



RESOLUTION

AUTHORIZING THE CITY OF NASHUA TO ENTER INTO TWO LEASE AGREEMENTS WITH THE NASHUA DOG OWNERS GROUP FOR DOG PARKS AT ARTILLERY LANE AND YUDICKY FARM

CITY OF NASHUA

In the Year Two Thousand and Eleven

RESOLVED by the Board of Aldermen of the City of Nashua that the City is authorized to enter into the two Lease Agreements with the Nashua Dog Owners Group for dog parks at city owned property on Artillery Lane and at Yudicky Farm substantially similar to the attached.

LEGISLATIVE YEAR 2011

RESOLUTION: R-11-102

PURPOSE: Authorizing the City of Nashua to enter into two lease agreements with the Nashua Dog Owners Group for dog parks at Artillery Lane and Yudicky Farm

ENDORSER(S): Mayor Donnalee Lozeau
Alderman-at-Large Barbara Pressly

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: The fiscal impact to the city will be minimal as the lease calls for an annual payment from the lessee of \$1.00 and the costs associated with any improvements or operations will be borne by the lessee.

ANALYSIS

This resolution authorizes the City of Nashua to enter into two lease agreements with the Nashua Dog Owners Group for dog parks at Artillery Lane and Yudicky Farm.

This legislation should be referred to the Board of Public Works.

Approved as to form: Office of Corporation Counsel

By: Dorothy Clarke

Date: April 6, 2011

LEASE

This Lease, dated _____, 2011, is between the City of Nashua, a New Hampshire municipal corporation with a place of business at City Hall, 229 Main Street, Nashua, New Hampshire 03061-2019 (the "City") and Nashua Dog Owners Group, Inc., a New Hampshire non-profit corporation with an address of P. O. Box 304, Nashua, New Hampshire 03061 (the "Lessee").

In and for the mutual covenants set forth herein, and other good and valuable consideration paid, the parties agree as follows:

1. Lease of Premises and Term. The City leases to the Lessee and the Lessee leases from the City a portion of the parcel of land located off Main Dunstable Road, Nashua, Hillsborough County, New Hampshire, more particularly know as Yudicky Farm and South West Park described in Exhibit A attached hereto (the "Premises"), subject to the terms and conditions of this Lease. The term of this lease (the "Term") shall start on the date which is thirty-one (31) days after the date of site plan approval by the City of Nashua Planning Board of an off-leash dog park to be built on the Premises, and shall continue for five (5) years from the start date, unless sooner terminated pursuant to the terms of this Lease. This lease may be renewed for two additional five (5) year terms upon mutual agreement of the parties, and such agreement by the city shall not be unreasonably withheld.

1.1. Use of Premises. The City and Lessee acknowledge and agree that the Lessee intends to and will construct and operate an off-leash dog park on the Premises, pursuant to the conditions and requirements found in this Lease, including the

restrictions on use of the premises specified in Exhibit B. Lessee shall be responsible for obtaining and keeping in effect all required state and city permits and licenses for operation of the dog park.

1.2. Termination. The Term of this Lease shall immediately terminate without further notice upon the occurrence of any of the following events ("Termination Events"):

1.2.1. The Lessee materially breaches any of its obligations under this Lease, including the terms and conditions set forth in Exhibit B and C, and fails to cure, or take reasonable steps to cure, such breach within thirty (30) days after the City delivers written notice of such breach to the Lessee, except in the case of the Lessee's failure to maintain insurance as required in Sections 5 and 10 hereof. In such a case, termination shall be immediate upon expiration of the insurance. However, if the City chooses to pay any unpaid or overdue insurance costs, the Lessee shall have ten (10) business days to repay those costs and reactivate this Lease.

1.2.2. The Lessee commences a voluntary case under the federal bankruptcy laws, or shall apply for, consent to or acquiesce in the appointment of, or taking possession by, a trustee, receiver, custodian or similar official or agent for itself or any substantial part of its property.

1.2.3. A trustee, receiver, custodian or similar official or agent shall be appointed by an outside party for the Lessee or any substantial part of its property.

1.2.4. The Lessee shall be the subject of an involuntary case brought pursuant to the federal bankruptcy laws, or a petition or action seeking Lessee's reorganization, readjustment, arrangement, composition, dissolution, or other similar relief, whether under federal or state law, shall be brought against it and shall remain undismissed for a period of one hundred and twenty (120) days.

1.2.5. Any purported lien or attachment against the premises or Lessee's property therein, unless it is a lien or attachment against Lessee's property only agreed to by Lessee as a part of financing its operations or providing adequate security for its operations, is claimed, filed, recorded or asserted and the same is not fully released, bonded over, discharged or abated within a period of six (6) months.

1.2.6. Lessee attempts to assign or purportedly assigns this Lease.

Lessee hereby warrants that none of the foregoing termination events is occurring or has occurred as of the date of inception of this Lease.

1.2.7. Surrender of the property by Lessee to the City by written notice signed by the Lessee stating that the Lessee seeks to discontinue operation of a dog park.

