

MEMORANDUM

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: CITY MANAGER J. CRYSTAL DYCHES

SUBJECT: YMCA CONTRACT

DATE: JANUARY 12, 2021

BACKGROUND: 2012 City Council authorized a Landlord Tenant agreement with the YMCA to operate a City owned facility to provide health and wellness services to the Northwest Valley and the City of El Mirage. The agreement authorized the City Manager as Landlord to amend the agreement. The City Manager prefers that the Council approve any future amendments to the agreement. The rent was based originally set at \$100,000 per year.

First Addendum (8-20-13):

- Added resident discounts and rates through 6/30/19.
- Unless the parties agree in writing to change the rates.
- A discount process was established.
- Landlord agreed to pay the initial \$75 joining fee.
- A 50% discount for non-member resident use of the pool was established.
- Addressed signage

Second Addendum (5-8-14):

- Included City employees in the eligible group for resident discounts and rates.
- Changed base rent to \$1/month for first 30 months after opening - with caveats.
- Addressed Landlord and Tenant FF&E.
- Provided a legal description, site plan, commencement date, and tax exemption.

Third Addendum (7-20-15):

- Permitted qualified Tenant staff to operate two specific City Vans/Buses to transport children for specific trips for \$10/year.
- Can be cancelled with a 60-day notice.
- NWVFY maintains insurance.

Fourth Addendum (12-2016):

- Changed base rent (reduced base rent to \$1/month for balance of the lease).
 - Rental amount can be reinstated with notice.
- Clarified joining fee reimbursements
- Executive Director Assistance – Annual Financial Contribution of \$40,000 for qualified fulltime Executive Director.
 - Executive Director Assistance (Incentive Pay \$10,000). The incentive pay is available only after submitting proof of progress across the following three matrices:

- increase in youth sports programming;
- increase membership sales; and
- increase annual fundraising.

Fifth Addendum (11-2018):

- Change in language clarifying no rent.
- Administration of Gateway Parks Sports Fields
- Program sports and other accepted activities.
- Responsible for field lighting and controls.
- Tenant collects revenue from rentals/program participants provides City with 50% of gross revenue over \$25,000.
- Provide quarterly reports.
- Landscape maintenance is taken over by City contractors.
- Increased membership rates.

Sixth Addendum (proposed)

- Increase the membership rates.
- Increase the City's subsidy rate as follows:

Teen	Current Subsidy	Proposed Subsidy
Young Adult	\$4	\$5
Adult	\$4	\$4
Senior		\$4
Couple	\$6	\$8
Family 1		\$6
Family 2	\$4	\$6

Financial Impact: Based on the current memberships, the impact of the changes to the subsidy is approximately \$5,000 annually.

The City currently contributes (cash and in-kind) approximately \$125,000 annually to operations and transfers \$100,000 from GF to Debt Service to offset annual debt service payment.

Year	Amount
FY21 (budgeted)	\$100,000
FY20	74,978
FY19	78,833
FY18	69,474
FY17	84,315
FY16	42,973
<i>Includes funding for resident discounts, joining fees and Executive Director salary contribution.</i>	

Attached:

- YMCA Contract and Addendums 1-5.
- Proposed Rates.

LEASE AGREEMENT

Landlord: City of El Mirage, Arizona

Tenant: Northwest Valley Family YMCA, LLC, an Arizona limited liability company

PREMISES: The City of El Mirage YMCA, El Mirage, Arizona

DATE: September 1, 2012

LEASE AGREEMENT

This Lease Agreement ("Lease") is made and entered into the 1st day of September, 2012, by and between the City of El Mirage, Arizona (City), a political subdivision of the State of Arizona ("Landlord"), with a mailing address of 12145 NW Grand Avenue, El Mirage, Arizona 85335 and Northwest Valley Family YMCA, LLC, (YMCA), an Arizona limited liability company ("Tenant"), with a mailing address of 350 N. First Ave, Phoenix, Arizona 85003.

ARTICLE I

LEASE OF PREMISES

Section 1.01 - Premises: Upon and subject to the terms and conditions hereinafter set forth, Landlord hereby leases to Tenant and Tenant takes and leases from Landlord, that certain parcel, or portion thereof, of real property directly adjacent to Gateway Park, and located in the State of Arizona, County of Maricopa, more particularly described on **Exhibit "A"**, attached hereto and made a part hereof, together with the building, facilities, grounds, lighting, fixtures, furnishings, and appurtenances to be constructed or provided by Landlord thereon (the "Building"), more particularly described in the concept plan set forth on **Exhibit "B"**, attached hereto and made a part hereof, other improvements now or hereafter located thereon and all easements, rights and appurtenances thereto. The aforesaid parcel of real estate and the Building shall hereinafter be called the "Premises." Additional parcels, buildings, facilities, grounds, lighting, fixtures, furnishings, and appurtenances may be added by addendum to this lease if signed and countersigned by the City Manager of the City of El Mirage and the Executive Director of the YMCA.

Section 1.02 - Parking Lots: The Landlord and Tenant agree to allow public access to the premises parking lots for overflow parking for public events and park needs. Reciprocally, the City of El Mirage agrees to allow Tenant overflow parking at the Gateway Park lot.

ARTICLE II

TERM

Section 2.01 - Term: The term of this Lease shall be for a period commencing on Tenant's Date of Possession (hereinafter also known as the "Commencement Date"), as hereinafter defined, and ending on the thirtieth (30th) anniversary thereof, unless sooner terminated or extended as hereinafter provided ("Initial Term"). If the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding lease year shall commence on the anniversary thereof (i.e., if the Commencement Date occurs on September 12, 2013, the term of this Lease shall expire on September 31, 2043). For purposes hereof, the term "Tenant's Date of Possession" shall mean the date upon which (A) Landlord's Work (as hereinafter defined) has been substantially completed as more

fully set forth in Article VI hereof and possession of the Premises has been tendered to Tenant by Landlord and (B) Tenant is legally permitted to occupy the Premises without material impediment arising from uncompleted or defective construction of Landlord's Work.

Section 2.02 - Delivery of Premises: Possession of the Premises shall be delivered to Tenant on Tenant's Date of Possession. Landlord shall use commercially reasonable efforts to cause Tenant's Date of Possession to occur on or before December 31, 2013. Landlord shall not be in default under this Lease for failure to deliver possession of the Premises to Tenant on or before said date. Landlord shall notify Tenant of the date that Landlord has scheduled as Tenant's Date of Possession at least sixty (60) days prior to such date. Tenant shall be required to begin full operations of the facilities in the Building and be open to the public no later than sixty (60) days after such scheduled date.

Section 2.03 - Tenant Acceptance Agreement: On or about Tenant's Date of Possession, Landlord and Tenant shall execute a "Confirmation of Lease Commencement Date" in the form set forth on **Exhibit "C"**, attached hereto and made a part hereof, and said document shall be considered an amendment to the Lease to establish that the Commencement Date and possession of the Premises is accepted by Tenant, subject to completion by Landlord of any punch list items established pursuant to Section 6.01 hereof.

Section 2.04 - Renewal Option(s): Tenant is hereby granted an option to renew this Lease for two (2) additional terms of five (5) years each ("Renewal Term"), upon the same terms and conditions contained herein, unless otherwise provided herein. Tenant shall exercise said option, if at all, by giving to Landlord written notice thereof on or before a date which is one hundred eighty days (180) days prior to the expiration date of the Initial Term hereof.

Said renewal options, and any exercise thereof, shall be null and void and of no force and effect if (i) there existed on the date of such exercise an Event of Default that is not cured hereunder or (ii) there existed on the last day of the original term hereof an uncured Event of Default hereunder. Except for such renewal option, there shall be no further renewal option hereunder, except as expressly and lawfully granted by or through Landlord in writing signed by the Board of Trustees or their representative duly authorized in writing to execute the option.

Section 2.05 - Financial Viability: Landlord and Tenant acknowledge that Tenant plans to operate the facilities at the Premises based upon revenues covering 100% of direct operating expenditures plus overhead equal to 5% of operating revenues. For the purpose of this section "direct" means only those expenditures located at this property or through a centralized purchasing process distributing costs based on utilization, including actual repair and maintenance costs but not indirect costs, goodwill, non-cash expenses, corporate endowments or other similar items. If after the fourth (4th) year of the Lease annual direct operating revenues are not equal to or greater than direct operating expenditures then Tenant shall provide written notice to Landlord of Tenant's operating losses, and Landlord and Tenant shall work together in good faith to develop an alternative operation model for the Premises.

Prior to providing Landlord written notice of Tenant's operating losses, Tenant shall cause an independent audit to be made by a certified public accountant or public accountant who is currently licensed by the Arizona state board of accountancy and who is not an employee of the YMCA. The audit and the audit report shall include all of the accounts and funds of the Northwest Valley Family YMCA. The audits shall be made in accordance with generally accepted auditing standards. The consequent audit report shall contain financial statements that are in conformity with generally accepted accounting principles and shall set forth the financial position and results of the operations for each fund and account of the Northwest Valley Family YMCA. The audit report shall also include the professional opinion of the accountant or accountants with respect to the financial statements or, if an opinion cannot be expressed, a declaration of the reasons an opinion cannot be expressed.

The Landlord may at its sole discretion provide subsidies to the Tenant through any resources available. If after one hundred eighty days (180) days from the date Tenant provided written notice to Landlord of Tenant's operating losses, Landlord and Tenant have not agreed to an alternative operation model, then the Tenant may terminate this Lease upon one hundred eighty days (180) days prior written notice to Landlord, and Landlord and Tenant shall be released from all further obligations hereunder.

ARTICLE III

RENT

Section 3.01 - Base Rent:

(a) Tenant agrees to pay Landlord base rent for the Premises in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year commencing on the Commencement Date. A "Lease Year" shall be a period of twelve (12) consecutive calendar months, the first of which shall commence on the Commencement Date, except that if the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding Lease Year shall commence on the anniversary thereof. All such rent shall be payable to Landlord on the first day of the month. Base rent shall be payable to Landlord at the address set forth in the first paragraph hereof, unless Landlord directs otherwise in writing.

(b) Tenant shall pay to Landlord base rent for the Premises during the renewal term provided for in Section 2.04 hereof in consecutive monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34). All such rent shall be payable to Landlord as provided in Section 3.0 I (a) above.

Section 3.02 - Payments by Tenant: Throughout the term of this Lease, Tenant shall pay to Landlord the base rent, and all additional rent, when and as the same shall be due and payable hereunder. Unless otherwise stated, all other sums of money or charges payable to Landlord from Tenant by this Lease are defined as "additional rent" and are due thirty (30) days after the rendering of an invoice therefore, without any deductions, set-offs, or counterclaims, and failure to pay such charges carries the same consequences as Tenant's failure to pay rent. All payments and charges required to be made by Tenant to

Landlord hereunder shall be payable in electronic transfer as approved by the Landlord and its financial institution, currency of the United States of America or by bank check, at the address indicated herein. No payment to or receipt by Landlord of a lesser amount than the then amount required to be paid hereunder shall be deemed to be other than on account of the earliest amount of such obligation then due hereunder. No endorsement or statement on any check or other communication accompanying a check for payment of any amounts payable hereunder shall be deemed an accord and satisfaction, and Landlord may accept such check in payment without prejudice to Landlord's right to recover the balance of any sums owed by Tenant hereunder. Acceptance by the Landlord of any amounts tendered will not constitute a waiver by Landlord of its ability to enforce any provision hereunder.

Section 3.03 - Triple Net Lease: Landlord and Tenant expressly intend that the rent provided for in the Article III shall be net to Landlord and that Tenant shall pay, without any deductions, setoffs or counterclaims, and save Landlord harmless from and against, costs, taxes, insurance, expenses of maintenance, repair and replacement and other charges and expenses and obligations of every kind and nature whatsoever relating to the Premises which may arise, be incurred or become due during the term of this Lease, except as otherwise set forth in this Lease.

Without limiting the general nature of the preceding sentence or in any manner limiting any other obligation of Tenant under this Lease, Landlord and Tenant further agree as follows:

(a) Tenant's Obligation to Furnish Services. Except as provided in Section 11.03, Landlord shall not be required to furnish or pay for any services or utilities to the Premises, including without limitation, heat, air conditioning, water, storm water and sanitary sewer, electric, gas, telephone, sprinklers, trash removal, or other services or utilities, and shall not be liable for any failure of any service or utility to the Premises, nor for any injury or damage to persons (including death) or property caused by the failure of such services, or resulting from, interference with light or other incorporeal hereditaments or easements, regardless of how caused, except for any acts which are actionable under Arizona law. Tenant acknowledges and agrees that it shall provide all such services and utilities to the Premises as needed for Tenant's operations and as necessary for the preservation and protection of the Building and improvements therein, including, without limitation, a supply of water for the sprinkler system. Landlord agrees to reasonably cooperate and assist Tenant with any required approvals for all such services and utilities at the Premises.

(b) No Obligation of Landlord to Provide Security. With the exception of services provided to the general public, Landlord shall not be required to provide or pay for security services for the Premises or the Tenant, its employees, contractors, agents, invitees, members, customers, guests or licensees and shall not be responsible for providing lighting of the Premises or the surrounding areas. Tenant acknowledges and agrees that it shall provide all security services needed in connection with the Premises and Tenant's permitted use thereof.

ARTICLE IV

ADDITIONAL RENT OBLIGATIONS

Section 4.01 - Taxes: Landlord shall pay all real estate taxes, lease excise taxes, assessments, fees and charges (except as excluded below), whether general, special, ordinary or extraordinary, due at any time or from time to time, during the Initial Term, the Renewal Term and any extensions thereof, in connection with the ownership of the Premises ("Real Estate Taxes") when such Real Estate Taxes, if any, become due and payable. This provision shall not be construed to require Landlord to pay any other taxes, assessments, fees and charges of any kind or nature on behalf of Tenant (including, for example and without limitation, income taxes, personal property taxes or occupational taxes) that do not pertain directly to the title ownership of the real estate and improvements consisting of the Premises. Provided, however, in addition to the base rent set forth in Section 3.01, above, Tenant shall reimburse Landlord for any and all payments of Real Estate Taxes or lease excise taxes, which are triggered as a result of Tenant's use of the Premises, or Tenant's failure to maintain 501(c)3 or similar tax status, within thirty (30) days after Tenant receives an invoice from Landlord for such payment of Real Estate Taxes pertaining to the Premises. In addition to Real Estate Taxes which shall be first paid by Landlord and then reimbursed to Landlord by Tenant, Tenant shall pay, as they become due and payable, all Taxes (defined below) during the Term and any Renewal Term. For the purposes hereof, the term "Taxes" shall mean all applicable governmental taxes, assessments, fees and charges of every kind or nature (except as excluded below), whether general, special, ordinary or extraordinary, due at any time or from time to time, during the Initial Term, the Renewal Term and any extensions thereof, in connection with the leasing, or operation of the Premises, or of the personal property and equipment located therein or used in connection therewith any and all taxes and assessments (special or otherwise), transit taxes, any tax or excise on rentals or any other tax (however described) on account of rental received for use and occupancy of all or any part of the Premises, whether such taxes are imposed by the United States, the State of Arizona, the county in which the Premises is located or any municipality, authority or agency, or any other political subdivision of any of the foregoing.

