default has occurred for so long as such Event of Default is continuing;

"Disposition" means an assignment, transfer, lease, license, demise, sublease, mortgage, pledge, encumbrance or disposition of the whole or any part of an Owner's Interest, Premises, the Property, or any of the rights under this Agreement by a Member, and any grant of any right to use or enjoy any portion of the Property.

“Event of Default” means the occurrence of any of the following events:

- (a) If a Member fails to make any payment on account of any amount required to be made by it pursuant to this Agreement from time to time within twenty (20) Business Days after any such payment is due;
- (b) If a Member shall fail in any material respect to observe, perform, or comply with any term, provision, condition or obligation required by this Agreement and such failure shall continue for a period which is the shorter of
  - (i) Twenty (20) Business Days after notice of such failure and the demand for observance, performance or compliance shall have been given by any other Member; or
  - (ii) Such other grace period, if any, as is specifically applicable thereto as set out in this Agreement;

Provided however, that if the nature of such failure is such that it cannot be cured by payment of money and cannot be cured within a period of twenty (20) Business Days or such shorter grace period as referred to above, if any, as the case may be, such Member shall have such additional time as is necessary as long as the curing of such default is begun promptly and prosecuted with due diligence to completion.

“Fiscal Year” means the period of September 1 to August 31 of each year, or such other twelve (12) month period as may be approved by the AMB from time to time;

“Force Majeure” means an event causing a bona fide delay in the performance of any obligations under this Agreement (other than as a result of financial incapacity) resulting from:

- (a) An inability to obtain materials, goods, equipment, services, utilities or labour;
- (b) Any statute, law, bylaw or order in council or any regulation or order or amendment thereto passed or made pursuant thereto but excluding any statute, law, bylaw, order in council, regulation, order or amendment passed or made by a Member;
- (c) An order or direction of any administrator, controller, or board, or any governmental department or officer or other authority excluding any order or direction of a Member;
- (d) An inability to procure any license, permit, permission or authority necessary for the performance of such obligations;
- (e) A strike, lockout, slowdown or other combined action of workmen; or
- (f) An act of God, which such Member cannot reasonably be expected to have foreseen as a reasonable likelihood and to have overcome by alternative means without the expenditure of an amount of money and/or other resources that is substantially disproportionate to the value to be gained or the loss to be avoided by any such alternative means, and which in any such case shall cause such Member to be unable to fulfill or to be delayed or restricted in the fulfillment of any obligation hereunder;



and not caused by an act or omission of either Member or a Person not at arm's length with such Member,

"Gymnasiums" means the MHCBE Gymnasium, MHSD76 Gymnasium and Complex Gymnasiums outlined on Schedule 6;

"Improvements" means the Building, Parking Facilities, Outdoor Facilities, and any other buildings, structures and fixed improvements and related facilities now or hereafter to be constructed on the Lands;

"Insurance Trust Agreement" means the insurance trust Agreement, if any between the Owners from time to time;

"Invitees" means, with respect to any Member, all other Persons from time to time who are ordinarily entitled to the use and enjoyment of any portion of the Property together with such Member, including the employees, students, agents, contractors, and visitors of such Member;

"Joint Tenancy" means the legal and beneficial ownership interest of each of the City, MHCBE, and MHSD76 as tenants-in-common in the Lands, defined herein;

"Lands" means the lands described in Schedule 4 hereto;

"Laws" means all applicable laws, by-laws, regulations, requirements, orders, notices, policies and directions of all governmental or regulatory authorities and any other Persons having jurisdiction over the Property, the Members or any of them;

"Major Damage" means damage or destruction giving rise to repairs in excess of 50% of the replacement cost of the Improvements, as determined by the AMB as of the date of such damage or destruction;

"Member" or "Members" means each of the City, MHCBE, MHSD76, and YMCA as members of the Alliance, and their respective permitted successors and assigns, in regard to scheduling of use of the Complex and other non-ownership matters regarding the Property;

"MHCBE Gymnasium" means that portion of the MHCBE School shown shaded in red within Schedule 6 to the Agreement, and comprising part of the Shared Facilities;

"MHCBE School" means a school established and operated by the board of the MHCBE on its Premises, including early childhood services;

"MHSD76 Gymnasium" means that portion of the MHSD76 School shown shaded in orange within Schedule 6 to the Agreement, and comprising part of the Shared Facilities;

"MHSD76 School" means a school established and operated by the board the MHSD76 on its Premises, including early childhood services;

"Necessary Expenditure" means any expenditure, including a Capital Expenditure, which is reasonably necessary to enable the Alliance to comply with any municipal work order or similar directive or which is reasonably necessary to prevent or rectify a condition on the Property, structural or otherwise, which poses a reasonably foreseeable threat to the physical integrity of the Property or to the health or safety of its occupants;

“Operating Costs” means, for any period, all costs, expenses, fees and disbursements of every kind and nature incurred by or on behalf of the Alliance (on an accrual basis) in connection with the operation, maintenance, repair, and insuring of the Property, determined according to generally accepted accounting principles, consistently applied as shown in Schedule 1;

“Operator” means the YMCA as Operator of the Complex as more fully set out in Article 5;

“Outdoor Facilities” means the outdoor areas comprising the sports fields and courts as shown on Schedule 6;

“Owners” means each of the City, MHCBE, and MHSD76 and any permitted assignee of an Owner's interest pursuant to this Agreement;

“Parking Facilities” means that portion of the Lands designed for use as a parking lot as shown on Schedule 2;

“Person” means an individual, partnership, a corporation, a government or any department or agency thereof, a trustee, any unincorporated organization and the heirs, executors, administrators or other legal representatives of an individual and includes each Member;

“Plans and Specifications” means the plans and specifications for the Improvements, and all changes thereto;

“Policies” means the rules approved from time to time governing the use and operation of the Property, including without limitation, security, access, safety, fire drills, health and maintenance matters and similar administrative issues;

“Premises” means that portion of the Improvements over which an Owner has control as shown on Schedule 3;

“Property” means the Lands and all appurtenant rights, benefits and advantages arising therefrom, including, without limitation, the “Improvements”;

“SCA” means the Southridge Community Association that was registered as an Alberta society on or about October 13, 1999, but is no longer a validly subsisting society as a result of being struck from the register on or about April 12, 2008;

“School” means the MHCBE School or the MHSD76 School, and “Schools” means both the MHCBE School and the MHSD76 School;

“School Gymnasium” means the MHCBE Gymnasium or the MHSD76 Gymnasium;

“School Hours” means 6:00 am to 6:00 pm on each weekday and such other times during each day during which either Board provides, as part of its curriculum, classes, courses of study, or programs in its School;

“School Year” means the twelve (12) month period commencing September 1st of each year.

“Shared Facilities” means the Complex Gymnasiums, School Gymnasiums, other facilities within the Building, and Outdoor Facilities that may be shared subject to scheduling, budget requirements, and as agreed to by the AMB;



“Shared Use Schedule” means the written schedule approved by the AMB from time to time in accordance with Article 11 setting out times and dates upon which the Shared Facilities may be used by each of the Members;

“Student” means a student who attends classes in a School on the Lands.

## **1.2. Sections and Headings**

The division of this Agreement into Articles and sub-Articles and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, sub-Article or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles are to Articles and relevant sub-Articles of this Agreement.

## **1.3. Number**

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa.

## **1.4. Schedules**

The following Schedules are annexed hereto and incorporated by reference and deemed to be part hereof:

- Schedule 1 - Form of Annual Budget
- Schedule 2 - Common Areas
- Schedule 3 - Premises
- Schedule 4 - Lands
- Schedule 5 - Insurance
- Schedule 6 - Shared Facilities
- Schedule 7 - Guiding Principles for the YMCA as a Charity
- Schedule 8 - YMCA Amortization Schedule – Return of Investment

## **2. INTERESTS OF MEMBERS**

### **2.1. Investment of YMCA**

All Members, including, without limitation, YMCA, acknowledge and agree that YMCA's involvement in the completed Complex will not constitute a position as an Owner relative to legal and/or beneficial title to the Lands. In this regard, the Members hereby agree that YMCA's contribution will be recognized pursuant to Article 7 referred to below.

## **2.2. Disclaimer of Partnership**

The Members of the Alliance disclaim any intention to create a partnership between them or to constitute either of them the agent for the other or to create any fiduciary relationship between them. Nothing in this Agreement shall constitute the Members as partners or agents, nor, except as may be expressly provided in this Agreement, constitute any of them the agent of any of the other Members.

## **2.3. Mutual Indemnification**

Each of the MHCBE, City, YMCA and MHSD76 (hereinafter referred to as the "Defaulting Party") shall indemnify, defend and hold harmless the other parties to this Agreement (hereinafter referred to as the "Other Parties") and their respective officers, servants, employees, agents, contractors, sub-contractors and elected officials from and against any and all claims, damages, actions, causes of action, suits, judgments, costs (including solicitor and client costs) and expenses whatsoever brought against, suffered or incurred by them as a direct or indirect result of:

- (a) the performance or non-performance of any covenant, condition or term of this Agreement by the Defaulting Party or its officers, servants, employees, members, agents, contractors, sub-contractors, participants or invitees;
- (b) any damage to any property or any injury to any person or persons (including death) whatsoever occasioned by or in occasion with:
  - (i) the Defaulting Party's occupation or use of the Building or the Lands;
  - (ii) the Defaulting Party's operational activities with respect to the Building or the Lands;
  - (iii) the Defaulting Party's responsibilities set out in Schedule 2, or
  - (iv) by reason of any matter or thing done, permitted or omitted to be done by the Defaulting Party or its officers, servants, employees, members, agents, contractors, subcontractors, participants or invitees;

save and except to the extent only that such claims, damages, actions, causes of action, suits, judgments, costs (including solicitor and client costs) and expenses arise from the negligence or deliberate tortious act of the Other Parties or those for whom the Other Parties are liable at law.

## **3. OWNERS**

### **3.1. Proportionate Shares of Owners**

Notwithstanding the respective investments of the Members, the Owners of the Lands, excluding any Improvements thereon, shall be the City, MHCBE and MHSD76, each as tenants in common as to an undivided one-third (1/3) interest.

### **3.2. Purpose of Ownership**

- a) The Owners acknowledge that the purpose of the tenancy in common ownership is to provide for the operation of the Complex by the YMCA pursuant to the operation provisions of this Agreement to be dealt with below, in concert and co-operation with the operation of the Schools by MHCBE and MHSD76;
- b) Except as expressly set out herein, the parties to this Agreement shall at their own expense have the sole and exclusive authority to make all decisions and arrangements relating to the operation of each of their Premises.

### **3.3 Term**

This Agreement shall commence on April 1, 2017 and shall continue until the earlier of:

- a) The date any of the Owners is the beneficial and legal owner of an undivided 100% interest in the Lands and no obligations by any Owner to any other Owners remain outstanding under this Agreement; or
- b) The date upon which the Owners terminate this Agreement in writing in accordance with Article 15, subject to the portions of this Agreement which relates to the management and operation of the Complex.

## **4. ALLIANCE MANAGEMENT BOARD**

### **4.1 Alliance Management Board and Chair of the AMB**

The AMB manages the strategic direction and general operating policies of the Complex, Common Areas, and the Shared Facilities. The power and authority of the AMB shall be subject to the terms and provisions of this Agreement. Their role shall be to make decisions and to give approvals in connection with the on-going operation of the Complex, Common Areas, and the Shared Facilities.

Unless otherwise unanimously agreed to by the Alliance, the Chair of the AMB shall rotate on an annual basis between each of the Members. The Chair for the first year will be MHCBE. Annual rotation will take place in the following order: MHCBE, City, YMCA, and MHSD76. The Chair shall be one of the appointed members.

### **4.2 Representatives**

The AMB shall consist of four individuals (each an "AMB Representative") consisting of one representative from each of the City, MHCBE, MHSD76, and YMCA. Each Representative will have the authority to make decisions on behalf of their organization. The AMB Representative appointed by the MHSD76 and MHCBE shall be the Superintendent of Schools for each of the MHSD76 and MHCBE, the Chief Executive Officer for the YMCA and the Chief Administrative Officer for the City (or such other person designated by the Members from time to time). Each of the Members may at any time and from time to time by written notice replace its Representative appointed by it and any Representative so replaced shall cease to be an AMB Representative upon the giving of such notice. Copies of such written notice shall be given to the other Members and the individual so appointed as a new AMB Representative and the AMB Representative so replaced.