1.3. Delivery of Premises At End of Term; At the end of the lease term, or if there is a termination of this Lease prior to the end of the term of the Lease, the Lessee shall vacate the Premises, leaving the Premises in a clean and orderly condition.

1.4. Transfer of Premises. The City shall have the right to sell, convey, transfer or encumber all or any portion of its interest in the Premises, subject to this Lease.

2. Rent: The rent shall be \$1 per year.

3. Real Property Taxes. The Lessee shall not be obligated to pay current or potential real or personal property taxes on the Premises, land or improvements, during the term of the Lease.

4. Utilities. The Lessee shall be responsible and timely pay for all utilities used or consumed at the Premises, including, without limitation, all gas, electricity, water, sewer and telecommunication (telephone, cable, etc.) costs. If the Lessee requires or desires any modifications or improvement to any utility system or the addition of a utility service not presently servicing the Premises, the Lessee may, after obtaining the City's

prior written consent, which consent shall not be unreasonably withheld or delayed, undertake such modification, improvement or addition at Lessee's cost.

5. Maintenance by Lessee. The Lessee shall, at its expense, maintain the grounds of the Premises in a clean and orderly condition. The Lessee shall be responsible for trash removal. The Lessee shall, at its expense, maintain all portions of the Premises in good repair and condition as a dog park.

Private contractors engaged by the Lessee for trash are, or other persons performing trash for or on behalf of Lessee, subject to established City of Nashua qualification criteria. A Certificate of Insurance must be filed with the City of Nashua reflecting the following limits of liability:

Comprehensive General Liability: \$1,000,000 per occurrence/\$2,000,000 aggregate.

Motor Vehicle Liability: \$1,000,000 combined single limit. Coverage must include all owned, non-owned and hired vehicles.

Workers' Compensation: As required by statute. Employer Liability of \$100,000 / \$500,000 / \$100,000.

The City of Nashua must be named an additional insured on General Liability and Motor Vehicle Liability coverage. Coverage must be written with an insurance carrier licensed to do business in the State of New Hampshire. The City of Nashua requires thirty (30) days written notice of cancellation or material change in coverage. The Lessee is responsible for obtaining and filing updated Certificates of Insurance with the City of Nashua Risk Management Department. Any private contractor using CDL (commercial drivers license) qualified vehicles is subject to additional criteria for proof of compliance to FMCSR (Federal Motor Carrier Safety Regulations) 49 CFR Random Drug & Alcohol Testing. Criteria may be obtained from the City of Nashua Risk Management Department.

6. Suitability for Use; No Warranty by City.

6.1. Lessee acknowledges that the Premises are in acceptable condition and are suitable for its use.

6.2. City makes no warranty about the Premises, whether express or implied.

7. Construction and Alterations. The City acknowledges that the Lessee intends to and will construct an off-leash dog park on the Premises, as specified in Exhibit C, pursuant to the conditions and requirements found in this Lease.

The Lessee shall not make any structural alterations to the Premises without the City's prior written consent. In addition, the Lessee shall comply with the following:

7.1. The Lessee shall submit to the City written plans of the proposed construction or alterations;

7.2. The construction or alterations shall be approved by all appropriate government agencies and all applicable permits, approvals and authorizations shall be obtained before commencement of the construction or alterations;

7.3. The construction or alterations shall be completed with due diligence in compliance with such plans and all applicable laws, codes and ordinances; and

7.4. Any and all mechanic's liens claimed, filed, recorded, or asserted against the Premises resulting from construction or alterations done by or for the Lessee shall be fully released, bonded over, discharged or abated within a period of six (6) months.

8. Indemnity by Lessee. The Lessee shall indemnify and save harmless the City and its agents, employees, servants, officers, directors, constituent agencies, boards and commissions against and from all liabilities, claims, demands, loss, obligations and penalties (including, without limitation, reasonable attorneys' fees, investigative and

discovery costs and court costs) of any person or entity, including, without limitation, employees, agents, licensees and invitees of the Lessee or City, whether for injuries to persons or loss of life, or damage to property, arising out of the use, occupancy or possession of the Premises by the Lessee or its agents and/or third parties, and whether caused by or arising out of negligence, fault, breach of warranty, products liability or strict liability, or any other cause, except if caused solely by negligence on the part of the City. In case any action or proceeding is brought against City by reason of any such claim, the Lessee shall, at the Lessee's expense, resist or defend such action or proceeding with counsel approved by the City's Corporation Counsel in writing, which approval shall not be unreasonably withheld. This covenant of indemnification shall be deemed to be a separate and enforceable New Hampshire contract which shall survive the termination or expiration of this Lease and which shall not be modified or reduced by the presence or absence of insurance, whether required or not hereunder.

9. Insurance. The Lessee shall maintain the following insurance/liability coverage:

9.1. Comprehensive General Liability: \$1,000,000 per occurrence / \$2,000,000 aggregate, including premises and operations and products and completed operations, participant coverage and employment practices. The City of Nashua must be named an additional insured. Such insurance must include, but not be limited to, liability for injuries caused by dogs.