For the purpose of determining Real Estate Taxes or Taxes for any given Lease Year, the amount to be paid for such Lease Year shall be (a) with respect to assessments, the amount of the installments (and any interest) due and payable during such Lease Year, and (b) with respect to all other Real Estate Taxes or Taxes, the amount due and payable during such Lease Year without regard to the period for which any such Real Estate Taxes or Taxes are payable.

Landlord shall, without delay, transmit to Tenant all notices and statements received by Landlord of Real Estate Taxes with respect to the Premises. Tenant shall have the right to contest or review by legal or other proceedings, or in such other manner as Tenant, may deem suitable, any assessed valuation, real estate tax or assessments; provided, that, unless Tenant shall have paid such tax or assessment under protest, Tenant shall furnish to Landlord a surety bond or other security satisfactory to Landlord securing the payment of such contested item or items and all interest, penalty and cost in connection therewith upon the final determination of such contest or review. Landlord shall, if so requested by Tenant, join in any proceeding for contest or review of such Real Estate Taxes, but the entire cost of such proceedings (including any cost, expense or attorney fees sustained by Landlord in connection therewith, through an attorney of Landlord's choosing) shall be borne by Tenant. Any amount already paid by Tenant and subsequently recovered as a result of such review shall be for the account of Tenant.

Notwithstanding the foregoing, Landlord and Tenant acknowledge that it is their intent and expectation that the Premises shall be exempt from the payment of taxes and that each shall, at their own respective cost and expense, take such actions as shall be required for the Premises to attempt to maintain such tax-exempt status. However, Landlord makes no certification or representation as to the tax exempt status upon which Tenant can or should rely and, in the absence of tax exempt status, payment of all Real Estate Taxes and Taxes for the Premises shall be Tenant's sole responsibility.

Section 4.02 - Insurance: In addition to Base Rent, Tenant agrees to procure and/or pay for insurance relating to the Premises, as more fully set forth in Section 8.02 hereof.

Section 4.03 - Utilities: In addition to Base Rent, Tenant shall be the responsible party for, and timely pay the cost of all utility services, including, but not limited all charges for gas, electricity, water, sanitary and storm sewer service, refuse or garbage collection, telephone services and all electrical lighting. Landlord shall have no liability or responsibility to furnish or provide utility services to Tenant. No interruption of utility services shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this Lease, unless such interruption of utility services are caused directly by the intentional acts or gross negligence of Landlord.

Section 4.04 - Repairs and Maintenance: In addition to Base Rent, Tenant shall perform and pay for repairs, replacements and maintenance of the Premises during the term hereof, all as set forth in Section 11.02 hereof.

ARTICLE V

SECURITY DEPOSIT

Section 5.01 - Deposit: Landlord and Tenant acknowledge and agree that Tenant has not, and shall not be required to, maintain with Landlord a security deposit for the performance and observance by Tenant of all of its obligations and covenants under this Lease.

ARTICLE VI

LANDLORD'S AND TENANT'S WORK/ALTERATIONS

Section 6.01 - Performance of Landlord's Work and Tenant's Work:

(a) Landlord, at its sole cost and expense (except as otherwise set forth herein), shall construct, or cause to be constructed, with reasonable diligence, the Building and other improvements to the Premises ("Landlord's Work"), which Building and other improvements are generally depicted on the site plan reflected on **Exhibit "B"**. Landlord's Work shall be performed in accordance with plans and specifications therefore prepared by an architect and engineering firm acceptable to Tenant (the

"Architect") and approved by Tenant as set forth herein (as finally approved, the "Final Plans"). Landlord shall not be responsible for trade fixtures, exercise and other related operational equipment contemplated for the facility, which items shall be the sole financial responsibility of Tenant (except as otherwise set forth herein).

(b) Landlord and Tenant acknowledge and agree that it is the intent of this Lease that the Premises be designed and constructed as a community center with approximately 22,000 to 28,000 square feet of leasable space, that shall include: (i) leasable space for a fitness center; (ii) leasable space for a gymnasium; (iii) leasable space for at least two multi-purpose uses specified; (iv) a swimming pool; (v) men's and women's locker facilities and family locker rooms; and (vi) offices and related amenities (the foregoing shall be generally referred herein as the "Design Characteristics").

(c) Beginning on or about May 22, 2012 and for a period of 120 days thereafter, Tenant shall work with Landlord's architect and staff to submit to the Landlord the "Concept Plans." The Concept Plans shall include the minimum Design Requirements and other specifications that are typical of a current standard family branch facility in the Greater Phoenix area, and shall contain a detailed schematic development plan for the Building, including without limitation site development plans showing the locations for the various facilities and improvements comprising the Building, typical floor plans, preliminary elevations, number of floors and square footage calculations. If Landlord and Tenant do not mutually agree and approve the final Concept Plans, then either party may terminate this Lease without further obligation to either party. Both Landlord and Tenant will work in good faith with Landlord's architect towards Concept Plan completion and approval.

(d) Upon the parties' mutual agreement and approval of the final Concept Plans, Landlord shall cause the Architect to prepare construction drawings, plans and specifications in accordance with the approved Concept Plans ("Construction Drawings"). Landlord and Tenant shall meet regularly with the Landlord's Architect throughout Construction Drawing development and provide regularly scheduled comments and feedback. Tenant shall provide to Landlord its approval of the Construction Drawings, or any reasonable request that the square footage allotted for any one Design Characteristic should change in a material respect, or such other comments as will insure the Construction Drawings comply with the approved Concept Plans, or that the Building and Premises will be suitable and acceptable when completed for their intended purposes. For purposes of this Section, the term "material respect" shall mean a variation of more than five percent (5%) of the square footage specified in Section 6.01(b). Landlord shall thereupon either (i) approve such request of Tenant for revisions to the Construction Drawings and cause the Architect to revise the Construction Drawings to incorporate any of Tenant's comments; or (ii) disapprove Tenant's request and collaborate with Tenant, in good faith, to modify and finalize the Construction Drawings to the mutual agreement of the parties. The final Construction Drawings that have been approved by both Tenant and Landlord are hereinafter referred to as the "Final Plans." In the event that the parties have not reviewed and approved a final set of Construction Drawings on or before December 31, 2012, either party may terminate this Lease by sending a written notice to the other party on or before January 9, 2013. In the event that Tenant exercises said right to terminate the Lease as provided in this Section, Tenant shall remain indebted to Landlord as specified in Section 6.03.

(e) Landlord shall, promptly after Final Plans have been approved for permit according to applicable building code regulations, commence to cause construction of the Building and other improvements strictly in accordance with the Final Plans, and shall thereafter diligently prosecute to completion such construction. Construction shall be performed by a Construction Manager at Risk "CM@Risk" reasonably acceptable to Tenant or otherwise identified in accordance with law. Tenant shall have an active role in the CM@Risk selection process.

(f) Without the prior written approval of Tenant, Landlord shall not authorize substantial change order plans which alter the Final Plans in material respect.

(g) Tenant shall have the right to request change orders to the Final Plans, so long as (i) Landlord shall have consented to the requested changes, which consent shall not be unreasonably withheld or delayed; and (ii) the cost to Landlord of performing requested Landlord's Work, with such requested changes, shall not be increased, unless Tenant shall pay for such excess cost.

(h) Landlord and Tenant shall each appoint a designated representative to coordinate with each other the plan review and construction process. Landlord's initial representative shall be Dr. Spencer A. Isom, City Manager, or his designee, and Tenant's initial representative shall be George Scohas, President and CEO of Tenant, or her designee.

(i) Landlord's representative and Tenant's representative shall have the exclusive authority on behalf of Landlord and Tenant, respectively, to request and approve change orders pertaining to the Landlord's Work. Tenant's representative shall have the right to attend weekly construction meetings with the CM@Risk and/or contractors and shall have the right, without prior notice (but subject to reasonable safety regulations), to enter the Premises for the purpose of inspecting the quality and progress of Landlord's Work. Tenant agrees that it shall make diligent efforts not to materially interfere with the progress of Landlord's Work by such entry. No such entry by Tenant shall be deemed an acceptance of the Premises. Tenant may make limited use of such utilities as are available during the course of such pre-possession inspections.

G) Landlord and Tenant shall conduct a walk-through inspection of the Premises at the time of Substantial Completion as scheduled by the CM@Risk. Tenant shall have period of thirty days that from the Substantial Completion of Landlord's Work to provide Landlord with a list of any defects and incomplete or unsatisfactory items with respect to Landlord's Work. Landlord shall be obligated within a reasonable amount of time to cure any defects. This time provision shall not apply to latent defects, and Tenant shall have the right during the applicable contractor's warranty period to report to Landlord any latent defects which are in need of repair based upon the obligation of Landlord to do Landlord's Work. Upon completion, the Premises shall be in a finished condition complete with floor coverings, wall coverings, ceilings, lighting, HVAC, complete and operable plumbing and electrical systems, sprinkler system, pool heating, filter and circulation system, security system, and phone and cable ready. Landlord warrants that upon completion of Landlord's Work, the utilities, including and without limitation, the HVAC, and the plumbing and electrical systems, and the interior and exterior of the building will meet all present laws, codes, regulations and ordinances at the time the

Premises are delivered by Landlord to Tenant. In the event Tenant is delayed in commencement of its operations as a result of the repairs performed by Landlord in order to comply with this Paragraph, then Tenant's obligation to commence operations shall be abated for that period of time Tenant is delayed in commencing its operations as a result of such repairs. Landlord covenants that the Landlord's Work shall be completed in a good and workmanlike manner for the period covered by the applicable contractor's warranty. After expiration of said warranty, Landlord shall assign to Tenant any and all warranties and guarantees of third parties held by Landlord, except in the event some are not assignable, and Landlord shall enforce the same for the benefit of Tenant.

(k) Upon substantial completion of Landlord's Work, Tenant shall provide fitness equipment and office equipment for the operation of the Premises and shall complete any additional leasehold improvements of the Premises desired by Tenant which have been reasonably approved by Landlord ("Tenant's Work"). The equipment provided by Tenant shall be comparable to the equipment used by Tenant in its operation of other standard, new family branch facilities in the Greater Phoenix Area. Tenant shall cause all of Tenant's Work to be done in accordance with the provisions of Section 6.02 hereof, approved plans and specifications therefore and applicable law.

(l) Except as provided in Section 6.03, the fees of the Architect shall be paid by Landlord.

(m) Notwithstanding any provision herein to the contrary, in the event that Landlord is unable to cause the construction of the Building on the Premises by a reputable commercial contractor, in accordance with the Final Plans, for an aggregate cost that has been approved by the City of El Mirage, Landlord may terminate this Lease by providing written notice to Tenant no later than March 31, 2013. Landlord represents to Tenant that the approved budget cost for the Premises, including, but not limited to, cost of issuance, offsite improvements, and construction of the Building, shall not exceed \$5,500,000.00.

Section 6.02 – Alterations by Tenant:

(a) After the Commencement Date, Tenant may not make any major exterior or structural alterations to the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Tenant may make any other interior alterations which Tenant deems necessary or beneficial to Tenant's operation of the Premises, so long as the alterations do not materially decrease the value of the Premises, upon notification of Landlord thereto. All alterations to the Premises made by Tenant shall comply with the Americans With Disabilities Act and other applicable laws and regulations. Any such alterations shall be performed in a good and workmanlike manner by a contractor reasonably acceptable to Landlord and in accordance with applicable legal and insurance requirements- and the terms and provisions of this Lease, and in quality equal to or better than the original construction of the Building. Provided, however, Tenant shall not need to provide notice to Landlord to make an alteration to the interior of the Premises, obtain consent from Landlord, nor provide evidence of insurance to Landlord, if the cost of such work is less than Five Thousand Dollars (\$5,000.00) and such alteration otherwise complies with the terms and conditions of this Lease. Further, no such notice is necessary for interior painting or the replacement of flooring, ceiling tiles,

wall or other surfaces requiring replacement as a result of time and usage. Tenant shall promptly pay all costs attributable to such alterations and improvements and shall indemnify Landlord against any mechanics' liens or other liens or claims filed or asserted as a result thereof and against any costs or expenses which may be incurred as a result of building code violations attributable to such work. Tenant shall promptly repair any damage to the Premises or to the Building caused by any such alterations or improvements.

When required hereunder, any prior notice of such alterations shall be made by Tenant providing to Landlord at least thirty (30) days prior to its commencement, a description of the work to be performed, the cost of the work, and the identity of the contractor performing the work. Any reasonable objections by Landlord to the contemplated work or contractor must be made in writing to the Tenant within twenty five (25) days following receipt of the notice. Failure by Landlord to respond shall be conclusively presumed as Landlord's consent to such work and contractor.

All such alterations erected by Tenant shall be and remain the property of Tenant during the term of this Lease. At the end of the Initial Term or Renewal Term, as the case may be, such alterations erected by Tenant shall become the property of Landlord and Tenant shall have no obligation to remove the same and/or to restore the Premises to its original condition.

Any trade fixtures installed on the Premises by Tenant at its own expense, such as movable partitions, counters, shelving, showcases, fitness equipment and the like may, and at the request of Landlord, shall be removed on the termination of this Lease, provided that no Event of Default then exists hereunder. In any event, Tenant shall bear the cost of such removal, and Tenant shall repair at its own expense any and all damage to the Premises resulting from such removal.

(b) In the event that any mechanic's lien is filed against the Premises as a result of any work or act of Tenant, Tenant, at its expense, shall discharge or bond off the same within sixty (60) days from the filing thereof. If Tenant fails to discharge said mechanic's lien, Landlord may bond or pay without inquiring into the validity of the merits of such lien and all sums so advanced shall be paid on demand as additional rent by Tenant.

(c) Prior to the commencement of any work by Tenant, Tenant shall obtain certificates of public liability insurance and evidence of worker's compensation coverage from every contractor to be employed by Tenant, and shall deliver duplicate originals of all certificates of such insurance to Landlord for written approval.

Section 6.03-Notice of Termination; Tenant's Obligations: If the Tenant shall exercise Tenant's right to terminate the Lease as set forth in Section 6.01, Tenant shall not remove from the premises any assets purchased with bond proceeds.

ARTICLE VII

USE OF PREMISES

Section 7.01 - W: The Premises shall be occupied and used by Tenant for the operation of a new standard family branch YMCA facility, and related functions and activities as may be conducted from time to time by Tenant at other suburban YMCA facilities. No other organization or entity shall use, license or sublease any space or facility in the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld by Landlord. The Premises shall be named 'The City of El Mirage YMCA'. Except for the name "The City of El Mirage YMCA", Tenant shall not name the Building, the Premises, or any part thereof without the prior written consent of Landlord, in its sole and absolute discretion. Except as otherwise set forth in this Lease, Tenant shall have the full right to operate its business and conduct operations on the Premises without interference or restriction by Landlord or anyone claiming by, through or under Landlord. Tenant shall be responsible for all costs and expenses incurred in the operation of its services, programs, activities and facility, and shall retain for its own use and account any and all revenue, surplus or otherwise, resulting therefrom. Tenant shall permit one designated representative of the Landlord to serve on the Branch Board of The City of El Mirage YMCA, which shall be the advisory committee of The City of El Mirage YMCA. Such representative of Landlord shall also be approved by the Tenant according to the bylaws of the Tenant. All decisions with respect to operating and staffing the Premises shall be made solely by Tenant.