#### **4.3 Vacancies**

A vacancy in the AMB shall be filled by the Member who appointed the former Representative whose loss created the vacancy. If there is a vacancy in the AMB, the remaining Representatives may continue to exercise the powers of the AMB in accordance with the terms of this Agreement.

#### **4.4 Action by the Alliance Management Board**

The powers of the AMB may be exercised by resolution at a meeting of its Representatives, at which a quorum is present and a quorum shall be three (3) Representatives.

#### **4.5 Attendance at Meetings**

The AMB Representatives, but not an individual AMB Representative, may invite the general public, special interest group, or other private or public bodies and agencies to attend any meeting of the AMB and/or make submissions to the AMB with respect to any matter or question being considered by it. The AMB shall meet at least one time a year or more as the AMB Representatives determine. Notice of the time, place, and agenda of every meeting shall be given by the Chair with not less than one (1) week notice.

#### **4.6 Voting Rights**

At any meeting of the AMB, each Representative shall be entitled to vote on each question submitted to the AMB for decision and each such Representative shall have one vote.

#### **4.7 Records**

The Member hosting an AMB meeting shall arrange for proper written records of the meeting and decisions of the AMB at that meeting, and copies of same shall be sent to each Member within fifteen (15) Business Days following the meeting of the AMB. Each AMB Representative shall be responsible for keeping its own records of the AMB meetings and decisions.

#### **4.8 Limitation of Liability**

No AMB Representative shall be liable for the acts, neglect or default of such AMB Representative, any other AMB Representative, and/or the AMB provided that such AMB Representative has acted, in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power or authority granted to such AMB Representative or the AMB hereunder.

#### **4.9 Authority of the Alliance Management Board**

A decision of the AMB made in accordance with this Agreement with respect to any matter within the limits of its authority and jurisdiction shall be binding upon all Members.

#### **4.10 Unanimous Approval**

The following matters shall require unanimous approval by all members of the AMB entitled to vote at any meeting called to consider such matters, which approval shall be exercised in accordance with the provisions of this Agreement:

- a) The Complex hours of use by the Members;
- b) Expansion and Redevelopment of the Building as per Article 6.1;



- c) Dispositions as per Article 9;
- d) Shared Use Schedule as per Article 11.2;
- e) Member Hourly User Fees as per Article 11.2 (d);
- f) Member Annual Fees as per Article 11.2 (e) (i);
- g) Tournament Fees as per Article 11.2 (e) (ii);
- h) Shared Facilities (see Article 6.3);
- i) Leases as per Article 9.4.

#### **4.11 Referral to Arbitration**

If at any meeting of the AMB, any matter set out in Section 4.10 is considered and the matter is neither approved nor adjourned for further consideration, in either case by all of the members of the AMB entitled to vote at such meeting, then, notwithstanding any intermediate acts or negotiations, any Member shall be entitled to refer the matter, and, to the extent that it is necessary or reasonable in all of the circumstances, any related question or matter, to Arbitration as described in Article 16.2.

#### **4.12 City Approval**

The Complex Budget for any Fiscal Year, including any proposed amendments thereto, which provides for an increase in operating costs for such Fiscal Year over the operating costs for the immediately preceding Fiscal Year, expressed as a percentage, which exceeds the percentage increase, if any, in the Alberta Consumer Price Index over the same period, shall be submitted by the YMCA as Operator to all Owners for information purposes, and approved by the City alone as Owner and AMB representative.

### **5. OPERATION OF THE COMPLEX**

#### **5.1 Operation of the Complex by YMCA**

The Alliance hereby agrees that the YMCA shall be responsible for the management and operation of the Complex, including, without limitation all responsibilities relating to the Budget. Reporting to the Alliance Management Board, the Operator shall be responsible for the day-to-day management of the exterior and interior areas of the Complex including all recreational and wellness facilities and amenities located thereon and therein.

#### **5.2 Manner of Operation**

The Complex will be operated in a manner which blends service to the City with sound business practices such that the Complex will operate on the principle of budget development to cover full operating costs of the Complex, funded depreciation and asset renewal and future development. Without limiting the generality of the foregoing, the operating practices of the Operator shall at all times be consistent with YMCA Charitable Guiding Principles as attached as Schedule 7 to this Agreement.



### **5.3. Operating Guidelines**

Notwithstanding operation of the Complex by the Operator in accordance with YMCA Charitable Guiding Principles, the public practices of the City shall at all times apply to operations of the Complex.

### **5.4. Use of Complex**

The Complex shall be open to all members of the public including groups, individuals and families, and all such users shall pay a user fee to the YMCA to gain access to and use of the facilities provided in the Complex (the "Community User Fee"). The Community User Fee may be paid in the form of a membership, an activity pass, a daily entrance fee, a program registration, a group rental payment or any combination of these forms of payments from time to time. Provided further that an individual sponsorship policy shall also be implemented by the Operator to ensure that no individual is refused entry or participation because of an inability on the part of that individual to personally pay the Community User Fee.

### **5.5. Establishment of Community User Fees**

Community User Fees shall be established by the YMCA to meet budgetary component costs and in recognition of the policies in place from time to time of both the City and the YMCA.

### **5.6. Contribution by the City**

The City agrees to provide the YMCA an operating grant of up to \$70,000.00 per year. This operating grant may be subject to a decrease in the said amount over time with the intent that annual operating grant may be reduced to zero.

### **5.7. Emergency Procedures**

The Operator and the Schools shall cooperate to establish uniform emergency procedures and drills for the entire Property including, without limitation, fire drill and other safety measures.

## **6. TOTAL OR PARTIAL REDEVELOPMENT**

### **6.1. Expansion and Redevelopment of the Building**

The Alliance agrees that any expansion or any major structural changes over \$50,000 to interior or exterior portions of the Building by and of MHCBE, MHSD76, YMCA, or the City must be approved by the unanimous decision of the AMB. The Members agree that it is their present non-binding intention to develop a program for the long term redevelopment and reconstruction of the Improvements to satisfy the needs of each of the Members on the Lands.

### **6.2. Interior Non-Structural Change**

An Owner (or the Operator, if applicable) will be able to make any alteration, addition, improvement or other change to its Premises (an "Interior Change"), of a non-structural interior nature which complies with the policies and guidelines within its jurisdiction in effect from time to time with respect to all interior designs and furnishings and with respect to the quality and quantity of all furnishings and equipment throughout the Property.

### **6.3. Shared Facilities**

Any changes to the Shared Facilities require the approval of the AMB.

#### 6.4. General Provisions

The following provisions shall apply to all changes to any of the Improvements, and any other work authorized by this Agreement (other than general maintenance) (collectively, the "Work"):

- a) The Plans and Specifications for such Work shall be consistent in design and materials with the then existing Improvements;
- b) The Owner or Owners (or the Operator, if applicable) performing the Work shall be solely responsible for all costs and expenses of designing, developing and constructing the Work provided that if all Owners construct the Work, all Owners shall be jointly and severally responsible for such costs and expenses;
- c) The services or the servicing systems that provide any service to any portion of the Improvements shall not be unduly disturbed, interfered with, interrupted or damaged, the tolerances, maximum capacities of such services or servicing systems shall not be exceeded, and the demand or load reasonably expected to be placed on any such services or servicing system as a result of such Work shall not reduce or otherwise impair the availability or continued use and enjoyment of such service or servicing system to the balance of the Improvements;
- d) The Work, both during construction and upon completion, shall comply at all times with the provisions of all Laws;
- e) Adequate measures shall be taken so that any noise or vibration resulting from the performance of the Work or any interference or loss of use and enjoyment caused to any of the Members, or any interference caused to the pedestrian or vehicular access and egress from any portion of the Improvements, is reduced to and maintained at all times at reasonable levels;
- f) Such Work shall not result, directly or indirectly, in the cancellation or threat of cancellation of any policy of insurance maintained by the Owners, the Members, or any of them and if the Work results in an increase in the premium cost of any policy on insurance placed by or on behalf of an Owner or a Member or any of them, the Owner performing such Work shall pay the increase or reimburse the other Owners or Members for such increase;
- g) Such Work shall be performed diligently and as expeditiously as possible in the circumstances;
- h) The Owner or Owners (or the Operator, if applicable) performing such Work shall restore any portions of the Improvements and/or the Property adjoining the Work to the same condition as existed prior to the commencement of such Work, or as close thereto as reasonably possible;
- i) Upon the completion of the Work, such Work shall form part of the Property for all purposes of this Agreement;
- j) The Owner or Owners (or the Operator, if applicable) performing the Work shall be solely responsible for vacating promptly any and all construction liens registered against the Property arising out of or in connection with such Work and shall indemnify and save

harmless the other Owners with respect to any claims by any Person pursuant to the Builder's Lien Act, or otherwise arising out of or in connection with such Work.

## **7. YMCA AS OPERATOR OF THE COMPLEX**

### **7.1. YMCA's Term as Operator**

The YMCA agreed, in the Original Agreement, to operate the Complex pursuant to the terms referred to in Article 5 hereof for a term of forty (40) years commencing as of June 3, 2003 and subject to earlier termination in respect of the following:

- a) Early termination, by either the City or by the YMCA on 24 months prior written notice being given by one party to the other; and
- b) Termination of the YMCA as Operator for cause, on sixty (60) days written notice given to the YMCA by the City.

### **7.2. Return of Investment to YMCA**

- a) Subject to subsection (b), below, the Members agree that in the event that the YMCA's term as Operator ends by way of voluntary or involuntary termination pursuant to Article 7.1, the City will be required to return to the YMCA the value of its initial contribution of \$1,800,000.00, the additional amount of \$24,654.00, together with an additional payment equal to the actual cost of any Improvements; and
- b) The Members agree, that in recognition of a new contribution in 2016/2017 with respect to the construction and addition of new weight room and cardio vascular exercise areas in an amount up to One Million Two Hundred Thousand dollars (\$1,200,000.00) (herein the "Expansion Contribution"), which Expansion Contribution will be amortized at the rate of \$44,400.00 per annum as outlined in the attached Amortization Schedule "8", as follows:

January 1, 2017 amortized value carried forward to 2018 is \$1,155,600.00

January 1, 2018 amortized value carried forward to 2019 is \$1,111,200.00

January 1, 2019 amortized value carried forward to 2020 is \$1,066,800.00

January 1, 2020 amortized value carried forward to 2021 is \$1,022,400.00

And so on annually until Termination or end of Term

so that the City will be required to return the Expansion Contribution in the calendar year end closing unamortized amount to the YMCA with respect to any termination during a current calendar year by way of voluntary or involuntary termination pursuant to Article 7.1 which may occur during any calendar year.



## **8. DAMAGE OR DESTRUCTION**

### **8.1. Damage or Destruction**

The Members agree as follows:

- a) In the event of damage to or partial destruction of the Complex, the City and the YMCA (as the case may be) shall repair, replace, restore and/or reconstruct the Complex unless the City or the YMCA (as the case may be) would be unable to repair, replace, restore or reconstruct the Complex by reason of Force Majeure within two (2) years following such damage and destruction;
- b) In the event of damage to or partial destruction of a School, the MHCBE or the MHSD76 (as the case may be) shall repair, replace, restore and/or reconstruct the School unless the MHCBE or the MHSD76 (as the case may be) would be unable to repair, replace, restore or reconstruct the School by reason of Force Majeure within two (2) years following such damage and destruction;
- c) All repairs, replacements, restoration, and/or reconstruction shall be commenced as expeditiously as possible in the circumstances and the Members of the Alliance shall co-operate with each other and will proceed to complete the work continuously and expeditiously in order that it be completed as soon as reasonably possible and in a good and workmanlike manner, subject to Force Majeure.

## **9. DISPOSITIONS**

### **9.1. Dispositions**

Except as otherwise expressly permitted in this Agreement, no Owner shall make or permit a Disposition without the prior written approval of the Owners and any attempt to do so shall be void, and each Owner shall be entitled, in addition to all other rights and remedies in law or in equity, to a decree or order restraining and enjoining any breach of this provision, it being recognized and agreed that the injury and damage resulting from such breach would be impossible to measure monetarily.

### **9.2. Dispositions in Alberta Education Legislation**

Notwithstanding Article 9.1 hereof, any Disposition under this Agreement is also subject to the legislation regarding disposition of property put in place by Alberta Education from time to time and in the event of any conflict between Article 9.1 and the legislation, the legislation shall govern.

### **9.3. Dispositions Between Boards**

Each Board may make a Disposition to the other Board with the approval of the Minister of Education or the Minister of Infrastructure as the case may be.

### **9.4. Leases**

Each Owner shall be entitled to lease all or any portion of its Premises, provided that they receive the unanimous approval of the Alliance Management Board, acting reasonably.