10. Other Insurance Matters. All the insurance required hereunder shall:

10.1. Be issued by insurance companies authorized to do business in the State of New Hampshire;

10.2. Be issued as a primary policy; and

10.3. Contain an endorsement requiring thirty (30) days prior written notice from the insurance company to both parties before cancellation or change in the coverage, scope, or amount of any policy.

10.4. Be maintained continuously throughout the term of the Lease.

10.5. The provision of certificates of insurance satisfactory to the Manager of the Risk Management Department and satisfying all insurance sections contained herein shall be submitted to the Risk Management Department prior to the Lessee occupying or using the Premises, whose approval of said insurance coverages / sections shall not be unreasonably withheld.

10.6. The Lessor and the Lessee understand and acknowledge that insurance requirements may change over the course of this lease. To that end, the Lessee acknowledges that the Lessor may request amendments to the insurance required under this Lease, and agreement by the Lessee to such amendments will not be unreasonably withheld.

11. Prohibition against Assignment. The Lessee shall not assign this Lease without first obtaining the City's written consent, by a resolution of the City of Nashua Board of Aldermen, which may or may not be given at the sole discretion of the City. Unauthorized assignment or purported assignment of this Lease shall constitute an event of termination under Section 1.2 hereof for which termination shall occur without further notice.

12. City's Right of Entry. The City and the City's authorized representatives shall have the right to enter the Premises at all times for any of the following purposes:

12.1. To determine whether the Premises are in good condition and whether the Lessee is complying with its obligations under this Agreement; or

12.2. To do any necessary emergency maintenance or to make any restoration to the Premises.

12.3. The City is authorized to close the park with notice for use for certain events such as but not limited to, 1) Tournaments and festivals 2) For any maintenance, testing, or concerns associated with the park or areas adjacent to it.

12.4. The City will be given ten (10) copies of any keys needed to access the park and will be given an updated set if key changes are needed.

The City shall endeavor to give reasonable notice of its intent to enter the Premises pursuant to this section in non-emergency situations and shall endeavor to prevent unnecessary interruption of events being conducted at the Premises.

13. Peaceful Enjoyment. The parties agree that if the Lessee discharges its obligations hereunder then it shall have and enjoy during the Term, and any renewal term, the quiet, peaceful and undisturbed possession of the Premises and all related rights hereunder granted.

14. Subtenants; Related Uses. The Lessee may not sublease the Premises or portions of the Premises without written approval of the City. Any and all subtenants are required to meet the same insurance requirements as the Lessee.

15. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, return receipt requested:

15.1. If to the City at 229 Main Street, Nashua, New Hampshire 03061-2019, Attn: Mayor.

15.2. If to the Lessee at P.O. Box 304, Nashua, New Hampshire, 03061, Attn: President.

Either party may change its address by notifying the other party of the change of address in writing.

16. Successors. This Agreement shall be binding upon the parties hereto; their successors and assigns, if any are permitted.

17. Entire Agreement; Modification. This Agreement contains all the agreements of the parties with respect to the subject matter hereof, and any amendment or modification hereto shall be effective only if in writing and signed by both parties. It is the intention of the parties that this agreement be a fully integrated document, interpreted solely in accordance with its express terms and without reference to correspondence between the parties, conversations or understanding between their representatives or officials, or their prior relationship, of whatever nature.

18. Severability. The unenforceability, invalidity or illegality of any provision of this Lease shall not render the other provisions unenforceable, invalid or illegal.

19. Applicable Law. This Lease shall be construed in accordance with the laws of the State of New Hampshire.

20. Waiver. No delay or omission in the exercise of any right or remedy of the City shall impair such a right or remedy or be construed as a waiver. The City's consent to or approval of any act or omission by the Lessee requiring the City's consent or approval shall not be deemed to waive or render unnecessary the City's consent to or approval of any subsequent act or omission by the Lessee. Any waiver by the City must be in writing and shall not be a waiver of any other matter concerning the same or any other provisions of this Lease

21. References to Gender and Number. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

22. Captions. The captions or headings of the sections of this Lease are inserted for convenience and shall not be determinative in construing the provisions hereof.

23. Subleases, Grants, Performances, etc.; Consistency with Lease Terms. Lessee shall not grant any sublease, or facility use arrangement, or enter into or accept any grant, or take or suffer any event or action to occur on the Premises that is inconsistent with or repugnant to the terms and intent of this Lease.

24. Independent Entities. City and Lessee are and at all times shall be construed to be independent entities and independent contractors and shall not be deemed to be joint venturers, partners, master and servant or in any way related, but through the relationship of landlord and tenant wherein the landlord has no responsibility or liability for the actions of the tenant, which shall at all times be deemed to be independent.

25. Conformance with the Law. In all actions permitted hereby the Lessee shall conform to all pertinent federal, state and local laws, whether statutory or decisional. It shall not violate any law, building or fire code, act without a requisite permit or suffer or allow a violation of law to occur on the Premises.