Tenant covenants and agrees: (a) to use the Premises and conduct its operations at the Premises in a safe, careful and lawful manner; (b) to report in writing to Landlord any defective condition which exists on the Premises; (c) to pay for any repairs to the Premises and the Building as hereinafter set forth in Article XI; (d) to permit Landlord and its employees and agents access to the Premises, after reasonable notice from the Landlord, for inspection purposes at all reasonable times during business hours, subject to safety regulations and at Landlord's sole risk; (e) to pay the cost of all remodeling, redecorating, painting, alterations or additions required of or by Tenant during the term of this Lease; (f) to make all billing arrangements directly with the appropriate utility companies for the supply of gas, electricity, water, light, power and telephone to the Premises; (g) to operate a YMCA community center generally in accordance with practices established by Tenant from time to time at other suburban YMCA facilities owned and/or operated by Tenant; (h) to comply with all governmental regulations, whether or not communicated to Landlord or Tenant, including, but not limited to, the Americans With Disabilities Act, and regulations, environmental conditions and releases; and (i) to not permit the use by any quasi-governmental or political subdivision, nor contract with any quasi-governmental or political subdivision for the use, of any of the facilities on the Premises, without the written consent of the Landlord.

Tenant further covenants and agrees to staff and operate the facilities at the Premises and make them available to the members not less than eighty (80) hours per week (excluding the pool hours). Provided, however, in such weeks that include legal holidays, Tenant may reduce the minimum hours of operation by the number of hours the Premises is generally open for business on such day that corresponds to such holiday.

Section 7.02 - Legal Requirements: Tenant shall, at its own expense, comply with all laws, orders, ordinances and with directions of public officers thereunder, with all applicable Board of Fire Insurance Underwriters' regulations and other requirements respecting all matters of occupancy, condition, or maintenance of the Premises, whether

such orders or directions shall be directed to Tenant or Landlord, and Tenant shall hold Landlord harmless from any and all costs or expenses on account thereof. Tenant shall procure and maintain all licenses and permits legally necessary for the operation of Tenant's business and allow Landlord to inspect them on request.

Section 7.03 - Special Membership Rates: Tenant shall have the right to set use charges and membership fees for the use of the Premises by its members. Resident discounts will be established annually by the City of El Mirage City Council and shall be included in the annual budget. There shall be a cap to the discounts as identified in the budget. By way of example a discount of ten dollars (\$10) per month to the first five hundred (500) residents to purchase an annual Northwest Valley Family YMCA membership shall be permitted by the Tenant. The YMCA will bill the City of El Mirage quarterly for the value of the discounts, not to exceed the annual budgeted amount. The Landlord and Tenant will work together to establish the discount.

Section 7.04-RESERVED

Section 7.05 - Tax-exempt Bond Requirements: In conducting its business, hereunder, Tenant shall not take, or permit to be taken, any action which would jeopardize the tax- exempt status of any bonds issued by Landlord to finance construction and/or acquisition of the Premises. Compliance with the foregoing covenant shall include, but not be limited to, compliance with those requirements set forth on **Exhibit "D"**, attached hereto and made part hereof; provided, however, that if compliance with any such bond requirements should have the effect of prohibiting or materially altering Tenant's ability to operate a YMCA community center in a manner consistent with Tenant's operation at the commencement of the Lease, Tenant shall have the right to terminate this Lease without additional penalty herein.

ARTICLE VIII

INSURANCE, INDEMNITY AND LIABILITY

Section 8.01 - Building Insurance: Landlord shall obtain and maintain, at its sole cost and expense, during the term of this Lease insurance insuring:

(a) The Building against loss or damage by fire, lightning, wind storm, hail storm, vehicles, smoke, explosion, riot or civil commotion as provided by the Standard Fire and Extended Coverage Policy and all other risks of direct physical loss as insured against under Special Form ("all risk" coverage). The insurance coverage shall be for not less than 100% of the full replacement cost of the Premises for an agreed amount basis with the insurance carrier. Landlord shall be named as the insured and all proceeds of insurance shall be payable to Landlord. Landlord shall deliver to Tenant certificates of insurance or duplicate originals of each such policy, naming Tenant as an additional named insured. Said insurance shall contain an endorsement waiving the insurer's right of subrogation against Landlord and Tenant;

(b) Plate glass insurance; and

(c) Flood or earthquake loss or damage, whenever, in the reasonable judgment of Landlord, such protection is necessary and it is available at commercially reasonable cost.

All of the aforesaid insurance policies shall meet the requirements set forth in Section 8.02(6) hereof.

Section 8.02 – Other Insurance Coverage:

(a) Tenant, at Tenant's sole cost and expense, shall obtain and maintain for the term of this Lease, commencing on the possession date, insurance policies providing the following coverage: (i) Tenant's fixtures, equipment, furnishings, merchandise, and other contents in the Premises, for the full replacement value of said items; and (ii) commercial general liability insurance, which shall include premises/operations coverage, independent contractors and products/completed operations coverage, contractual liability coverage, and vehicular liability coverage naming Landlord as an additional insured, which policy is to be in the minimum aggregate amount of One Million Dollars (\$1,000,000.00) and in the minimum amount of Five Hundred Thousand Dollars (\$500,000.00) with respect to property damage. In addition to the foregoing, Tenant shall maintain One Million Dollars (\$1,000,000.00) "umbrella" coverage applicable to the Premises. The minimum limits herein before set forth may, at Landlord's option, be increased by such amounts during the term hereof as Landlord shall reasonably determine, but no such increase shall be in an amount that is not commercially reasonable for similar facilities located in the Greater Phoenix Area. Tenant shall deliver to Landlord certificates of insurance or duplicate originals of each such policy, naming Landlord as an additional named insured.

(b) The policies described in Section 8.01 and 8.02 shall: (i) be acceptable to Landlord in form and content; (ii) contain an express waiver of any right of subrogation by the insurance company against Landlord and Tenant and their respective agents and employees (and any certificate of insurance shall so state); (iii) in compliance with Section 16.01, Tenant shall notify Landlord of any default; failure to pay premiums, fees, or costs; or changes in policy or status; (iv) not be materially changed without prior notice to Landlord; (v) be issued by a company with a rating of at least A, as listed by A.M. Best; and (vi) shall list Landlord as a named or additional insured as set forth above.

(c) Landlord and Tenant shall not permit to be done any act which will invalidate or be in conflict with the fire insurance policies covering the Premises or any other insurance referred to in this Lease. The parties shall promptly comply with all commercially reasonable rules and regulations relating to such policies.

Section 8.03 - Covenants to Hold Harmless:

(a) Landlord and Tenant each hereby release the other, its officers, directors, employees, and agents from any and all liability or responsibility for any loss or damage to property which is required by the terms of this Lease to be covered by valid and collectible insurance, even if the cause of such loss shall have been the fault or negligence of the other party, or anyone for whom such party may be responsible, unless Tenant fails to maintain the insurance required by the Lease in which case Tenant shall be responsible for such loss.

(b) Tenant hereby indemnifies and agrees to defend and save harmless Landlord from and against any and all claims that arise from or in connection with the Tenant's possession, use, occupation, management, repairs, maintenance, or control of the Premises, or any portion thereof. Tenant shall, at its own cost and expense, defend any and all actions which may be brought against Landlord, and any mortgagee, with respect to the foregoing. Tenant shall pay, satisfy, and discharge any and all judgments, orders, and decrees which may be recovered against Landlord, any mortgagee, or master lessor in connection with the foregoing.

(c) Landlord hereby indemnifies and agrees to defend and save harmless Tenant from and against any and all claims and other liabilities in any way and to the extent arising from any negligent or intentional acts or omissions of Landlord or Landlord's agents, invitees, contractors, licensees or employees. Landlord shall, at its own cost and expense, defend any and all actions which may be brought against Tenant, with respect to the foregoing. Landlord shall pay, satisfy, and discharge any and all judgments, orders, and decrees which may be recovered against Tenant.

Section 8.04 - Liability of Landlord to Tenant: Except for any acts which are actionable under Arizona law, Landlord shall not be liable to Tenant, its agents, employees, or customers for any damages, losses, compensation, accidents, or claims whatsoever. Notwithstanding the foregoing, Landlord's liability is subject to collection and enforcement from only its equity in the Premises.

ARTICLE 1x

ENVIRONMENTAL COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 9.01 - Tenant's Compliance With Environmental Laws: Tenant shall comply with all laws, regulations, ordinances and other governmental standards applicable to Tenant's use of the Premises with respect to hazardous waste, hazardous substances and any and all other environmental matters. Furthermore, Tenant shall procure and maintain all licenses and permits required by such applicable laws, ordinances or regulations. Except as may be required in the ordinary course of its business or operations (but in such case in compliance with all applicable environmental laws and regulations), Tenant covenants and agrees that it shall not release, emit, or discharge at or from the Premises any hazardous or toxic substances consisting of any hazardous or toxic chemical, waste, byproduct, pollutants, contamination, compound, product or substance, including, without limitation, asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction thereof), and any material the exposure to, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated by federal, state, regional, county, local, governmental, public or private statute, law, regulation ordinance, order, consent decree, judgment, permit, license, code, covenant, deed restrictions, common law, treaty, convention or other requirement, pertaining to protection of the environmental, health or safety of persons, natural resources, conservation, wildlife, waste management, any hazardous material activity, and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water). These requirements include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the

Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. 6901 et seq., Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq., Clean Air Act of 1966, as amended 42 U.S.C. 7401 et seq., Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq., Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 651 et seq., Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., National Environmental Policy Act of 1975, 42 U.S.C. 300(f) et seq., and any similar or implementing Arizona laws, and all amendments, rules, regulations, guidance documents and publications promulgated thereunder ("Environmental Laws").

Section 9.02 - **Indemnification:** Tenant, its successors and assignees, shall indemnify, defend and hold harmless Landlord, its directors, officers, employees and agents, and successors and assigns, from and against all harms, including, without limitation, damages, punitive damages, liabilities, fines, losses, demands, claims, cost recovery actions, lawsuit, administrative proceedings, orders, response costs, compliance costs, investigation expenses, consultant fees, attorneys' fees incurred through counsel selected by the insurance company or, if no insurance cost of defense coverage applies, through counsel of Landlord's choosing, costs of defense and litigation expenses, arising from Tenant's possession, use and storage of (1) any hazardous material at the Premises; (2) the operation of any applicable environmental law against the Tenant, Landlord or the Premises, based on Tenant's activities during the term of this Lease; (3) the violation at the Premises or by the Tenant of any applicable environmental law; or (4) the inaccuracy or breach of any representation, warrant or covenant contained in this Article IX.

The Tenant and its successors or assigns shall pay all costs and expenses incurred by Landlord, its successors and assigns, to enforce the provisions of this indemnification, including, without limitation, attorneys' fees and litigation expenses. This indemnification and the obligations of Tenant hereunder shall survive the termination or expiration of this Lease and shall remain in force notwithstanding: (1) the expiration date of any applicable statute of limitations; and (2) payment or satisfaction in full of any single claim of Landlord within the scope of this indemnification.

Section 9.03 – Landlord's Indemnification: Landlord represents and warrants to Tenant that it has no knowledge of any hazardous discharges, environmental complaints or violations of Environmental Laws applicable to the Premises. Landlord, its successors and assignees shall forever indemnify, defend and hold harmless Tenant, its partners, employees, agents and successors and assigns, from and against all harms, including, without limitation, damages, punitive damages, liabilities, losses, demands, claims, cost recovery actions, lawsuit, administrative proceedings, orders, response costs, compliance costs, investigation expenses, consultant fees, attorneys' fees incurred through counsel selected by Tenant, costs of defense and litigation expenses, arising from: (1) the inaccuracy or breach of the foregoing representation and warranty; or (2) any violation of environmental laws pertaining to the Premises during Landlord's ownership of the Premises. To establish the condition of the Premises, Landlord shall obtain a Phase I Environmental Site Assessment of the Premises, and shall provide Tenant with a copy of such Phase I Environmental Site Assessment prior to Tenant taking possession of the Premises. The indemnification shall survive the termination of this Lease and shall remain

in force beyond (1) the expiration date of any applicable statute of limitations; and (2) payment or satisfaction in full of any single claim of the Tenant within the scope of this indemnification.

ARTICLE X

SIGNAGE

Section 10.01 - Signage: As a part of the Final Plans, Tenant shall provide and pay for a free-standing sign on the Premises and a building mounted identification sign subject to compliance with the City of El Mirage Zoning Code and subject to the approval of the City of El Mirage Zoning Administrator. Tenant may thereafter replace and/or modify the same with such signage as is reasonably approved by Landlord, otherwise permitted by applicable laws and regulations, or as may be permitted by variance therefrom lawfully granted by applicable governmental authority. Any such signage shall conform to all laws, ordinances and regulations pertaining thereto. After the initial provision and installation of such signage, Tenant shall pay for all costs in connection with the operation and/or maintenance thereof and shall be responsible for any damage occasioned by the removal thereof. Tenant shall make reasonable efforts to communicate to the general public (i.e. signage; statement on membership application) that City of El Mirage YMCA offers memberships to all people regardless of race, religion or national origin of such person.

The Landlord may at its sole discretion, participate in the process and/or expense of providing or acquiring signage.

ARTICLE XI

REPAIRS AND MAINTENANCE

Section 11.01 - Landlord's Obligations: Except as specifically provided in Section 11.03, Landlord shall not be required to maintain or make any improvements, repairs or replacements of any kind or character to the Premises during the Initial Term or any renewal term of this Lease. Landlord shall be under no obligation to inspect the Premises and Tenant shall promptly report to Landlord in writing any defective condition known to Tenant.