#### **9.5. Right of First Refusal**

Subject to the *Municipal Government Act* (Alberta) (as amended or replaced from time to time), any other agreement between the City, MHCBE and MHSD76 in relation to reserve lands, and Articles 9.1 and 9.2 of this Agreement, each of the Owners grants to each of the other Owners a right of first refusal in the event of the intended Disposition by any of them of their interest in the Property or any part of it on the following terms and conditions:

- a) Each Owner hereby covenants and agrees that it will not pledge, sell, assign or in any way whatsoever transfer any interest in the Property or any part thereof to any Person other than the other Owners except by absolute sale, assignment or transfer separately from all other property and assets of the Owner only to parties with whom the Owner deals at arm's length, for a price payable in lawful money of Canada, and then not until that Owner's Property is first offered for sale to the other Owners, on a pro rata basis, as hereinafter provided;
- b) If at any time during the term of this Agreement, the Owner receives or obtains a bona fide written offer for the purchase of the Owner's share of the Property, which offer the Owner desires to accept, the Owner shall give notice (the "Third Party Offering Notice") to the other Owners, which notice shall include a true copy of such offer whereupon the provisions of this Article shall apply;
- c) In the Third Party Offering Notice, the Owner shall offer (the "Third Party Sale Offer") to the other Owners on a pro rata basis, the right to purchase all and not less than all of the Owner's share of the Property at a price equal to the purchase price in the offer for the Property set forth in the Third Party Offering Notice, and otherwise subject to the same terms and conditions as set forth in the said offer, provided however that the closing date as between the Owner and all or one of the other Owners shall not be earlier than the first day of the second calendar month following receipt by the Owner of the Third Party Sale Offer. The Owner or Owners exercising this right of first refusal shall notify the Owner of their election within ten (10) days of receipt of the Third Party Offering Notice. Failure to give notice within the required time period shall be deemed an election not to purchase;
- d) If the Third Party Sale Offer is accepted by one or more of the other Owners, and notice in writing is given within the applicable time period as specified in subparagraph (c) above, the Owner shall be bound to sell to the other Owner or Owners and the other Owner or Owners shall be bound to purchase from the Owner the Property in accordance with the terms of the Third Party Sale Offer;
- e) Each Owner's rights in respect of this right of first refusal shall continue so long as this Agreement is in full force and effect.

#### **9.6. No Impairment of Others Use**

Each of the Owners agrees that none of them shall willingly dispose of its interest in the Property or any part thereof if it is reasonably foreseeable that such Disposition will or is likely to significantly impair the ability of the other Owners to use and enjoy their parts of the Property.

#### **9.7. Execution of Instruments**

Deeds, transfers, assignments, contracts, obligations, certificates, leases and other instruments relating to the Property as a whole shall be reviewed by the AMB and executed by all of the



Owners. Any instrument affecting only the Owner Interest of one of the Owners shall be signed only by that Owner.

## **10. USE OF PROPERTY**

### **10.1. General Use**

No portion of the Property shall be used or occupied by any Person in a manner that is likely to damage or injure any Person or property or in a manner which will unreasonably interfere with the use and enjoyment by any Member of any portion of the Property, which it is entitled to use or occupy.

### **10.2. Restrictions**

Notwithstanding the provisions of any Agreement, no portion of the Property may be used or occupied by any Person for any purpose except as expressly permitted by this Agreement.

### **10.3. Permitted Uses**

The Property may be used for the MHCBE School, the MHSD76 School and for the Complex as expressly addressed in this Agreement.

### **10.4. Prohibited Uses**

No portion of the Property shall be occupied or used by any Person for any of the following activities at any time without the prior approval of the AMB and subject to the policies and jurisdiction of the Alliance:

- a) The services and/or consumption of alcoholic beverages;
- b) Gambling or other similar activities;
- c) Canvassing and/or soliciting of any nature and kind; and
- d) Any other activity, any aspect of which, directly or indirectly interferes with the safe and proper operation of the Schools and Complex.

### **10.5. Compliance With Laws**

Each Member and its Invitees shall observe and comply with all Laws.

Each Owner covenants and agrees that it shall not operate or use its Premises, or permit its Premises to be operated or used for any unlawful purpose or any purpose that is not in compliance with or permitted under the requirements of all Laws or this Agreement.

### **10.6. Policies**

The AMB shall establish and maintain Policies governing the use and enjoyment of the Complex, Shared Facilities and Common Areas. The Policies shall not conflict with the provisions of this Agreement. Such Policies may prohibit others from using the Shared Facilities and Common Areas in the vicinity of the Premises of either Board during School Hours.

#### **10.7. Compliance with Policies**

The Members and their respective Invitees shall comply with the Policies at all times.

#### **10.8. Usage**

The Property may be used and/or occupied as follows:

- a) During School Hours, each Member and its Invitees may use the Shared Facilities, to the exclusion of other Persons, subject to the Policies, the Shared Use Schedule and the provisions of this Agreement;
- b) Each of the Members and their respective Invitees shall have a common non-exclusive right to use and enjoy the Common Areas, subject to the Policies and the provisions of this Agreement;
- c) Any other right to use or occupy any portion of the Property, including the Complex as may be unanimously approved by the AMB from time to time;
- d) The Members agree that any Member may reasonably withhold its approval to a proposed use. If it gives its approval to a proposed use, the Member may, at its option, impose reasonable terms and conditions on such proposed use.

#### **10.9. Rights of Entry**

The Members, or any insurer of the Property (or any thereof) and their respective agents, employees, or authorized representatives, and any other Person authorized by the AMB shall be entitled to enter any portion of the Property, including the Premises of any Owner, at all reasonable times and upon giving reasonable notice for the purposes of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy or policies, remedying any condition that might result in damage to the Property.

In the case of an emergency, any agent, employee or authorized representative of either of the Members may enter any portion of the Premises at any time without notice for the purpose of making any repair or correcting any condition which might result in damage or loss to the Property. Any of the Members is authorized to determine whether such an emergency exists.

If an Owner is not personally present to grant entry to its Premises, another Owner or the Operator, or its agents, may enter upon such Premises without rendering it, or them, liable to any claim or cause of action for damages by reason thereof, provided that such Persons exercise reasonable care.

### **11. SHARED FACILITIES & SHARED USE SCHEDULE**

#### **11.1. Use of Shared Facilities**

- a) Unless the Members otherwise agree, the MHSD76, the MHCBE, the City and the Operator will have the opportunity to use the Shared Facilities subject to the provisions within this Agreement and as determined by the AMB, from time to time as agreed, or on an annual basis, in an AMB approved Shared Use Schedule.

- b) The balance of the MHSD76 School, the MHCBE School, and Complex facilities may be shared by the Alliance subject to accepted budget and schedule agreements, and as determined by the AMB on an annual basis. For greater certainty the criteria/principles for use of the facilities shall be to achieve a "balance between community, individual and family-structured sport and extra-curricular School activities".

#### 11.2. Shared Use Schedule

- a) Outdoor Facilities - Pursuant to this Agreement (including, without restriction, Sections 10.8, 11.1 and 11.2), the parties hereby agree to the scheduling of use of the following portions of the Shared Facilities by MHCBE, MHSD76 and the City. The Schools, City, and Operator shall be entitled to use the Outdoor Facilities as follows:
  - i) Schools – the MHCBE and MHSD76 shall be entitled to the use and enjoyment of the Outdoor Facilities during School Hours and on weekends and for after School Hours events conducted by the Schools. Subject to further agreement between the MHCBE, MHSD76 and the City, the MHCBE and MHSD76 hours of use shall consist of those hours set forth within a Shared Use Schedule approved and agreed to by the AMB; and
  - ii) City – the City shall be entitled to the use and enjoyment of the Outdoor Facilities during weekends and before and after School Hours on week days (save and except for weekends and after School Hours events conducted by the Schools on the Outdoor Facilities). Subject to further agreement between the MHCBE, MHSD76, YMCA and the City, the City hours of use shall consist of those hours set forth within a Shared Use Schedule approved and agreed to by the AMB.
- b) Gymnasiums - The Shared Use Schedule for each School Year shall be established annually by the MHCBE, MHSD76, the YMCA and the City, and consented to or otherwise ratified by the AMB, on or before the commencement of each School Year. In the event that the MHCBE, MHSD76, the YMCA and the City are unable to come to a mutually satisfactory agreement as to revisions to the Shared Use Schedule from previous School Years by the commencement of the forthcoming School Year as contemplated above, the prior School Year's Shared Use Schedule shall apply until such time as revisions have been agreed to by the parties.
- c) Except during periods which are scheduled for use by the MHCBE, the MHSD76, or the YMCA pursuant to the Shared Use Schedule, respectively, there shall be no limitation on MHCBE's right to utilize its own MHCBE Gymnasium, the MHSD76's right to utilize its own MHSD76 Gymnasium and the YMCA's right to use the Complex Gymnasiums, as contemplated within this Agreement.
- d) In the event that either the YMCA, MHSD76 or the MHCBE chooses not to use the MHCBE Gymnasium, the MHSD76 Gymnasium or the Complex Gymnasiums as shown in the Shared Use Schedule agreed to and approved by the AMB, the MHCBE, MHSD76 and the YMCA may have the opportunity to use the MHCBE Gymnasium, the MHSD76 Gymnasium and the Complex Gymnasiums, provided always:
  - i) that such use is booked through the scheduled user according to the Shared Use Schedule;



- ii) in the case of the MHCBE or MHSD76 using the Complex Gymnasiums, the MHCBE or MHSD76, as the case may be, pays to the YMCA the then ~~current~~ applicable Member hourly user fees ("Member Hourly User Fees") as agreed to and approved by the AMB;
- e) The parties hereby agree to the following terms and payments for the purposes of accounting for the Shared Use Schedule within the Budget:
  - i). Member Annual Fees – the annual fees for the use and enjoyment of the Complex Gymnasiums by the MHCBE and MHSD76 during School Hours on an annual basis and the use and enjoyment of the School Gymnasiums by the YMCA during non-School Hours on an annual basis shall be subject to negotiation between the YMCA and MHCBE and the YMCA and MHSD76 respectively, and shall be approved by the AMB ("Member Annual Fees"). If there is a discrepancy in the amount of hours a Member uses another Member's Gymnasiums, then the Member Annual Fees between Members shall be adjusted and shall be approved by the AMB.  
  
If an agreement on the Member Annual Fees is not reached in any given year, any of the MHCBE, MHSD76 or YMCA may elect to "opt out" of the sharing of the Gymnasiums. As such, the rights of access under 11.2 would not apply for the Gymnasiums accordingly, and the respective School Gymnasium would not be available for YMCA usage, and the respective School would similarly not have access to the Complex Gymnasiums.
  - ii) The MHCBE may be required to pay a Tournament Fee to the YMCA for use of the Complex Gymnasiums for major tournaments each School Year that will benefit the community. These tournaments may be conducted in both the Complex Gymnasiums and MHCBE Gymnasium outside of the hours of use provided for within the Shared Use Schedule. These tournaments will typically be conducted after School Hours on Fridays, carry through all day Saturday, and be completed Saturday evening at a maximum of 14 hours.
  - iii) The MHSD76 may be required to pay a Tournament Fee to the YMCA for use of the Complex Gymnasiums for major tournaments each School Year that will benefit the community. These tournaments may be conducted in both the Complex Gymnasiums and MHSD76 Gymnasium outside of the hours of use provided for within the Shared Use Schedule. These tournaments will typically be conducted after School Hours on Fridays, carry through all day Saturday, and be completed Saturday evening at a maximum of 14 hours.
  - iv) In lieu of requiring payment of the above-noted user fees between Members either the MHCBE or MHSD76 or the YMCA, as the case may be, as the Member entitled to receive a user fee from another Member may opt to receive a credit towards user fees which are (or may become, in the future) payable pursuant to this Agreement by either the MHCBE, MHSD76 or the YMCA, respectively.
- f) MHCBE, MHSD76, the YMCA and the City agree that non-use of any scheduled hours of any Shared Facilities by the MHCBE, MHSD76 or YMCA in any year shall not entitle such hours to be carried over to the following year nor will such non-use of Shared Facilities result in a reduction of the agreed upon Member Annual Fees.



### **11.3. General**

Unless otherwise agreed to, all amounts payable by the parties as described within this Article 11 are deemed to be exclusive of applicable Goods and Services Tax.