**NASHUA DOG OWNERS GROUP,
INC., LESSEE**

Witness

By: _____
Print name: _____
Title: _____
Duly Authorized

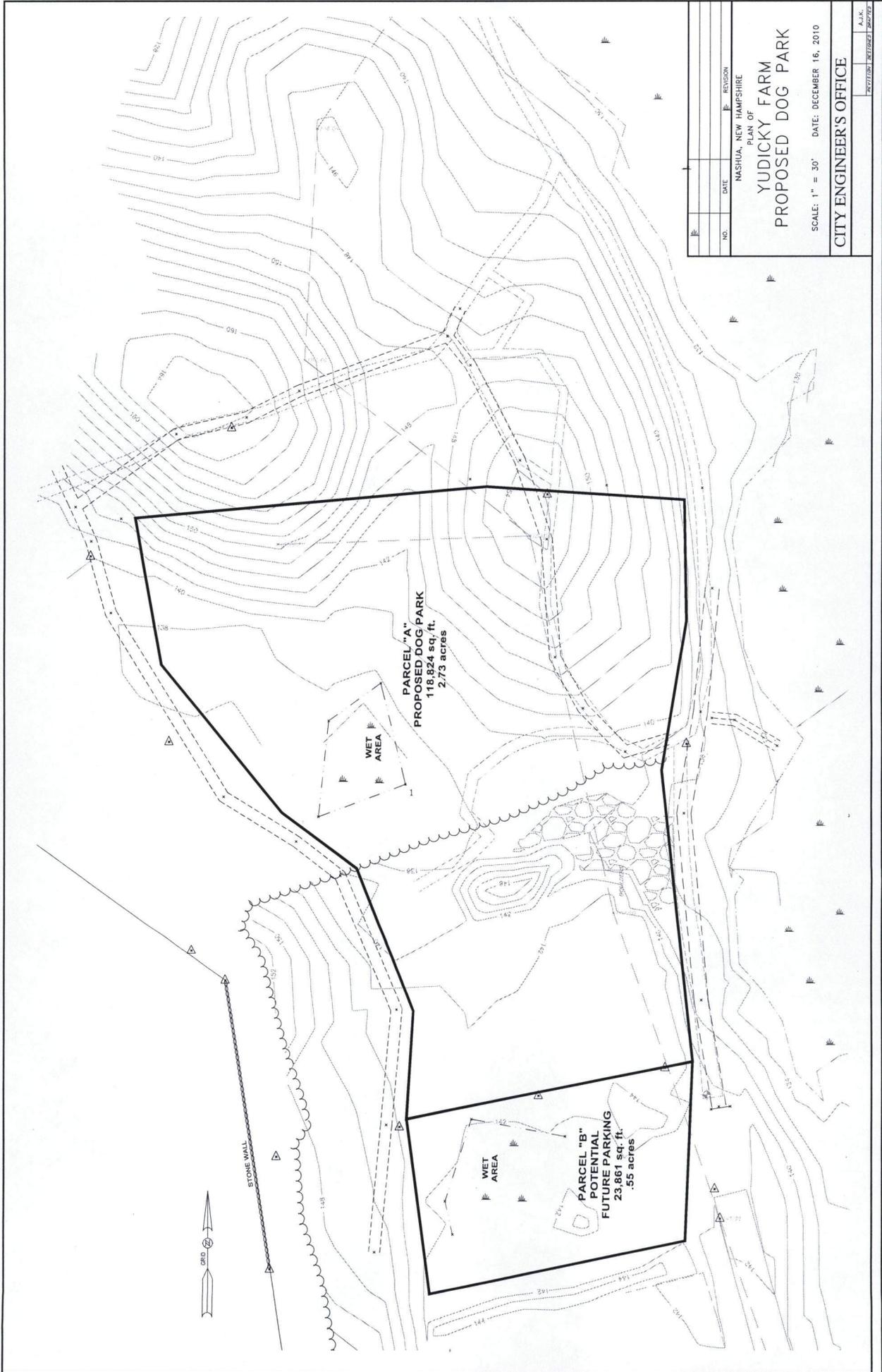
CITY OF NASHUA, LESSOR

Witness

By: _____
Donnalee Lozeau, Mayor

EXHIBIT A

Parcel Description



NO.	DATE	REVISION

NASHUA, NEW HAMPSHIRE
 PLAN OF
YUDICKY FARM
PROPOSED DOG PARK

SCALE: 1" = 30' DATE: DECEMBER 16, 2010

CITY ENGINEER'S OFFICE

12/17/2010 10:23:00 AM
 A.J.K.

EXHIBIT B

Off-Leash Dog Park Specifications

Membership

Nashua D.O.G. is a 501(c)(3) non-profit organization, dedicated to the task of establishing a permanent dog park in the City of Nashua, New Hampshire. We believe a permanent off-leash dog park would be mutually beneficial to residents of the Nashua area—both dog owners and non-dog owners alike.

