

THIRD AMENDMENT TO OPERATING AGREEMENT

This Third Amendment to Operating Agreement is made as of the ____ day of March, 2014 by and between **City of North Royalton**, an Ohio municipal corporation and political subdivision, which with its successors and assigns is herein called "City", and **YMCA of Greater Cleveland**, an Ohio non-profit corporation, which with its successors and assigns is herein called "YMCA" and with City and YMCA collectively herein called the "Parties". All terms used herein and not otherwise defined shall have the meaning set forth in the Operating Agreement, as hereinafter defined, as applicable.

WHEREAS, the Parties entered into the Operating Agreement, dated as of June 3, 2010, with respect to the construction and operation of the 40,000 - 60,000 square foot recreational center (the "Center"), as amended by the First Amendment to Operating Agreement dated _____, 2011, and as further amended by the Supplemental Operating Agreement dated as of November 3, 2013 (the "Operating Agreement"); and

WHEREAS, the Parties have determined that it is necessary to further amend the Operating Agreement with respect to certain provisions regarding payment of the YMCA Bonds;

NOW, THEREFORE, the Parties do hereby agree as follows:

Section 1. Addition of Section 4(C) to the Operating Agreement. Section 4 of the Operating Agreement, as amended, is hereby further amended to add subsection (C) thereto, which shall read in its entirety as follows:

(C) *Notwithstanding anything to the contrary contained in this Section 4, the City and the YMCA shall each pay fifty percent (50%) of the PCH Interest (as such term is defined in Section 19(C) hereof) for the period from and including June 1, 2014 through and including the principal payment date for the YMCA Bonds in 2022.*

Section 2. Addition of Sections 19(C), 19(D) and 19(E) to the Operating Agreement. Section 19 of the Operating Agreement is hereby amended to add subsections (C), (D) and (E) thereto, which shall read in their entirety as follows:

(C) *The rents received by the City from PCH from the lease described in Section 19(B) hereof (the "PCH Lease") hereof shall be applied as follows:*

(i) *PCH shall pay to the City One Hundred Fifty Eight Thousand One Hundred Sixteen Dollars (\$158,116), representing PCH's proportionate share of the cost of construction and improvement of the Center calculated based on the portion of the Center leased to PCH (the "PCH Portion") over the period from commencement of the PCH Lease to and including May 31, 2014. Such payment shall be used to reduce the principal amount of YMCA Bonds to be issued by the City to refund bond anticipation notes issued by the City to pay the cost of the Center.*

(ii) *PCH shall pay to the City as rent for the period from June 1, 2014 to the last day of the initial term of the PCH Lease an amount equal to Six Hundred Thirty-Two Thousand Four Hundred Sixty-Six Dollars (\$632,466), which amount shall be paid in an annual amount of Seventy-Nine Thousand Fifty-Eight and 25/100 Dollars (\$79,058.25), payable in monthly installments. Such funds shall be used to pay principal of the YMCA Bonds for the period from the principal payment date for the YMCA Bonds in 2015 to and including the principal payment date for the YMCA Bonds in 2022.*

(iii) *The rents paid by PCH to the City during any renewal terms provided for in the PCH Lease shall first be applied equally to reimburse the YMCA and the City for the interest payable on the YMCA Bonds attributable to the PCH Portion (the "PCH Interest"), which PCH Interest was advanced by the YMCA and the City as provided in Section 4(C) above. The balance of the rents derived from the renewal terms of the PCH Lease shall be used by the City to pay debt service on the portion of the YMCA Bonds payable by the YMCA pursuant to Section 4(B) hereof until the earlier of (x) the date the YMCA Bonds are paid in full or deemed paid in full or (y) the date the YMCA no longer operates the Center in the event of termination of this Agreement under Section 16(B) hereof, at which time, the remaining rentals may be used by the City for any lawful purposes.*

(iv) *In the event that PCH does not renew a term of the PCH Lease and/or the YMCA and the City have not been fully reimbursed for the interest advanced, then any rents received from the subsequent lease of the PCH portion of the Center to another party ("Subsequent Rentals") shall be applied evenly to reimburse the YMCA and the City for those advances. The balance of the rents derived from the Subsequent Rentals shall be used by the City to pay debt service on the portion of the YMCA Bonds payable by the YMCA pursuant to Section 4(B) hereof until the earlier of (x) the date the YMCA Bonds are paid in full or deemed paid in full or (y) the date the YMCA no longer operates the Center in the event of termination of this Agreement under Section 16(B) hereof, at which time, the remaining rentals may be used by the City for any lawful purposes.*

(D) *The rental amounts for any renewal terms provided for in the PCH Lease or Subsequent Rentals shall be determined by the City and the tenant, with the approval of the YMCA, which approval shall not be unreasonably withheld.*

(E) *The YMCA shall not be responsible for payment of the amounts due from PCH pursuant to Sections 19(C)(i) or 19(C)(ii).*

Section 3. Full Force and Effect. In all other respects, of the Operating Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the City and the YMCA have executed this [Third] Amendment to Operating Agreement as of the day and date first above written.

City of North Royalton

YMCA of Greater Cleveland

By: _____
Robert Stefanik, Mayor
"City"

By: _____
Glenn Haley, President
"YMCA"

Approved as to form:

Thomas A. Kelly, Director of Law

By: _____

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned fiscal officer of the City hereby certifies that the moneys required to meet the obligations of the City during the year 2014 under this [Third] Amendment to Operating Agreement have been lawfully appropriated by the Council of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Eric Dean, Director of Finance