## **12. MAINTENANCE AND REPAIR**

### **12.1. Replacement and Repair of Building and Equipment: Operating / Maintenance and Custodial Services**

- a) Each of the MHCBE and MHSD76 shall be responsible for maintaining and repairing its Premises and replacing and repairing its own equipment, furniture and supplies at its sole cost and expense.
- b) The YMCA as Operator shall be responsible for maintaining and repairing the Complex and replacing and repairing its own equipment, furniture and supplies at its sole cost and expense out of the Approved Budget for the Complex, including Operating Costs and excluding Capital Expenditures and Improvements.
- c) The costs of repairs, maintenance, cleaning and repairing equipment used in the Common Areas and associated costs, unless otherwise agreed by the Members, shall be paid on a shared basis as identified in Schedule 2.
- d) The YMCA as Operator, MHCBE and MHSD76 agree to be responsible for formulating an annual plan to meet the aforementioned requirements.

## **13. INSURANCE**

### **13.1. Insurance**

- a) With respect to the Mutual Indemnification provisions in section 2.3, and the Insurance provisions in Schedule 5, all Owners and the Operator shall maintain or cause to be maintained in the names of the Owners the insurance required by the provisions of Schedule 5, subject only to Article 15.1 Termination provisions.
- b) The Owners (or Operator, if applicable) acknowledge that the insurance required by Schedule 5 is based upon the intention of insuring the Property at all times, in a type, form and amount which a prudent owner, acting reasonably in the circumstances, would consider appropriate having regard to the cost and availability thereof. The Owners agree that the type, form and amount of insurance required by Schedule 5 shall be reviewed and if necessary, renegotiated not less than every five years commencing on April 1, 2017. If the Owners are unable to agree upon the type, form and/or amount of such insurance the matter shall be determined by Arbitration as referred to in Article 16.2.

### **13.2. Insured Interests**

The Owners covenant and agree that, unless the Owners otherwise agree in writing, all Property and Boiler and Machinery insurance required by this Agreement shall be carried in favour of each of the Owners, as insureds under each policy in accordance with their respective interests in the Property from time to time. For greater certainty, and unless otherwise agreed by the Owners in writing, only the Owners shall have an interest in the proceeds of any Property insurance or

Machinery and Boiler insurance relating to the Improvements (including without limitation the insurance required to be maintained pursuant to Article 13.1 (a) and (b) and Schedule 5 hereto), each in accordance with its interest, provided that each Owner shall be solely entitled to the proceeds of insurance relating to the loss of or damage to any personal property of each Owner. In the event that the Improvements are not repaired, replaced, restored or reconstructed after damage or destruction in accordance with the provisions of this Agreement, the proceeds of insurance, shall be paid to the Owners, as their interests may appear, subject to the costs of demolishing and removing all remaining Improvements and debris from the Property.

### **13.3. Losses under Insurance Policies**

Unless the Owners otherwise agree in writing, the loss, if any, under any insurance required by this Agreement shall be adjusted and be payable in accordance with the provisions of Schedule 5.

### **13.4. Insurance Trust Agreement**

The Owners may enter into an Insurance Trust Agreement and in such event, they shall appoint an Insurance Trustee who shall be satisfactory to each of them. If an Insurance Trust Agreement is entered into, each policy of the property insurance shall require the insurance proceeds to be paid to Insurance Trustee to be held by it in accordance with the Insurance Trust Agreement.

## **14. DEFAULT**

### **14.1. Remedies for Default**

If an Event of Default has occurred and is continuing in respect of a Member, any other Member shall have the right, in addition to any other right or remedy available at law, to bring an action at law as may be permitted in order to recover damages.

## **15. TERMINATION**

### **15.1. Termination**

- a) Subject to subsection 15.1(b) and any other termination provisions contained in this Agreement, if any of the Members serves the other Members with not less than twelve (12) months prior written notice of termination of this Agreement, then the AMB shall determine how the Property shall be held by and used by the remaining Members prior to the effective date of the termination. If the parties cannot agree, any disputes may be submitted to arbitration in accordance with section 16.2 of this Agreement.
- b) No Member shall give a notice to terminate this Agreement until that Member has first advised the other Members of all reasons for the intention of the Member to serve a notice of termination and the other Members have had not less than six (6) months to attempt to discuss and address the concerns of the Member intending to give a notice of termination. The Member intending to give a notice of termination shall meet with the other Members to attempt in good faith to resolve its concerns.

## **16. GENERAL**

### **16.1. Registration**

Any Owner may register a caveat protecting its rights under this Agreement in the relevant Land Titles Office in which title to the Lands is recorded.

### **16.2. Arbitration**

Any matter, which may be submitted to Arbitration under this Agreement, shall be resolved by a single arbitrator pursuant to the provisions of the Arbitration Act. The AMB will select a single arbitrator by majority vote, within five (5) Business Days of the occurrence of the dispute. The arbitrator shall proceed to hear the submission of the Members forthwith after his/her appointment and shall render a decision within ninety (90) days after such hearing. The decision of the Arbitrator shall be binding on all Members. Each Member shall be responsible for its own witness and counsel fees. Each Member is responsible for its share of the arbitrator cost.

### **16.3. Force Majeure**

If any Member is delayed or hindered in or prevented from the performance of its obligations hereunder or from compliance with any of its covenants hereunder by Force Majeure, then the performance of the act or obligation or compliance with a covenant of such Member will be excused for the period of such delay and the period for the performance of the act of obligation or compliance with the covenant will be deemed extended for an equivalent period.

### **16.4. Notice**

Any notice, demand, request or other instrument required or permitted to be given under this Agreement shall be sufficiently given if in writing and if delivered in person, transmitted by facsimile machine or mailed in the Province of Alberta by registered mail, addressed to:

Medicine Hat School District No. 76  
601 - 1 Avenue SW  
Medicine Hat, AB T1A 4Y7  
Attention: Superintendent

Facsimile No.: (403) 529-5339

and to:

Medicine Hat Catholic Board of Education  
1251 - 1 Avenue SW  
Medicine Hat, AB T1A 8B4  
Attention: Superintendent

Facsimile No.: (403) 529-0917

and to:

The Medicine Hat Family Young Men's' Christian Association  
150 Ash Avenue SE  
Medicine Hat, AB T1A 3A9  
Attention: Chief Executive Officer

Facsimile No.: (403) 529-5702

and to:

City of Medicine Hat  
580 First Street SE  
Medicine Hat, AB T1A 8E6  
Attention: Chief Administrative Officer

Facsimile No: (403) 502-8041

Any notice, demand, request or other instrument shall be deemed to have been received by the Member to whom it is addressed on the fourth (4th) Business Day (excluding Saturday, Sundays and statutory holidays) following the date of mailing, or, in the event of delivery by facsimile transmission or by personal delivery, on the day next following the date of transmission subject to confirmation of receipt by the receiving fax machine, or on the date of delivery, respectively. In the event of an actual or apprehended interruption of mail service in the Province of Alberta, by labour dispute or otherwise, such notice, demand, request or other instrument shall be delivered in person or by facsimile transmission. Either Member may, at any time, give notice to the other Member of a change in the address of the Member giving the notice and, from and after the giving of said notice, the address therein specified will be deemed to be the address of that Member for the purposes of this paragraph.

**16.5. Reasonableness and Good Faith**

Unless otherwise expressly provided in this Agreement, each Member and its AMB representative, shall act reasonably, in good faith and without delay in (i) considering any request for its consent, approval or other form of authorization required to be given or granted by it hereunder and (ii) making any decision or taking any action in respect of any matter concerning the Property from time to time, including without limitation any matter referred to herein.

**16.6. Severability**

If any provision of this Agreement, or the application thereof, shall be invalid or unenforceable at Law to any extent, it shall be deemed severed or to be severable from the remainder of this Agreement, and the remainder of this Agreement and the application thereof to the Members shall not be affected thereby and shall be enforceable in accordance with their terms to the extent permitted by law.

**16.7. Governing Law**

In all respects this Agreement shall be interpreted and governed in accordance with the Laws of the Province of Alberta.

**16.8. Binding**

All of the provisions of this Agreement shall enure to the benefit of and be binding upon the Members hereto and their respective successors and permitted assigns.



**16.9. Further Assurances**

The Members hereby covenant and agree to execute forthwith after request all such further assurances, easement Agreements or other documents as are necessary or required to carry out the true intent and purpose of this Agreement.

**16.10. Provisions Run with the Land**

The provisions of this Agreement are intended to and shall run with the respective interests in the Property acquired by each of the Owners hereto from time to time and shall benefit and burden each such interest and shall bind and enure to the Members hereto and their successors and permitted assigns.

**16.11. References to South Ridge Community Association**

Any references to the South Ridge Community Association or SCA in this Agreement are solely for the purposes of recognizing its involvement in the initial planning and operating stages of the Property.

**16.12. Supersedes Original Agreements**

Except as set out herein below, this Agreement replaces the Original Agreement and Amending Agreements.

Article 7.1 of the Original Agreement shall survive the termination of the Original Agreement, and the YMCA's obligation to operate the Complex shall continue. The YMCA's term as Operator will be calculated as of the date the YMCA agreed under the Original Agreement to operate the Complex. Any ongoing or continuing obligations the YMCA had as Operator of the Complex shall carry forward and survive the termination of the Original Agreement and Amending Agreements.

Notwithstanding anything to the contrary herein, termination of the Original Agreement and Amending Agreements shall not affect the rights, remedies, or obligations of the parties that accrued prior to the termination of the Original Agreement and Amending Agreements.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF the Members have hereunto affixed their corporate seals, duly attested by the hands of their proper signing officers in that behalf effective as of the date first above written.

CITY OF MEDICINE HAT

Per:

Title

Mayor Keith E. (Ted) Johnston

Per:

Title

Angela Cruikshank, City Clerk

**KATHY EDEN**  
ACTING CITY CLERK

MEDICINE HAT CATHOLIC  
BOARD OF EDUCATION

Per:

Title

Rick (Dick) Mastel, Board Chair

Per:

Title

Greg MacPherson, Secretary Treasurer

MEDICINE HAT SCHOOL DISTRICT No. 76

Per:

Title

Rick Massini, Board Chair

Per:

Title

Jerry Labossiere, Secretary Treasurer

THE MEDICINE HAT FAMILY  
YOUNG MENS' CHRISTIAN ASSOCIATION

Per:

Title

Christopher Baba, Board Chair

Per:

Title

Sharon Hayward, CEO



**APPROVED**  
**Chief Administrative Officer**  
**APPROVED**  
**City Solicitor**

**SCHEDULE 1**  
**FORM OF ANNUAL BUDGET**

**INCOME**

SR Member Fees  
YMCA Top Up Fees  
City Top Up Fees  
Drop-In Fees  
Course Fees/ Program Fees  
General Rental

User Group Rental Fees  
City Subsidy of Above Group Fees  
Camp Fees  
Out of School  
Merchandise for Resale  
Food/ Beverage for Resale

**EXPENSES**

Salaries Full-time  
Salaries Part-time  
Employee Benefits  
Program Contract Costs  
Office/ Technology  
Copier Supply  
Program Supply  
Out of Building Program Activity Purchase  
Library Supply  
Maintenance Supply  
Bank Charges  
Paint/Dec Supply  
Cleaning Supply  
Other Supply  
Postage/ Courier  
Contract Technology  
Contract Cleaning  
Contract Security  
Utilities Elect/water/ Garbage  
Tax/ Licence/ Fees/ Subscriptions (See Note 1)  
Insurance

Equipment Purchase/ Lease (Fitness, Weights)  
Fitness Equipment Repair  
Rented Equipment  
Maintenance/ Repair (3rd Party)  
Plant/Facility Repair  
Promotion (includes printing & all media)  
Staff & Volunteer Training  
Local Travel  
YMCA Van Program Expense  
Merchandise for Resale  
Food/ Beverage for Resale  
Admin/ Overhead Costs (see 2)  
Total Operating Expenses  
Contribution Margin\*\* (see Note 3)  
Telephone, Fax, Internet/ Email

**Major Equipment Repair/ Renewal Reserve**

**Funded Depreciation Reserve**

**Facility Development Reserve**

**Kinsmen Reserve**

Reserves (See Note 4)

**Year End Position**

### **Additional Budget Notes**

1. Tax/License/Fees/Subscriptions includes net GST, License & Inspection Fees
2. Admin/ Overhead Costs of 20% includes proportionate Allocated costs for CEO, Accounting, Audit, LTM, banking charges, Van use, YMCA Canada & MRC Allocation fees
3. Contribution Margin per Operations Prior to Allocation of Reserve Funds
4. The ability to fund reserves will not occur until year 5 of operations. At that point, the goal is 15% of the Operating Revenues (split equally to the 4 listed reserves.)