As Nashua D.O.G. is a non-profit entity and receives no state or local revenue, this organization has adopted a fee for service structure, requiring a small user fee from each Nashua D.O.G. participant. As maintenance and contract services change, the fee structure will be re-evaluated by the board of directors and adjustments made accordingly.

Registration

As the current registration process for the Nashua D.O.G Playgroup, participation within the permanent dog park will require a similar procedure.

Membership and dog registration will be required in order to use the dog park. Every dog must be properly registered before entering the park. In addition to the completed registration form, proof of current rabies and distemper/parvo vaccinations (photocopies of the certificates) are required. Finally, proof of current town or city dog license is required by municipal ordinance.

Basic Rules

1. Remember that failure to follow park rules may result in loss of park privileges and/or Nashua DOG membership.
2. All canines must be owned and properly registered by a Nashua Dog member.
3. All owners are solely responsible for injuries and/or damage caused by their dog(s).
4. Should park rules be violated or a disturbance created, offenders will be asked to leave the park.
5. NO food, smoking, alcoholic beverages, glass containers, bicycles, strollers, children's toys, or bringing in other non-canine animals are allowed in the park.
6. Dogs must be leashed upon entry and exit of park, as per City Ordinance, Chapter 15, section 15-16 Revised. Remove leashes only in the designated "unleash area."
7. Owners/handlers must check that gates lock behind them. Owners will not provide access or open gates for others. Each owner will be allowed park access after logging in using their individual access code.
8. Once in the park, dogs will remain unleashed until such time as to exit the park property.
9. Handlers must be 18 years or older and remain within the park at all times.
10. No more than three (3) dogs per handler.

11. Dogs must be within the handler/owner's sight and/or voice range. Every dog must be supervised as it moves around the park.
12. Handlers must have a leash(s) with them at all times.
13. Dogs exhibiting hostile behavior towards other dogs or people must be removed from the park immediately.
14. All owners/handlers must pick up and properly dispose of their dog's waste.
15. Only small dog treats allowed. Train and treat only your own dog(s).
16. Dog toys are allowed, providing they are removed from the park when you exit. If the toy becomes an issue, it must be immediately removed.
17. Children under 18 must be closely supervised at all times by their parent/guardian.
 - a. Children should not be permitted to run, shout, scream, wave their arms or otherwise excite or antagonize the dogs.
 - b. Make sure you are within reach of your child at all times.
 - c. The park is not a playground for children. Parents/Guardians are solely responsible for the actions and safety of their children.
18. Females in heat or sick dogs are prohibited in park. It is recommended that dogs be spayed or neutered.
19. NO pronged or choke collars are allowed inside the park. Dogs must wear a flat collar or harness at ALL times while inside the park.
20. All dogs must bear permanent ID, collar tag or microchip.
21. Do not allow your dog(s) to harm wildlife or alter the physical space (digging, chewing).
22. These rules may be amended as needed by Nashua D.O.G.

EXHIBIT C

Off-Leash Dog Park Construction Specifications

Nashua Dog Owner's Group desires to establish a permanent off-leash area for members to exercise, socialize, and train dogs as well as provide member and community education events and/or opportunities involving canine activities, health & wellness, and best-practices. Initially, the **hours of operation** will be 6:00AM to dusk. These hours may be extended pending review and approval by the City.

The **land** will be a combination of open areas as well as treed areas surrounded by 8' to 10' **fencing**, completely enclosing the leased parcel.

Electronic gates will be the means of entry by providing individual members access cards to swipe for coded entry/egress. A **double gated entry** system will be used to ensure the safety of the animals, as well as others using the park. At least one, but not limited to one, smaller area of the parcel would be further fenced with a 6' to 8' fence, creating another exercise area(s). One of these additional sections will be for the express purpose of providing a **small dog exercise area**, a separately fenced area for small breeds to safely run and play.

Paths will be built throughout the parcel, as well as around the perimeter, providing opportunities for safe movement within the site. **Seating**, such as benches, will be placed at intervals along the paths. The **ground coverings** will be a combination of; natural ground covers, pine needles, mulch, grass, granite/stone dust, bricks/pavers, artificial surfaces, etc. Also, **equipment** for dog play may be installed providing tunnels, low jumps, etc. for dog and owner sport and play.

Structures to be built within the parcel would include; a central gazebo or shelter, pet waste stations, signage, kiosks, electronic housing for gate electronics, and storage sheds. Nashua DOG members would use the city owned **parking area** near and/or adjacent to the site.

Nashua DOG will install the necessary lines bringing **electricity** and **water** from the existing pump/line (beside the fenced softball field backstop) to the Nashua DOG parcel. Lights will be installed, providing visibility within the site as needed. A canine as well as a human water fountain area, may be installed. Also, **security cameras** may be installed and used by Nashua DOG, as needed, to assist in providing safety monitoring within the property. Both **trash and snow removal** at this site will be the responsibility of Nashua DOG.

Improvements will be reviewed and approved by the appropriate City authority, if any.

