



RESOLUTION

AUTHORIZING ADDITIONAL ACTIONS RELATED TO A LAND EXCHANGE AND PROPOSED LEASE AGREEMENT WITH THE YMCA FOR PORTIONS OF PARCELS ON RIVERSIDE STREET (LOT E-1358 AND LOT E-1359)

CITY OF NASHUA

In the Year Two Thousand and Ten

WHEREAS, R-08-149, which was passed by the Board of Aldermen on January 27, 2009, authorized the exchange of a portion of a parcel on Riverside Street (Lot E-1359), approximately 1.25 acres, for a portion of a parcel at 583 West Hollis Street (Lot E-1358), approximately .58 acres, owned by Belmar/PAG Limited Partnership, otherwise known as the Pratt Homes site, and authorized the Mayor to negotiate a lease agreement with the YMCA; and

WHEREAS, the parties have been taking actions consistent with said resolution;

NOW THEREFORE, BE IT RESOLVED by the Board of Aldermen of the City of Nashua that:

1. As the land exchange between the City and Belmar/PAG Limited Partnership has been modified, the Mayor and the Office of the Corporation Counsel are now authorized to take all actions necessary to exchange a portion of Lot E-1359 (approximately 32,998 square feet) and an access easement (approximately 22,261 square feet), located on Riverside Street, owned by the City of Nashua, with a portion of Lot E-1358 (approximately 26,999 square feet), located at 583 West Hollis Street, owned by Belmar/PAG Limited Partnership, generally known as the "Pratt Homes" site. These land transfers are to be substantially as shown on the attached plan. As a result of such exchange and related planning board approval, Lot E-2224 will be created (containing approximately 120,823 square feet) substantially as shown on the attached plan.

2. The Mayor is authorized to enter into an option agreement regarding Lot E-2224 on Riverside Street with the Young Men's Christian Association of Greater Nashua (the "YMCA"), such option agreement to be substantially in the form of the Option Agreement attached. The Option Agreement sets forth certain rights and obligations for both the City and the YMCA and gives the YMCA the right to enter into a lease agreement, substantially in the form of the Lease attached as Exhibit D to the Option Agreement, within the next two years.

RESOLUTION

3. The Mayor is authorized to enter into agreements between the City, the YMCA, and the Village in Nashua Condominium Association related to improvements on Riverside Drive and special events parking. Such agreements shall be substantially in the form of the Agreements attached, subject to ongoing negotiations with The Village in Nashua Condominium Association.

Funding for the City's obligations under the Option Agreement in the anticipated amount of \$175,000 shall come from Account #653-23 "Capital Improvements – Street Department – Street Paving Program FY10".

LEGISLATIVE YEAR 2010

RESOLUTION: R-10-19

PURPOSE: Authorizing additional actions related to a land exchange and proposed lease agreement with the YMCA for portions of parcels on Riverside Street (Lot E-1358 and Lot E-1359)

ENDORSER(S): Mayor Donnalee Lozeau
Alderman-at-Large Brian S. McCarthy
Alderman Michael Tabacsko

**COMMITTEE
ASSIGNMENT:**

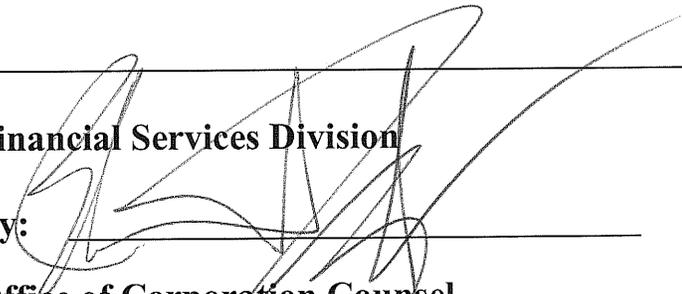
FISCAL NOTE: Fiscal impact of this legislation includes a revenue stream as outlined in the contract as well as capital investment costs of approximately \$175,000 for site improvement.

ANALYSIS

This resolution authorizes the exchange of portions of abutting parcels off of Riverside / West Hollis Street as described; authorizes the Mayor to enter into an Option Agreement with the YMCA; and authorizes the Mayor to enter into agreements between the City, the YMCA, and the Village in Nashua Condominium Association related to improvements on Riverside Drive and special events parking. The Option Agreement contains a Lease Agreement between the City and the YMCA for Lot 2224 on Riverside Street. The YMCA would have the option of entering into that Lease Agreement for a two year period commencing with the date of the Option Agreement.

**Approved as to account
structure, numbers,
and amount:**

Financial Services Division

By: 

Approved as to form:

Office of Corporation Counsel

By: Dowling Clarke

Date: April 8, 2010

**OPTION AGREEMENT
(Lot 2224 Riverside Street)**

THIS OPTION AGREEMENT (the "Agreement") is made this _____ day of _____, 2010, by and between the City of Nashua, a New Hampshire municipal corporation, with its principal office at 229 Main Street, Nashua, New Hampshire 03060 (the "City") and Young Men's Christian Association of Greater Nashua, a New Hampshire voluntary corporation, with its principal office at 6 Henry Clay Drive, Merrimack, New Hampshire 03054 (the "YMCA").

Recitals

WHEREAS, the City is the owner of certain land located on the northwesterly side of Riverside Street in Nashua, Hillsborough County, New Hampshire, known as Map E, Lot 1359 on the City of Nashua Assessor's Maps ("Lot 1359"); and

WHEREAS, Lot 1359 houses Stellos Stadium, a City DPW facility (the "DPW Complex") and Conway Ice Arena (pursuant to a ground lease with Nashua Ice Center), as well as drive aisles, parking spaces and other improvements (collectively, the "Stellos Stadium Complex"); and

WHEREAS, the City is in the process of effecting an exchange of land with Belmar/PAG Limited Partnership ("Belmar") which owns land situated on the northwesterly side of West Hollis Street, said Nashua, known as Map E, Lot 1358 on the City of Nashua Assessor's Maps ("Lot 1358"); and

WHEREAS, the YMCA is assisting in the facilitation of such exchange of land between the City and Belmar; and

WHEREAS, if such exchange of land is effected, Belmar will acquire title to a parcel of land shown as Area of Transfer 'A' ("Area of Transfer 'A'") on a plan entitled "Subdivision/Consolidation Plan (Lots 1358 & 1359, Map 'E') Riverside and West Hollis Streets Nashua, New Hampshire" prepared for the YMCA of Greater Nashua by Hayner/Swanson, Inc. dated 14 July 2009 (the "Lot Line Adjustment Plan") and the City will acquire title to land shown as Area of Transfer 'B' ("Area of Transfer 'B'") on the Lot Line Adjustment Plan; and

WHEREAS, the Lot Line Adjustment Plan was approved by the Nashua City Planning Board (the "Planning Board") on November 19, 2009; and

WHEREAS, the Lot Line Adjustment Plan also creates a new parcel of land comprised of a portion of Lot 1359 and the land shown as Area of Transfer 'B' on the Lot Line Adjustment Plan, depicted thereon as Lot 2224 (to contain 2.774 acres) ("Lot 2224"); and

WHEREAS, the YMCA desires to acquire an option to lease Lot 2224 from the City; and

WHEREAS, the parties recognize that before the YMCA would consider exercising the option to lease Lot 2224, a number of events need to occur to render the YMCA's leasing of Lot 2224 viable; and

WHEREAS, the parties have agreed to certain undertakings to cause, or attempt to cause such events to occur; and

WHEREAS, the parties desire to establish in writing the terms and conditions of such option arrangement and set forth, in substance, the terms and conditions of the lease agreement which may be entered into if the YMCA exercises its option.

Agreement

NOW, THEREFORE, in and for the mutual covenants set forth herein, and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Exclusive Option. The City hereby grants to the YMCA the exclusive right and option to lease Lot 2224 on the terms and conditions set forth in this Agreement (the "Option").

2. Consideration for Option. Simultaneously with the execution of this Agreement, the YMCA shall pay the City the sum of One Thousand and 00/100 Dollars (\$1,000.00) (the "Option Payment") which, together with the promises of the YMCA under this Agreement, constitute consideration given to the City for the Option. The Option Payment shall be non-refundable under all circumstances. In the event the YMCA exercises the Option and the Lease (defined in Section 12(A) below) is executed, the Option Payment shall be a credit against the first installment of payment of rent under the Lease.

3. Duration of Option. The term of the Option shall be for two (2) years, commencing with the date of this Agreement (set forth in the initial paragraph above) (the "Term").

4. Due Diligence.

A. During the Term, the YMCA shall have the right to investigate the suitability of Lot 2224 (and other portions of Lot 1359) for the YMCA's intended use.

B. During the Term, the YMCA may apply for any and all licenses, permits and approvals, from governmental agencies or private parties having jurisdiction thereof, as may be required for the YMCA's intended use of Lot 2224 and related uses of the portions of Lot 1359, as the YMCA determines are necessary or desirable. In connection therewith, the City shall execute such applications for licenses, permits and approvals as the owner of Lot 2224 and Lot 1359; provided, that all costs and expenses related thereto shall be borne solely by the YMCA.

C. During the Term, the YMCA may undertake an examination of title of and survey of Lot 2224 and Lot 1359. In addition, during the Term, the YMCA may undertake an environmental inspection, investigation or analysis of Lot 2224 and Lot 1359, which inspection, investigation and analysis may include subsurface testing and the testing of materials for the absence or presence of hazardous waste or hazardous materials. Upon completion of such activities, the YMCA shall restore any disturbed portions of Lot 2224 and Lot 1359 substantially to their prior conditions.

D. The City hereby grants the YMCA, its employees, agents, contractors, engineers, surveyors and other parties retained by it, access to Lot 2224 and Lot 1359 (except for the interior of structures) to undertake its due diligence activities as contemplated in this Section 4, including undertaking any tests, inspections, environmental studies, surveys, soils and wetland studies and subsurface investigations (including taking soil samples, performing and installing test pits, undertaking test borings, installing test wells and other surface and subsurface work) and other engineering work and related activities. The YMCA recognizes that prior to its acquisition of Area of Transfer 'B', permission to access Area of Transfer 'B' for any due diligence activities cannot be granted by the City to the YMCA but must be obtained by the YMCA from Belmar.

E. The YMCA hereby holds harmless the City of and from any loss or injury to persons or property which may result during the YMCA's due diligence activities at Lot 2224 and/or Lot 1359; provided, that the provisions of this sentence do not apply to any pre-existing environmental conditions of Lot 2224 and/or Lot 1359.

5. Belmar.

A. The YMCA is in the process of facilitating an exchange of land between the City and Belmar, whereby the City will acquire Area of Transfer 'B' from Belmar and Belmar will acquire Area of Transfer 'A' from the City. The City will cooperate with the YMCA, Belmar and any other parties of interest in Area of Transfer 'A' or Area of Transfer 'B' to effect such exchange of land.

B. The deed from the City to Belmar of Area of Transfer 'A' shall be substantially in the form and substance of **Exhibit A** attached. The deed from Belmar to the City of Area of Transfer 'B' shall be substantially in the form and substance of **Exhibit B** attached. The City recognizes that it is granting an easement in favor of Belmar in connection with the deed as set forth in **Exhibit A** attached. In the event that Belmar requires modifications to the form and substance of the deed(s), the City shall cooperate with Belmar and the YMCA to effect such modifications.

C. The City shall not bear any costs or expenses in processing the approval of the Lot Line Adjustment Plan or effecting the exchange of land between the City and Belmar.

D. The City shall, as owner of Lot 1359, cooperate with the YMCA in implementing any conditions of approval of the Lot Line Adjustment Plan, including executing

and delivering any so-called stormwater management documents or other documents contemplated by such approval.

6. Use of Lot 2224. Assuming it exercises the Option and enters into the Lease, the YMCA intends to construct and use a new indoor recreational facility in the nature of a typical “YMCA” facility (the “Facility”). The City confirms that the proposed use(s) of the Facility are permitted use(s) or constitute permitted use(s) under the City of Nashua Land Use Code (the “Land Use Code”). The Facility may include a swimming pool, exercise and weight training room(s), a basketball court (half or full), multi-purpose room(s), other recreation and athletic rooms and facilities, meeting room(s) and offices, among other improvements. The YMCA may also conduct after-school programs and summer camps for children at the Facility.

7. Variances, Site Plan Approval and other Approvals.

A. On November 10, 2009, the YMCA obtained from the Nashua Zoning Board of Adjustment (the “ZBA”) variances pertaining to Lot 2224, for lot width, setback requirements and setback or buffer requirements between non-residential property and residential property.

B. On November 19, 2009, the YMCA obtained from the Planning Board non-residential site plan approval for the Facility and related improvements, including improvements on and/or modifications to other portions of Lot 1359 which will not constitute a portion of Lot 2224. The plans submitted for non-residential site plan approval from the Planning Board, as approved thereby, are referred to herein as the “Site Plans.”