## SCHEDULE 2 COMMON AREAS

West Entrance between the MHCBE school and Complex (as shown in the "Schedule 2 Common Area – Interiors" sketch) – The MHCBE will be responsible for cleaning and maintaining the exterior entrance area during regular school days. Any maintenance costs other than custodian costs will be divided evenly between the YMCA and the MHCBE. The MHCBE will invoice the YMCA for the YMCA's share of such costs from time to time.

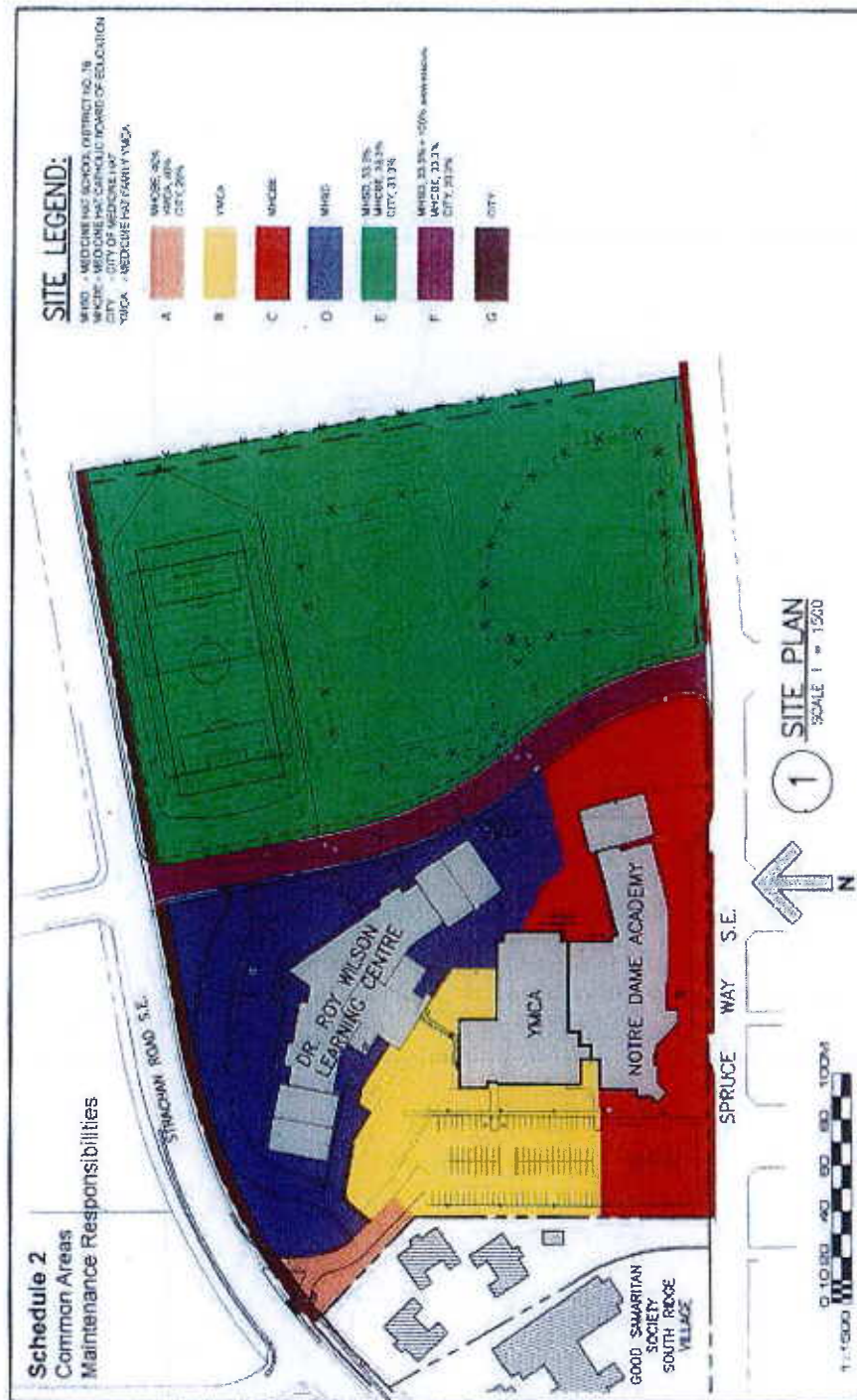
Mechanical Room by West Entrance (as shown in the "Schedule 2 Common Area - Interior" sketch) – The MHCBE will be responsible for cleaning and maintaining this mechanical room. Any maintenance costs other than custodian costs will be divided evenly between the YMCA and the MHCBE. The MHCBE will invoice the YMCA for the YMCA's share of such costs from time to time.

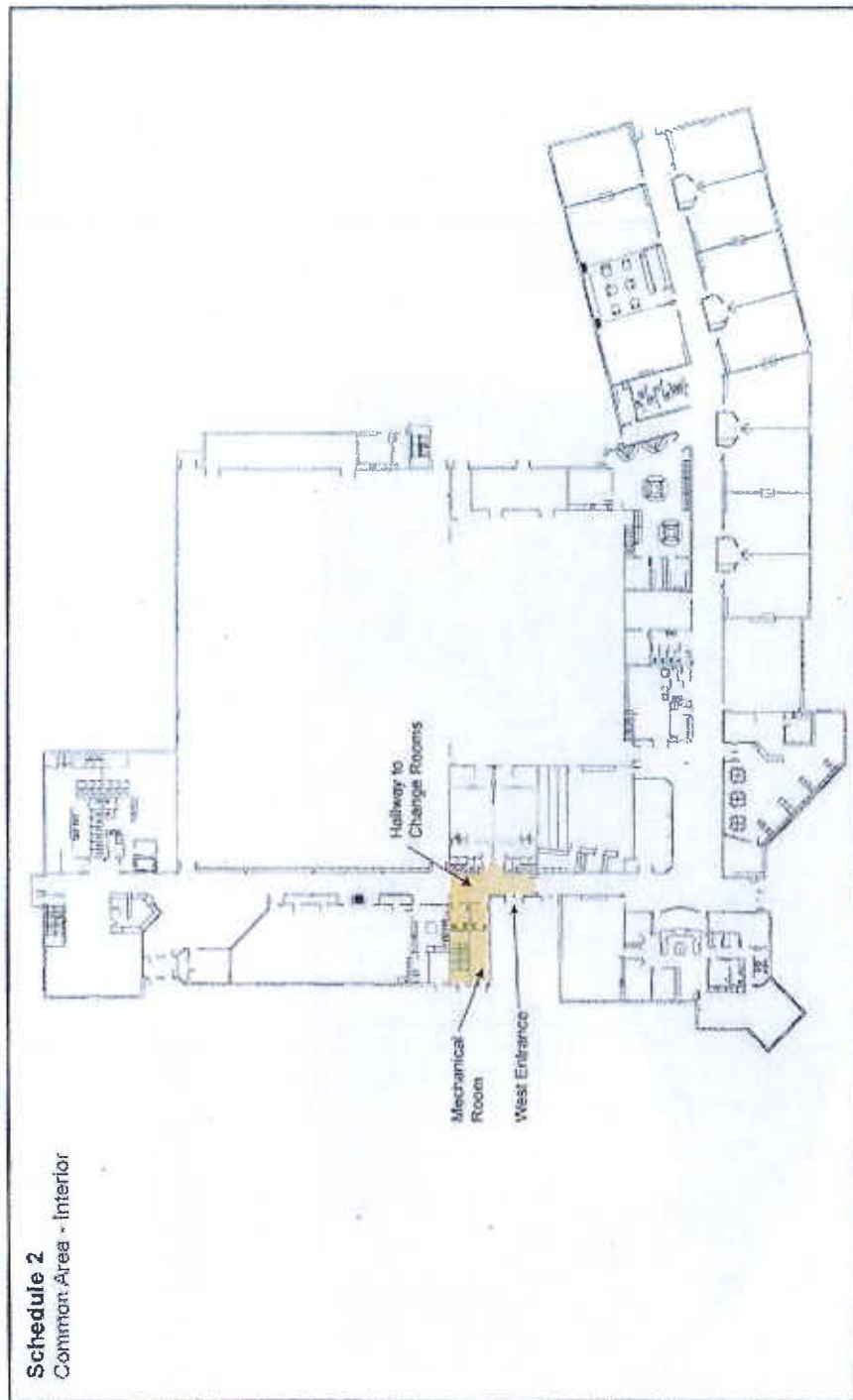
Hallway from change rooms to west entrance (as shown in the "Schedule 2 Common Area - Interiors" sketch) – The MHCBE will be responsible for the maintenance and cleaning of this hallway area south of the double doors and the YMCA will be responsible for the maintenance and cleaning of this hallway area north of the double doors. Any maintenance costs over and above cleaning will be shared evenly between the MHCBE and the YMCA.

Parking lots, entrance roads, and grounds (as shown in the attached "Schedule 2 Common Areas Maintenance Responsibilities" sketch. Responsibility for maintenance and the costs of such maintenance areas will be divided as follows:

AREA	DESCRIPTION	MAINTENANCE COORDINATION	SOURCES OF FUNDING
A	Grounds area in the north-west corner of the Property. Includes grass areas, concrete "pork chop", and asphalt entrance road.	YMCA	MHCBE 40% YMCA 40% City 20%
B	Grounds area between RWLC and current SRRWC building (future expansion area of YMCA) as well as the north portion of the large asphalt parking lot west of the SRRWC.	YMCA	YMCA 100%
C	Grounds area in the south and west portions of the Property and west of the closed road which encompasses NDA. Includes grass areas, patio and play areas east of NDA used by the MHCBE school, and the large asphalt parking lot west of NDA.	MHCBE	MHCBE 100%
D	Grounds area in the north and west portion of the Property and west of the closed road which encompasses RWLS. Includes the north asphalt parking lot,	MHSD	MHSD 100%

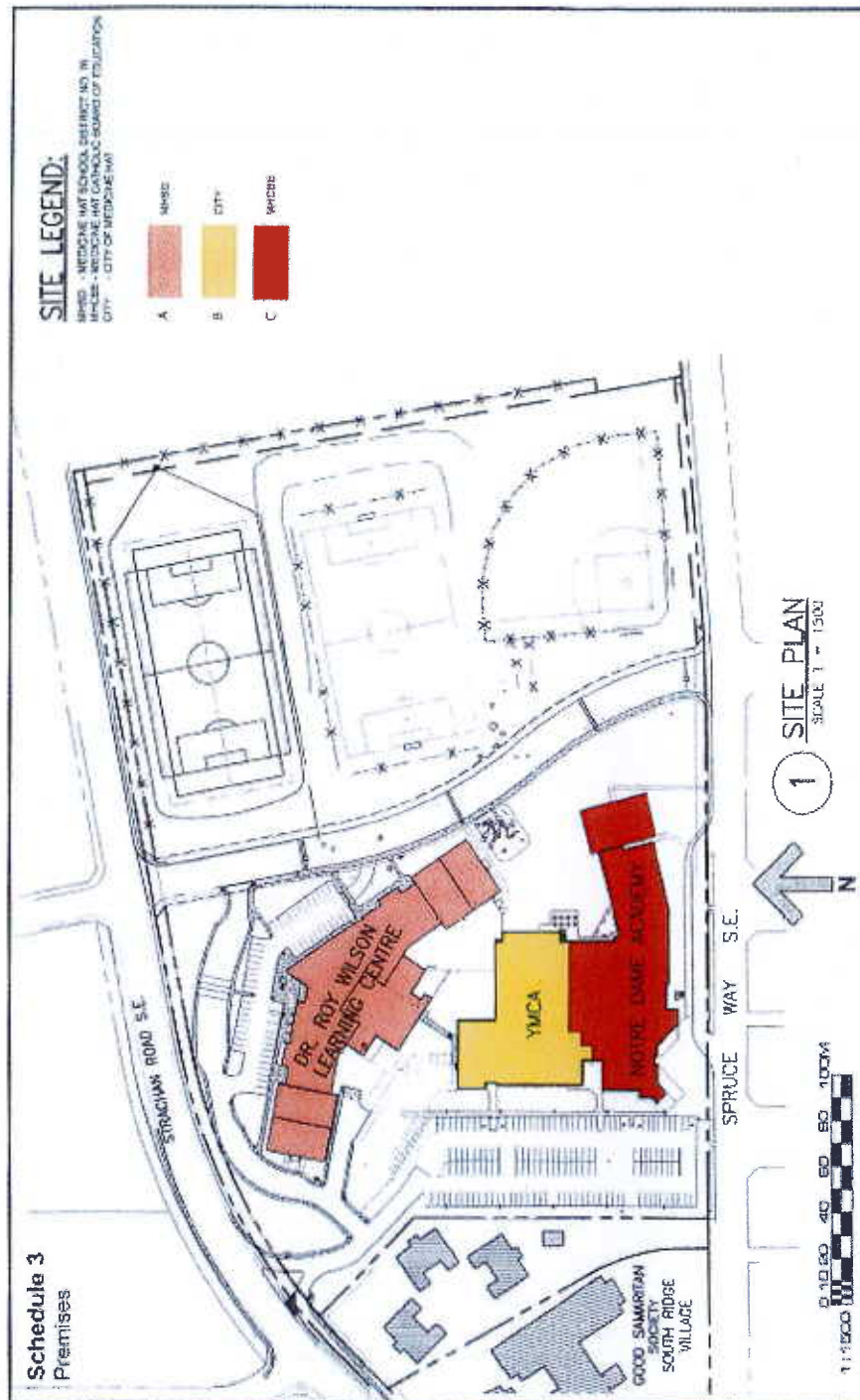
	north interior road network, and the southern play areas used by the MHSD school.		
E	The three sports fields, playgrounds and adjacent turf areas east of the closed road.	MHSD	MHSD 33.3% MHCBE 33.3% City 33.4%
F	Closed road used for RWLS bussing and NDA play equipment.	MHSD	MHSD 33.3% + 100% snow removal MHCBE 33.3% City 33.4%
G	Boulevards outside the fence perimeters of the Property.	City	City 100%







# SCHEDULE 3 PREMISES



The City and YMCA (as Operator) shall have control over the Complex as their "Premises",

The MHCBE shall have control over the Notre Dame Academy as its "Premises".