LEASE

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In and for the mutual covenants set forth herein, and other good and valuable consideration paid, the parties agree as follows:

1. Lease of Premises and Term. The City leases to the Lessee and the Lessee leases from the City a portion of the parcel of land located at Artillery Lane, Nashua, Hillsborough County, New Hampshire, more particularly know as Anniversary Park described in Exhibit A attached hereto (the "Premises"), subject to the terms and conditions of this Lease. The term of this lease (the "Term") shall start on the date which is thirty-one (31) days after the date of site plan approval by the City of Nashua Planning Board of an off-leash dog park to be built on the Premises, and shall continue for three (3) years from the start date, unless sooner terminated pursuant to the terms of this Lease. This lease may be renewed for two additional three (3) year terms upon mutual agreement of the parties, and such agreement by the city shall not be unreasonably withheld.

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obtaining and keeping in effect all required state and city permits and licenses for operation of the dog park.

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7.2. The construction or alterations shall be approved by all appropriate government agencies and all applicable permits, approvals and authorizations shall be obtained before commencement of the construction or alterations;

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7.4. Any and all mechanic's liens claimed, filed, recorded, or asserted against the Premises resulting from construction or alterations done by or for the Lessee shall be fully released, bonded over, discharged or abated within a period of six (6) months.

8. Indemnity by Lessee. The Lessee shall indemnify and save harmless the City and its agents, employees, servants, officers, directors, constituent agencies, boards and commissions against and from all liabilities, claims, demands, loss, obligations and penalties (including, without limitation, reasonable attorneys' fees, investigative and discovery costs and court costs) of any person or entity, including, without limitation,

employees, agents, licensees and invitees of the Lessee or City, whether for injuries to persons or loss of life, or damage to property, arising out of the use, occupancy or possession of the Premises by the Lessee or its agents and/or third parties, and whether caused by or arising out of negligence, fault, breach of warranty, products liability or strict liability, or any other cause, except if caused solely by negligence on the part of the City. In case any action or proceeding is brought against City by reason of any such claim, the Lessee shall, at the Lessee's expense, resist or defend such action or proceeding with counsel approved by the City's Corporation Counsel in writing, which approval shall not be unreasonably withheld. This covenant of indemnification shall be deemed to be a separate and enforceable New Hampshire contract which shall survive the termination or expiration of this Lease and which shall not be modified or reduced by the presence or absence of insurance, whether required or not hereunder.

9. Insurance. The Lessee shall maintain the following insurance/liability coverage:

9.1. Comprehensive General Liability: \$1,000,000 per occurrence / \$2,000,000 aggregate, including premises and operations and products and completed operations, participant coverage and employment practices. The City of Nashua must be named an additional insured. Such insurance must include, but not be limited to, liability for injuries caused by dogs.

10. Other Insurance Matters. All the insurance required hereunder shall:

10.1. Be issued by insurance companies authorized to do business in the State of New Hampshire;

10.2. Be issued as a primary policy; and

10.3. Contain an endorsement requiring thirty (30) days prior written notice from the insurance company to both parties before cancellation or change in the coverage, scope, or amount of any policy.

10.4. Be maintained continuously throughout the term of the Lease.

10.5. The provision of certificates of insurance satisfactory to the Manager of the Risk Management Department and satisfying all insurance sections contained herein shall be submitted to the Risk Management Department prior to the Lessee occupying or using the Premises, whose approval of said insurance coverages / sections shall not be unreasonably withheld.

10.6. The Lessor and the Lessee understand and acknowledge that insurance requirements may change over the course of this lease. To that end, the Lessee acknowledges that the Lessor may request amendments to the insurance required under this Lease, and agreement by the Lessee to such amendments will not be unreasonably withheld.

11. Prohibition against Assignment. The Lessee shall not assign this Lease without first obtaining the City's written consent, by a resolution of the City of Nashua Board of Aldermen, which may or may not be given at the sole discretion of the City. Unauthorized assignment or purported assignment of this Lease shall constitute an event of termination under Section 1.2 hereof for which termination shall occur without further notice.

12. City's Right of Entry. The City and the City's authorized representatives shall have the right to enter the Premises at all times for any of the following purposes:

12.1. To determine whether the Premises are in good condition and whether the Lessee is complying with its obligations under this Agreement; or

12.2. To do any necessary emergency maintenance or to make any restoration to the Premises.

12.3. The City is authorized to close the park with notice for use for certain events such as but not limited to, 1) The annual 4th of July fireworks celebration 2) The 4th of July fireworks rain date 3) Any fireworks program associated with Holman Stadium or any group permitted to use the stadium. 4) For any maintenance, testing, or concerns associated with the park or areas adjacent to it.

12.4. The City will be given ten (10) copies of any keys needed to access the park and will be given an updated set if key changes are needed.

The City shall endeavor to give reasonable notice of its intent to enter the Premises pursuant to this section in non-emergency situations and shall endeavor to prevent unnecessary interruption of events being conducted at the Premises.