Section 11.02 - Tenant's Obligations: Except as specifically provided in Sections 11.03 and 11.04, Tenant, at its sole cost and expense, shall: (i) maintain, repair and replace all parts of the Premises so as to keep the Premises, and every part thereof, in good order, condition and repair and in a safe and dry tenable condition, including, but not limited to the roof, parking areas, exterior walls, windows, plate glass, doors, heating, ventilating and air conditioning systems, down spouts, fire sprinkler systems, dock bumpers, lawn maintenance, pest control and extermination, trash pick-up and removal and painting of the Building and exterior doors; (ii) install and maintain such fire protection devices as may be required by any governmental body or insurance underwriter for the Building (except for provision of such items as shall be initially provided by Landlord as a part of Landlord's Work); (iii) keep the Premises clean, neat and tidy, and free from accumulations of trash, debris and rubbish; Tenant shall promptly place into

suitable containers all trash, debris and rubbish resulting from its business operations and remove the contents of these containers at least weekly from the Premises; (iv) change the Tenant's heating and air conditioning filter, as necessary, and have the Tenant's air conditioning and heating facilities serviced, as recommended by the manufacturer of such equipment or as generally recommended under industry standards; (v) maintain and replace the pool filtering equipment, as recommended by the manufacturer of such equipment or as generally recommended under industry standards; and (vi) repair any portion of the Building which is damaged as a result of any act or omission of Tenant or Tenant's customers, members, business invitees or recreational users. In order to fulfill its duties, Tenant shall periodically inspect all equipment, mechanical systems, and Tenant shall maintain, repair, or replace, as necessary, all equipment and mechanical systems located in, on, or about the Premises, including, but not limited to, all plumbing, heating, air conditioning, ventilating, pool, and sprinkler systems. All interior walls, ceilings, ceiling tile, windows, doors, door frames, and door glass shall at all times be kept in good order, condition, and repaired or replaced by Tenant at the sole cost of Tenant. In the event of any window or door glass damage or breakage, Tenant shall board any openings and remove debris within twenty-four (24) hours of such damage and forthwith have the same repaired or replaced at Tenant's sole cost. Tenant shall keep all parking areas, driveways and sidewalk areas on the Premises free and clear of obstruction. Tenant shall maintain all maintenance and inspection records for the prior three (3) years and make them available for inspection by Landlord. Notwithstanding any contrary provision of this Article XI, Landlord, at its expense, shall make any and all repairs to the Premises as may be necessitated by the gross negligence or wanton acts of Landlord or its employees or agents.

Section 11.03 – Landlord's Obligations. RESERVED.

Section 11.04 - Landlord Repairs and Benlacernens – Sncific Building Comnoqegts. Notwithstanding the foregoing, and subject to the conditions and limitations set forth below, Landlord agrees to share with Tenant the cost and expense of all mutually agreed upon major repairs and/or replacements, if necessary, of the following parts of the Premises: (i) structural components of the Building; (ii) roof of the Building; (iii) heating, ventilation and air conditioning equipment in the Building; and (iv) any pool mechanical and water circulation equipment (hereinafter individually and collectively referred to as "Specific Components"). For the purpose of this Section, "major repairs and/or replacements" shall mean the failure of such Specific Component and the cost to repair or replace such individual (not the aggregate) Specific Component exceeds the amount of Five Thousand Dollars (\$5,000.00). The determination of whether to repair or replace such Specific Component shall be based upon the recommendations and bids of not less than two (2) qualified, third-party contractors and the mutual agreement of Landlord and Tenant. During the Initial Term of this Lease, Tenant shall be responsible for the entire cost and expense, up to the amount of Five Thousand Dollars (\$5,000.00), for repair and/or replacement of each Specific Component. During the Term, Landlord agrees to pay the cost and expense that exceeds Five Thousand Dollars (\$5,000.00) to repair and/or replace any Specific Component up to a total cost and expense of Twenty Thousand Dollars (\$20,000.00). During the Term, Landlord shall be responsible for Seventy-Five percent (75%) of the cost and expense that exceeds Twenty Thousand Dollars (\$20,000.00) to repair and/or replace any Specific Component and Tenant shall be responsible for Twenty-Five percent (25%) of the cost and expense that exceeds Twenty Thousand Dollars

(\$20,000.00) to repair and/or replace any Specific Component. Landlord shall not be required or obligated to share the cost and expense to repair and/or replace any Specific Component if such repair and/or replacement is due to: (i) a casualty covered by a policy of insurance; or (ii) the negligent or intentional acts of Tenant its employees, contractors or agents.

All major repairs may be subject to the City's procurement and budgeting processes. The Landlord may at its sole discretion create a fund to address its major repair responsibilities as further defined in section 22.15.

ARTICLE XII

DESTRUCTION OF PREMISES

Section 12.01 - Continuance of Lease: In the event the Premises shall be partially or totally destroyed by fire or other casualty insured under the provisions of Section 8.01 above, then the damage to the Premises shall be promptly repaired by Landlord, at Landlord's expense, and annual base rental and other charges shall be abated in proportion to the amount of the Premises rendered untenable until so repaired. In no event shall Landlord be required to repair or replace Tenant's merchandise, trade fixtures, furnishings, or equipment. Tenant shall repair or replace its merchandise, trade fixtures, furnishings, and equipment in a manner and to at least a condition equal to that which existed prior to such damage or destruction.

If the time for any repair or reconstruction, as reasonably estimated by Landlord, exceeds one hundred eighty (180) days after such casualty, or if such repair or reconstruction has not been completed with one hundred eighty (180) days after such casualty, and the building is still deemed untenable then Landlord or Tenant shall have the option to terminate this Lease upon notice to the other party, and Landlord shall retain any insurance proceeds received by it as compensation for such damage.

Section 12.02 - Reconstruction; Rent Abatement: If all or any portion of the Premises is damaged by fire or other casualty and this Lease is not terminated in accordance with the above provisions, then all insurance proceeds provided for in Section 8.01 shall be made available for payment of the cost of repair, replacing and rebuilding of the Building. Landlord shall make available the proceeds from the insurance as set forth herein to repair or rebuild the Premises to its original condition. Tenant shall, using the proceeds from the insurance provided for in Section 8.02, repair, restore, replace, or rebuild any additional improvements installed by Tenant prior to the occurrence of such casualty. (In the event that this Lease is terminated as herein provided, all of the aforesaid Tenant's insurance proceeds shall be retained by Tenant. The base rental and other charges which are payable hereunder during the existence of such damage and until such repair or rebuilding is substantially completed, shall be equitably abated. Equitable abatement shall terminate upon the earlier of the date upon which Landlord substantially completes its repair or rebuilding work.)

ARTICLE XIII

EMINENT DOMAIN

Section 13.01 - Eminent Domain: If the whole or any material part of the Premises shall be taken for public or quasi-public use by a governmental or other authority having the power of eminent domain or shall be conveyed to such authority in lieu of such taking, and if such taking or conveyance shall cause the remaining part of the Premises not so taken to be untenable and inadequate for use by Tenant as herein set forth, as determined by Tenant, in Tenant's reasonable discretion, this Lease shall terminate as of the date of such taking. If a part of the Premises shall be taken or conveyed but the portion remaining after restoration can be made usable for Tenant's purpose, as determined by Tenant, in Tenant's reasonable discretion, then this Lease shall not be terminated as provided for in this Section 13, but this Lease shall be terminated only as to the part taken or conveyed as of the date Tenant surrenders possession, and Landlord shall make such repairs, alterations and improvements as may be necessary to render the part not taken or conveyed tenantable. All compensation awarded for such taking or conveyance shall be the property of Landlord without any deduction therefrom, except such compensation as may be awarded specifically to Tenant by the condemnation authority(ies) on account of moving and relocation expenses and depreciation to and removal of Tenant's trade fixtures and personal property.

ARTICLE XIV

ASSIGNMENT, SUBLETTING, AND ENCUMBERING LEASE

Section 14.01 - No Assignment, Subletting or Encumbering:

(a) Tenant shall not, without the prior written consent of Landlord (which consent shall not be unreasonably withheld): (i) assign or otherwise transfer, or mortgage or otherwise encumber this Lease or any of its rights hereunder; (ii) sublet the Premises or any part thereof by any persons other than Tenant or its agents; or (iii) permit the assignment or other transfer of this Lease or any of Tenant's rights hereunder by operation of law. If this Lease is assigned, or if the Premises or any part thereof is subject to or occupied by anyone other than Tenant, Landlord may, after default by Tenant, collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the rent herein reserved but no such assignment subletting, occupancy, or collection shall be deemed a waiver by Landlord of any of Tenant's covenants contained in the Lease or a release of Tenant from the performance by Tenant of the covenants on the part of Tenant contained in this Lease. Any attempted or purported transfer, assignment, mortgaging, or encumbering of this Lease or any of Tenant's interest hereunder and any attempted or purported subletting or grant of a right to use or occupy all or a portion of the Premises in violation of this section shall be null and void and shall not confer any rights upon any purported transferee, assignee, mortgagee, sublessee, or occupant.

(b) In the event Tenant desires to assign or transfer this Lease, or sublet (or permit occupancy or use of) the Premises, or any part thereof, Tenant shall give Landlord thirty (30) days prior written notice of Tenant's intention to so assign or transfer or sublet all or any part of the Premises (which notice shall

contain the name of the proposed assignee or sublessee and the terms thereof). Landlord shall, within such thirty (30) day period, notify Tenant whether or not such proposed assignee or subtenant is acceptable to Landlord, in Landlord's reasonable discretion; in the event that Landlord does not give to Tenant written notice that such proposed assignee or sublessee is acceptable within said thirty (30) day period, such proposed assignee or sublessee shall not be deemed to be acceptable to Landlord hereunder. Upon obtaining the prior written consent of Landlord, Tenant may assign or transfer or sublet such space. The consent by Landlord to any assignment, transfer, or subletting to any party shall not be construed as a waiver or release of Tenant under the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of rent from any such assignee, transferee, subtenant, or occupant constitute a waiver or release of Tenant of any covenant or obligation contained in this Lease, nor shall any such assignment, transfer or subletting be construed to relieve Tenant from giving Landlord said thirty (30) days' notice or from obtaining the consent in writing of Landlord to any further assignment, transfer, or subletting.

(c) Landlord shall have the right to sell, transfer, or assign its interest hereunder, or any part thereof, without the prior consent of Tenant. After such sale, transfer, or assignment, Tenant shall attorn to such purchaser, transferee, or assignee, and provided that such purchaser, transferee, or assignee assumes Landlord's obligations hereunder, Landlord shall be released of all obligations hereunder after the effective date of such sale, transfer or assignment.

(d) For the purposes of this Lease, Landlord and Tenant acknowledge and agree that the mission and reputation of "The Valley of the Sun YMCA" as a community-based, family-oriented, not-for-profit organization, is a material inducement for Landlord to fund, construct and lease the Premises to Tenant. Accordingly, in the event that Tenant requests Landlord to consent to any assignment, transfer, sublease, use, license (hereinafter collectively, "Assignment") of the Premises, or any part thereof, pursuant to this Article XIV or Section 7.01 herein, Landlord may withhold consent based upon such factors that may include, but shall not be limited to: (i) the creditworthiness of any such third-party to the Assignment; (ii) whether such third-party to the Assignment will pay or exchange any consideration to Tenant for such Assignment; (iii) whether such third-party that is the subject to an Assignment is a not-for-profit organization; (iv) the reputation and mission of such third-party; and (v) whether such Assignment may violate any covenants, conditions or agreements set forth in this Lease; or (v) whether such Assignment may jeopardize the tax exempt status of the Premises. As a condition to such Assignment, Landlord may require that Tenant share with Landlord a portion of any rent or other consideration paid by such third-party to Tenant for use or occupancy of the Premises, or any part thereof.

ARTICLE XV

SUBORDINATION

Section IS.01 - Lease Subordinate: Provided that the holder of a mortgage or deed of trust who acquires rights in the Premises after the date that this Lease is fully executed executes and delivers to Tenant a non-disturbance agreement in recordable form reasonably satisfactory to Tenant which provides that such holder will honor all of the terms of this Lease so long as no Event of Default exists hereunder, this Lease and all of the rights of Tenant hereunder are and shall be subject and subordinate at all times to the lien of any mortgage or deed of trust which may now or hereafter affect the real property of which the Premises form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination shall be required by any holder of a mortgage. In confirmation of such subordination, Tenant shall execute promptly any instrument that Landlord or any mortgagee may request related thereto.

If any holder of a mortgage elects to have this Lease superior to the applicable mortgage and signifies its election in the instrument creating its lien or by separate recorded instrument, then this Lease shall be superior to such mortgage, notwithstanding any other provision hereof.

Section IS.02 - Attornment: If, and so long as this Lease is in full force and effect, then: (a) this Lease shall remain in full force notwithstanding: (i) a default under the mortgage by Landlord; (ii) failure of Landlord to comply with this Lease; (iii) a defense to which Tenant might be entitled against Landlord under this Lease; or (iv) any bankruptcy or similar proceedings with respect to Landlord; (b) if any such mortgagee shall become possessed of the Premises, Tenant shall be obligated to such mortgagee to pay it the rentals and other charges due hereunder and to thereafter comply with all the terms of this Lease; and (c) if any mortgagee or purchaser, at a private or public sale shall become possessed of the Premises, Tenant shall, without charge, attorn to such mortgagee or purchaser as its Landlord under the lease.

ARTICLE XVI

EVENTS OF DEFAULT

Section 16.01 - Events of Default: The occurrence of any one or more of the following events shall be classified as an "Event of Default" of this Lease by Tenant:

(a) Tenant fails to pay any installment of base rent and/or additional rent when the same shall be due and payable and the same remains unpaid fifteen (15) days after Landlord shall have given written notice thereof to Tenant;

(b) Tenant fails to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease, other than payment of base rent or additional rent, for a period of thirty (30) days after notice thereof from Landlord, provided, however, that if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be cured within thirty (30) days and if Tenant commences such performance or cure within said thirty (30) day period and thereafter diligently undertakes to complete the same, then such failure shall not be an Event of Default;

(c) If Tenant refuses to take possession of the Premises at the Delivery of Possession Date, vacates or abandons the Premises or permits the same, or any substantial portion thereof, to remain unoccupied and unattended for a period of ninety (90) consecutive days;

(d) A trustee or receiver is appointed to take possession of substantially all of Tenant's assets in, on or about the Premises or of Tenant's interest in this Lease (and Tenant or any guarantor of Tenant's obligations under this Lease does not regain possession within ninety (90) days after such appointment); Tenant makes an assignment for the benefit of creditors; or substantially all of Tenant's assets in, on or about the Premises or Tenant's interest in this Lease are attached or levied upon under execution (and Tenant does not discharge the same within ninety (90) days thereafter); or

(e) A petition in bankruptcy, insolvency, or for reorganization or arrangement is filed by or against Tenant or any guarantor or Tenant's obligations under this Lease pursuant to any Federal or state statute, and, with respect to any such petition filed against it, Tenant or such guarantor fails to secure a stay or discharge thereof within sixty (60) days after the filing of the same.

Section 16.02 - Landlord's Remedies: Upon the occurrence of any event of default, Landlord shall have the following rights and remedies, any one or more of which may be exercised without further notice to or demand upon Tenant.