C. During the pendency of this Agreement, the YMCA may also apply to any federal, state and local governmental board, commission or agency for approvals relating to alteration of Lot 2224, improvements to Lot 2224 and/or the development and use of the Facility and related improvements, including improvements on and/or modifications to other portions of Lot 1359.

D. The City shall, as property owner, sign such applications for approvals and sign related documentation thereto. All costs and expenses pertaining to the pursuit of such approvals shall be borne by the YMCA.

E. Notwithstanding the fact that the City may sign applications for approvals and related documentation, the YMCA recognizes that such signatures do not constitute approvals nor any guaranty of approvals, since such approvals may or may not be issued by independent and/or quasi-judicial land use boards and authorities. The fact that a particular approval is not issued does not constitute an event of default by the City under this Agreement.

8. Improvements to and Adjacent to Riverside Street.

A. The parties anticipate that if the YMCA exercises the Option and obtains all necessary governmental approvals to construct the Facility that improvements will be required to be made to Riverside Street and adjacent to Riverside Street. The improvements

primarily involve the widening of pavement on Riverside Street from the intersection of West Hollis Street and Riverside Street for approximately 900 lineal feet (within the existing right-of-way of Riverside Street), together with relocation of entrance(s) and exit(s) servicing property at 505 West Hollis Street (Map E, Lot 1387) (“Lot 1387”) and the installation of slopes, embankments and drainage improvements adjacent to Riverside Street in the right-of-way of Riverside Street, together with the relocation of entrance(s) and exit(s) and drive aisles on Lot 1387, the removal of pavement on Lot 1387 and the alteration of grading and topography on Lot 1387 with associated landscaping (collectively, the “Riverside Work”).

B. Such widening of the pavement width of Riverside Street will occur in the existing right-of-way of Riverside Street, while certain other improvements, including the relocation of entrance(s) and exit(s), the removal of pavement, regrading and landscaping work will occur, in part, on Lot 1387. For certain elements of the Riverside Work to occur, The Village in Nashua Condominium Association (representing the owners of condominium units at Lot 1387) needs to agree to the same, including granting a temporary construction easement over Lot 1387 to undertake and complete that portion of the Riverside Work which will occur on Lot 1387. The City and the YMCA will work cooperatively with The Village in Nashua Condominium Association to establish an agreement pertaining to the Riverside Work and the aforementioned temporary construction easement over Lot 1387.

C. The YMCA has retained Hayner/Swanson, Inc. of Nashua, New Hampshire, to design and prepare plans for the Riverside Work. The YMCA and the City shall bear equally all costs and expenses charged by Hayner/Swanson, Inc. in connection with such design and plans for the Riverside Work. If, for example, Hayner/Swanson, Inc. bills the YMCA for such work, then the City will reimburse the YMCA for one-half (½) of each such billing within fifteen (15) days of presentment by the YMCA to the City of the invoice therefor. Notwithstanding the foregoing, in the event that for internal approval and/or administrative reasons the City is unable to then currently reimburse the YMCA for one-half (½) of each such billing, then the amount owing from the City to the YMCA therefor shall constitute a credit in favor of the YMCA of its share of the Riverside Work itself, such share of the YMCA being set forth in Section 8(D) below.

D. The YMCA shall bear twenty-five percent (25%) of the cost of the Riverside Work itself and the City shall bear seventy-five percent (75%) of the total of the Riverside Work itself; provided, that the City may seek reimbursement for its share of such costs from entities other than the YMCA.

E. Provided the YMCA exercises the Option, the Lease is executed and The Village in Nashua Condominium Association grants written approval for the Riverside Work, then the YMCA shall hire a third party contractor, previously determined on a competitive bid basis, to undertake the Riverside Work and complete the same no later than August 30, 2010 (or August 30, 2011 if construction of the Facility has not commenced prior to August 30, 2010). Once commenced, the Riverside Work shall be completed within ninety (90) days of commencement.

9. Special Events Parking.

A. The City and the YMCA shall negotiate with The Village in Nashua Condominium Association to establish an agreement pursuant to which The Village in Nashua Condominium Association grants an easement or license to the City to permit parking at its parking lots at Lot 1387 for a certain limited number of special events occurring at the Stellos Stadium Complex. Such special events shall include the annual Thanksgiving Day football game at Stellos Stadium and may include other events designated as special events by the City. At least annually, the City and the YMCA shall confer to enable the YMCA to anticipate the upcoming special events for the following calendar year. The parking permitted at Lot 1387 in connection with such special events, shall include parking for the employees, guests and patrons of the YMCA during the times of such special events. The City and the YMCA recognize that such agreement with The Village in Nashua Condominium Association will exclude from any easement or license to permit parking, the parking spaces along the aisle adjacent to and on the westerly side of the building at 505 West Hollis Street. The parties anticipate that any such agreement will establish protocols for notifying the parties, in advance, of the dates of upcoming special events. It is also anticipated that such agreement will require that after special events, the YMCA shall clean the parking areas at Lot 1387 by removing trash, debris and litter.

B. If executed, such agreement with 505 West Hollis Street Condominium Association shall be a three-party agreement among the City, YMCA and The Village in Nashua Condominium Association.

C. In the event that such agreement with The Village in Nashua Condominium Association is not finalized, such failure shall not constitute an event of default by the City under this Agreement.

10. Access and Utility Easements.

A. Simultaneously with executing the Lease, the City shall grant to the YMCA an easement over the driveways and travel areas on Lot 1359, for ingress and egress, by persons and vehicles to Lot 2224 and the Facility. Such easement shall be in common with the City and others entitled to use such driveways and travel areas. The duration of such easement shall be coterminous with the Lease Term and any Renewal Terms (defined in Section 12(B) below).

B. Simultaneously with the execution of the Lease, the City shall grant to the YMCA easements for the provision of utility services through Lot 1359, including, without limitation, electric power, telephone and telecommunications, water, sanitary sewer, natural gas and storm drainage. The location of such easements shall be as has been determined in connection with the preparation of the Site Plans, shall allow for underground, surface and above ground utility installations (as contemplated by the Site Plans and/or as approved or required by the providers of such utility services), and shall include easements, in common with others, to use and improve existing utility installations, including existing lines and appurtenances for the provision of electric power, telephone and telecommunications, water, sanitary sewer service, natural gas and storm drainage.

C. The form and substance of the instruments establishing the easements contemplated in Sections 10(A) and 10(B) above shall be customary and usual therefor and in recordable form. Upon the YMCA's request, the City shall execute and deliver to the utility companies providing one or more such utility services, easements therefor on the forms customarily used by such utility companies.

D. The access easement (contemplated in Section 10(A) above) shall include an easement over the remainder of Lot 1359, temporary in nature, to enable the YMCA to facilitate construction of the Facility and related improvements, which easement shall permit the ingress, egress, parking and staging of construction vehicles and equipment and construction materials; provided, that the YMCA shall endeavor to minimize such usage during construction.

11. Parking.

A. Simultaneously with the execution of the Lease, the City shall grant to the YMCA an easement, in common with others, to use all present and future parking spaces, ways and drive aisles situated on Lot 1359. The form and substance of such easement shall be mutually determined between the City and the YMCA, shall be in recordable form and shall include provisions dealing with the following matters:

- (i) the City shall not allow school buses to line up or be parked on any parking spaces or ways within those portions of Lot 1359 depicted in red or green on **Exhibit C** attached (the "Restricted Area");
- (ii) the City shall not permit or suffer vehicles (including trucks), heavy equipment or other equipment relating to the City's Division of Public Works to be parked or stored at parking spaces or drive aisles on Lot 1359 which lie outside of the DPW Complex;
- (iii) the City may, from time to time, establish areas on Lot 1359 on which it piles snow, or allows snow to be piled. The initial area so designated on Lot 1359 is that portion of Lot 1359 depicted in blue on **Exhibit C** attached. In designating such areas for snow to be piled, the City shall not designate areas in the Restricted Area;
- (iv) the City shall endeavor to make arrangements with the Nashua School District (and other organizations who may make use of the parking spaces on Lot 1359) to minimize their use of such parking spaces and encourage their guests and invitees, including students of the Nashua School District, to avoid parking on Lot 1359 or park in areas furthest away from Lot 2224, except in connection with events occurring at Stellos Stadium. The City shall request of its Division of Public Works and Nashua Ice Center that their employees, guests and invitees park near or adjacent to their respective facilities rather than near or adjacent to Lot 2224.

B. The YMCA recognizes that the Nashua School District may need to consent to or join in the easement contemplated in Section 11(A) above, as to the parking spaces and drive aisles on that portion of Lot 1359 under the control of or being maintained by the Nashua School District. Such portion of Lot 1359 (under the control of or being maintained by the Nashua School District) is generally believed to be Stellos Stadium itself, its immediate surrounding grounds and a small portion of the parking lot and drive aisles on Lot 1359 immediately adjacent to the grounds of Stellos Stadium itself. The City shall endeavor, and use its best efforts, to obtain such consent to or joinder of the Nashua School District. The YMCA may communicate directly with the Nashua School District and assist in obtaining such consent or joinder.

12. Term of Lease, Rent and Particular Provisions.

A. In the event the YMCA exercises the Option, then within thirty (30) days of such exercise, the City and the YMCA shall enter into a lease of Lot 2224 substantially in the form of **Exhibit D** attached (the "Lease").

B. The Lease shall have an initial term of thirty-nine (39) years (the "Initial Term") with six (6) ten (10) year renewal terms (the "Renewal Terms"). The Initial Term shall start on the date of issuance of a certificate of occupancy by the City for the Facility.

C. No rent shall be due under the Lease until the YMCA has received from the City a certificate of occupancy for the Facility. Thereafter, rent shall be payable as follows:

- (i) for each of the first two (2) years of the Initial Term, the YMCA shall pay the City an annual rent of \$10,000.00 year;
- (ii) for each of the third and fourth years of the Initial Term, the YMCA shall pay the City an annual rent of \$15,000.00 year;
- (iii) for the fifth and sixth years of the Initial Term, the YMCA shall pay the City an annual rent of \$25,000.00; and
- (iv) thereafter, the annual rent shall be as established pursuant to the terms of the Lease.

D. Rent shall be paid in equal quarterly installments, commencing on the first day of the first year of the Initial Term and continuing on the same day of each quarter thereafter; provided, that the YMCA may prepay rent, in whole or in part, without penalty.

E. All payments of rent (by the YMCA to the City under the Lease) shall be annually appropriated into a capital improvements account to be governed by the terms of the Lease.

F. The Lease shall also include provisions to address the following:

- (i) maintenance of Lot 2224 and the Facility shall be sole responsibility of the YMCA;
- (ii) the YMCA may, in the first instance, plow and sand the entrance road, ways, drive aisles and parking areas situated at Lot 1359, as the YMCA determines, at its sole cost and expense;
- (iii) the snow storage arrangements set forth in subparagraph (iii) of Section 11(A) above;
- (iv) the YMCA shall maintain general liability insurance for activities at or about Lot 2224 and in connection with its use of the driveways, travel ways and parking areas on Lot 1359;
- (v) the YMCA may maintain a building identification sign on Lot 2224 or on Lot 1359, in either case in an area adjacent to the entrance to Lot 1359;
- (vi) arrangements regarding use by the swim teams at Nashua High School North and Nashua High School South of the swimming pool contemplated for the Facility;
- (vii) no real estate taxes shall be imposed on Lot 2224, the Facility or other improvements made by the YMCA at Lot 2224 or Lot 1359, except for taxes which may be imposed by a governmental entity unaffiliated with the City (such as the State of New Hampshire); provided, no real estate taxes imposed and/or collected by the City on its behalf and/or on behalf of the County of Hillsborough, the Nashua School Department and the State of New Hampshire (for public school purposes) shall be imposed against the YMCA in connection with Lot 2224, the Facility or other improvements made by the YMCA at Lot 2224 or Lot 1359. The YMCA recognizes that it will be required to file with the City and qualify for a charitable exemption from such taxes pursuant to RSA 72:23 and related provisions;
- (viii) the YMCA shall maintain the exterior of the Facility, the grounds of Lot 2224 and the parking area immediately adjacent thereto on Lot 1359 in a clean and neat condition.

13. Mortgages and Financial Encumbrances. The City represents to the YMCA that there are no mortgages or financial encumbrances affecting Lot 1359. In connection with the exchange of Area of Transfer 'B' for Area of Transfer 'A' with Belmar, the City shall cooperate with the YMCA to obtain the necessary releases of mortgages and other financial encumbrances affecting Area of Transfer 'B' so that it is not subject to any mortgages or other financial encumbrances when conveyed to the City.