The MHSD76 shall have control over the Dr. Roy Wilson Learning Centre as its "Premises".

The City, the MHSD76 and the MHCBE shall share control over the Outdoor Facilities.

**SCHEDULE 4  
LANDS**

**Legal Description for the Lands**

PLAN            0311637

BLOCK         5

LOT            3MSR

CONTAINING 8.93 HECTARES (22.07 ACRES) MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS

## SCHEDULE 5 INSURANCE

### 1. **INSURANCE**

- 1.1. Respecting the general requirements of Article 13 Insurance, of the Agreement each Member shall at all times during the Term of this Agreement place and maintain with an insurer licensed in Alberta, Comprehensive General Liability Insurance covering claims for personal injury death or property damage occurring in or about the facilities owned or operated by each such Party to which this Agreement applies and covering claims for which such Party is in law responsible to a limit of not less than FIVE MILLION DOLLARS (\$5,000,000.00) inclusive per occurrence, and insuring or including:

- (a) Non-owned automobile insurance (including contractual liability);
- (b) Participants Liability;
- (c) Personal injury;
- (d) Blanket contractual liabilities (including liabilities assumed under this Agreement);
- (e) Cross Liability;
- (f) Each other Party to this Agreement as an Additional Insured;
- (g) Broad form property damage;
- (h) Incidental medical malpractice;
- (i) Volunteers as additional insureds;
- (j) Products and completed operations;
- (k) Tenant's Legal Liability; and
- (l) sudden and Accidental Pollution – 120 hour reporting/discovery IBC 2013

and further, ensuring that the policies written contain no exclusion for liquor consumption and related liability.

- 1.2. Each Party shall also maintain Standard Automobile Policy Owners Form (SPF1) Insurance covering all automobiles owned or leased by such Party with a limit of liability applying to Third Party Liability of not less than \$2,000,000.00.
- 1.3. The insurance coverage set out in section 13 shall be primary and non-contributing to any insurance coverage the Party carries. The foregoing policies shall contain a clause prohibiting cancellation or reduction of coverage or limits without 30 days prior written notice being provided to the Party. Each Party with primary insurance coverage or primary responsibility to repair and maintain that portion of the Premises, or, if Common Property or an area of the Premises where repair and maintenance responsibility is allocated, to the Party designated for that area on any facility to which this Agreement applies shall, in the event of any event of claim of



insurable loss, take the lead and pay the deductible related to the reporting, investigating, making, processing and settlement of each such claim.

- 1.4. The Parties to this Agreement may, at their absolute discretion review and revise the foregoing insurance provisions during the term and, upon unanimous request by the Parties, any or all Parties shall provide additional insurance or increased limits of liability for the Parties insurance if this is deemed necessary. If requested by any Party, the Parties will provide an explanation for any additional insurance requirement.
- 1.5. The YMCA will maintain the following insurance and administer insurance policies and insurance claims for the Complex and the MHCBE School throughout the term of this Agreement in a form and substance, and with an insurer satisfactory to the Owner(s), and shall provide a certificate of insurance to each Owner confirming appropriate insurance upon each policy renewal including: The YMCA will maintain "All Risk" Property Insurance for the Complex and the MHCBE School in the joint names of all the relevant Owners. The insurance coverage shall not be less than the insurance required by IBC Form IBC 4037 including earthquake and flood, or the equivalent replacement. The insurance provided shall have limits of not less than the full replacement cost of the Complex and the MHCBE School and shall name the City and the MHCBE as Loss Payees.
- 1.6. Any monies received under this Agreement should be:
  - (i) Held in a trust account that requires the signatures of the Owners for use;
  - (ii) Used for the repair or reconstruction of the Complex and MHCBE School, as applicable;
  - (iii) Used for other purposes mutually agreed upon between the Owners and approved by the AMB.
- 1.7. To ensure revenues for the operation of the Complex, "Business Interruption" insurance should be considered by the YMCA.
- 1.8. Each of the Schools and YMCA is responsible for providing property insurance for their own contents for property damage. Insurance for the contents of the Complex will form part of the Approved Budget for the Complex.

## **2. BOILER AND MACHINERY**

- 2.1. The YMCA shall maintain Boiler and Machinery Insurance on a Comprehensive Form, including piping, connected accessories which include and are not limited to refrigeration and air conditioning units, for the Complex and the MHCBE School shown in yellow of "Schedule 2 Common Area – Interiors" sketch, in the joint names of the MHCBE and the YMCA. This coverage shall not be less than the insurance provided by the "Comprehensive Boiler and Machinery", including boiler insurance on temporary boilers and pressure vessels. The policy shall be in a form acceptable to the City and the MHCBE and shall not allow subrogation claims by the insurer against any Member.

### 3. GENERAL PROVISIONS

3.1. Insurance policies required under this Agreement will:

- (a) Not include a participant's exclusionary clause;
- (b) Include a provision that the Members will be notified in writing Thirty (30) days before the policy is discontinued or materially changed.

A fund shall be established by all Owners for managing the applicable multi-Owner property insurance policies to cover all expenses that fall under the property insurance deductible amount. All property insurance costs and deductible amounts required under this Agreement on the Complex and the MHCBE School will be proportionately shared by the MHCBE and YMCA based upon the costs of construction of the Complex and MHCBE School, subject to revision as to proportion based upon any future changes to the proportionate value of Improvements added by any Owner(s) and the YMCA, currently as Operator (as of August 1, 2016 the proportion for sharing is 53% MHCBE and 47% YMCA). The YMCA's contribution to the property insurance costs and deductible amounts will form part of the Approved Budget for the Complex.

3.2. The YMCA, MHCBE and MHSD76 will comply with all warranties imposed by insurance underwriters providing the insurance under this Agreement.

3.3. The AMB may review the present insurance program on an annual basis to ensure that it continues to meet the needs of this Agreement. All changes to the insurance program must be agreed to by the AMB and may address the details set forth in the following tables as a guide:

#### Insurance Processes – Property Insurance - Responsibilities for Buildings

DESCRIPTION	INSURANCE COVERAGE AND CLAIM COORDINATION	SOURCES OF FUNDING PREMIUMS, INVESTIGATION COSTS, DEDUCTIBLES, & CLAIMS
Dr. Roy Wilson Learning Centre	MHSD76	MHSD76 100%
SRRWC Complex and Notre Dame Academy	YMCA	YMCA 47% MHCBE 53%

#### Insurance Processes – Property and Liability - Responsibilities for Grounds

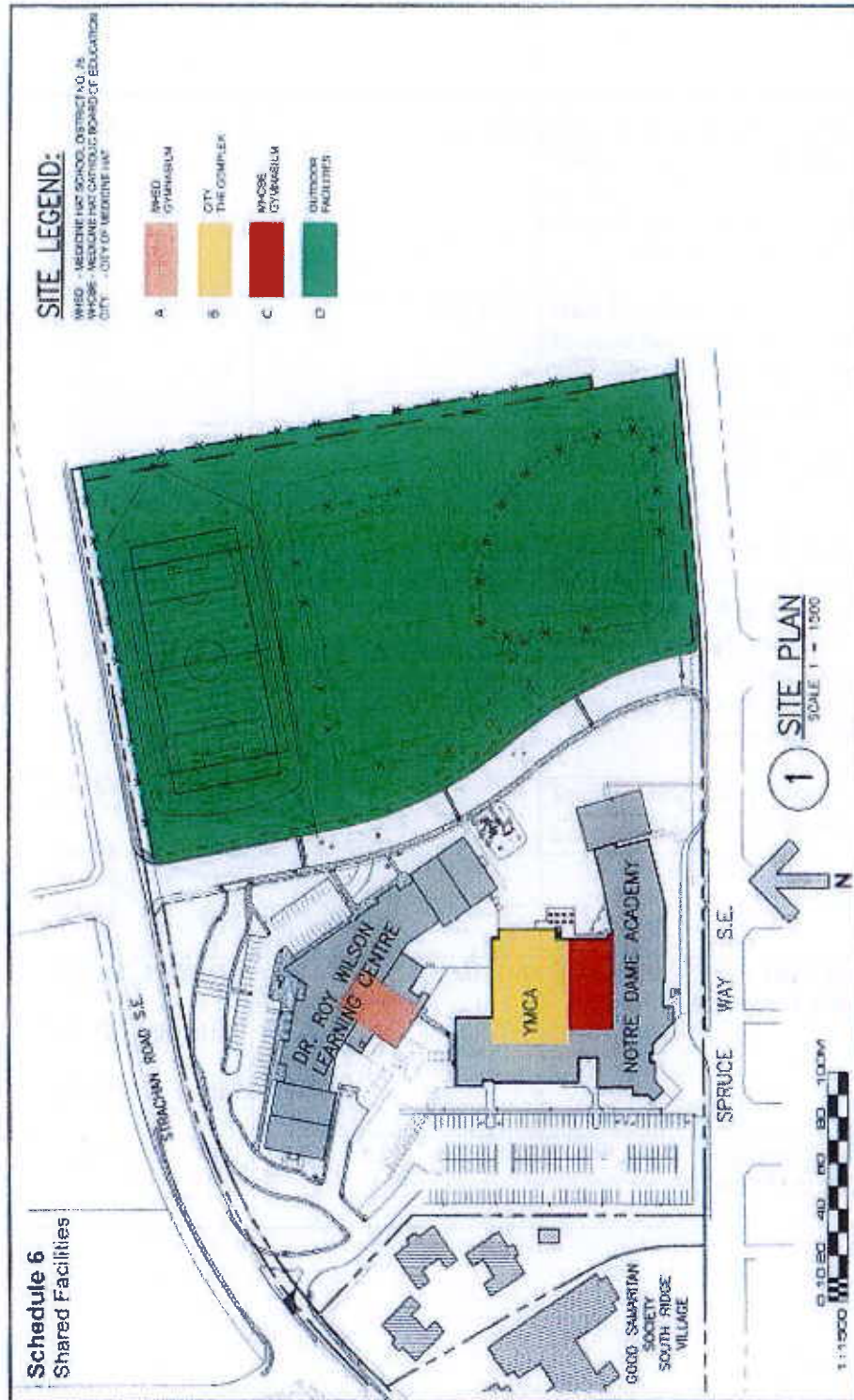
AREA	DESCRIPTION	INSURANCE COVERAGE AND CLAIM COORDINATION	SOURCES OF FUNDING PREMIUMS, INVESTIGATION COSTS, DEDUCTIBLES, & CLAIMS

A	Grounds area in the north-west corner of the Property. Includes grass areas, concrete "pork chop", and asphalt entrance road.	YMCA	MHCBE 40%  YMCA 40%  City 20%
B	Grounds area between RWLC and current SRRWC building (future expansion area of YMCA) as well as the north portion of the large asphalt parking lot west of the SRRWC.	YMCA	YMCA 100%
C	Grounds area in the south and west portions of the Property and west of the closed road which encompasses NDA. Includes grass areas, patio and play areas east of NDA used by the catholic school, and the large asphalt parking lot west of NDA.	MHCBE	MHCBE 100%
D	Grounds area in the north and west portion of the Property and west of the closed road which encompasses RWLS. Includes the north asphalt parking lot, north interior road network, and the southern play areas used by the public school.	MHSD76	MHSD76 100%
E	The three sports fields and adjacent turf areas east of the closed road.	MHSD76	MHSD76 33.3%  MHCBE 33.3%  City 33.4%
F	Closed road used for RWLS bussing and NDA play equipment.	MHSD76	MHSD76 33.3%  MHCBE 33.3%  City 33.4%
G	Boulevards outside the fence perimeters of the Property.	City	City 100%



# SCHEDULE 6

## SHARED FACILITIES





## SCHEDULE 7

### GUIDING PRINCIPLES FOR THE YMCA AS A CHARITY

For 150 years, the symbol of the YMCA has been an equilateral triangle. The sides of the triangle represent the spirit, the mind and the body. Worldwide, our stated purpose is to help people grow in spirit, mind and body. Fostering the growth of individuals in spirit, mind and body is a charitable activity.