(a) Landlord may re-enter the Premises and cure any default of Tenant, in which event Tenant shall reimburse Landlord as additional rent for any cost and expenses which Landlord may incur to cure such default; and Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by

reason of Landlord's action, unless the same is a result of Landlord's intentional acts or gross negligence;

(b) Landlord may terminate this Lease or Tenant's right to possession under this Lease as of the date of such default, in which event: (1) neither Tenant nor any person claiming under or through Tenant shall thereafter be entitled to possession of the Premises, and Tenant shall immediately thereafter surrender the Premises to Landlord; (2) Landlord may re-enter the Premises and dispose Tenant or any other occupants of the Premises by summary proceedings, ejectment or otherwise, and may remove their effects, without prejudice to any other remedy which Landlord may have for possession or arrearages in rent; and (3) notwithstanding a termination of this Lease Landlord may re-let all or any part of the Premises for a term different from that which would otherwise have constituted the balance of the term of this Lease and for rent and on terms and conditions different from those contained herein, whereupon Tenant shall immediately be obligated to pay to Landlord all of Landlord's costs and expenses for preparing the Premises for re-letting, including all repairs, tenant finish improvements, broker's and attorney's fees, and all loss or damage which Landlord may sustain by reason of such termination re-entry and re-letting, it being expressly understood and agreed that the liabilities and remedies specified in this clause shall survive the termination of this Lease; or (4) continue this Lease in full force and effect, but with the right at any time thereafter to elect options (3) immediately hereinabove. Should Landlord, following default as aforesaid, elect to continue this Lease in full force, Landlord shall use its reasonable efforts to rent the Premises on the best terms available for the remainder of the term hereof, or for such longer or shorter periods as Landlord shall deem advisable. Tenant acknowledges that Landlord shall have no obligation to rent the Premises prior to Landlord's renting any other available space owned by Landlord in the Building. Tenant shall remain liable for payment of all rentals and other charges and costs imposed on Tenant herein, in the amounts, at the times and upon the conditions as herein provided, but Landlord shall credit against such liability of the Tenant all amounts received by Landlord from such re-letting after first reimbursing itself for all costs incurred in curing Tenant's defaults and re-entering, preparing and refinishing the Premises for re-letting, and re-letting the Premises;

(c) Upon termination of this Lease pursuant to Section 16.0Z(B), Landlord may recover possession of the Premises under and by virtue of the provisions of the laws of the State of Arizona, or by such other proceedings, including reentry and possession, as may be applicable;

(d) Any damage or loss of rent sustained by Landlord may be recovered by Landlord, at Landlord's option, at the time of the re-letting, or in separate actions, from time to time, as said damage shall have been made more easily ascertainable by successive re-lettings, or at Landlord's option in a single proceeding deferred until the expiration of the term of this Lease (in which event Tenant hereby agrees that the cause of action shall not be deemed to have accrued until the date of expiration of said term) or in a single proceeding prior to either the time of re-letting or the expiration of the term of this Lease;

(e) Nothing contained herein shall prevent the enforcement of any claim Landlord may have against Tenant for anticipatory breach of the unexpired term of this Lease. In the event of a breach or anticipatory breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings, and other remedies were not provided for herein. Mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy, in law or in equity. Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises by reason of the violation by Tenant of any of the covenants and conditions of this Lease or other use;

(f) If an event of default described in subparagraph D or E of this Section 16.02 occurs, then, and in any such event, Landlord shall have the right to elect any use of the remedies set forth above. If this Lease is assumed or assigned to a trustee, receiver, liquidator or other court appointed person or entity without Landlord's prior written consent, the parties and their respective successors (whether by operation of law or otherwise) agree that, upon such an assignment or assumption all defaults of Tenant prior to such assignment or assumption must be cured and that adequate assurances of future performance under this Lease must be provided;

Section 16.03 - Additional Remedies and Waivers: The rights and remedies of Landlord set forth herein shall be in addition to any other right and remedy now or hereinafter provided by law and all such rights and remedies shall be cumulative. Without limiting the rights and remedies of Landlord, Landlord may recover from Tenant Landlord's reasonable attorney's fees and any litigation costs, fees and expenses if Landlord prevails in any such litigation. No action or inaction by Landlord shall constitute a waiver of a Default and no waiver of Default shall be effective unless it is in writing, signed by the Landlord.

ARTICLE XVII

DEFAULT BY LANDLORD

Section 17.01 - Landlord's Default: It shall be a default and breach of this Lease by Landlord if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after written notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such failure shall not constitute a default by Landlord hereunder if Landlord commences such performance within said thirty (30) day period and there after diligently undertakes to complete the same.

Section 17.02 - Remedies of Tenant: Upon the occurrence of an Event of Default by Landlord, Tenant shall have all rights and remedies which are available to it at law or in equity, including but not limited to the right to terminate this Lease, the right to

self-help, the right to seek and recover monetary damages and/or the right to injunctive relief and other equitable remedies, attorney's fee and any litigation costs, fees and expenses if Tenant prevails in any such litigation.

ARTICLE XVIII

NON-WAIVER OF DEFAULT

Section 18.01 - Non-Waiver of Default: The failure or delay by either party hereto to enforce or at any time any of the rights or remedies or other provisions of this Lease shall not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default and breach of the Lease shall be held to be a waiver of any other default and breach. The receipt by Landlord of less than the full rent due shall not be construed to be other than a payment on account of rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the rent due or to pursue any other remedies provided in this Lease.

ARTICLE XIX

NOTICES

Section 19.01 - Notices: No notice or other communication given under this Lease or by law shall be effective unless the same is in writing and is delivered in person or mailed by registered or certified mail, return receipt requested, first class, postage prepaid, addressed:

(1) If to Landlord, to the address set forth in the first paragraph hereof, attention:

City Manager,
City of El Mirage
12145 NW Grand Avenue
El Mirage, AZ 85335

(2) If to Tenant, to the address set forth in the first paragraph hereof, attention:

President/Chief Executive Officer
The Valley of the Sun Young Men's Christian Association (YMCA)
350 N. First Ave
Phoenix, AZ 85003

The address for notices may be changed by the Landlord or Tenant by notice to the other party. The date of service of any notice given by mail shall be the date on which such notice is deposited in the U.S. Mail.

ARTICLE XX

END OF TERM

Section 20.01 - Return of Premises: Upon the expiration or termination of this Lease, Tenant shall quit and surrender the Premises, in good order, broom clean, normal wear and tear, casualty and acts of God excepted, to the Landlord. Tenant shall deliver up and surrender the Premises and all parts to Landlord in that condition which would exist if Tenant had fully complied with obligations under this Lease. Upon the expiration or termination of this Lease, Tenant shall execute and acknowledge a lease termination to Tenant's interest in the Premises, in recordable form, in favor of the Landlord ten (10) days after written notice and demand therefore by Landlord, and failing to do so within said ten (10) day time period, Tenant hereby appoints Landlord its attorney-in-fact, irrevocably, to execute and deliver such lease termination.

Section 20.02 - Holding Over: If Tenant shall hold possession of the Premises after the expiration or termination of this Lease, at Landlord's option: (i) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month. The Landlord and Tenant agree to immediately negotiate the rent in good faith; or (ii) Landlord may exercise any other remedies it has under this Lease or at law or in equity, including an action for holding over. No payment by Tenant, or receipt by Landlord, of a lesser amount than the correct rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or letter accompanying any check for payment of rent or any other amounts owed to Landlord be deemed to effect or evidence an accord and satisfaction, and Landlord may accept such check or payments without prejudice to Landlord's rights to recover the balance of the rent or other amount owed or to pursue any other remedy provided in this Lease.

Section 20.03 - Restriction on Use: For ten years after termination of this Lease, whether at the end of the Term hereof, or upon the earlier termination hereof for any reason, Landlord shall not permit the Premises to be used as a "YMCA" or permit the name "YMCA", "Young Men's Christian Association" or any variation or derivation thereof to be used on or in connection therewith without written permission from the Valley of the Sun YMCA. The foregoing restriction shall burden the Premises and shall run with the land.

Section 20.04 - Non-Compete: During the term of this lease and for ten years after termination of this Lease, if terminated prior to the thirty (30) year lease period, Tenant shall not permit any Premises to be used as a "YMCA" or permit the name "YMCA", "Young Men's Christian Association" or any variation or derivation thereof to be used on or in connection therewith on any freestanding location within a five-mile radius of this Premises. The foregoing restriction shall burden the Tenant after the expiration of this agreement.

ARTICLE XXI

COVENANT OF QUIET ENJOYMENT

Section 21.01 - Covenant of Quiet Enjoyment: Subject to the provisions of Section 1.02 hereof, Landlord covenants that if and so long as Tenant pays the rent and all other charges provided for herein and performs all of its obligations provided for herein, Tenant shall at all times during the term hereof peaceably have, hold, and enjoy the Premises, without any interruption or disturbance from Landlord or anyone claiming through or under Landlord, subject to the terms hereof.

ARTICLE XXII

MISCELLANEOUS PROVISIONS

Section 22.01 - Memorandum of Lease: RESERVED.

Section 22.02 - Indemnification for Leasing Commissions: Each party represents and warrants to the other that (except with respect to any broker identified for the other in writing prior to full execution of this Lease) no broker, agent, commissioned salesman, or other person has represented by such party in the negotiations for and procurement of this Lease and of the Premises and that no commissions, fees, or compensation of any kind are due and payable in connection herewith to any broker, agent, commissioned salesman, or other person. Each party hereto agrees to indemnify and hold the other harmless from any and all claims, suits, or judgments (including, without limitation, reasonable attorney's fees and court costs incurred in connection with any such claims, suits, or judgments) for any fees, commissions or compensation of any kind which arise out of or are in any way connected with a breach of the foregoing representation.

Section 22.03 - Governing Law: This Lease is being executed and delivered by Landlord in the State of Arizona and shall be construed and enforced in accordance with the laws of that State.

Section 22.04 - Successors and Assigns: Except as otherwise set forth herein, this Lease and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto as well as the parties themselves; provided, however, that Landlord, its successors and assigns shall be obligated to perform Landlord's covenants under this Lease only during and in respect of their successive periods of ownership during the term of this Lease.

Section 22.05 - Severability of Invalid Provisions: If any provision of this Lease shall be held to be invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

Section 22.06 - Complete Agreement; Amendments: This Lease, including all Exhibits, constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understandings shall vary its term, and it may not be amended except by a written instrument executed by both parties hereto.

Section 22.07 - **Inability to Perform:** This Lease and the obligation of either party to perform their respective covenants and agreements hereunder shall not be impaired nor shall either party be in default hereunder because a party is unable to fulfill any of its obligations under this Lease, if that party is prevented or delayed from so doing by any accident, breakage, repairs, alterations, improvements, strike or labor troubles, or any outside cause whatsoever beyond the reasonable control of that party, including, but not limited to, energy shortages or governmental preemption in connection with a natural emergency, or by reason of governmental laws or any rule, order or regulation of any department or subdivision thereof of any governmental agency, or by reason of the conditions of supply and demand which have been or are affected by war or other emergency. The foregoing shall in no event, however, apply to the payment of Base Rent and other charges hereunder, which shall be due and payable on the date(s) specified herein notwithstanding any such event.

Section 22.08 - **No Option:** Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease and it is not effective as a lease or otherwise until execution and delivery by both Landlord and Tenant.

Section 22.09 - **Time of the Essence:** Time is of the essence of this Lease and each and all of its provisions.

Section 22.10 - **Authorized Signatory:** Each person executing this Lease on behalf of a party hereto represents that he is authorized to do so and that such execution is fully binding on such party.

Section 22.11 - **Paragraph Captions:** Paragraph Captions herein are for Landlord's and Tenant's convenience only and neither limit nor amplify the provisions of this Lease.

Section 22.12 - **Rider:** All of the terms and conditions in the attached Rider (if any) to Lease Agreement are hereby incorporated into this Lease Agreement by reference and made a part hereof.

Section 22.13 - **Jury Trial:** Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either or the parties hereto against the other on or in respect of any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant hereunder, Tenants use or occupancy of the Premises and/or any claim of injury or damage.

Section 22.14 - **Landlord's Contingency:** Landlord's obligations are contingent upon successful bidding of the facility within budgetary limitations.

Section 22.15 - **Development Fund and Fund Raising:** A development fund will be established to track fund raising, donations, and uses of these funds. Possible uses of donations include, but are not limited to, funding repairs, scholarships, and offsetting Tenant's direct operating expenditures, including scheduled rent, plus overhead equal to 5% of operating revenues as described in Section 2.05.

All fund raising dollars will be recorded as income to Tenant and the related reserve account balances will be managed by the controller's office at Tenant's corporate headquarters. Tenant's use of development funds received after Tenant's Date of Possession shall not require Landlord's approval. Tenant's use of development funds received prior to Tenant's Date of Possession shall require authorization from the Mayor of the City of El Mirage (the "Mayor"), which authorization shall not be unreasonably withheld. Within twenty-five (25) days of Tenant's request to Landlord to use development funds which were received prior to Tenant's Date of Possession, Landlord shall provide such written authorization or denial from the Mayor. If the Mayor denies Tenant's request, the Mayor's denial shall also include a written summary outlining the reasons for such denial. Failure of Landlord or Mayor to respond to Tenant's request to use development funds within twenty-five (25) days shall be deemed to constitute Landlord's and Mayor's approval of such request. Both the Landlord and Tenant commit to support the operation and development of this fund through means available, and at their disposal.

Section 22.16 - General Lease Administration:

Unless otherwise stated in this document the City of El Mirage City Manager or his designee shall have the authority to take action and administer the lease on behalf of the Landlord. Such actions shall include but not be limited to amendments, clarifications, and interpretations.

Unless otherwise stated in this document the Executive Director of the Valley of the Sun YMCA or his designee shall have the authority to take action and administer the lease on behalf of the Tenant. Such actions shall include but not be limited to amendments, clarifications, and interpretations.

[Remainder of Page Intentionally Left Blank- Execution Pages Follow]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

LANDLORD:

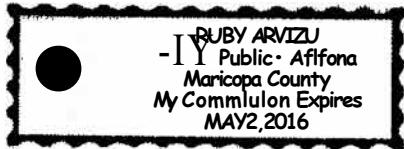
City of El Mirage,
Arizona,
a political subdivision of the State of
Arizona

By: / _____
Print _____
Title: _____

STATE OF ARIZONA)
)SS
COUNTY OF MARICOPA)

Before me, the undersigned signed, a Notary Public for Maricopa County, personally, appeared 5 Ycac-er A J's < YJhe duly authorized CJ: iJj 1 Ycu 1 a f. Jif 4. The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the Q#1 day of Aug v 5 .f., 2012.



Notary Public
My Commission Expires: May 2, 2016

EXHIBIT "A"

PREMISES

That parcel or portion thereof, described below, as is depicted on Exhibit B,

EXHIBIT "B"

SITE PLAN

See
Attached

EXHIBIT "C"

CONFIRMATION OF COMMENCEMENT DATE

[Date]
[Tenant's Name and Address]

RE: [Describe lease, by title and date (the "Lease"); name Landlord and Tenant]

Dear **[Name of Contact Person at Tenant]:**

This letter shall confirm that the Commencement Date for the above-referenced Lease is **[specify Commencement Date]**.

[Name of Tenant], as Tenant, hereby acknowledges the following: (i) Tenant is in possession of the Premises (as defined in the Lease); (ii) the Lease is in full force and effect; (iii) Landlord is not in default under the Lease; and (iv) possession of the Premises is accepted by Tenant as having been delivered in accordance with the terms and conditions of the Lease.

Commencement Date: _____ 201
Base Rent Commencement Date: _____ 201

Please sign two (2) copies of this letter in the space provided below acknowledging your agreement with the above and return them to me at my office. I suggest you attach a copy of this letter to your copy of the Lease.

Thank you again for your cooperation and assistance regarding this matter. Please contact me at any time should you have questions regarding the lease, building, or any related manner.