13. Peaceful Enjoyment. The parties agree that if the Lessee discharges its obligations hereunder then it shall have and enjoy during the Term, and any renewal term, the quiet, peaceful and undisturbed possession of the Premises and all related rights hereunder granted.

14. Subtenants; Related Uses. The Lessee may not sublease the Premises or portions of the Premises without written approval of the City. Any and all subtenants are required to meet the same insurance requirements as the Lessee.

15. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, return receipt requested:

15.1. If to the City at 229 Main Street, Nashua, New Hampshire 03061-2019, Attn: Mayor.

15.2. If to the Lessee at P.O. Box 304, Nashua, New Hampshire, 03061, Attn: President.

Either party may change its address by notifying the other party of the change of address in writing.

16. Successors. This Agreement shall be binding upon the parties hereto; their successors and assigns, if any are permitted.

17. Entire Agreement; Modification. This Agreement contains all the agreements of the parties with respect to the subject matter hereof, and any amendment or modification hereto shall be effective only if in writing and signed by both parties. It is the intention of the parties that this agreement be a fully integrated document, interpreted solely in accordance with its express terms and without reference to correspondence between the parties, conversations or understanding between their representatives or officials, or their prior relationship, of whatever nature.

18. Severability. The unenforceability, invalidity or illegality of any provision of this Lease shall not render the other provisions unenforceable, invalid or illegal.

19. Applicable Law. This Lease shall be construed in accordance with the laws of the State of New Hampshire.

20. Waiver. No delay or omission in the exercise of any right or remedy of the City shall impair such a right or remedy or be construed as a waiver. The City's consent to or approval of any act or omission by the Lessee requiring the City's consent or approval shall not be deemed to waive or render unnecessary the City's consent to or approval of any subsequent act or omission by the Lessee. Any waiver by the City must be in writing and shall not be a waiver of any other matter concerning the same or any other provisions of this Lease

21. References to Gender and Number. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

22. Captions. The captions or headings of the sections of this Lease are inserted for convenience and shall not be determinative in construing the provisions hereof.

23. Subleases, Grants, Performances, etc.; Consistency with Lease Terms. Lessee shall not grant any sublease, or facility use arrangement, or enter into or accept

any grant, or take or suffer any event or action to occur on the Premises that is inconsistent with or repugnant to the terms and intent of this Lease.

24. Independent Entities. City and Lessee are and at all times shall be construed to be independent entities and independent contractors and shall not be deemed to be joint venturers, partners, master and servant or in any way related, but through the relationship of landlord and tenant wherein the landlord has no responsibility or liability for the actions of the tenant, which shall at all times be deemed to be independent.

25. Conformance with the Law. In all actions permitted hereby the Lessee shall conform to all pertinent federal, state and local laws, whether statutory or decisional. It shall not violate any law, building or fire code, act without a requisite permit or suffer or allow a violation of law to occur on the Premises.

**NASHUA DOG OWNERS GROUP,
INC., LESSEE**

Witness

By: _____
Print name: _____
Title: _____
Duly Authorized

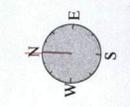
CITY OF NASHUA, LESSOR

Witness

By: _____
Donnalee Lozeau, Mayor

EXHIBIT A

Parcel Description



- Park Limits
- Wet Areas Ponds
- Existing Fences
- NASTRA Dog MUST Put in A Double Gate



Proposed Dog Park Athlway Lane

EXHIBIT B

Off-Leash Dog Park Specifications

Membership

Nashua D.O.G. is a 501(c)(3) non-profit organization, dedicated to the task of establishing a permanent dog park in the City of Nashua, New Hampshire. We believe a permanent off-leash dog park would be mutually beneficial to residents of the Nashua area—both dog owners and non-dog owners alike.

As Nashua D.O.G. is a non-profit entity and receives no state or local revenue, this organization has adopted a fee for service structure, requiring a small user fee from each Nashua D.O.G. participant. As maintenance and contract services change, the fee structure will be re-evaluated by the board of directors and adjustments made accordingly.

Registration

As the current registration process for the Nashua D.O.G Playgroup, participation within the permanent dog park will require a similar procedure.

Membership and dog registration will be required in order to use the dog park. Every dog must be properly registered before entering the park. In addition to the completed registration form, proof of current rabies and distemper/parvo vaccinations (photocopies of the certificates) are required. Finally, proof of current town or city dog license is required by municipal ordinance.

Basic Rules

1. Remember that failure to follow park rules may result in loss of park privileges and/or Nashua DOG membership.
2. All canines must be owned and properly registered by a Nashua Dog member.
3. All owners are solely responsible for injuries and/or damage caused by their dog(s).
4. Should park rules be violated or a disturbance created, offenders will be asked to leave the park.
5. NO food, smoking, alcoholic beverages, glass containers, bicycles, strollers, children's toys, or bringing in other non-canine animals are allowed in the park.
6. Dogs must be leashed upon entry and exit of park, as per City Ordinance, Chapter 15, section 15-16 Revised. Remove leashes only in the designated "unleash area."
7. Owners/handlers must check that gates lock behind them. Owners will not provide access or open gates for others. Each owner will be allowed park access after logging in using their individual access code.
8. Once in the park, dogs will remain unleashed until such time as to exit the park property.
9. Handlers must be 18 years or older and remain within the park at all times.
10. No more than three (3) dogs per handler.