14. Public Service Company of New Hampshire. During the pendency of this Agreement, and after the exercise of the Option, the YMCA may negotiate with Public Service Company of New Hampshire for a so-called joint use agreement regarding Lot 2224, Lot 1359 and the easement in favor of Public Service Company of New Hampshire (as depicted on the Lot Line Adjustment Plan) to enable the YMCA to develop and use Lot 2224 for the Facility and make such uses of Lot 1359 (for access, parking and utility services) as may be contemplated by this Agreement, the Lease or as necessary or desirable for the use of Lot 2224 and the Facility.

15. Approval by the Board of Aldermen. This Agreement has been approved by the Board of Aldermen of the City of Nashua. In connection therewith, the form and substance of the Lease has been approved by the Board of Aldermen of the City of Nashua. The Mayor of City of Nashua may enter into the Lease, upon the YMCA exercising the Option. In addition, the Board of Aldermen has approved the granting of any easements related to the Lease and the acceptance of any easements in conjunction with the Lease, Lot 1359 and the Riverside Work.

16. Ongoing Environmental Matters.

A. During the pendency of this Agreement, the YMCA may directly communicate with the New Hampshire Department of Environmental Services (“DES”) to establish any approval, protocol, agreement or other arrangement with DES to permit the construction and use of the Facility, recognizing that there are certain subsurface environmental conditions at Lot 1359 (including Lot 2224) relating to the prior use of a portion of Lot 1359 (including a portion of Lot 2224) as a landfill. The City will cooperate with the YMCA in connection therewith and in connection with the development of Lot 2224, the Facility (and its use) and modifications to or improvements made to Lot 1359 relating to the development of the Facility.

B. During the pendency of this Agreement and after execution of the Lease, the City shall continue to be responsible for the existing, subsurface conditions at Lot 1359 and Lot 2224. These ongoing obligations shall include any remediation obligations, responsibility for any impact to groundwater as a result of such conditions (whether on-site or off-site) and the continued maintenance and use of groundwater monitoring wells, including undertaking testing of the same and reporting the results of such testing to applicable local, state and federal agencies.

C. During the pendency of this Agreement or after the execution of the Lease, the YMCA may remove debris from Lot 2224 and other portions of Lot 1359, as the case may be (such as subsurface landfill debris), and dispose of the same in the City’s landfill. The YMCA may apply to the Board of Public Works of the City to obtain a waiver from all tipping and dumping fees in connection with the disposal of such debris at the City’s landfill. Transportation costs for the removal of such debris shall be borne by the YMCA.

D. The parties’ rights and obligations under this Section 16 shall survive execution of the Lease.

17. Broker. Each party represents to the other that no broker or agent has represented it in connection with this transaction nor has brought about this transaction on its behalf.

18. Termination of Option. Any time during the Term, the YMCA may terminate this Agreement in which case the YMCA shall have no further obligations under this Agreement, nor shall it have the right to exercise the Option.

19. Default. In the event the City defaults in its obligations under this Agreement, then the YMCA may, at its election, receive back the Option Payment and terminate this Agreement or enforce its rights and remedies in equity (but not at law) which shall include the right and remedy of specific performance. In such circumstance, the YMCA shall not have the right to sue for damages, other than the return of the Option Payment, and other than reimbursement for expenses incurred by the YMCA as a result of the City's default. If the YMCA shall default in its obligations under this Agreement, then it shall forfeit any rights under this Agreement, the City shall retain the Option Payment as reasonable, agreed upon liquidated damages, as its sole and exclusive right and remedy at law and equity, the parties agreeing that actual damages are difficult or impossible to ascertain.

20. Law. This Agreement shall be governed by the law of the State of New Hampshire.

21. Notice. All notices shall be sent to the parties at their addresses first set forth in this Agreement, or such other addresses as each party may have otherwise notified the other party (in writing) after the execution of this Agreement.

22. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

23. Merger. All representations, statements and agreements heretofore made by and between the parties are merged in this Agreement, which alone fully and completely expresses their respective rights and obligations.

24. Counsel. Each party represents to the other that it has had the opportunity to consult with independent legal counsel in connection with this Agreement and the transaction contemplated hereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the date first set forth above.

City of Nashua

Witness

By: _____
Donnalee Lozeau, Mayor

Young Men's Christian Association
of Greater Nashua

Witness

By: _____
Steve Russell, Chairman of the
Board of Directors

EXHIBIT A

**WARRANTY DEED
(Area 'A')**

The City of Nashua, a municipal corporation of Hillsborough County, New Hampshire, with offices at 229 Main Street, Nashua, Hillsborough County, New Hampshire 03060, for consideration paid, grants to Belmar/PAG Limited Partnership, a Rhode Island limited partnership, with an address of 4 Cathedral Square, Suite 1G, Providence, Providence County, Rhode Island 02903, with WARRANTY COVENANTS, the following described premises:

A certain tract of land situated on the northwesterly side of West Hollis Street in Nashua, Hillsborough County, New Hampshire, being shown as Area of Transfer 'A' on a plan entitled "Subdivision/Consolidation Plan (Lots 1358 & 1359, Map 'E') Riverside and West Hollis Streets Nashua, New Hampshire" prepared for the YMCA of Greater Nashua dated 14 July 2009, by Hayner/Swanson, Inc. and recorded with the Hillsborough County Registry of Deeds as Plan No. _____ (the "Plan"), more particularly bounded and described as follows:

Beginning at a point on the northerly sideline of West Hollis Street at the southwesterly corner Map "E", Lot 1358, being land of Belmar/PAG Limited Partnership; thence

Southwesterly along a curve to the left having a radius of 2,321.22 feet, a delta angle of $00^{\circ} 38' 13''$, and an arc distance of 25.80 feet by said sideline of West Hollis Street to a stone bound; thence

S $48^{\circ} 49' 06''$ W, a distance of 18.01 feet by said sideline to a point at the remaining land of the City of Nashua; thence

Southwesterly and northwesterly along a curve to the right having a radius of 25.00 feet, a delta angle of $92^{\circ} 38' 50''$, and an arc distance of 40.42 feet by said remaining land of the City of Nashua to a point; thence

N $38^{\circ} 32' 04''$ W, a distance of 429.29 feet by said remaining land of the City of Nashua to a point; thence

N $21^{\circ} 32' 16''$ E, a distance of 80.69 feet by said remaining land of the City of Nashua to a point at said land of Belmar/PAG Limited Partnership; thence

S $38^{\circ} 32' 04''$ E, a distance of 492.64 feet by said land of Belmar/PAG Limited Partnership to the point of beginning.

Said area of land ("Area of Transfer 'A'") contains 32,998 square feet, more or less.

The premises are conveyed together with an easement for ingress and egress, by vehicles and by foot, over the Proposed Access and Utility Easement 'A' (the "Easement Area") as shown on the Plan and described as follows:

Beginning at a point on the northerly sideline of West Hollis Street at the southeasterly corner Map "E", Lot 1494, being land of Hitchcock Clinic; thence

N 38° 32' 04" W, a distance of 429.00 feet by said land of Hitchcock Clinic to a point; thence

N 21° 32' 16" E, a distance of 57.69 feet to a point at Area of Transfer 'A'; thence

S 38° 32' 04" E, a distance of 429.29 feet by Area of Transfer 'A'; thence

Southeasterly and northeasterly along a curve to the left having a radius of 25.00 feet, a delta angle of 92° 38' 50", and an arc distance of 40.42 feet by Area of Transfer 'A' to a point on the northerly sideline of West Hollis Street; thence

S 48° 49' 06" W, a distance of 76.24 feet by said sideline to the point of beginning.

The Easement Area contains 22,261 square feet, more or less.

The Easement Area is to be used in common with the City of Nashua and others, subject to the terms and conditions and rights and easements reserved by the grantor as more particularly detailed below.

The grantee may use the Easement Area for ingress and egress, by vehicles and by foot, to Lot 1358, in common with the City of Nashua and others. In connection therewith, the grantee, at its sole discretion, may, but is not required to improve (including pave) the Easement Area; provided, the grantee obtains all required governmental permits and approvals therefor and the grantee's improvements to and use of the Easement Area are subject to the following rights and easements reserved by the City of Nashua:

1. The right and easement, for ingress and egress, by vehicles and by foot, for emergency purposes only (the "Emergency Access Easement"), over the Easement Area. The Emergency Access Easement shall be over that portion of the Easement Area denoted as the Existing Gated Emergency Access Drive on the Plan. The Emergency Access Easement shall be used for access by emergency vehicles to Lot 1359 or other contiguous properties thereto, or for emergency situations occurring on Lot 1359 or properties contiguous thereto. Until the grantee improves and uses the Easement Area, the grantor may maintain the Easement Area in a gravel or hard packed condition with gates at its southeasterly and northwesterly ends.

2. An easement for ingress and egress, by foot, bicycles or similar non-motorized apparatus, or apparatus for handicapped persons (such as manual or motorized wheelchairs) over the Easement Area.

3. The right and easement on, over and under the Easement Area to install, modify, repair, replace, relocate, maintain and use electric power, cable television and telecommunications lines, poles, equipment and appurtenances.

4. The right and easement to install, modify, repair, replace, relocate, maintain and use the below ground lines, pipes, valves, equipment and appurtenances for the provision of water service (including that for human consumption and fire protection) and the provision of natural gas, together with the right to install related surface area equipment (such as manhole covers and equipment boxes).

Until such time as the grantee improves the Easement Area, the grantor shall maintain the Easement Area for purposes set forth in items 1 and 2 above and any other purpose so used by the grantee as set forth in this instrument and for any other purpose so used by the grantor. At any time, before or after the grantee improves the Easement Area, the equipment and appurtenances installed pursuant to easements referenced in paragraphs 3 and 4 above shall be maintained by the grantor or utility companies to which easements therefor are subsequently granted, as the case may be.

In the event that the grantee undertakes to install a new driveway or accessway in the Easement Area (independently or in conjunction with any abutting property owner), then the grantee may integrate into such driveway or roadway all or portions of the then existing improvements used for the Emergency Access Easement and/or the Pedestrian Easement; provided, that the functionality and utility of the Emergency Access Easement and the Pedestrian Easement is not adversely affected. Such new driveway or accessway may be used by the grantor and others in common with the grantee.

The grantee recognizes that the grantor retains the fee simple interest in the Easement Area and may use the Easement Area for all purposes which an owner of a fee simple interest in real estate may use such real estate, subject to the access easement rights granted to the grantee hereunder. Without limitation to the foregoing, the grantor may grant, from time to time, easements to the providers of utility services (e.g. the providers of electric power, telecommunication services and natural gas service). Upon the request of any such provider of any such utility service, the grantee shall consent to in such easement(s).

For title, reference is made to the Notice of Condemnation dated August 22, 2000 and recorded with said Registry of Deeds at Book 6281, Page 156.

IN WITNESS WHEREOF, the grantor has caused this instrument to be duly executed this _____ day of _____, 2010.

City of Nashua

By: _____
Donnalee Lozeau, Mayor

Witness

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

This instrument was acknowledged before me this _____ day of _____, 2010,
by Donnalee Lozeau, Mayor of the City of Nashua, a municipal corporation of Hillsborough
County, New Hampshire, on its behalf.

Notary Public
My Commission Expires:

EXHIBIT B

**WARRANTY DEED
(Area 'B')**

Belmar/PAG Limited Partnership, a Rhode Island limited partnership, with an address of 4 Cathedral Square, Suite 1G, Providence, Providence County, Rhode Island 02903, for consideration paid, grants to the City of Nashua, a municipal corporation of Hillsborough County, New Hampshire, with offices at 229 Main Street, Nashua, Hillsborough County, New Hampshire 03060, with WARRANTY COVENANTS, the following described premises:

A certain tract of land situated northerly of West Hollis Street in Nashua, Hillsborough County, New Hampshire, being shown as Area of Transfer 'B' on a plan entitled "Subdivision/Consolidation Plan (Lots 1358 & 1359, Map 'E') Riverside and West Hollis Streets Nashua, New Hampshire" prepared for the YMCA of Greater Nashua dated 14 July 2009, by Hayner/Swanson, Inc. and recorded with the Hillsborough County Registry of Deeds as Plan No. _____ (the "Plan"), more particularly bounded and described as follows:

Beginning at a point on the easterly line of Map "E", Lot 1358, said point being N 38° 32' 04" E, a distance of 537.93 feet from the northerly sideline of West Hollis Street at the northeasterly corner of land of Ventura-Nashua LLC; thence

S 62° 37' 55" W, a distance of 275.22 feet to a point at land of the City of Nashua; thence

N 22° 57' 06" E, a distance of 307.28 feet by said land of the City of Nashua to a point; thence

S 38° 32' 04" W, a distance of 199.99 feet by said land of the City of Nashua to the point of beginning.

Said area of land (Area of Transfer 'B') contains 26,999 square feet, more or less.