Sincerely, Acknowledged and Agreed to this ___ day of _____ 2012

City of El Mirage, Arizona

[Name of Tenant]

By: _____
Print Name: _____
Title: _____

By: _____
Print Name: _____
Title: _____

EXHIBIT "D"

TAX-EXEMPT BOND REQUIREMENTS

Definitions

In addition to the words and terms elsewhere defined in this Lease, in this Exhibit C have the meanings set forth below.

"Bonds" means the securities issued by the Landlord for the purpose of financing the Building.

"Bond Counsel" means any nationally recognized firm or municipal bond attorneys selected by the Landlord.

"Code" means the Internal Revenue Code of 1986, as amended. References to the Code and sections of the Code include applicable regulations and proposed regulations thereunder and any successor provisions to such sections, regulations or proposed regulations.

"Federal Tax Status" means, with respect to the interest on the Bonds, the status of such interest as excluded from gross income for federal income tax purposes and not treated as an item of tax preference under section 57 of the Code for purposes of the alternative minimum tax imposed on individuals and corporations under the Code.

"Net Proceeds" means net proceeds as defined in Section 150(a)(3) of the Code, that is, Proceeds minus amounts in any reasonably required reserve or replacement fund as provided in Section 148(d) of the Code.

"Private Business Use" means (i) use by any Private Person, other than use as a member of the general public, or (ii) use by a "501(c) (3) organization" as defined in Section 150(a)(4) of the Code, in an unrelated trade or business, as described in Code Section 513(a).

"Private Person" means any person, firm, entity or individual other than a Tax-Exempt Organization.

"Regulations" means the Income Tax Regulations, including proposed and temporary regulations, promulgated by the Department of the Treasury pursuant to the Code.

"Service Contract" means any management, service or incentive payment contract under which a Service Provider provides management or other services involving all, a portion, or any function of the Building, for the benefit of the Tenant.

"Service Provider" means (a) any Private Person, or (b) any Tax-Exempt Organization providing services in an unrelated trade or business under §513(a) of the Code, either of which provides services for the benefit of the Tenant under a Service Contract.

"Tax-Exempt Organization" means any "501(c)(3) organization" as defined in §150(a)(4) of the Code or any "governmental unit" within the meaning of §141(b)(6) of the Code.

Tenant Agreements

1. No more than 5% of the sum of (i) the Net Proceeds of the Bonds, and (ii) all income derived by Tenant from the investment of Net Proceeds will be used (directly or indirectly by Tenant) for any Private Business Use. For purposes of this paragraph, the payment issuance costs, to the extent paid from Net Proceeds of the Bonds (or from income derived from the investment of such Net Proceeds) constitutes use of Net Proceeds for a Private Business Use.
2. The Tenant will not secure directly or indirectly more than 5% of either the principal of or the interest on the Bonds by (i) any interest in property used or to be used for any Private Business Use or (ii) payments in respect of property used or to be used for any Private Business Use. It will not cause or permit more than 5% of either the principal of or the interest on the Bonds to be derived directly or indirectly from payments (whether or not to the Landlord) in respect of property, or borrowed money, used or to be used for any Private Business Use.
3. No changes will be made by or through Tenant in the facilities comprising the Building or in the use of the Building that would adversely affect the Federal Tax Status of the interest on the Bonds.
4. In connection with any sublease or grant by the Tenant of the use of the Building, the Tenant will require that the sublessee or user of any portion of the Building may not use that portion of the Building in any manner which would violate the covenants set forth in this Exhibit C.
5. The Tenant will restrict the use of the Building in such manner and to such extent as may be necessary so that the Bonds will not constitute "federally guaranteed" obligations under Section 149(b)(2) of the Code.
6. The Tenant will provide such information as the Landlord requests to enable the Landlord to timely file each Form 8038 or Form 8038-G required in connection with the Bonds.
7. The Tenant must perform all acts necessary and within its reasonable control in order to preserve the Federal Tax Status of the interest on the Bonds.
8. The Tenant acknowledges that the covenants and conditions set forth in this Exhibit C are based upon the Code and Regulations and related interpretations thereof by the

Internal Revenue Service and the Treasury Department, as they exist on the date of this Lease and that the Code and the Regulations may be subsequently interpreted or modified by the Federal government in a manner which is inconsistent with the covenants in this Lease. Any such subsequent modification or interpretation of the Code, the Regulations or related interpretations will be deemed a requirement that must be met under the agreement in paragraph 7 above, except as provided in paragraph 10 below.

9. Bond Counsel is hereby authorized to rely on the representations of the Tenant in rendering its opinions relating to the Federal Tax Status of the Bonds.

10. The Tenant will not be required to comply, or may modify its compliance, with the provisions of this Exhibit C to the extent that, in the opinion of Bond Counsel furnished to the Landlord and the Tenant, compliance with such provisions is not necessary, or such modified compliance is sufficient, to preserve the Federal Tax Status of the interest on the Bonds.

**ADDENDUM
CITY OF EL MIRAGE AND THE NORTHWEST VALLEY FAMILY YMCA, LLC
LEASE AGREEMENT**

This Addendum to the Lease Agreement dated September 1, 2012, is hereby made and entered into this 20th day of AUGUST, 2013, by and between the City of El Mirage ("Landlord"), and the Northwest Valley Family YMCA, LLC ("Tenant").

RECITALS

WHEREAS, the Landlord and Tenant entered into a lease agreement on September 1, 2012; and
~~WHEREAS, the Landlord and the Tenant desire to amend their lease agreement; and~~
WHEREAS, the Lease may be amended in writing by the parties.

ADDENDUM

NOW, THEREFORE, the Landlord and the Tenant hereby agree the Lease shall be amended as follows:

"Section 7.04 –Reserved" is hereby replaced with a new Section 7.04 that reads as follows:

Section 7.04 – Resident Discounts and Rates: City of El Mirage resident discounts and rates, as shown in the table below, are hereby established and shall not change, decrease, or be reduced through the end of June 30, 2019. The discounts and rates shall continue to be provided after June 30, 2019 unless the parties agree, in writing, to new discounts and rates. To compensate the Tenant for the difference between resident and nonresident rates and fees, the Landlord agrees to compensate the Tenant on a per membership basis. The Landlord will pay the greater of the guaranteed minimum monthly discount or the difference between the published Northwest Valley Family YMCA facility/nonresident rate and the resident rates identified in the following chart for each membership type, as defined by the Tenant. If the membership type is not identified below, the Landlord does not provide a discount or reimbursement for that membership type.

Membership Type	Maximum Resident Monthly Rate Through June 30, 2019	Guaranteed Minimum Monthly Discount Through June 30, 2019
Youth	\$11.00	\$4.00
Student/Teen	\$11.00	\$4.00
Adult	\$36.00	\$4.00
Couple	\$54.00	\$6.00
Family 1	\$52.00	\$4.00
Family 2	\$63.00	\$4.00
Senior 1	\$35.00	\$4.00
Senior 2	\$53.00	\$6.00

Further, the Tenant will not charge and hereby waives initial joining fees for residents. Should a resident discontinue their membership or allow it to lapse, then established nonresident joining fees apply at the resident's expense. The Landlord will pay to the Tenant \$75.00 for each initial resident joining fee waived. The waiver only applies to initial annual resident memberships does not apply to resident memberships for terms shorter than one year.

The Tenant will also provide a discount rate of 50% to non-member residents for use of the pool during "open/free swim" times as defined by the Tenant. The Tenant's practice(s) for establishing "open/free" swim times shall be similar to established practices at Tenant's nearby YMCA facilities.

Discounts, rates, waivers, and transactions discussed and contemplated in this Section will be handled separate and apart from "Rent" as established and set forth in Article III, entitled "Rent."

"Section 10.01 – Signage" is amended to read as follows:

Section 10.01 – Signage: As a part of the Final Plans, Tenant shall provide and pay for a free-standing sign on the Premises and a building mounted identification sign subject to compliance with the City of El Mirage Zoning Code and subject to the approval of the City of El Mirage Zoning Administrator. Tenant may thereafter replace and/or modify the same with such signage as is reasonably approved by Landlord, otherwise permitted by applicable laws and regulations, or as may be permitted by variance therefrom lawfully granted by applicable governmental authority. Any such signage shall conform to all laws, ordinances and regulations pertaining thereto. After the initial provision and installation of such signage, Tenant shall pay for all costs in connection with the operation and/or maintenance thereof and shall be responsible for any damage occasioned by the removal thereof. Tenant shall make reasonable efforts to communicate to the general public (i.e. signage; statement on membership application) that ~~City of El Mirage YMCA~~ the Tenant offers memberships to all people regardless of race, religion or national origin of such person.

The Landlord may at its sole discretion, participate in the process and/or expense of providing or acquiring signage.

This constitutes the entire addendum/amendment to the adopted lease agreement. All other terms and conditions contained in the lease agreement remain in force and effect.

(Signature pages to follow)

IN WITNESS WHEREOF, the parties have set their hand this 20th day of AUGUST, 2013.

LANDLORD:

City of El Mirage, Arizona,
A political subdivision of the State of Arizona

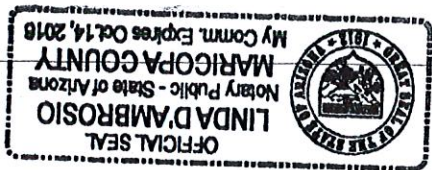
By: [Signature]
Print Name: Spencer A. Isom
Title: City Manager

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Dr. Spencer A. Isom the duly authorized City Manager of The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who

acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 21st day of August, 2013.



Linda D'Ambrosio
Notary Public
My Commission Expires:
Linda D'Ambrosio
Type or Print Name

TENANT:

Northwest Valley Family YMCA, LLC
An Arizona limited liability company

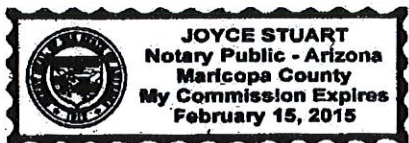
By: Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, its sole member

By: George D. Fraun Jr
Print Name: GEORGE D. FRAUN JR
Title: CFO

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared George D. Fraun Jr the duly authorized CFO of Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, which is the sole member of Northwest Valley Family YMCA, LLC, and Arizona limited liability company, the Tenant in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 12th day of August, 2013.



Joyce Stuart
Notary Public
My Commission Expires: 2/15/2015
Joyce Stuart
Type or Print Name

**ADDENDUM #2
CITY OF EL MIRAGE AND THE NORTHWEST VALLEY FAMILY YMCA, LLC
LEASE AGREEMENT**

This Addendum to the Lease Agreement dated September 1, 2012, is hereby made and entered into this 8 day of May, 2014, by and between the City of El Mirage ("Landlord"), and the Northwest Valley Family YMCA, LLC ("Tenant").

RECITALS

WHEREAS, the Landlord and Tenant entered into a lease agreement on September 1, 2012; and
WHEREAS, the Landlord and Tenant entered into an Addendum to the lease on August 20, 2013; and
WHEREAS, the Landlord and the Tenant desire to further amend their lease agreement; and
WHEREAS, the Lease may be amended in writing by the parties.

ADDENDUM

NOW, THEREFORE, the Landlord and the Tenant hereby agree the Lease shall be amended as follows:

"Section 7.04 –Resident Discounts and Rates" is hereby replaced with a new Section 7.04 that reads as follows:

Section 7.04 – Resident Discounts and Rates: City of El Mirage resident discounts and rates, as shown in the table below, are hereby established and shall not change, decrease, or be reduced through the end of June 30, 2019. For the purpose of this provision, City of El Mirage employees will receive the same discounts and rates as "Residents." The discounts and rates shall continue to be provided after June 30, 2019 unless the parties agree, in writing, to new discounts and rates. To compensate the Tenant for the difference between resident and nonresident rates and fees, the Landlord agrees to compensate the Tenant on a per membership basis. The Landlord will pay the greater of the guaranteed minimum monthly discount or the difference between the published Northwest Valley Family YMCA facility/nonresident rate and the resident rates identified in the following chart for each membership type, as defined by the Tenant. If the membership type is not identified below, the Landlord does not provide a discount or reimbursement for that membership type.

Northwest Valley Family YMCA Membership Type	Maximum Resident Monthly Rate Through June 30, 2019	Guaranteed Minimum Monthly Discount Through June 30, 2019
Youth	\$11.00	\$4.00
Student/Teen	\$11.00	\$4.00
Adult	\$36.00	\$4.00
Couple	\$54.00	\$6.00
Family 1	\$52.00	\$4.00
Family 2	\$63.00	\$4.00
Senior 1	\$35.00	\$4.00
Senior 2	\$53.00	\$6.00

Further, the Tenant will not charge and hereby waives initial joining fees for residents for each such resident's first time applying for membership to Northwest Valley Family YMCA facility. The waiver does not apply to Phoenix Metro-Area memberships. Should a resident discontinue their membership or allow it to lapse, then established nonresident joining fees apply at the resident's expense.

YMCA Lease Agreement Addendum "A"

The Landlord will pay to the Tenant \$75.00 for each initial annual (first twelve consecutive months) resident membership for use of the Northwest Valley Family YMCA facility. The payment will not apply to resident memberships for terms shorter than one year or to residents applying for a Phoenix Metro-Area membership with Tenant's affiliate operations. The payment from Landlord to Tenant for initial annual resident memberships will take one of two forms: (1) if the resident pays for the annual membership upfront, the Landlord will pay \$75.00 to the Tenant upon Tenant's submission of an invoice to the Landlord documenting receipt of upfront payment; (2) if the resident signs an agreement for an annual membership and makes monthly payments, the Landlord will pay \$6.25 per month to the Tenant for the first twelve months of the resident's membership upon Tenant's submission of an invoice to the Landlord documenting receipt of resident's monthly payment.

The Tenant will also provide a discount rate of 50% to non-member residents for use of the pool during "open/free swim" times as defined by the Tenant. The Tenant's practice(s) for establishing "open/free" swim times shall be similar to established practices at Tenant's nearby YMCA facilities.

Discounts, rates, waivers, and transactions discussed and contemplated in this Section will be handled separate and apart from "Rent" as established and set forth in Article III, entitled "Rent."

"Section 3.01(a) – Base Rent" is hereby replaced with a new Section 3.01(a) that reads as follows:

(a) Tenant agrees to pay Landlord Base Rent for the Premises in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year commencing on the Commencement Date. A "Lease Year" shall be a period of twelve (12) consecutive calendar months, the first of which shall commence on the Commencement Date, except that if the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding Lease Year shall commence on the anniversary thereof. All such Base Rent shall be payable to Landlord on the first day of the month. Base Rent shall be payable to Landlord at the address set forth in the first paragraph hereof, unless Landlord directs otherwise in writing.

