



## CCA Joint Operating Agreement with Legal Considerations

*Excerpted from Minutes 2017-04-10*

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### Report Recommendation:

MOVED by Commissioner Coupar

SECONDED by Commissioner Crawford

### Amendment to Clause A:

MOVED by Commissioner Kirby-Yung

SECONDED by Commissioner Mackinnon

### *Final Motion as Amended:*

- A. THAT the Vancouver Park Board approve the form of Joint Operating Agreement (attached as Appendix B) with the following modifications to be enacted to reflect the intent of each of the following revisions;
1. Modify Clause 8 Association Membership in support of an Opt Out or an Opt In model, at the Association's discretion, with such membership to be free of charge.
  2. Modify Clause 3 Term of Agreement to include: a) (3.1) - an initial term of (10 years) b) (3.2) - a renewal term of (5) years as well as various references to the "7 year term" to become "10 year term";
  3. Modify Clause 14.1 (c) paragraph one to insert "& purposes" as follows: *All Facility-Generated Revenue or other revenue generated through the use of the Jointly Operated Facilities, Common Spaces or with the assistance of the Park Board or Park Board Personnel that is received by the Association will be used by the Association to directly benefit the public through the provision of Programming and services at or from the Jointly Operated Facilities, the acquisition of equipment, minor capital and supplies used for the provision of such Programming and services, or for the payment of expenses incurred in respect of the Association's operations and purposes pursuant to this Agreement, unless otherwise agreed to by the Park Board;*
  4. Modify the definition and Clause 14.3 (c) Surplus Revenue to amend terminology to Retained Earnings

Prior to the end of the first year of the Term, the Association will develop a plan to spend and/or to keep as operating contingency at the Association's discretion, its Retained Earnings and will update that plan on an annual basis to reflect amounts actually spent in the past year, use of funds, the current balance of Retained Earnings and any revised plans for future spending of the Retained Earnings. The Association will make its plan publically available and will post its plan and all updates on the Association's website.



The Association will use its best efforts to execute on its plan and shall make expenditures of Retained Earnings in accordance with the plan, as it is updated from time to time. Subject to the foregoing, the Association agrees that Retained Earnings may only be spent on physical improvements to or capital projects within the Community Centre Network or for the direct provision of Programming or services to the public at or from the Jointly Operated Facilities

The Association acknowledges and agrees that the buildings and Fixtures comprising the Entire Facility are and will continue to be owned by the City and Park Board, notwithstanding any contribution of funds (including Retained Earnings and grant revenue) by the Association;

5. Modify 14.5 (a) Operations Fee table to reflect 2% each year for Years 3-10;
6. Amend the definition of Operations Fee in Section 1 (dd) to state: "Operations Fee" means a fee paid by the CCAs to the Park Board to be used to increase equity and achieve Public Policy goals across the Community Centre Network; and

B. FURTHER THAT the Vancouver Park Board authorize the General Manager of the Park Board to offer to each Community Centre Association (CCA) currently operating a community centre jointly with the Park Board to enter into a new Joint Operating Agreement, based on the form approved by the Park Board and completed for each respective CCA as indicated in the form of agreement, subject to the General Manager of the Park Board first being satisfied that;

1. The CCA is in compliance with its financial disclosure obligations under the current Joint Operating Agreement;
2. The CCA is not in arrears of any payments due from the CCA to the Park Board; and
3. Any outstanding litigation between a CCA and the Park Board has been brought to an end through:
  - a. At the option of the Park Board, a Consent Dismissal Order being entered with the Court dismissing the outstanding litigation or a Notice of Discontinuance being filed with the Court discontinuing the action against the Park Board; and
  - b. A Mutual Release being executed by the Park Board and the CCA releasing all claims.

CARRIED  
(Commissioner Shum abstained from the vote)