For title, reference is made to the deed of Belmar Housing Associates dated July 13, 1995 and recorded with said Registry of Deeds at Book 5642, Page 68.

IN WITNESS WHEREOF, the grantor has caused this instrument to be duly executed this _____ day of _____, 2010.

Belmar/PAG Limited Partnership
By: PAG-Hedison Associates, L.L.C.,
General Partner
By: Property Advisory Group, Inc.

Witness

By: _____
Robert Gaudreau, Sr. Vice President

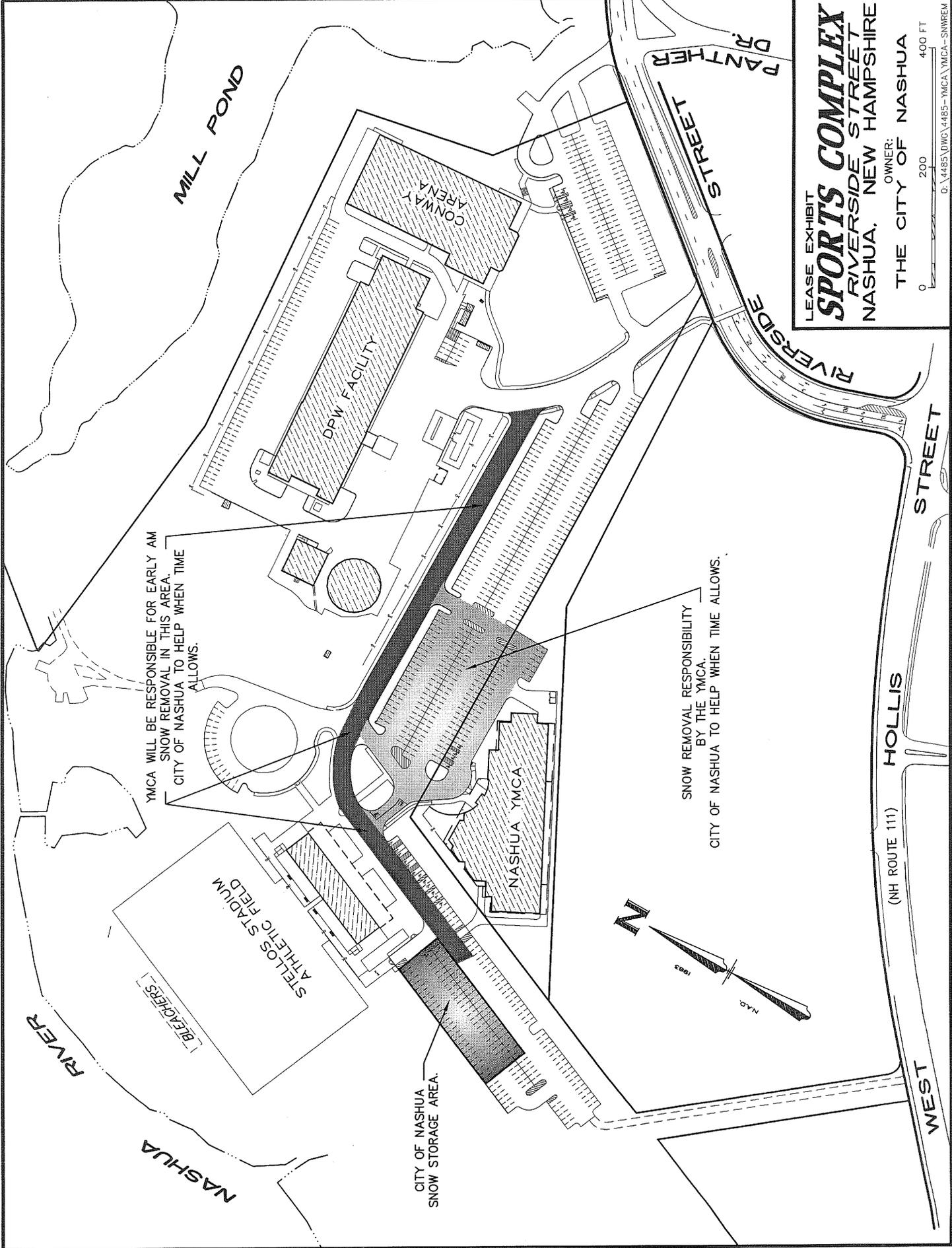
STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

This instrument was acknowledged before me this _____ day of _____, 2010 by Robert Gaudreau, Sr. Vice President of Property Advisory Group, Inc., a Rhode Island corporation, as it is Manager of PAG-Hedison Associates, L.L.C., a Rhode Island limited liability company, as it is General Partner of Belmar/PAG Limited Partnership, a Rhode Island limited partnership, on its and their behalf.

Notary Public
My Commission Expires:

EXHIBIT C

**PLAN DEPICTING SCHOOL BUS PARKING / STAGING
PROHIBITION, SNOW PLOWING AREAS AND SNOW STORAGE AREA**



YMCA WILL BE RESPONSIBLE FOR EARLY AM SNOW REMOVAL IN THIS AREA. CITY OF NASHUA TO HELP WHEN TIME ALLOWS.

SNOW REMOVAL RESPONSIBILITY BY THE YMCA. CITY OF NASHUA TO HELP WHEN TIME ALLOWS.

LEASE EXHIBIT
SPORTS COMPLEX
 RIVERSIDE STREET
 NASHUA, NEW HAMPSHIRE
 OWNER: THE CITY OF NASHUA
 0 200 400 FT
G:\4465\DWG\4465-YMCA-SNREM

EXHIBIT D

LEASE (Lot 2224 Riverside Street)

THIS LEASE (the "Lease") is made this _____ day of _____, 20____, by and between the City of Nashua, a New Hampshire municipal corporation, with its principal office at 229 Main Street, Nashua, New Hampshire 03060 ("Landlord") and Young Men's Christian Association of Greater Nashua, a New Hampshire voluntary corporation, with its principal office at 6 Henry Clay Drive, Merrimack, New Hampshire 03054 ("Tenant").

Recitals

WHEREAS, Landlord is the owner of certain land situated on the westerly side of Riverside Street in Nashua, Hillsborough County, New Hampshire, being known as Map E, Lot 2224 ("Lot 2224" or the "Premises") and more particularly shown on the plan entitled "Subdivision/Consolidation Plan (Lots 1358 & 1359, Map 'E') Riverside and West Hollis Streets Nashua, New Hampshire" prepared for the YMCA of Greater Nashua by Hayner/Swanson, Inc. dated 14 July, 2009 and recorded with the Hillsborough County Registry of Deeds as Plan No. _____ (the "Plan"); and

WHEREAS, Landlord is also the owner of Map E, Lot 1359 situated on the westerly side of Riverside Street, said Nashua ("Lot 1359"); and

WHEREAS, Lot 1359 houses Stellos Stadium, a City DPW facility and Conway Ice Arena, among other improvements, and includes an access road, drive aisles, parking spaces and drainage and stormwater management facilities (collectively, the "Stellos Stadium Complex"); and

WHEREAS, Tenant intends to construct on Lot 2224 a new indoor recreational facility in the nature of a typical "YMCA" (the "Facility"); and

WHEREAS, Landlord and Tenant entered into a certain Option Agreement dated _____, 2010 pursuant to which Tenant had the option to enter into this Lease; and

WHEREAS, Tenant has exercised its option to enter into this Lease.

Agreement

NOW, THEREFORE, in and for the mutual covenants set forth herein, and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. Lease of Premises. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord the Premises on the terms and conditions set forth in this Lease.

2. Term.

A. The initial term of this Lease shall commence on the issuance of a certificate of occupancy by the City of Nashua for the Facility and shall terminate thirty-nine (39) years thereafter (the "Initial Term").

B. This Lease shall automatically renew for up to six (6) ten (10) year renewal terms (the "Renewal Terms"); provided, that in the event Tenant provides Landlord with written notice of Tenant's desire that this Lease shall not renew, such notice being issued no later than ninety (90) days prior to the expiration of the then current Renewal Term, then this Lease shall terminate at the expiration of the then current Renewal Term.

C. The words "term" or "Term" as used in this Lease shall mean the Initial Term of this Lease or the then current Renewal Term, as the context may require.

3. Rent; Capital Improvements Account.

A. Tenant shall pay an annual rent in U.S. Currency for the Premises for each year in of the Term in accordance with the following schedule:

- (i) for each of the first two (2) years of the Initial Term, Tenant shall pay Landlord an annual rent of \$10,000.00;
- (ii) for each of the third and fourth years of the Initial Term, Tenant shall pay Landlord an annual rent of \$15,000.00;
- (iii) for the fifth and sixth years of the Initial Term, Tenant shall pay Landlord an annual rent of \$25,000.00; and
- (iv) for the balance of the Initial Term and for any Renewal Term, the annual rent shall be determined as set forth in Section 3(F) below.

B. The annual rent shall be paid in equal quarterly installments, commencing on the first day of the first year of the Initial Term and continuing on the same day of each quarter thereafter; provided, that Tenant may prepay rent, in whole or in part, without penalty.

C. Landlord shall annually appropriate all rent paid by Tenant into a capital improvements account established by Landlord (the "Capital Improvements Account").

D. From time to time, Landlord may expend funds from the Capital Improvements Account to be used by Landlord for (i) major repairs, replacements and capital improvements to Lot 2224, Lot 1359 and the improvements on and elements of Lot 1359 used in common by Landlord, Tenant and others, such as the entrance road, ways, drive aisles and parking areas, landscaped areas and parking lot lighting, Stellos Stadium itself (including its immediate grounds) and the DPW facility building(s) (but excluding the Conway Ice Arena structure until such time as Landlord owns the structure), (ii) major repairs, replacements or

improvements to the parking lot at Map E, Lot 1387 (on the easterly side of Riverside Street) which may be incurred by Landlord in connection with any three-party agreement which may be established among it, Tenant and The Village in Nashua Condominium Association and (iii) major repairs, replacements or improvements to Riverside Drive, other nearby local roads and streets located in or servicing the Stellos Stadium Complex, or other property owned and/or managed by the City which services Lot 1359.

E. At least annually during the pendency of the Lease, representatives from Landlord and Tenant shall meet to discuss anticipated necessary and/or appropriate uses of funds from the Capital Improvements Account to effect the contemplated uses of such funds as set forth in Section 3(D) above, at which meetings such representatives shall prepare summaries of anticipated major repairs, replacements and capital improvements which are to be funded from the Capital Improvements Account. Such summaries shall include the anticipated timeframes for such undertakings and proposed budget amounts. Notwithstanding the foregoing, in the event of unanticipated circumstances Landlord may expend funds from the Capital Improvements Account as set forth in Section 3(D) above, even if the uses for which funds are being expended were not discussed under this Section 3(E).

F. For the remaining years of the Initial Term and for each Renewal Term, as the case may be, the annual rent shall be determined as follows:

- (i) The parties will determine the average of the CPI-U (defined below) for years four through six of the Initial Term;
- (ii) For each of the next three (3) years of the Initial Term (in the first instance, years seven through nine), the base annual rent shall equal \$25,000.00 plus the product of the average increase of the CPI-U (for the prior three (3) years) times \$25,000.00. For example, if the average increase in the CPI-U for years four through six of the Initial Term is four percent (4%), then the base annual rent shall equal \$25,000.00 plus \$1,000.00 or \$26,000.00 for each of years seven through nine of the Initial Term;
- (iii) For each three (3) year interval thereafter (of the Initial Term or any Renewal Term, as the case may be), the annual rent shall be computed in the same manner, by adding to the annual rent applicable for the prior three (3) years an amount equal to the product of the average increase in the CPI-U for such three (3) prior years times the annual rent for such prior three (3) years, the resulting annual rent to be the sum of such prior annual rent plus such product; and
- (iv) The term "CPI-U" means the Consumer Price Index for All Urban Consumers (CPI-U), All items (1982-84 = 100) as published by the Bureau of Labor Statistics of the United States Department of Labor (or its successor agency). If such publication of the

Consumer Price Index is discontinued, a comparable index most closely reflecting the diminution in the real value of the annual rent, as reasonably determined by Landlord, shall be utilized.

4. Use of Premises.

A. After the execution of this Lease, and any time prior to the commencement of the Initial Term, as well as during the Term, Tenant may undertake to construct the Facility and all related improvements on Lot 2224 and Lot 1359 (as contemplated in connection with the construction of the Facility and its use), including, without limitation, the improvements contemplated by and reflected in the site plan for the Facility (and related improvements) approved by the Nashua City Planning Board. In connection therewith, Tenant may use a portion of Lot 1359 (depicted on **Schedule A** attached as the “Staging Area”) for the staging and storage of equipment and materials, and may use the parking areas on Lot 1359 for the parking of vehicles (including vehicles for the personnel undertaking construction of the Facility and related improvements).