Notwithstanding the first paragraph of this Section "3.01(a)" above the Landlord hereby reduces the first thirty (30) months of Base Rent to \$1.00 per month. The Tenant agrees to provide annual financial reports at each fiscal year-end during the term of this Agreement. If during the first thirty (30) months of this Agreement (i) resident memberships exceed 1,100 during any month, or (ii) if total "Gross Revenue and Support" exceeds \$2,000,000 during any twelve (12) consecutive months, the Tenant agrees to begin paying the monthly Base Rent the first of the following month, and no more reductions in Base Rent shall be granted unless otherwise agreed to by the parties. "Gross Revenue and Support" includes Public Support from individuals, businesses, Strong Kids, United Way, Government Contracts; Memberships from Family, Adult, Youth, Military, Silver Sneakers, Senior, Group, Corporate, and Others to the Northwest Valley Family YMCA; and Programs from Aquatics, Child Care, Day Camp, Team Sports, Sports & Recreation, Health, Wellness, Community Initiatives, and Others to the Northwest Valley Family YMCA; and Other Revenue identified to support the Northwest Valley Family YMCA.

"Section 6.01(k) - Performance of Landlord's Work and Tenant's Work" is hereby replaced with a new Section 6.01(k) that reads as follows:

SAE
5/2/14

YMCA Lease Agreement Addendum "A"

The Landlord will pay to the Tenant \$75.00 for each initial annual (first twelve consecutive months) resident membership for use of the Northwest Valley Family YMCA facility. The payment will not apply to resident memberships for terms shorter than one year or to residents applying for a Phoenix Metro-Area membership with Tenant's affiliate operations. The payment from Landlord to Tenant for initial annual resident memberships will take one of two forms: (1) if the resident pays for the annual membership upfront, the Landlord will pay \$75.00 to the Tenant upon Tenant's submission of an invoice to the Landlord documenting receipt of upfront payment; (2) if the resident signs an agreement for an annual membership and makes monthly payments, the Landlord will pay \$6.25 per month to the Tenant for the first twelve months of the resident's membership upon Tenant's submission of an invoice to the Landlord documenting receipt of resident's monthly payment.

The Tenant will also provide a discount rate of 50% to non-member residents for use of the pool during "open/free swim" times as defined by the Tenant. The Tenant's practice(s) for establishing "open/free" swim times shall be similar to established practices at Tenant's nearby YMCA facilities.

Discounts, rates, waivers, and transactions discussed and contemplated in this Section will be handled separate and apart from "Rent" as established and set forth in Article III, entitled "Rent."

"Section 3.01(a) - Base Rent" is hereby replaced with a new Section 3.01(a) that reads as follows:

(a) Tenant agrees to pay Landlord Base Rent for the Premises in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year commencing on the Commencement Date. A "Lease Year" shall be a period of twelve (12) consecutive calendar months, the first of which shall commence on the Commencement Date, except that if the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding Lease Year shall commence on the anniversary thereof. All such Base Rent shall be payable to Landlord on the first day of the month. Base Rent shall be payable to Landlord at the address set forth in the first paragraph hereof, unless Landlord directs otherwise in writing.

Notwithstanding the first paragraph of this Section "3.01(a)" above the Landlord hereby reduces the first thirty (30) months of Base Rent to \$1.00 per month. The Tenant agrees to provide annual financial reports at each fiscal year end during the term of this Agreement. If during the first thirty (30) months of this Agreement (i) resident memberships exceed 1,100 during any month, or (ii) if total "Gross Revenue and Support" exceeds \$2,000,000 during any twelve (12) consecutive months, the Tenant agrees to begin paying the monthly Base Rent the first of the following month, and no more reductions in Base Rent shall be granted unless otherwise agreed to by the parties. "Gross Revenue and Support" includes Public Support from individuals, businesses, Strong Kids, United Way, Government Contracts, Memberships from Family, Adult, Youth, Military, Silver Sneakers, Senior, Group, Corporate, and Others to the Northwest Valley Family YMCA; and Programs from Aquatics, Child Care, Day Camp, Team Sports, Sports & Recreation, Health, Wellness, Community Initiatives, and Others to the Northwest Valley Family YMCA; and Other Revenue identified to support the Northwest Valley Family YMCA.

"Section 6.01(k) - Performance of Landlord's Work and Tenant's Work" is hereby replaced with a new Section 6.01(k) that reads as follows:

SAE
5/13/04
SAE
5/9/14

(k) Upon substantial completion of Landlord's Work, Landlord shall provide fitness equipment and office equipment for the operation of the Premises as identified and agreed to in the attached Exhibit E, entitled "Landlord Furniture, Fixtures, and Equipment." All other furniture, fixture, and equipment shall be provided by Tenant and Tenant shall complete any additional leasehold improvements of the Premises desired by Tenant which have been reasonably approved by Landlord ("Tenant's Work"). The equipment provided by Tenant shall be comparable to the equipment used by Tenant in its operation of other standard, new family branch facilities in the Greater Phoenix Area. Tenant shall cause all of Tenant's Work to be done in accordance with the provision of Section 6.02 hereof, approved plans and specifications thereof, and applicable law. Tenant shall be responsible for the repair and maintenance of all items identified in Exhibit E and in accordance with Section 11.02 entitled, "Tenant's Obligations," except, to the extent such repairs or maintenance arise from the negligent acts or intentional misconduct of the Landlord or the Landlord's agents, contractors or employees, in which event, the Landlord shall make such repairs, perform such maintenance, or replace the particular item at the Landlord's sole cost and expense.

EXHIBIT "A" – LEGAL DESCRIPTION is resolved and executed as follows:

Parties acknowledge and confirm acceptance of Legal Description as evidenced by the attached EXHIBIT "A".

EXHIBIT "B" – SITE PLAN is resolved and executed as follows:

Parties acknowledge and confirm acceptance of the Site Plan as evidenced by the attached EXHIBIT "B".

EXHIBIT "C" – CONFIRMATION OF COMMENCEMENT DATE is resolved and executed as follows:

Tenant acknowledges and confirms acceptance of the premises as evidenced by the completed and attached EXHIBIT "C".

EXHIBIT "D" – TAX-EXEMPT BOND REQUIREMENTS remains resolved as part of the original and executed September 1, 2012 Lease Agreement.

EXHIBIT "E" – LANDLORD FURNITURE, FIXTURES, AND EQUIPMENT is resolved and executed as follows:

Parties acknowledge and confirm acceptance of Landlord Furniture, Fixtures, and Equipment as evidenced by the completed and attached EXHIBIT "E".

*This constitutes the entire Addendum #2 to the adopted Lease Agreement.
All other terms and conditions contained in the September 1, 2012 Lease Agreement
and the August 20, 2013 Addendum remain in force and effect.
(Signature pages to follow)*

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S00°01'27"E	687.17'
L2	S89°58'33"W	302.37'
L3	N00°01'27"W	687.17'
L4	N89°58'33"E	302.37'

AREA = 207,780 SQ. FT. OR
4.77 ACRES MORE OR LESS

NE CORNER
SECTION 26,
T3N, R1W

 RECREATION CENTER

33' ROADWAY
EASEMENT

POB

L4

S89°58'33"W 915.00'

APN 501-45-019J

APN 801-45-019D
HERITAGE PARK

PROPOSED
CINNABAR AVENUE
RIGHT-OF-WAY

FIRE STATION
DOC. 2009-0632245

FIRE STATION ACCESS
DOC. 2010-0925326

E 1/4 CORNER
SECTION 26,
T3N, R1W



EXPIRES: 09/30/12

EXHIBIT TO ACCOMPANY
LEGAL DESCRIPTION



AZTEC ENGINEERING

4511 E. Abasco Rd., Phoenix, AZ 85044
Tel: (602) 461-0100 Fax: (602) 461-0400
www.aztecengineering.com

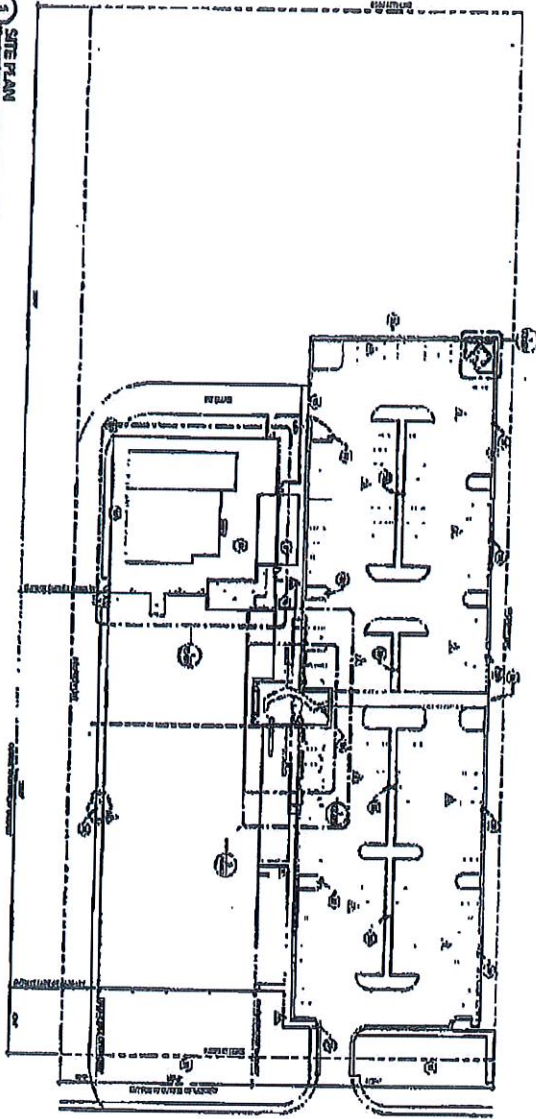
DATE	BY	CHK	APP	SHEET NO.	TOTAL SHEETS
9-11-12	REV			1	1

SCALE: N/A

REPRODUCED FROM ORIGINAL DRAWING WITHOUT PERMISSION OF THE ORIGINAL DRAWER

Exhibit 'B'

3 SITE PLAN



NO. SYMBOLS AND DIMENSIONS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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ARCHITEKTON

AS-101

NORTHWEST FAMILY YMCA



1200 W. 1st Ave.
Seattle, Wash.

EXHIBIT "A"
Legal Description
(Recreation Center)

A parcel of land located in the Northeast Quarter of Section 26, Township 3 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Northeast Corner of said Section 26, from which the East Quarter Corner of said Section 26, bears S 00° 01' 27" E, a distance of 2634.98 feet;

THENCE along the East line of the Northeast Quarter of said Section 26, S 00° 01' 27" E, a distance of 1275.00 feet to the Northeast corner of that certain parcel of land described in Special Warranty Deed of Gift Recorded December 4, 2008 in Doc. 2008-1063230, Official Records of Maricopa County, Arizona;

THENCE leaving said East line, along the North line of said parcel, S 89° 58' 33" W, a distance of 915.00 feet to the Northwest corner of said parcel and the POINT OF BEGINNING;

THENCE along the West line of said parcel, S 00° 01' 27" E, a distance of 687.17 feet;

THENCE leaving said West line, S 89° 58' 33" W, a distance of 302.37 feet;

THENCE N 00° 01' 27" W, a distance of 687.17 feet;

THENCE N 89° 58' 33" E, a distance of 302.37 feet to the POINT OF BEGINNING.

Containing 207,780 sq. ft. (4.77 Ac.) ±.



Expires: 9-30-12

EXHIBIT "C" (Amended 5-8-14)
CONFIRMATION OF COMMENCEMENT DATE

5/8/14

Kerri O'Brien
Executive VP/COO
VALLEY OF THE SUN YMCA
350 North 1st Ave
Phoenix, AZ 85003

Dr. Spencer A. Isom
City Manager
CITY OF EL MIRAGE
12145 NW Grand Avenue
El Mirage, AZ 85335

RE: September 1, 2012 Lease Agreement, including Addendums #1 and #2; the City of El Mirage (Landlord) and the Northwest Valley Family YMCA, LLC (Tenant)

Dr. Isom:

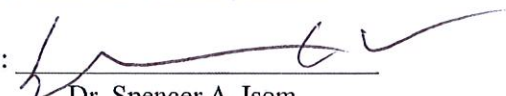
This letter shall confirm that the Commencement Date for the above-referenced Lease, which includes Addendums #1 and #2, is May 10, 2014. The Tenant hereby acknowledges the following: (1) Tenant will take possession of the premises on May 10 as defined in the Lease; (2) the Lease is in full force and effect; (3) Landlord is not in default under the Lease; and (4) possession of the Premises will be accepted by Tenant as having been delivered in accordance with the terms and conditions of the Lease. All rents will be payable in accordance with the new "Section 3.01(A) – Base Rent" as set forth in the above referenced and executed Addendum #2.

I ask that you sign two (2) copies of this communication in the space provided below acknowledging your agreement with the above and return them to me at my office. Also, please keep a copy for your records.

Thank you for your cooperation and attention. Please contact me at any time should you have questions regarding the lease, building, or any related matter.

Acknowledged and Agreed to this 8th day of May, 2014.

City of El Mirage, AZ (Landlord)

By: 

Dr. Spencer A. Isom
Title: City Manager

NW Valley Family YMCA, LLC (Tenant)

By: 

Kerri O'Brien
Title: Executive VP/COO

IN WITNESS WHEREOF, the parties have set their hand this 8th + 9th day of May, 2014.

LANDLORD:

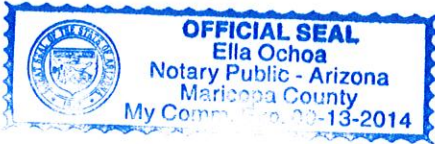
City of El Mirage, Arizona,
A political subdivision of the State of Arizona

By: [Signature]
Print Name: Spencer A. Isom
Title: City Manager

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared SPENCER A ISOM the duly authorized CITY MANAGER of The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 9 day of MAY, 2014.



[Signature]
Notary Public
My Commission Expires: 9-13-2014
ELLA OCHOA
Type or Print Name

TENANT:

Northwest Valley Family YMCA, LLC
An Arizona limited liability company

By: Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, its sole member

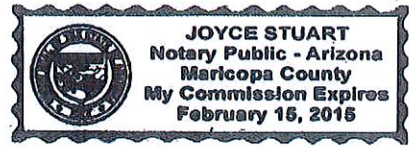
By: [Signature]
Print Name: Karen Ann O'Brien
Title: Ex VP/COO

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared *Kenn Olson* the duly authorized *Exec/COO* of Valley of the Sun-Young Men's Christian Association, an Arizona non-profit corporation, which is the sole member of Northwest Valley Family YMCA, LLC, and Arizona limited liability company, the Tenant in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the *7th* day of *May*, 2014.

Joyce Stuart
Notary Public
My Commission Expires: *Feb. 15, 2015*
Joyce Stuart
Type or Print Name



**ADDENDUM #3
CITY OF EL MIRAGE AND THE NORTHWEST VALLEY FAMILY YMCA, LLC
LEASE AGREEMENT**

This Addendum to the Lease Agreement dated September 1, 2012, is hereby made and entered into this 20th day of July, 2015, by and between the City of El Mirage (“ Landlord”), and the Northwest Valley Family YMCA, LLC (“ Tenant”).