11. Dogs must be within the handler/owner's sight and/or voice range. Every dog must be supervised as it moves around the park.
12. Handlers must have a leash(s) with them at all times.
13. Dogs exhibiting hostile behavior towards other dogs or people must be removed from the park immediately.
14. All owners/handlers must pick up and properly dispose of their dog's waste.
15. Only small dog treats allowed. Train and treat only your own dog(s).
16. Dog toys are allowed, providing they are removed from the park when you exit. If the toy becomes an issue, it must be immediately removed.
17. Children under 18 must be closely supervised at all times by their parent/guardian.
 - a. Children should not be permitted to run, shout, scream, wave their arms or otherwise excite or antagonize the dogs.
 - b. Make sure you are within reach of your child at all times.
 - c. The park is not a playground for children. Parents/Guardians are solely responsible for the actions and safety of their children.
18. Females in heat or sick dogs are prohibited in park. It is recommended that dogs be spayed or neutered.
19. NO pronged or choke collars are allowed inside the park. Dogs must wear a flat collar or harness at ALL times while inside the park.
20. All dogs must bear permanent ID, collar tag or microchip.
21. Do not allow your dog(s) to harm wildlife or alter the physical space (digging, chewing).
22. These rules may be amended as needed by Nashua D.O.G.

EXHIBIT C

Off-Leash Dog Park Construction Specifications

Nashua Dog Owner's Group desires to establish a permanent off-leash area for members to exercise, socialize, and train dogs as well as provide member and community education events and/or opportunities involving canine activities, health & wellness, and best-practices. Initially, the **hours of operation** will be 6:00AM to dusk. These hours may be extended pending review and approval by the City.

The **land** will be a combination of open areas as well as treed areas surrounded by 8' to 10' **fencing** completely enclosing the leased parcel.

Electronic gates will be the means of entry by providing individual members access cards to swipe for coded entry/egress. A **double gated entry** system will be used to ensure the safety of the animals, as well as others using the park. Nashua DOG members would use the city owned **parking area** near and/or adjacent to the site. Nashua DOG would not be responsible for **tree maintenance**, but will work with the city's designee to determine a tree cutting and maintenance plan to ensure safety for the dog park users. The City and Nashua Dog will agree on how to accomplish the plan. Both **trash and snow removal** at this site will be the responsibility of Nashua DOG.

Possible additional improvements to the site are described below. As there are environmental issues on the site, all additional improvements must be to the satisfaction of and approved by the City's Public Works Division Director.

At least one, but not limited to one, smaller area of the parcel may be further fenced with a 6' to 8' fence, creating another exercise area(s). One of these additional sections could be for the express purpose of providing a **small dog exercise area**, a separately fenced area for small breeds to safely run and play. Additional **paths** may be built throughout the parcel, as well as around the perimeter, providing walking paths within the site. **Seating**, such as benches, may be placed at intervals along the paths. The **ground coverings** may be a combination of: natural ground covers, pine needles, mulch, grass, granite/stone dust, bricks/pavers, artificial covers, etc. Also, **equipment** for dog play may be provided, such as tunnels, low jumps, etc. for dog and owner sport and play. **Structures** that could be built within the parcel include: a central gazebo or shelter, pet waste stations, signage, kiosks, electronic housing for gate electronics, and storage sheds. Light posts, as well as a canine and/or human water fountain area, may be installed. Also, **security cameras** may be installed and used by Nashua DOG, as needed, to assist in providing monitoring within the property.

RESOLUTION R-11-102

Authorizing the City of Nashua

to enter into two lease

agreements with the Nashua

Dog Owners Group for dog parks

at Artillery Lane and Yudicky

Farm

IN THE BOARD OF ALDERMEN

1ST READING APRIL 12, 2011

Referred to:

COMMITTEE ON INFRASTRUCTURE AND

BOARD OF PUBLIC WORKS

2ND Reading MAY 10, 2011

3RD Reading _____

4TH Reading _____

Other Action _____

Passed MAY 10, 2011

PENDING FAVORABLE RECOMMENDATION FROM BOARD OF PUBLIC WORKS

Indefinitely Postponed _____

Defeated _____

Attest: [Signature] City Clerk

[Signature] President

Approved: [Signature] Mayor's Signature

May 14 2011
Date

Endorsed by

[Signature] MAYOR

[Signature] PRESSLY

[Signature] CLEMONS

[Signature] VITALE

[Signature] CRAFFEY

[Signature] DEANE

[Signature] TABACSKO

[Signature] MELIZZI-GOLJA

[Signature] SHEEHAN

[Signature] WILSHIRE

[Signature] FLYNN

[Signature] MCCARTHY

[Signature] COX

_____ City Clerk

_____ President