B. Upon completion of the Facility, Tenant may use Lot 2224 and the Facility as an indoor recreational facility (a “YMCA”) and such other uses as are related or accessory thereto, as permitted by the Land Use Code of the City of Nashua.

C. Tenant may enter into subleases and/or license agreements, in writing or at will, with third parties, for their use of portions of the Facility; provided, that such uses are the same as or consistent with those uses permitted under Section 4(B) above. Tenant recognizes that such subleases and/or license agreements may have an impact on any charitable exemption which may be afforded to Tenant pursuant to RSA 72:23 and related provisions.

D. Tenant shall procure all licenses, permits and approvals required for its use of the Facility and for any use of the Facility made by a third party.

5. Maintenance. Tenant shall maintain the Premises (and the Facility) at its sole cost and expense. In addition, Tenant shall maintain the exterior of the Facility, the grounds of Lot 2224 and the parking area (lying on Lot 1359) in a clean and neat condition.

6. Access Road, Drive Aisles and Parking Areas; Use and Maintenance.

A. Simultaneously with the execution of this Lease, Landlord has granted to Tenant an easement, in common with others, to use all present and future parking spaces, ways (including the entrance road) and drive aisles situated on Lot 1359.

B. During the pendency of this Lease, Landlord shall maintain the present and future parking spaces, ways (including the entrance road) and drive aisles situated on Lot 1359 (collectively, the “Paved Surfaces”) in good condition and repair, reasonable and adequate for Tenant’s use, shall maintain the landscaping in a neat and healthy condition, and shall maintain the parking lot lighting and other improvements located on Lot 1359 which service Lot 2224 (collectively, the “Other Site Improvements”) in good condition and repair, so that the

Paved Surfaces, the landscaping and the Other Site Improvements are kept in conditions which are reasonable and adequate for Tenant's use. Without limitation to the foregoing, Landlord shall (i) maintain the Paved Surfaces and Other Site Improvements in compliance with applicable state and local approvals therefor, including the non-residential site plan approval issued by the Nashua City Planning Board, (ii) keep the Paved Surfaces paved and in good condition and repair, with marked parking spaces and directional signage and (iii) maintain the drainage, stormwater management and irrigation systems, together with the utility lines and equipment (owned by Landlord) located on Lot 1359 and servicing Lot 2224, in good condition and repair.

C. The City shall not allow school buses to line up or be parked on any parking spaces or ways within those portions of Lot 1359 depicted in red or green on **Schedule A** attached (the "Restricted Area").

D. The City shall not permit or suffer vehicles (including trucks), heavy equipment or other equipment relating to the City's Division of Public Works to be parked or stored at parking spaces or drive aisles on Lot 1359 which lie outside of the DPW Complex.

E. The City may, from time to time, establish areas on Lot 1359 on which it piles snow, or allows snow to be piled. The initial area so designated on Lot 1359 is that portion of Lot 1359 depicted in blue on **Schedule A** attached. In designating such areas for snow to be piled, the City shall not designate areas located within the Restricted Area.

F. Tenant may, in the first instance, plow and sand the entrance roads, ways, drive aisles and parking areas situated on Lot 1359, as Tenant determines, at its sole cost and expense. In connection therewith, Tenant may store snow in the snow storage areas designated by the City pursuant to Section 6(E) above, the initial snow storage area being depicted in blue on **Schedule A** attached. Prior to engaging any private contractors for plowing and the removal of snow at or about the Premises and/or Lot 1359, Tenant shall provide Landlord with evidence of liability insurance for such private contractors, under amounts and terms and conditions reasonably satisfactory to the Risk Management Department of the City of Nashua.

7. Insurance. Tenant shall maintain general liability insurance with respect to its activities at or about the Premises (Lot 2224), the Facility and in conjunction with its use of and activities at the entrance road, ways, drive aisles and parking areas situated on Lot 1359. Such general liability insurance shall be in such amounts and under such terms as are reasonably requested by Landlord, from time to time, but in no event in an amount less than a so-called single limit policy of \$1,000,000.00 (\$2,000,000.00 in the aggregate), with companies qualified and licensed to do business in New Hampshire and in good standing therein. At least annually, and as Landlord may request from time to time, Tenant shall provide Landlord with certificates of such insurance. Such insurance policy(ies) shall contain endorsement(s) requiring thirty (30) days prior written notice (from the insurance carrier) to Landlord and Tenant before such policy(ies) may be canceled or before any material change may be made in its coverage, scope or amount. The provisions of the certificates of insurance or insurance policies obtained by Tenant shall be reasonably satisfactory to the Risk Management Department of the City of Nashua and shall, from time to time, be submitted to the Risk Management Department for approval.

8. Signage. Tenant may maintain a building identification sign on Lot 2224 (at such location on Lot 2224 as Tenant determines) or on Lot 1359, at a location near or adjacent to Riverside Street.

9. Swim Teams. Tenant shall allow the swim teams at Nashua High School North and Nashua High School South to use for practices at least two (2) lanes in the swimming pool (at the Facility) on school days during the interscholastic swimming season at times mutually agreeable between the YMCA and the Nashua School District. Tenant may enter into an agreement with the Nashua School District for costs and reimbursement in connection with the provision of such service and include therewith other terms and conditions which may be customary or necessary for such arrangements, including provisions governing insurance and liability.

10. Real Estate Taxes. Landlord and Tenant anticipate that no real estate taxes will be imposed on Lot 2224, the Facility or other improvements made by Tenant at Lot 2224 or Lot 1359; except for taxes which may be imposed by a governmental entity unaffiliated with the City of Nashua (such as the State of New Hampshire). Tenant recognizes that it will be required to file with the City of Nashua and qualify for a charitable exemption from such taxes pursuant to RSA 72:23 and related provisions.

11. PSNH/Joint Use. At any time after the execution of this Lease, Tenant may negotiate with Public Service Company of New Hampshire to enter into a so-called joint use agreement regarding Lot 2224, Lot 1359 and the easement in favor of Public Service Company of New Hampshire (as depicted on the Plan) to enable Tenant to develop and use Lot 2224 for the Facility and make such uses of Lot 1359 (for access, parking and utility services) as maybe contemplated by this Lease and/or necessary or desirable for the use of Lot 2224 and the Facility.

12. Utilities and Utility Interruption.

A. Tenant shall pay for all costs and expenses incurred in connection with utilities servicing the Premises and the Facility, including, without limitation, water, sanitary sewer service, natural gas, electric power, telephone and other telecommunication services, and other such utilities servicing the Premises and the Facility.

B. Landlord shall have no responsibility or liability to Tenant in connection with the interruption of any utility services due to any accident, to the making of repairs, alterations or improvements, to labor difficulties, to trouble in obtaining fuel, electricity or supplies from the sources from which they are usually obtained or to any cause beyond the Landlord's control.

13. Ongoing Environmental Matters.

A. During the pendency of this Agreement, Tenant may directly communicate with the New Hampshire Department of Environmental Services ("DES") to establish any approval, protocol, agreement or other arrangement with DES to permit the construction and use of the Facility, recognizing that there are certain subsurface environmental

conditions at Lot 1359 and Lot 2224 relating to the prior use of portions of Lot 1359 (and a portion of Lot 2224) as a city landfill. Landlord will cooperate with Tenant in connection therewith and in connection with the development of Lot 2224, the Facility (and its use) and modifications to or improvements made to Lot 1359 relating to the development of the Facility.

B. During the pendency of this Agreement and after execution of the Lease, Landlord shall continue to be responsible for the existing, subsurface conditions at Lot 1359 and Lot 2224. These ongoing obligations shall include any remediation obligations, responsibility for any impact to groundwater as a result of such conditions (whether on-site or off-site) and the continued maintenance and use of groundwater monitoring wells, including undertaking testing of the same and reporting the results of such testing to applicable local, state and federal agencies.

C. During the pendency of this Agreement or after the execution of the Lease, Tenant may remove debris from Lot 2224 and other portions of Lot 1359, as the case may be (such as subsurface landfill debris), and dispose of the same in the City of Nashua landfill. Tenant may apply to the Board of Public Works of the City of Nashua to obtain a waiver from all tipping and dumping fees in connection with the disposal of such debris at the City of Nashua landfill. Transportation costs for the removal of such debris shall be borne by Tenant.

14. Sale or Transfer of Lot 2224; Right of First Refusal.

A. Landlord shall have the right to sell, convey, transfer or encumber its fee simple interest in Lot 2224; provided, that any such sale, conveyance, transfer or encumbrance shall be subject to this Lease; and further provided, that Tenant shall honor any subsequent owner of the fee simple interest of Lot 2224 as Landlord under this Lease.

B. Notwithstanding the provisions of Section 14(A) above, in the event that Landlord receives an offer to purchase its fee simple interest in Lot 2224 from a third party, then prior to accepting such offer, Landlord shall provide Tenant in writing with a summary of the terms of such offer, a copy of the offer itself and/or proposed purchase and sale agreement, and all other documentation representing such offer. Tenant shall have fifteen (15) days after its receipt of such notice and documentation to advise Landlord whether it (Tenant) desires to purchase the fee simple interest in Lot 2224 on the terms and conditions set forth in the aforementioned third party offer (Tenant's "Right of First Refusal"). In the event Tenant does not exercise its Right of First Refusal, then Tenant's Right of First Refusal shall terminate; provided, that in the event Landlord does not complete the conveyance of its fee simple interest in Lot 2224 to such third party, then the Tenant's Right of First Refusal shall remain in effect as to subsequent third party offers. In the event Tenant exercises its Right of First Refusal, then Tenant shall undertake to close on its acquisition of the fee simple interest in Lot 2224 within the latter of (i) the timeframe set forth in the aforementioned third party offer or (ii) sixty (60) days, failing which Tenant's Right of First Refusal shall terminate and Landlord may sell its fee simple interest in Lot 2224 to any third party.

15. Ownership of Facility. Tenant retains ownership of the Facility throughout the Term. Upon the expiration or other earlier termination of this Lease (including as a result of

Tenant's default), ownership of the Facility shall vest in Landlord; provided, that in the event Landlord sells, conveys or transfers Lot 2224 (and the Facility), then upon the closing of such sale, conveyance or transfer, Tenant shall be paid an amount equal to the sale price of Lot 2224 and the Facility times a fraction, the numerator of which is the number of years (or fractions thereof) remaining in the Initial Term and the remaining, available Renewal Terms, as the case may be, and the denominator of which is ninety-nine (99). In the event that Landlord transfers or conveys Lot 2224 and the Facility in a non-arms length transaction, or in a transaction for less than fair value, then Tenant's rights under this Section 15 shall remain in effect and be binding upon the transferee of Lot 2224 and the Facility in such circumstance.

16. Assignment by Tenant.

A. With the prior written approval of Landlord, which approval shall not be unreasonably withheld, delayed or conditioned, Tenant may assign its rights under this Lease; provided, that any assignee shall be bound by the Tenant's obligations under this Lease, shall recognize and attorn to the City of Nashua as Landlord under this Lease and shall not use the Premises (or the Facility) for uses not permitted under this Lease. Tenant recognizes that such assignment may have an impact on any charitable exemption which may be afforded to Tenant pursuant to RSA 72:23 and related provisions.

B. Notwithstanding the provisions of Section 16(A) above, Tenant may assign (including mortgage) its rights under this Lease to any lender or funding source (which holds Tenant's rights under this Lease as collateral for any such loan or funding) without the need of any prior approval from Landlord. Any subsequent sale, transfer or re-assignment of Tenant's rights under this Lease by such lender or other funding source (to which Tenant's rights under this Lease were assigned) shall not require Landlord's approval.

17. Access. Landlord and its authorized representatives shall have the right to enter Lot 2224 and the Facility, from time to time, during normal business hours, to (i) confirm that Tenant is in compliance with its obligations under this Lease and (ii) for emergency purposes. Landlord shall endeavor to give reasonable prior notice to Tenant of its intention to enter the Premises, in non-emergency situations, and shall not disrupt or interfere with Tenant's use and enjoyment of the Premises and the Facility while it has entered the Facility.

18. Notice. Any notice that either party desires to give to the other shall be deemed given upon placing such notice in U.S. Mail, certified mail, return receipt requested, with postage fully prepaid, addressed as follows, or to such other addresses as may be given from either party to the other, from time to time, in writing:

To Landlord: City of Nashua
 229 Main Street
 Nashua, New Hampshire 03061-2019
 Attn: Chief Financial Officer

To Tenant: YMCA of Greater Nashua
6 Henry Clay Drive
Merrimack, New Hampshire 03054
Attn: C.E.O.

With copy to: Any mortgagee designated by Tenant

19. No Recording. Neither party will record this Lease; provided, that simultaneously with the execution of this Lease, the parties shall execute a notice of lease as contemplated under RSA 477:7-a, as amended, which Tenant may record with the Hillsborough County Registry of Deeds.