In Canada, the promotion of health is a tax-exempt public service. An unhealthy population is a burden on society. Prevention is the ideal. At the YMCA we are striving to create a healthy population by helping all to grow in spirit, mind and body. As such:

- a) The Medicine Hat Family YMCA is a charitable association as defined by the statutes of Revenue Canada.
- b) We depend on philanthropy, membership fees and the efforts of volunteers to fulfill our mission.
- c) We believe in volunteerism and that volunteers are essential partners in the development of people and advancing the work of the YMCA in the community. Volunteers govern the YMCA.
- d) YMCA programs and services are linked to our mission and historical perspective.
- e) Our programs and services are structured to help each person build confidence and self-esteem.
- f) The value of YMCA programs and services is measured in reference to our mission statement and our end objective of Building Strong Kids, Strong Families, and Strong Communities.
- g) We are open to all members of the community.
- h) We offer programs that are healthy, safe and fun for everyone.
- i) We must remain affordable to the people we serve.
- j) As a charitable benefit to the community, we offer sponsorship to those who cannot afford our programs and services.

All contributions from operations are reinvested to further our objective of Building Strong Kids, Strong Families, and Strong Communities

# SCHEDULE 8

## YMCA AMORTIZATION SCHEDULE – RETURN OF INVESTMENT

PHASE 1 - CONSTRUCTION		RETURN AMOUNT
Initial Contribution (June 3, 2003)		\$ 1,800,000
Additional Equipment at Opening		\$ 24,654
		\$ 1,824,654
PHASE 2 - 2016 WEIGHT/CARDIO EXERCISE ROOM EXPANSION		
New Contribution		\$ 1,200,000
Amortization rate reduced	\$ 44,400	per annum
		RETURN AMOUNT
January 1, 2017	value	\$ 1,155,600
January 1, 2018	value	\$ 1,111,200
January 1, 2019	value	\$ 1,066,800
January 1, 2020	value	\$ 1,022,400
January 1, 2021	value	\$ 978,000
January 1, 2022	value	\$ 933,600
January 1, 2023	value	\$ 889,200
January 1, 2024	value	\$ 844,800
January 1, 2025	value	\$ 800,400
January 1, 2026	value	\$ 756,000
January 1, 2027	value	\$ 711,600
January 1, 2028	value	\$ 667,200
January 1, 2029	value	\$ 622,800
January 1, 2030	value	\$ 578,400
January 1, 2031	value	\$ 534,000
January 1, 2032	value	\$ 489,600
January 1, 2033	value	\$ 445,200
January 1, 2034	value	\$ 400,800
January 1, 2035	value	\$ 356,400
January 1, 2036	value	\$ 312,000
January 1, 2037	value	\$ 267,600
January 1, 2038	value	\$ 223,200
January 1, 2039	value	\$ 178,800
January 1, 2040	value	\$ 134,400
January 1, 2041	value	\$ 90,000
January 1, 2042	value	\$ 45,600
January 1, 2043	value	\$ -

- END -

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 2017

BETWEEN

**Medicine Hat Catholic Board of Education**, a Board established pursuant to the *School Act of Alberta*  
("Lessor")

-and -

**CAPE - Centre for Academic and Personal Excellence Institute**, a Society incorporated pursuant to the *Societies Act*, operating a Charter School in the City of Medicine Hat, in the Province of Alberta  
("Lessee")

#### **AMENDMENT TO THE LEASE AGREEMENT**

##### **Background:**

- A. The parties have entered into a lease agreement dated February 6, 2001 and amended on December 3, 2002, April 11, 2008, June 3, 2011, June 12, 2013 and again on 27 May, 2015 which are attached and form an integral part of this agreement;
- B. The parties wish to update and amend that Agreement to extend the lease for 1 (one) more year with the existing conditions as detailed in the agreements identified in 'A' above;
- C. Subject to the changes contained herein, the parties wish to confirm the terms of the existing lease.

##### **IN CONSIDERATION OF:**

- A. The Payments to be made by the Lessee to the Lessor; and
- B. The Promises made by the parties.

The Parties agree as follows:

##### **1. Article 1 - Grant of Lease**

- 1.1. The Term of the Lease will be for one (1) year ("Term").
- 1.2. The Term will start August 1, 2017 ("Commencement Date") and end July 31, 2018 ("Termination Date").

To confirm their agreement, the parties have signed this Amendment to Lease Agreement this the \_\_\_\_\_ day of \_\_\_\_\_ 2017.

**THE BOARD OF TRUSTEES FOR THE MEDICINE HAT CATHOLIC  
BOARD OF EDUCATION**

Per:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Secretary- Treasurer

**CAPE – CENTRE FOR ACADEMIC AND PERSONAL EXCELLENCE  
INSTITUTE**

Per:

\_\_\_\_\_  
Chair



## Greg MacPherson

---

**From:** kensauer69@gmail.com  
**Sent:** Saturday, April 01, 2017 11:33 AM  
**To:** Greg MacPherson  
**Subject:** Fwd: Track Enhancements  
**Attachments:** PROJECT PLAN-4-1.docx

**Categories:** Red Category

Greg

I would ask if you would be good to present a request for \$7,000 from the MHCBE Education Foundation to help in enhancing the existing Rotary Tack/Soccer Complex.

I refer you specifically to the Budget line where Medicine Hat and District Track and Field Society reads \$25,000. The Society operates with minimal revenue as we provide services to all schools in the three school systems. I have approached the Public School Education Foundation and they have approved \$18,000 of the \$25,000. The MHCBE Foundation would be asked for the other \$7,000. If approved by your Foundation I would remove the Society and insert the two Foundation grants of \$18,000 and \$7,000.

When the Track was developed back in 2007 the contribution was \$95,000/\$30,000. The students from the school systems have really taken advantage of the All-Weather Track and we have gowon significantly. That is the reason for the enhancements. Soccer, too, wants to add to the south of the building. We still will have to submit and application to the Community Facility Enhancement Program and hope that they approve their share (my telephone conversation with them indicate a positive leaning).

The City has come forward with a significant grant, a grant we have ben asking for for some time. This makes the Project feasible.

If you would like to meet with me and your Foundation Chair for any clarification I would be pleased to meet with you.

Thanks Greg.

Ken

--

Dr. Ken Sauer, C.M., A.O.E., C.D.  
23 Prairie Court NE  
Medicine Hat, AB T1C 1R4  
P: 403-526-6259  
F: 403-526-9349  
E: [kensauer@shaw.ca](mailto:kensauer@shaw.ca)

## **PROJECT PLAN**

### **PROJECT OBJECTIVE**

To enhance the facility footprint of the Rotary Track/Soccer facility complex because of the increased annual utilization by more than 5,000 users, and the need to provide additional space for equipment storage.

### **PROJECT RATIONALE**

Increased use of the Rotary Track/Soccer Complex has led to a sizable number of inefficiencies and ineffectiveness, namely

1. The same space needs to be occupied by Track equipment, administration, and management of a Track event
2. The addition of a wireless Timing/Photo Finish system needs to be directly across from the finish line of the Track to be more effective
3. The electric panel and connections needs to be upgraded in light of the new required sources of power for computers, the scoring system, medical supplies, etc
4. The High Jump pits require additional labour because of their size and depth, therefore, storing them closer to the High Jump area would be better
5. The Pole Vault Pit (27' x 32' x 36") is a major undertaking to have it moved so in order to reduce extra costs Society members built a Pole Vault Garage to fit over the existing equipment by erecting a Pole Vault cover for all seasons
6. Soccer requires additional space for team Change Rooms (gender specific) and Officials Change space (gender specific)
7. A storage facility erected five years ago needs to have electricity added for heat and light
8. Bleachers presently sitting on grass need a paved or concrete base to prevent grass from becoming a fire hazard if used outside of the Track events

From the original completion date of the Rotary Track/Soccer Complex utilization has increased on an annual basis:

1. Each elementary school in the city and district holds a special school track meet, then separate meets for each of Grades 4, 5, and 6
2. Each Junior High School holds a separate school meet then participants from all schools participate in a junior high meet; every second year a South Zone Junior High Meet is held
3. Each Senior High School holds a separate school meet followed by a City and District Senior High Meet; every second year, alternating with Lethbridge, a South Zone Senior High Track Meet is held

4. A Provincial High School Track Meet is held at the facility every five years
5. Special Track Meets, i.e., Kiwanis Run, Jump and Throw, or Western Canada Track Meets are hosted on a regular basis
6. Community members, that is, families, friends, or a mixture utilize the track in the evenings and weekends – because of its rubber composition the track is conducive to easy walking or running
7. Soccer holds not only league play but also large Tournaments throughout the spring, summer and fall utilizing the two soccer fields, one of which is surrounded by the eight-lane All-Weather Track
8. Physical fitness trainers utilize the track for special fitness exercises

## **GANNT PLAN FOR DEVELOPMENT**

1. 1 March 2017 CFEP Application Filed:
  - a) Community Facility Enhancement Project grant application to the Province of Alberta is submitted with requests for support
  - b) Local partnership grants are confirmed
2. June 2017 Approval is granted for CFEP funds
3. August 2017 Facility construction begins with completion in four months to take four months
4. November 2017 Work should be completed
5. December 2017 Financial Reports submitted to the province, city of Medicine Hat and other partners

## **PROJECT COST ESTIMATES**

<b>1. Facility developments</b>	<b>\$ 450,000</b>
a) Track Facility Enhancement - \$325,000	
b) Soccer Facility Addition - \$125,000	
<b>2. Paving/Concrete Bleacher Bases</b>	<b>\$ 30,000</b>
<b>3. Paving concrete extensions</b>	<b>\$ 50,000</b>
<b>3. Electrical hook up to Equipment Garage</b>	<b>\$ 50,000</b>
<b>4. Other (Building Permits, Inspections, etc)</b>	<b>\$ 15,000</b>
<b>5. Contingency</b>	<b>\$ 30,000</b>
<b>TOTAL</b>	<b>\$625,000</b>

## **PROJECTED REVENUE**

<b>1. City of Medicine Hat</b>	<b>\$325,000</b>
<b>2. Medicine Hat Soccer Association</b>	<b>\$ 35,000</b>
<b>3. Medicine Hat and District Track &amp; Field Society</b>	<b>\$ 25,000</b>

<b>4. CFEP Grant</b>	<b>\$245,000</b>
<b>Total</b>	<b>\$630,000</b>

#### **MANAGEMENT CAPABILITY**

The development of the existing Rotary Track/Soccer Complex was managed through a team of an Engineering firm, a Track consultant, and the Medicine Hat and District Track and Field Society (valued at \$1.3 million). The existing facility has rated rave reviews from all parts of the province and from all levels of competitors.

As well, the Partnership proposes a former Contractor, the City of Medicine Hat, and representatives from the Medicine Hat and District Track and Field Society to act as a Management team. The former Contractor is willing to offer his services as an unpaid Clerk of the Works.

The existing facility is located on land owned by the Medicine Hat School District #76 and is not in conflict with any environmental risks, nor is it located within 250 metres of an environmentally sensitive area. Neither does the Proposed Project involve works or activities within 30 metres of a water body, nor under, over, through or across a water body.