20. Indemnification and Liability. Except for Landlord's willful misconduct, (i) Landlord shall not be liable to Tenant for any injury or damage to any person, Lot 2224, the Facility or to any property of Tenant or to any property of any third persons, and (ii) Tenant shall indemnify and save Landlord harmless from and against any and all suits, claims, and demands of any kind or nature, by or on behalf of any person, arising out of or based upon any incident, occurrence, injury or damage which shall or may happen on or about Lot 2224 or the Facility.

21. Personal Property. Landlord shall have no responsibility or liability for damage to any personal property of Tenant or any other persons, which personal property is brought to or remains at or about the Premises or the Facility.

22. Default.

A. Upon the occurrence of one or more of the following events ("Events of Default"), Landlord may issue to Tenant a written notice of default (the "Notice of Default"):

- (i) any installment of rent or payment (or reimbursement) constituting any other monetary obligation of Tenant hereunder is not paid or made when due;
- (ii) Tenant defaults in the performance or observance of any other covenant or condition in this Lease;
- (iii) Tenant makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver or any trustee of or for Tenant or substantial part of its property; or
- (iv) any proceeding relating to Tenant or any substantial part of its property commences under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute or any jurisdiction, whether now or hereafter in effect, or there is commenced against Tenant any such proceeding.

B. Upon the occurrence of an Event of Default, Landlord may issue to Tenant a Notice of Default, which shall specify the particular Event of Default and provide Tenant with sixty (60) days to cure the same.

C. In the event Tenant fails to cure such Event of Default within such sixty (60) day period, or, with respect to an Event of Default that does not lend itself to cure within sixty (60) days, Tenant fails to commence good faith efforts to so cure such Event of Default, then Landlord may undertake to evict and expel Tenant from the Premises in accordance with applicable New Hampshire law. Upon Landlord obtaining a so-called writ of possession in connection with an eviction proceeding, this Lease shall terminate, Tenant shall vacate the Premises and Landlord shall become the owner of the Facility, with neither Tenant nor Landlord having any further rights against or obligations to the other under this Lease.

D. If this Lease terminates pursuant to this Section 22 and Tenant has vacated the Premises, then the provisions of Section 15 of this Lease shall remain in effect to govern any subsequent sale, conveyance or transfer of Lot 2224 (and the Facility) by Landlord.

23. Dispute Resolution. Landlord and Tenant agree to attempt mediation of disputes under this Lease prior to commencing any court proceedings. Either party may offer mediation. Neither party shall file an action or suit in court until at least thirty (30) days after the offer of mediation or the completion of mediation, whichever occurs first.

24. Costs and Expenses upon Tenant's Default. Upon the occurrence of an Event of Default, if this Lease is terminated as a result thereof in accordance with the provisions of Section 22 above, Tenant shall pay Landlord all costs and expenses incurred by Landlord in connection with the termination of this Lease and the eviction of Tenant from the Premises at the Facility, including reasonable attorneys' fees.

25. Waiver. Any consent, express or implied, by Landlord to any breach by Tenant of any covenant or condition of this Lease shall not constitute a waiver by Landlord of any prior or succeeding breach by Tenant of the same or any other covenant or condition of this Lease. Acceptance by Landlord of rent or other payment with knowledge of a breach or of default under any term hereof by Tenant shall not constitute a waiver by Landlord of such breach or default.

26. Quiet Enjoyment. Tenant, on paying the rent and performing all of its covenants and conditions under this Lease, shall peaceably and quietly enjoy the Premises, subject nevertheless to the terms of this Lease.

27. Destruction by Fire or Other Casualty.

A. Tenant may terminate this Lease by written notice to Landlord if the Facility should be damaged or destroyed by fire or other casualty insured against to the extent of at least twenty-five percent (25%) or more of the replacement cost thereof.

B. The election to terminate this Lease shall be made within sixty (60) days following settlement of the casualty loss with Tenant, provided, that such election shall not occur

more than one (1) year after the occurrence of such casualty. If such election to terminate shall be made, the Term shall be deemed terminated as of the date of such casualty and each party shall be relieved of any further obligations to the other under this Lease, except that Tenant shall be liable for and shall promptly pay Landlord any rent then in arrears, or Landlord shall rebate to Tenant a pro rata portion of any rent paid in advance. Furthermore, if such election to terminate is made, Tenant shall cause those elements of the Facility located above the footings and ground level slabs of the Facility to be razed and removed from Lot 2224 at Tenant's expense.

C. If Tenant does not elect to terminate this Lease as permitted in this Section 27, or if the Facility is damaged to an extent less than twenty-five percent (25%) of the replacement cost thereof, then Tenant shall undertake, in good faith, to repair and restore the Facility.

28. Eminent Domain. In the event that all or a portion of the Premises and/or the Facility are taken by eminent domain or similar governmental process, and such taking is either (i) of the entirety of the Premises or the Facility or (ii) a material portion of the Premises or the Facility such that the same has a material adverse impact on Tenant's operations, then this Lease shall terminate and neither party shall have any further rights against or obligations to the other under this Lease; provided, that Tenant shall be liable for and promptly pay Landlord any rent then in arrears, or Landlord shall rebate to Tenant a pro rata portion of any rent paid in advance; and further provided, that Landlord's and Tenant's rights and obligations under this Section 28 shall survive vis a vis the disposition of any proceeds or awards made in connection with such eminent domain or similar governmental process. In such circumstance, the proceeds payable in connection with such eminent domain or similar process applicable to the Facility shall be payable to Tenant and the proceeds payable in connection with such eminent domain or similar process allocable to Lot 2224 shall be paid proportionately to Landlord and Tenant, as set forth in the following sentence. With respect to the proceeds payable in connection with Lot 2224 (excluding the Facility), Landlord shall receive a fraction of such proceeds, the numerator of such fraction being the number of years of the Term (including any Renewal Term) which have elapsed and the denominator of which being ninety-nine (99); with the remainder of such net proceeds being payable to Tenant.

29. Liability Relating to Tenant's Operations. Landlord assumes no liability or responsibility whatsoever with respect to Tenant's operations at the Premises or the Facility. Tenant agrees to defend, indemnify and hold Landlord harmless from and against all acts and omissions arising out of or relating to Tenant's operations at the Premises and the Facility, including all claims, costs, demands, damages and injuries relating thereto, including reasonable attorneys' fees and expenses.

30. No Third Party Benefit. This Lease is intended for the benefit of Landlord and Tenant and such other persons or entities as is contemplated in Sections 14 and 16 above. Nothing contained in this Lease shall be construed as creating any rights in or benefits for any third party.

31. Captions. The captions at the beginning of sections of this Lease are not part of the text of this Lease but are merely labels to assist in locating such sections, and shall be ignored in construing this Lease.

32. Relationship. Landlord and Tenant are not and shall not be considered as joint venturers, partners or agents of each other and neither shall have the power to bind or obligate the other.

33. Compliance with Law. Tenant shall comply with all state, federal and local laws and regulations regarding the use of the Premises and the Facility.

34. Merger. All representations, statements and agreements heretofore made between the parties are merged in this Lease (and the easements and related documents executed simultaneously herewith), together with those portions of the Option Agreement which survive the execution of this Lease, which are the full expression and constitute the entire agreement of the parties' rights and obligations.

35. Severability. If any term or provision of this Lease, or its application to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Lease, with the application of such term or provision to persons or circumstances other than those as to which it is held invalid or enforceable, shall not be affected and each term and provision of this Lease shall be valid and enforced to the extent permitted by law.

36. Governing Law. This Lease is made in and shall be interpreted and enforced according to the law of the State of New Hampshire.

IN WITNESS WHEREOF, the Landlord and Tenant have hereunto caused this Lease to be duly executed and delivered this _____ day of _____, 20____.

LANDLORD:

City of Nashua

By: _____
Donnalee Lozeau, Mayor

Witness

TENANT:

Young Men's Christian Association of
Greater Nashua

By: _____
Steve Russell, Chairman of the
Board of Directors

Witness

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

This instrument was acknowledged before me this _____ day of _____,
20____ by Donnalee Lozeau, Mayor of the City of Nashua, a New Hampshire municipal
corporation, on its behalf.

Notary Public
My commission expires:

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

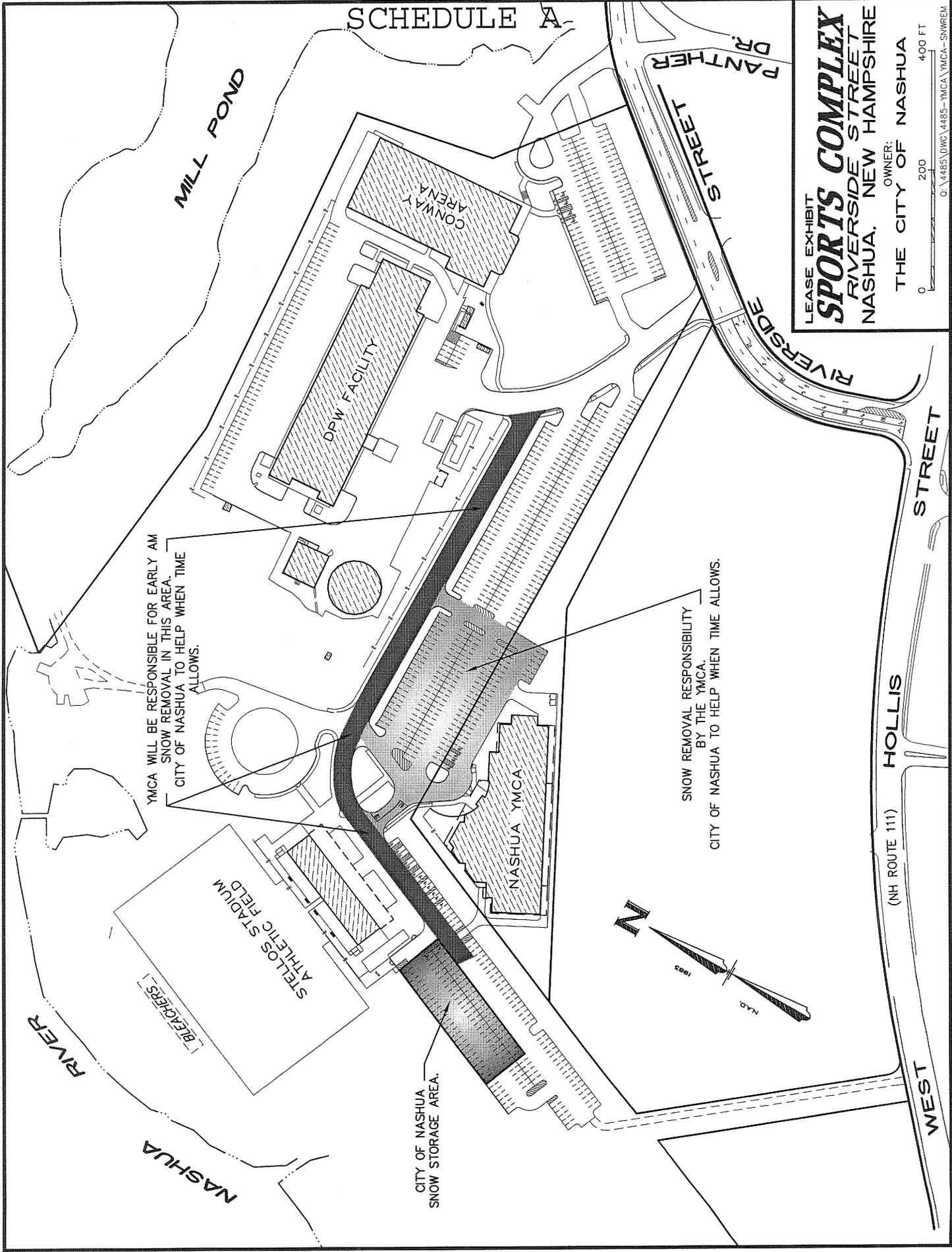
This instrument was acknowledged before me this _____ day of _____,
20____ by Steve Russell, Chairman of the Board of Directors of the Young Men's Christian
Association of Greater Nashua, a New Hampshire voluntary (non-profit) corporation, on its
behalf.

Notary Public
My commission expires:

SCHEDULE A

**PLAN DEPICTING SCHOOL BUS PARKING / STAGING
PROHIBITION, SNOW PLOWING AREAS AND SNOW STORAGE AREA**

SCHEDULE A



YMCA WILL BE RESPONSIBLE FOR EARLY AM SNOW REMOVAL IN THIS AREA. CITY OF NASHUA TO HELP WHEN TIME ALLOWS.

SNOW REMOVAL RESPONSIBILITY BY THE YMCA. CITY OF NASHUA TO HELP WHEN TIME ALLOWS.

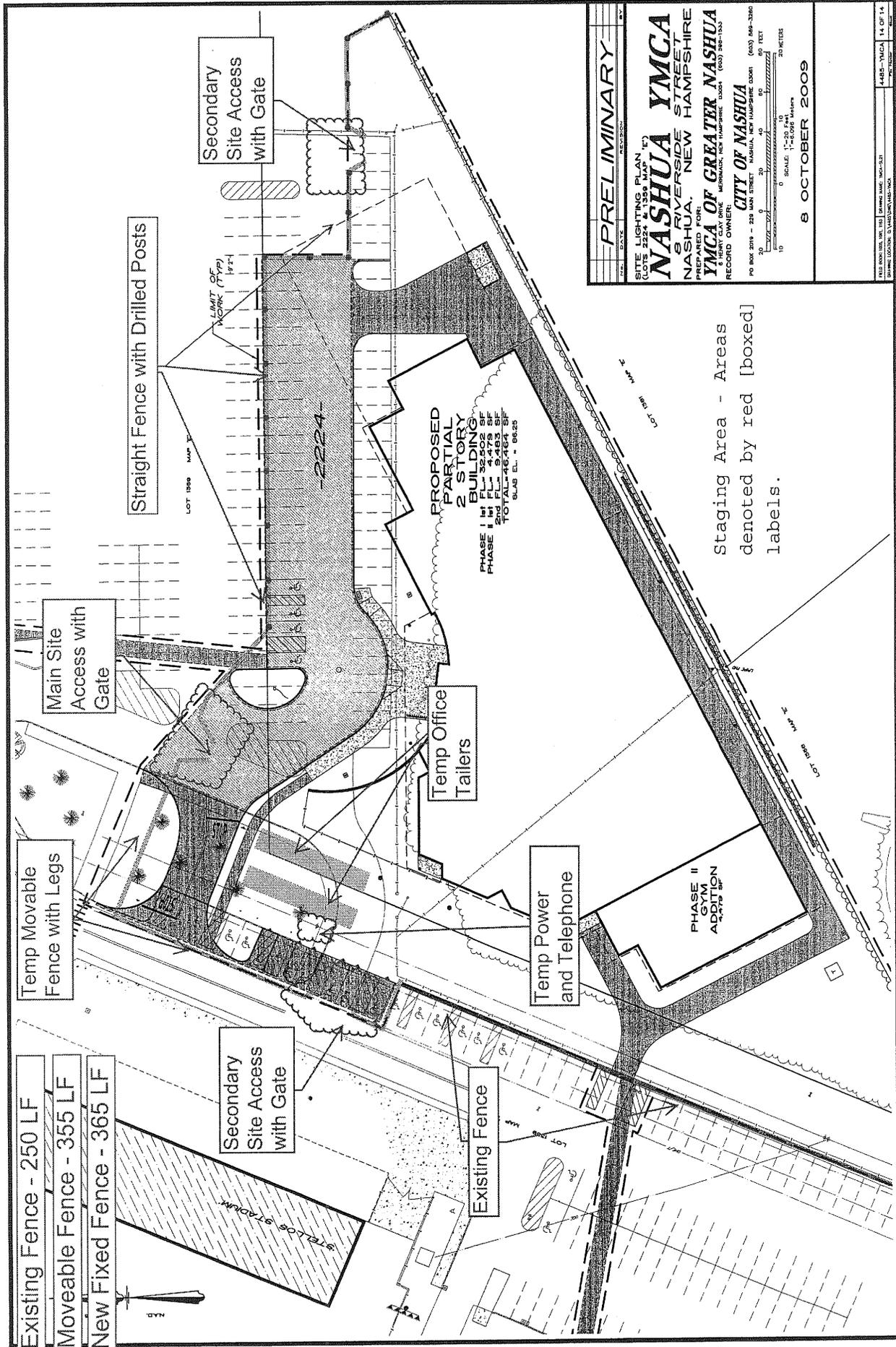
CITY OF NASHUA SNOW STORAGE AREA.

LEASE EXHIBIT
SPORTS COMPLEX
RIVERSIDE STREET
NASHUA, NEW HAMPSHIRE
OWNER: THE CITY OF NASHUA

0 200 400 FT

Q: \4485\DWG\4485-YMCA-SNWREM

SCHEDULE A - CONTINUED



PRELIMINARY

SITE LIGHTING PLAN
(LOTS 2224 & 1356 MAP "E")

NASHUA YMCA
9 RIVERSIDE STREET
NASHUA, NEW HAMPSHIRE

DESIGNED FOR
YMCA OF GREATER NASHUA
1000 WASHINGTON STREET, SUITE 1000
NASHUA, NH 03041

RECORD OWNER:
CITY OF NASHUA
100 MAIN STREET, NASHUA, NH 03041

PO BOX 2019 - 225 MAIN STREET, NASHUA, NH 03041 (603) 886-3380

DATE: 10/08/09
SCALE: 1"=20'-0"
0 20 40 60 80 100 FEET
0 20 40 60 80 METERS

8 OCTOBER 2009

DATE: 10/08/09
SCALE: 1"=20'-0"
0 20 40 60 80 100 FEET
0 20 40 60 80 METERS

DATE: 10/08/09
SCALE: 1"=20'-0"
0 20 40 60 80 100 FEET
0 20 40 60 80 METERS

Staging Area - Areas denoted by red [boxed] labels.

AGREEMENT
**(The Village in Nashua Condominium Association/
City of Nashua/YMCA – Riverside Drive Improvements)**

THIS AGREEMENT (the “Agreement”) is made this _____ day of _____, 2010, by and among The Village in Nashua Condominium Association, an unincorporated association, with an address of 505 West Hollis Street, Suite 205, Nashua, New Hampshire 03062 (the “Association”), the City of Nashua, a New Hampshire municipal corporation, with its principal office at 229 Main Street, Nashua, New Hampshire 03060 (the “City”) and Young Men’s Christian Association of Greater Nashua, a New Hampshire voluntary corporation, with its principal office at 6 Henry Clay Drive, Merrimack, New Hampshire 03054 (the “YMCA”).

Recitals

WHEREAS, the City is the owner of certain land located on the northwesterly side of Riverside Street in Nashua, Hillsborough County, New Hampshire, known as Map E, Lot 1359 on the City of Nashua Assessor’s Maps (“Lot 1359”); and

WHEREAS, Lot 1359 houses Stellos Stadium, a City DPW facility (the “DPW Complex”) and Conway Ice Arena (pursuant to a ground lease with Nashua Ice Center), as well as drive aisles, parking spaces and other improvements (collectively, the “Stellos Stadium Complex”); and

WHEREAS, the City is in the process of effecting an exchange of land with Belmar/PAG Limited Partnership (“Belmar”) which owns land situated on the northwesterly side of West Hollis Street, said Nashua, known as Map E, Lot 1358 on the City of Nashua Assessor’s Maps (“Lot 1358”); and

WHEREAS, the Association is the association of unit owners of 505 West Hollis Street Condominium (the “Condominium”), the Condominium being situated on Map E, Lot 1387 on the City of Nashua Assessor’s Maps (“Lot 1387”); and

WHEREAS, the City and the YMCA are in the process of finalizing an Option Agreement (the “Option Agreement”), pursuant to which the YMCA will have the option to lease a parcel of land which would be established upon consummation of the aforementioned exchange of land with Belmar, such parcel of land to be known as Map E, Lot 2224 (“Lot 2224”); and

WHEREAS, if the YMCA exercises its option to lease Lot 2224 pursuant to the Option Agreement, the YMCA will construct a new indoor recreational facility in the nature of a typical “YMCA” facility (the “Facility”); and

WHEREAS, the City and the YMCA contemplate that in light of the potential construction of the Facility, the Planning Board of the City of Nashua, or the City itself, may

require or desire to make improvements to portions of Riverside Street, including widening the pavement thereof from its intersection with West Hollis Street to a point northeasterly of the current easterly entrance to Lot 1387 to accommodate a left turn lane or pocket into Lot 1359, generally as contemplated by the plans entitled "Construction Plan Riverside Street Improvements Nashua, New Hampshire" prepared by the YMCA of Greater Nashua by Hayner/Swanson, Inc. dated 8 October 2009 (as may be revised) (the "Riverside Street Improvement Plans"); and

WHEREAS, there are two entrance/exit ways from Riverside Street to Lot 1387 (the "Existing Entrances"), which are anticipated to be eliminated and replaced with one entrance/exit way (the "New Entrance"), generally as contemplated by the Riverside Street Improvement Plans; and

WHEREAS, the Riverside Street Improvement Plans also contemplate additional modifications and improvements to Lot 1387, including the removal of certain pavement, the regrading of land adjacent to Riverside Street and the re-landscaping of portions of Lot 1387; and

WHEREAS, the parties desire to establish in writing the terms and conditions of their agreement regarding these matters.

Agreement

NOW, THEREFORE, in and for the mutual covenants set forth herein, and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Construction of Improvements.

A. Provided the YMCA exercises its option under the Option Agreement and enters into a lease of Lot 2224 with the City, the City and/or the YMCA may undertake construction and installation of the Riverside Street Improvements (defined below) and the Lot 1387 Improvements (defined below).

B. The Riverside Street Improvements and the Lot 1387 Improvements (and the preparation of the plans and pursuit of approvals therefor) shall be undertaken at the cost and expense of the City and the YMCA, and one or more other parties, as they determine; provided, that the Association and the unit owners of the Condominium shall bear no cost or expense in connection with either the Riverside Street Improvements or the Lot 1387 Improvements.

C. The term "Riverside Street Improvements" means the widening of pavement, construction of a left turn lane or pocket into Lot 1359, modifications to curbing and drainage, elimination of those portions of the Existing Entrances in the Riverside Street right-of-way and installation of the New Entrance, and all related work and improvements, as depicted on the Riverside Street Improvement Plans, as such plans are given final approval by the appropriate boards or agencies of the City.

D. The term “Lot 1387 Improvements” means (i) elimination of those portions of the Existing Entrances located on Lot 1387, construction of the that portion of the New Entrance to be located on Lot 1387, removal of existing pavement and modification of parking spaces, regrading of land along Riverside Street (situated on Lot 1387) and installation of drainage and stormwater management facilities all as contemplated by the Riverside Street Improvement Plans as they are given final approval by the appropriate boards or agencies with the City, (ii) installation of signage adjacent to the New Entrance and at or near the intersection of Panther Drive and Riverside Street, (iii) installation of lighting (if required pursuant to Section 5(B) below) at or near the New Entrance and the crosswalk on Riverside Street at or near the New Entrance and (iv) re-striping newly configured parking spaces and painting (on the pavement) “Stop” signage in those areas of Lot 1387 disturbed by the Lot 1387 Improvements.

2. Temporary Construction Easement. Upon the request of the City, the Association shall grant to the City and the YMCA a temporary construction easement over Lot 1387 to accommodate the Riverside Street Improvements and the Lot 1387 Improvements, including, without limitation, permitting the maintenance and storage of materials, machinery and equipment, from time to time, on Lot 1387; provided, that such storage of materials and equipment shall not materially or adversely affect the use and enjoyment of the parking areas and drive aisles on Lot 1387 by the unit owners of the Condominium or their guests or invitees.

3. Completion of Work. Once the Riverside Street Improvements and the Lot 1387 Improvements have commenced, they shall be substantially completed within ninety (90) days of commencement.

4. Access and Insurance. During the pendency of this Agreement and during the construction of the Riverside Street Improvements and the Lot 1387 Improvements, the City and the YMCA, their agents, employees and independent contractors, shall have access to Lot 1387 to undertake such surveying, engineering and other activities thereat, to prepare plans, governmental applications, subsurface inspections and related activities in preparation of approvals for the Riverside Street Improvements and the Lot 1387 Improvements, as well as having access to effect the Riverside Street Improvements and the Lot 1387 Improvements consistent with the temporary construction easement contemplated in Section 2 above. Upon request, the City and the YMCA shall provide the Association with evidence of liability insurance for the City, the YMCA and their agents, employees and independent contractors, who may go onto Lot 1387 as permitted by this Section 4. The City and the YMCA hold harmless the Association and the unit owners of the Condominium for any loss or injury to persons or property that may result from their activities on Lot 1387, including, without limitation, the construction of the Riverside Street Improvements and the Lot 1387 Improvements.

5. Signage and Lighting.

A. Prior to and/or after the execution of this Agreement, the parties shall work cooperatively to design and locate new directional signs designating and/or identifying the New Entrance (for Lot 1387), such signs to be located at or adjacent to the New Entrance and at the intersection of Panther Drive and Riverside Street. The parties will apply for all municipal approvals for such signage. The parties recognize that, although the City is a party to this

Agreement, approvals for such signage (which may include the variance by the Nashua Zoning Board of Adjustment) may or may not be granted by independent boards or officials of the City of Nashua. Consequently, if any such approval for signage is not granted, such circumstance shall not constitute an event of default by the City under this Agreement.