#### **RECOMMENDATION**

**It is recommended that a CFEP Grant be approved in conjunction with the other partners to make this enhanced facility a place where youth and adults can maintain a healthy lifestyle.**





Medicine Hat  
The Gas City

Land and Business Support  
580 First Street SE  
Medicine Hat, Alberta T1A 8E6

[www.medicinehat.ca](http://www.medicinehat.ca)

2017.04.03

**Medicine Hat Catholic Board of Education**

1251 1 Avenue SW

Medicine Hat AB T1A 8B4

**ATTN: Greg MacPherson**

[greg.macpherson@mhcbe.ab.ca](mailto:greg.macpherson@mhcbe.ab.ca)

**SUBJECT: BrierRun Subdivision – School Requirements**

The Land and Business Support department (LABS) of the City of Medicine Hat is in the process of planning the development of its BrierRun subdivision. BrierRun is a 120 hectare development in north Medicine Hat.

In accordance with the Municipal Government Act and municipal requirements, LABS (as the land developer) is reaching out to the local school boards to determine the potential need for a school site in BrierRun. As an initial step in the consultation process, this letter is to introduce LABS and BrierRun to your Board.

BrierRun represents Medicine Hat's last large greenfield land holding in the north central area. It is located immediately north of the Northwest Crescent Heights area. BrierRun encompasses the lands that contain the Family Leisure Centre and related sports fields including the Methanex Bowl.

BrierRun will be marketed as a complete community offering an active lifestyle. Nearby amenities include schools, houses of worship, the Family Leisure Centre, the Brier Park employment area and the retail area anchored by CO-OP and Shoppers' Drug Mart. This setting will allow new residents to have access close to home for employment, leisure, recreation, retail and spiritual fulfilment.

Due to industrial setbacks and other restrictions, the residential development area of BrierRun is limited in size. The residential area could range from 15 - 25 hectares. This could represent up to 400 new housing units (up to 1000 people), depending housing style. Of the remaining lands, approximately 60 hectares will be devoted to recreational purposes. The remaining 25 - 35 hectares will be for commercial and light industrial purposes.

LABS, and our consultant IBI Group, is interested in discussing any potential needs that your Board has for BrierRun. To help frame the discussion, I have enclosed some sketches related to this.

One sketch indicates the location of all schools and highlights the location of currently undeveloped school sites. This sketch also indicates the anticipated time frames for the various residential developments near those sites.

The other sketch is a concept map for BrierRun that indicates an area within which a school could be constructed. The industrial and recreational set back requirements restrict the location for any potential school site.

I would appreciate it if you could review these documents and your Board's requirements for a school site in BrierRun. As a follow up to this request, please advise whether you will require additional consultation with LABS to discuss your needs.

To help in your deliberations, what other information would you require at this time? My contact details are indicated below and I look forward to having the conversation with you.



John Bulmer, P. Eng.  
Urban Development Engineer  
P: 403.529.8151  
E: johbul@medicinehat.ca

# Anticipated Development Time Frames

## Existing

Hamptons  
Saamis Heights  
Southlands

0 - 5 years  
BrierRun

5 - 10 years  
Cimarron  
RiverWalk

> 10 years  
Burnside

**PUBLIC SCHOOLS**  
Medicine Hat School District 76

**CATHOLIC SCHOOLS**  
Medicine Hat Catholic Board of Education

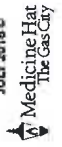
**ÉCOLE LES CYPRÈS**

**OTHER SCHOOLS**

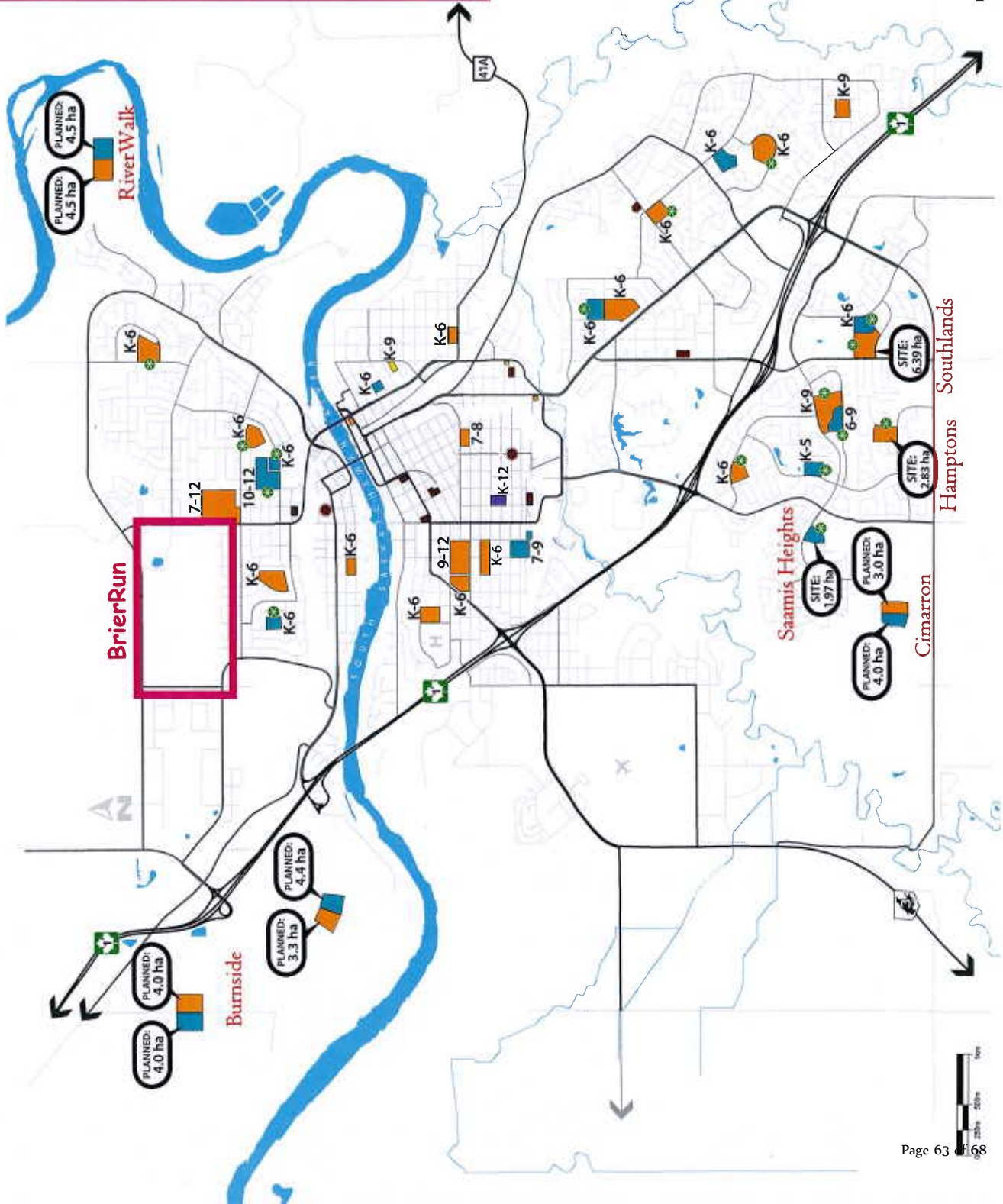
**CLOSED SCHOOLS**

**MUNICIPAL RESERVE SITE**

JULY 2016 ©



Pre-schools & post-secondary schools not shown.









## Greg MacPherson

---

**From:** Maureen Mudry <MAUMUD@medicinehat.ca>  
**Sent:** Monday, June 19, 2017 3:24 PM  
**To:** Greg MacPherson  
**Cc:** Todd Sharpe  
**Subject:** RE: Tennis court upgrades at Monsignor McCoy grounds - letter of confirmation  
**Attachments:** Roller derby CFEP app McCoy Tennis Courts land ownership.doc

Greg,

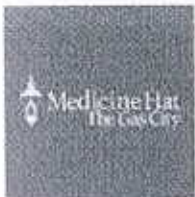
As previously discussed, the Gas City Roller Derby Association has approached us about some upgrades to the tennis court located on Monsignor McCoy High School lands in order to accommodate roller derby. The upgrades include an asphalt overlay and the placement of a sport coat that is conducive to roller derby and tennis. It is recognized that the City and the MHCBE don't have a formal agreement regarding the ownership and maintenance of the tennis courts that are located on school lands, however there has been a long term commitment that the courts are owned by the City and are our responsibility to maintain.

The association has applied for a Community Facility Enhancement Program grant as their share of the project. In reviewing their application, CFEP has requested a letter from the facility titleholder (MHCBE) indicating that the courts will remain open for public use.

I apologize for the short notice for this request, and in the hopes of simplifying the process have attached a draft letter that we utilize for confirming land ownership and responsibilities. CFEP has requested the letter be supplied to them by June 21, 2017, however we realize that simply isn't possible but would appreciate your earliest response.

Please review and let me know a timeframe for signing the letter. If you have any questions, please let me know. I can be reached by phone at the numbers noted below.

Regards,



Maureen (Mo) Mudry, B.Mgt.  
Manager Parks Planning and Development  
Parks and Recreation Department, City of Medicine Hat

tel: 403.529.8334 | cell: 403.952.6393 | [maumud@medicinehat.ca](mailto:maumud@medicinehat.ca)

[www.medicinehat.ca](http://www.medicinehat.ca) | [@medicinehatcity](https://twitter.com/medicinehatcity) | [CityofMedicineHat](https://www.facebook.com/CityofMedicineHat)

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Medicine Hat Catholic Board of Education  
1251 1 Ave SW  
Medicine Hat, AB  
T1A 8B4

June 19, 2017

Gas City Roller Derby Association  
c/o Joel McNally, Treasurer  
373 Aberdeen St SE  
Medicine Hat, AB  
T1A 0R3

Dear Mr McNally:

**RE: Letter of Confirmation – 8 St NE Tennis Court Facility Upgrades**

This letter confirms that the tennis court at the 8 St NE Tennis Court Facility are owned by the City of Medicine Hat and are located on land owned by the Medicine Hat Catholic Board of Education (MHCBE). Upon completion of this project, the City of Medicine Hat will continue to maintain ownership of the courts and will be responsible for the operation and maintenance of the facility.

The MHCBE and the City have worked in co-operation since the original development of the courts, and support the redevelopment of the courts to accommodate roller derby activities. In addition, both the City and MHCBE are committed to ensuring that these courts remain open to the public.

Yours truly,



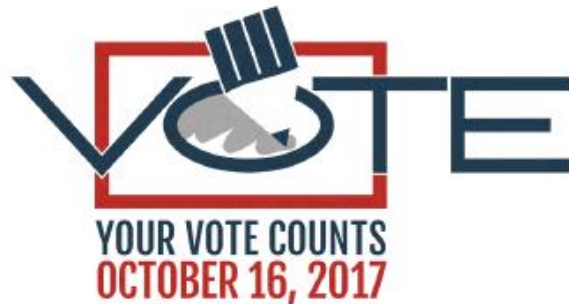
Greg MacPherson, Secretary/Treasurer,  
Medicine Hat Catholic Board of Education



## Interested in Becoming a Trustee?

**Pick up your Nomination Package at the  
Catholic School Board Office today.**

**1251 -1<sup>st</sup> Avenue SW., Medicine Hat**



### Nomination Package for Candidates: 2017 Medicine Hat Municipal & School Board Elections

---

- Mayor/Chief Elected Official (1 position)
- Councillor (8 positions)
- Public School Board Trustee (5 positions)
- Separate (Catholic) School Board Trustee (5 positions)

All terms are 4 years: October 2017- October 2021

**School Board Elections General Info** - As part of the municipal general elections, Albertans vote for their school board trustees. A general election takes place once every four years. The School Board Elections Information Package has important information about general election procedures, forms and regulations for school authorities.

<http://www.mhcbe.ab.ca/view.php?action=object&id=11541&stream=Latest%20News>

Are you passionate about Catholic education? Do you have ideas for positive change in education? Do you want to be a leader in your faith community? ... Put your name forward on Monday, September 18th, 2017.

**Nomination Day: September 18, 2017**  
**General Election: October 16, 2017**



## Nomination Package for Candidates: 2017 Medicine Hat Municipal & School Board Elections

---

- Mayor/Chief Elected Official (1 position)
- Councillor (8 positions)
- Public School Board Trustee (5 positions)
- Separate (Catholic) School Board Trustee (5 positions)

All terms are 4 years: October 2017- October 2021

**Nomination Package available at the  
Catholic School Board Office  
1251 -1<sup>st</sup> Avenue SW., Medicine Hat  
403.527.2292**