B. Prior to or after the execution of this Agreement, the parties shall evaluate whether additional lighting is necessary at or near the New Entrance and for any proposed crosswalk over Riverside Street at or near the New Entrance over Riverside Street.

C. The installation of signage and lighting (if required) contemplated in this Section 5 shall only occur in the event the YMCA exercises its option under the Option Agreement and enters into a lease of Lot 2224 with the City.

6. Term. The initial term of this Agreement shall commence the date of this Agreement and expire one (1) year after completion of the Riverside Street Improvements and the Lot 1387 Improvements; provided, that if the Riverside Street Improvements and the Lot 1387 Improvements are not completed prior to September 1, 2012, then this Agreement shall terminate.

7. Cooperation. The parties shall cooperate with each other to effect their rights and obligations under this Agreement. Without limitation thereto, the Association shall sign plans and applications for approval of the Riverside Street Improvements and Lot 1387 Improvements, if and as required.

8. Default. In the event of default by a party of its obligations under this Agreement, the other parties shall have all rights and remedies available to them, at law and in equity, including, without limitation, remedies of specific performance and mandatory injunction.

9. Law. This Agreement shall be governed by the law of the State of New Hampshire.

10. Notice. All notices shall be sent to the parties at their addresses first set forth in this Agreement, or such other addresses as each party may have otherwise notified the other parties (in writing) after the execution of this Agreement.

11. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

12. Merger. All representations, statements and agreements heretofore made by and between the parties are merged in this Agreement, which alone fully and completely expresses their respective rights and obligations as to the subject matter thereof.

13. Counsel. Each party represents to the others that it has had the opportunity to consult with independent legal counsel in connection with this Agreement and actions contemplated hereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the date first set forth above.

City of Nashua

Witness

By: _____
Donnalee Lozeau, Mayor

The Village at Nashua Condominium
Association

Witness

By: _____
John C. Machell, D.M.D.

Young Men's Christian Association of
Greater Nashua

Witness

By: _____

AGREEMENT
**(The Village in Nashua Condominium Association/
City of Nashua/YMCA – Special Events Parking)**

THIS AGREEMENT (the “Agreement”) is made this _____ day of _____, 2010, by and among The Village in Nashua Condominium Association, an unincorporated association, with an address of 505 West Hollis Street, Suite 205, Nashua, New Hampshire 03062 (the “Association”), the City of Nashua, a New Hampshire municipal corporation, with its principal office at 229 Main Street, Nashua, New Hampshire 03060 (the “City”) and Young Men’s Christian Association of Greater Nashua, a New Hampshire voluntary corporation, with its principal office at 6 Henry Clay Drive, Merrimack, New Hampshire 03054 (the “YMCA”).

Recitals

WHEREAS, the City is the owner of certain land located on the northwesterly side of Riverside Street in Nashua, Hillsborough County, New Hampshire, known as Map E, Lot 1359 on the City of Nashua Assessor’s Maps (“Lot 1359”); and

WHEREAS, Lot 1359 houses Stellos Stadium, a City DPW facility (the “DPW Complex”) and Conway Ice Arena (pursuant to a ground lease with Nashua Ice Center), as well as drive aisles, parking spaces and other improvements (collectively, the “Stellos Stadium Complex”); and

WHEREAS, the City is in the process of effecting an exchange of land with Belmar/PAG Limited Partnership (“Belmar”) which owns land situated on the northwesterly side of West Hollis Street, said Nashua, known as Map E, Lot 1358 on the City of Nashua Assessor’s Maps (“Lot 1358”); and

WHEREAS, the Association is the association of unit owners of 505 West Hollis Street Condominium (the “Condominium”), the Condominium being situated on Map E, Lot 1387 on the City of Nashua Assessor’s Maps (“Lot 1387”); and

WHEREAS, the City and the YMCA are in the process of finalizing an Option Agreement (the “Option Agreement”), pursuant to which the YMCA will have the option to lease a parcel of land which would be established upon consummation of the aforementioned exchange of land with Belmar, such parcel of land to be known as Map E, Lot 2224 (“Lot 2224”); and

WHEREAS, if the YMCA exercises its option to lease Lot 2224 pursuant to the Option Agreement, the YMCA will construct a new indoor recreational facility in the nature of a typical “YMCA” facility (the “Facility”); and

WHEREAS, the Facility will make use of the access roads and parking spaces currently existing on Lot 1359, in common with other uses thereof; and

WHEREAS, in the event the Facility is constructed and put into use, the City and the YMCA have requested, and the Association has agreed, to grant the City an easement to use certain parking spaces and drive aisles on Lot 1387, from time to time, in connection with so-called special events which may occur at Stellos Stadium on Lot 1359; and

WHEREAS, the parties desire to establish in writing the terms and conditions of their agreement regarding these matters.

Agreement

NOW, THEREFORE, in and for the mutual covenants set forth herein, and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Special Events Parking.

A. Simultaneously with or after the exercise of the option by the YMCA under the Option Agreement (to enter into a lease with the City of Lot 2224), the Association shall grant to the City an easement to use, from time to time, certain parking spaces and drive aisles at Lot 1387 (as the same may be reconfigured, from time to time (the "Parking Easement")), only in connection with the Special Events (defined below).

B. The form and substance of the Parking Easement shall be as set forth in **Exhibit A** attached.

C. The Parking Easement may be used by members of the public and others, including the agents, employees, patrons, guests and invitees of the YMCA, while a Special Event is ongoing, and not any other time. From time to time, in advance of a particular Special Event, the City and/or the YMCA shall advise the Association of the date and time of the upcoming Special Event.

D. Within twenty-four (24) hours of the conclusion of a Special Event, the YMCA shall remove litter and debris from the parking spaces and drive aisles on Lot 1387.

E. Notwithstanding any other provisions of this Agreement or the Parking Easement, the Parking Easement shall not include an easement to park in the parking spaces immediately adjacent to the drive aisle which runs in a east/west direction along the northerly side of the building at Lot 1387.

F. The term "Special Events" means (i) the annual Thanksgiving Day football game, (ii) the annual football game between Nashua High School North and Nashua High School South, (iii) the drum and bugle corps festival or competition (sometimes sponsored by the Spartans Drum and Bugle Corps) and (iv) other major events which are to occur at Stellos Stadium and which are designated as special events by the City, from time to time. Each of the Special Events is hereby referred to as a "Special Event." At least one (1) month in advance of a particular Special Event, the City shall so advise the Association and the YMCA of the day and hours of such

Special Event; provided, that no such notification is required for the annual Thanksgiving Day football game.

2. Insurance. While the Parking Easement is in effect, the City and the Association shall maintain general liability insurance with respect to the parking areas and drive aisles situated on Lot 1387 (as the same pertains to the City's and the Association's respective activities thereat). Annually, the City and the Association shall provide each other with written evidence of such insurance. Such insurance policy shall provide that it shall not be cancelled without at least twenty (20) days prior written notice to the corresponding (other) party. The amount of such insurance shall be reasonable and customary for such matters; provided, that the amount of such insurance shall not be less than \$1,000,000.00 of coverage per occurrence.

3. Termination of Easement. In the event that the YMCA or the City has materially breached either of its respective obligations under this Agreement or the Parking Easement, and which breach has not been substantially cured within ninety (90) days after written notice of default from the Association, then this Agreement and the Parking Easement shall terminate.

4. Cooperation. The parties shall cooperate with each other to effect their rights and obligations under this Agreement and the Parking Easement.

5. Default. In the event of default by a party of its obligations under this Agreement or the Parking Easement, the other parties shall have all rights and remedies available to them, at law and in equity, including, without limitation, remedies of specific performance and mandatory injunction.

6. Law. This Agreement shall be governed by the law of the State of New Hampshire.

7. Notice. All notices shall be sent to the parties at their addresses first set forth in this Agreement, or such other addresses as each party may have otherwise notified the other parties (in writing) after the execution of this Agreement.

8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

9. Merger. All representations, statements and agreements heretofore made by and between the parties are merged in this Agreement, which alone fully and completely expresses their respective rights and obligations as to the subject matter hereof.

10. Counsel. Each party represents to the others that it has had the opportunity to consult with independent legal counsel in connection with this Agreement and actions contemplated hereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the date first set forth above.

City of Nashua

Witness

By: _____
Donnalee Lozeau, Mayor

The Village at Nashua Condominium Association

Witness

By: _____
John C. Machell, D.M.D.

Young Men's Christian Association of Greater Nashua

Witness

By: _____

EXHIBIT A

**PARKING EASEMENT
(Lot 1387)**

The Village at Nashua Condominium Association, an unincorporated association of condominium unit owners, with a principal address of 505 West Hollis Street, Unit ____, Nashua, Hillsborough County, New Hampshire, for consideration paid, grants to the City of Nashua, a municipal corporation of Hillsborough County, New Hampshire, with offices at 229 Main Street, Nashua, Hillsborough County, New Hampshire 03060, with WARRANTY COVENANTS, the following described premises:

An easement, in common with others, to use the drive aisles and parking spaces on real estate at 505 West Hollis Street, Nashua, Hillsborough County, New Hampshire, such real estate being known as Map E, Lot 1387 on the City of Nashua Assessor's Maps ("Lot 1387"), Lot 1387 being more particularly described as set forth below.

Pursuant to the easements and rights granted hereby, the City of Nashua, its agents and employees, and members of the public and others, may use in common with others, the drive aisles and parking spaces at Lot 1387 only during the occurrence of so-called Special Events (defined below).

The term "Lot 1387" means that certain parcel of land situated on West Hollis Street in Nashua, Hillsborough County, New Hampshire, being shown as Sheet E Lot 1387 on a plan entitled "Site Plan The Villages in Nashua Condominium Nashua Hillsborough Co. New Hampshire" by Davis, Benoit & Tessier, Inc. dated January 2, 1984, and recorded with the Hillsborough County Registry of Deeds as Plan No. 16549.

The term "Special Events" means (i) the annual Thanksgiving Day football game, (ii) the annual football game between Nashua High School North and Nashua High School South, (iii) the drum and bugle corps festival or competition (sometimes sponsored by the Spartans Drum and Bugle Corps) and (iv) other events designated as special events by the City, from time to time, all in accordance with the terms of the Agreement (The Village in Nashua Condominium Association / City of Nashua / YMCA - Special Events Parking) dated _____, 20__ (the "Agreement"). Each of the Special Events is hereby referred to as a "Special Event."

While this easement is in effect, the City and the Association shall maintain general liability insurance with respect to the parking areas and drive aisles situated on Lot 1387 (as the same pertains to the City's and the Association's respective activities thereat). Annually, the City and the Association shall provide each other with written evidence of such insurance. Such insurance policy shall provide that it shall not be cancelled without at least twenty (20) days prior written notice to the corresponding (other) party. The amount of such insurance shall be reasonable and customary for such matters; provided, that the amount of such insurance shall not be less than \$1,000,000.00 of coverage per occurrence.

While a Special Event is ongoing, the City shall arrange for an adequate physical presence (of personnel) to direct and control parking at Lot 1387.

This easement is the Parking Easement contemplated under the Agreement, the terms and conditions of which (the Agreement) govern this Parking Easement.

This easement is granted pursuant to authority vested in the Board of Directors of The Village at Nashua Condominium Association and as provided by New Hampshire law. The undersigned confirms that the granting of this easement has been duly authorized and the signatory hereof has been duly authorized to execute and deliver this Parking Easement.

IN WITNESS WHEREOF, The Village at Nashua Condominium Association has caused this instrument to be duly executed this _____ day of _____, 20____.

The Village at Nashua Condominium Association

Witness

By: _____
John C. Machell, D.M.D.

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

This instrument was acknowledged before me this _____ day of _____, 20____, by John C. Machell, D.M.D. of The Village at Nashua Condominium Association, an unincorporated association of condominium unit owners, on its behalf.

Notary Public
My Commission Expires:

RESOLUTION R-10-19
Authorizing additional actions related to a land exchange and proposed lease agreement with the YMCA for portions of parcels on Riverside Street (Lot E-1358 and Lot E-1359)

IN THE BOARD OF ALDERMEN

1ST READING APRIL 13, 2010

Referred to:

FINANCE COMMITTEE

2nd Reading APRIL 27, 2010

3rd Reading _____

4th Reading _____

Other Action _____

Passed APRIL 27, 2010

Indefinitely Postponed _____

Defeated _____

Attest: [Signature]
City Clerk

[Signature]
President

Approved: [Signature]
Mayor's Signature

4/28/10
Date

Endorsed by
[Signature] MAYOR
[Signature] McCARTHY
[Signature] TABACSKO
[Signature] Melizzi-Golja
[Signature] Sheehan
[Signature] Cox

Vetoed: _____

Veto Sustained: _____

Veto Overridden: _____

Attest: _____
City Clerk

President