RECITALS

WHEREAS, the Landlord and Tenant entered into a lease agreement on September 1, 2012;

WHEREAS, the Landlord and Tenant entered into Addendum #1 on August 20, 2013;
WHEREAS, the Landlord and Tenant entered into Addendum #2 on May 8, 2014; and
WHEREAS, the Landlord and the Tenant desire to further amend their lease agreement;
and

WHEREAS, the Lease may be amended in writing by the parties.

ADDENDUM

NOW, THEREFORE, the Landlord and the Tenant hereby agree the Lease shall be amended by adding Article XXIII which reads as follows:

ARTICLE XXIII

VEHICLE USE

Section 23.01 – Vehicles and Equipment (Vehicles): Landlord agrees to lease to Tenant and Tenant hereby agrees to lease from the Landlord, as set forth in **Exhibit H**, vehicles listed on **Exhibit F** attached hereto and incorporated herein by this reference, which may be updated from time to time at the Landlord’s discretion. **Exhibit F** shall include but not be limited to a description of each vehicle including the year, make and model, as well as its VIN number.

Section 23.02 – Term of this Article: The term of this particular Article shall commence on or about July 1, 2015 (Article XXIII’s “Effective Date”), and shall continue through the term of the Landlord and Tenant Lease Agreement and any renewal terms, unless this particular article is otherwise terminated or cancelled upon sixty (60) days’ notice provided by either party to the other. Should either party elect to terminate Addendum #3 Article XXIII said termination will not affect the Lease Agreement dated September 1, 2012, and Addendum # 1 dated August 20, 2013, and Addendum # 2 dated May 8, 2014.

Section 23.03 – Payments: The Tenant shall timely pay the Landlord as rent the sums outlined in **Exhibit E** attached hereto and incorporated herein by this reference, which may be amended from time to time by a written agreement between the parties. **Exhibit E** shall include but not be limited to a description of the amount due at Article XXIII’s “Effective Date,” total of payments and other charges due to Landlord.

Section 23.04 – Use of Vehicle Pursuant to Addendum #3: Tenant shall use the Vehicles, solely for the transportation of Youth for field trips related only to the Northwest Valley Family YMCA’s Spring, Summer, Fall, and/or Winter Youth Camp seasons (Youth Camp). Use of the vehicles for any other purpose without the prior, express written consent of the Landlord’s City Manager is strictly prohibited. Any prohibited use shall require the Tenant to pay to the Landlord an “abuse fee” of three hundred dollars (\$300), due and payable to the Landlord immediately. All uses by the Tenant and its employees, agents, officers, directors and/or assignees, shall fully comply with all applicable Federal, State and local laws concerning the Vehicles, as well as the operations undertaken thereby.

Section 23.06 – No Warranties: Exclusive of original vehicle warranties and/or factory warranties that are in effect, Landlord makes no representations, covenants or warranties, express or implied, concerning the condition of any of the Vehicles, their delivery, or fitness for any particular purpose. Landlord shall in no way be held responsible for any damages, whether actual, special, consequential or otherwise, arising from the Leased Vehicles(s), or this Lease.

Section 23.07 – Maintenance: Tenant is responsible for all routine maintenance including gasoline and other fluids while Vehicles are in Tenant’s possession. Tenant shall return Vehicles to Landlord in the same condition they were obtained subject to normal wear and tear associated with the use of the vehicle. Also, Tenant shall pick up and return Vehicles to Landlord according to the Youth Camp schedule described in **Exhibit H** attached hereto. During Youth Camp Vehicles shall be parked at the NW Valley Family YMCA facility, the El Mirage Police Station, or the El Mirage Public Works Yard each evening. Tenant is responsible for any and all damage, vandalism, maintenance, repairs, etc. while Vehicles are in Tenant’s possession or while parked at the NW Valley Family YMCA facility.

Section 23.08 – Taxes, Licensing, and Registration: Landlord shall be financially responsible for obtaining and keeping in force all applicable licenses and registrations for the Vehicles.

Section 23.10 – Indemnification: Tenant shall indemnify, defend and hold harmless Landlord, its employees, officers and directors, from any and all alleged claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description which may arise out of Tenant’s use of the described vehicles pursuant to Addendum #3, which may be brought or made against or incurred by Landlord, its employees, officers and directors, including loss of or damage to any property or for injuries to or death of any person caused by, arising out of, or contributed to, in whole or in part, by reason of Tenant’s and, its volunteers, agents, or representatives use of the leased vehicles. Tenant's obligation under this subparagraph does not extend to any liability ultimately determined by law or judicial order to have been caused by the negligence or willful misconduct of Landlord, or its employees, officers and directors. This provision shall survive the term of the Addendum and the Lease.

Section 23.11 – Insurance: Tenant shall provide insurance, evidenced by a certificate issued to Landlord, for such amounts and coverages as are satisfactory and approved by Landlord, naming Landlord, its employees, officers and directors, as additional insureds.

Insurance requirements shall be set forth on **Exhibit G** attached hereto and incorporated herein by this reference.

Section 23.12 – No Assignment or Delegation. Tenant may not assign its rights, obligations or duties under this Addendum without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion.

Section 23.13 – Events of Default. An "Event of Default" by Tenant shall include any act or failure to act as follows, or for materially breaching any promise or covenant made herein, including the failure to materially and adequately perform the services set forth in this Addendum, failure by Tenant to pay any sums when due hereunder, or materially breaching any promise or covenant contained in the Addendum #3.

Section 23.16 – Notices. Whenever any party desires to give notice to another party, it must be given by written notice, mailed by first class mail, addressed to the party at the address shown in this Lease and shall be effective when received.

IN WITNESS WHEREOF, the parties have set their hand this 20th day of July, 2015.

LANDLORD:

City of El Mirage, Arizona,
A political subdivision of the State of Arizona

By: [Signature]
Print Name: Spencer A. Isom
Title: City Manager

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Dr. Spencer A. Isom the duly authorized City Manager of The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 20th day of July, 2015.



Linda D'Ambrosio
Notary Public
My Commission Expires: 10/14/16
Linda D'Ambrosio
Type or Print Name

TENANT:

Northwest Valley Family YMCA, LLC
An Arizona limited liability company

By: Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, its sole member

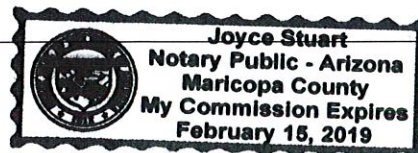
By: Ralph Yoke
Print Name: Ralph Yoke
Title: President/CEO

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Ralph Yoke the duly authorized President & CEO of Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, which is the sole member of Northwest Valley Family YMCA, LLC, and Arizona limited liability company, the Tenant in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 20th day of July, 2015.

Joyce Stuart
Notary Public
My Commission Expires: February 15, 2019



Type or Print Name

Exhibit E

Amount Due at Delivery:

- a. In each year of the Lease Term, Tenant shall pay five dollars (\$5.00) per year per vehicle to the Landlord, for the leasing of Landlord vehicles under this Lease.
- b. Amount due will be subject to any and all Federal, State, and local taxes applicable at the time of payment.
- c. Payment of amount due by Tenant shall initially be due to the Landlord upon delivery of each vehicle and/or unit of equipment, and then on an annual basis thereafter, commencing on 1st day of September, 2015.

\$	<u>5.00</u>	<u>first vehicle</u>
	<u>5.00</u>	<u>second vehicle</u>
\$	<u>10.00</u>	<u>Total</u>

Exhibit G
INSURANCE REQUIREMENTS

Prior to leasing vehicles, Tenant shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons and damages to property, which may arise from or in connection with the use of leased vehicles by Tenant, its agents, representatives, employees, or subcontractors.

Minimum Limits of Insurance

Tenant shall maintain limits no less than:

Automobile Liability: \$1,000,000.00 combined single limit per accident for bodily injury and property damage, including coverage's for owned, hired, and non-owned vehicles as applicable.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by Landlord. At the option of Landlord, both the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Landlord, its officials, employees, and volunteers, or Tenant shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense.

Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

Automobile Liability Coverage

Landlord, and including all elected and appointed officials, all employees and volunteers, and boards, commissions and/or authorities and their board members, employees, and volunteers, are to be covered as additional insured's as respects: Liability arising out of activities performed by or on behalf of Tenant including the insured' s general supervision of Tenant; products and completed operations of Tenant; premises owned, occupied or used by Tenant, or automobiles owned, leased, hired or borrowed by Tenant. The coverage shall contain no special limitations on the scope of protection afforded to Landlord, its officials, employees, or volunteers.

Tenant's insurance coverage shall be primary as respects Landlord, its officials, employees, or volunteers. Any insurance of self-insurance maintained by Landlord, its officials, employees, or volunteers shall be excess of Tenant' s insurance and shall not contribute to it.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Landlord, its elected and appointed officials, employees and volunteers, all boards, commissions, and/or authorities and their board members, employees and volunteers.

Coverage shall state that Tenant's insurance shall apply separately to each insured against whom claim is made

Exhibit H
YOUTH CAMP SCHEDULE

The exact dates of future Youth Camps is not known by the Tenant at this time. The Tenant will provide the Landlord with specific times and dates of Youth Camps and anticipated transportation needs as soon as practical. As a general guideline camps usually occur during the following times.

- Fall break – 1 week in Oct
- Winter break – 2 weeks in December/January
- Spring break – 1 week in March
- Summer break – 12 weeks May through August

Uses not consistent with the above schedule must receive prior approval in accordance with Article XXIII Section 23.04.

ADDENDUM #4
CITY OF EL MIRAGE AND THE NORTHWEST VALLEY FAMILY YMCA, LLC
LEASE AGREEMENT

This Addendum to the Lease Agreement dated September 1, 2012, is hereby made and entered into the last date signed below, by and between the City of El Mirage ("Landlord"), and the Northwest Valley Family YMCA, LLC ("Tenant").

RECITALS

WHEREAS, the Landlord and Tenant entered into a lease agreement on September 1, 2012; and
WHEREAS, the Landlord and Tenant entered into Addendum #1 on August 20, 2013; and
WHEREAS, the Landlord and Tenant entered into Addendum #2 on May 8, 2014; and
WHEREAS, the Landlord and Tenant entered into Addendum #3 on July 20, 2015; and
WHEREAS, the Landlord and the Tenant desire to further amend their lease agreement; and
WHEREAS, the Lease may be amended in writing by the parties.

ADDENDUM

NOW, THEREFORE, the Landlord and the Tenant hereby agree to amend the Lease and Addendums as follows and to add Article XXIV below:

"Section 3.01(a) – Base Rent" is hereby replaced with a new Section 3.01(a) that reads as follows:

(a) Tenant agrees to pay Landlord Base Rent for the Premises in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year commencing on the Commencement Date. A "Lease Year" shall be a period of twelve (12) consecutive calendar months, the first of which shall commence on the Commencement Date, except that if the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding Lease Year shall commence on the anniversary thereof. All such Base Rent shall be payable to Landlord on the first day of the month. Base Rent shall be payable to Landlord at the address set forth in the first paragraph hereof, unless Landlord directs otherwise in writing.

Notwithstanding the first paragraph of this Section "3.01(a)" above the Landlord hereby reduces the Base Rent to \$1.00 per month and the rate will automatically renew for additional 12 month terms during the remainder of the Lease unless notice is provided by the Landlord. The Landlord may reinstate the Base Rent in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year by giving written notice ninety (90) days before the start of the calendar year, and the Tenant agrees to begin paying the reinstated monthly Base Rent the first of the following month, and no more reductions in Base Rent shall be granted unless otherwise agreed to by the parties.

Section 7.04 – Resident Discounts and Rates: City of El Mirage resident discounts and rates, as shown in the table below, are hereby established and shall not change, decrease, or be reduced through the end of June 30, 2019. For the purpose of this provision, City of El Mirage employees will receive the same discounts and rates as “Residents.” The discounts and rates shall continue to be provided after June 30, 2019 unless the parties agree, in writing, to new discounts and rates. To compensate the Tenant for the difference between resident and nonresident rates and fees, the Landlord agrees to compensate the Tenant on a per membership basis. The Landlord will pay the greater of the guaranteed minimum monthly discount or the difference between the published Northwest Valley Family YMCA facility/nonresident rate and the resident rates identified in the following chart for each membership type, as defined by the Tenant. If the membership type is not identified below, the Landlord does not provide a discount or reimbursement for that membership type.

Northwest Valley Family YMCA Membership Type	Maximum Resident Monthly Rate Through June 30, 2019	Guaranteed Minimum Monthly Discount Through June 30, 2019
Youth	\$11.00	\$4.00
Student/Teen	\$11.00	\$4.00
Adult	\$36.00	\$4.00
Couple	\$54.00	\$6.00
Family 1	\$52.00	\$4.00
Family 2	\$63.00	\$4.00
Senior 1	\$35.00	\$4.00
Senior 2	\$53.00	\$6.00

Further, the Tenant will not charge and hereby waives initial joining fees for residents for each such resident’s first time applying for membership to Northwest Valley Family YMCA facility. The waiver does not apply to Phoenix Metro-Area memberships. Should a resident discontinue their membership or allow it to lapse, then established nonresident joining fees apply at the resident’s expense.

The Landlord will pay to the Tenant the lesser of \$75.00 or the actual joining fee for initial annual (first twelve consecutive months) resident membership for use of the Northwest Valley Family YMCA facility. The payment will not apply to resident memberships for terms shorter than one year or to residents applying for a Phoenix Metro-Area membership with Tenant’s affiliate operations. The payment from Landlord to Tenant for initial annual resident memberships will take one of two forms: (1) if the resident pays for the annual membership upfront, the Landlord will pay the lesser of \$75.00 or the actual joining fee to the Tenant upon Tenant’s submission of an invoice to the Landlord documenting receipt of upfront payment; (2) if the resident signs an agreement for an annual membership and makes monthly payments, the Landlord will pay one-twelfth of the lesser of \$75.00 or the actual joining fee per month to the Tenant for the first twelve months of the resident’s membership upon Tenant’s submission of an invoice to the Landlord documenting receipt of resident’s monthly payment.

The Tenant will also provide a discount rate of 50% to non-member residents for use of the pool during "open/free swim" times as defined by the Tenant. The Tenant's practice(s) for establishing "open/free" swim times shall be similar to established practices at Tenant's nearby YMCA facilities.

Discounts, rates, waivers, and transactions discussed and contemplated in this Section will be handled separate and apart from "Rent" as established and set forth in Article III, entitled "Rent."

ARTICLE XIX

NOTICES

Section 19.01 – Notices: No notice or other communication given under this Lease or by law shall be effective unless the same is in writing and is delivered in person or mailed by registered or certified mail, return receipt requested, first class, postage prepaid, addressed:

(1) If to Landlord, to the address set forth in the first paragraph hereof, attention:

City Manager,
City of El Mirage
10000 N. El Mirage Road
El Mirage, AZ 85335

(2) If to Tenant, to the address set forth in the first paragraph hereof, attention:

President/Chief Executive Officer
The Valley of the Sun Young Men's Christian Association (YMCA)
350 N. First Ave
Phoenix, AZ 85003

The address for notices may be changed by the Landlord or Tenant by notice to the other party. The date of service of any notice given by mail shall be the date on which such notice is deposited in the U.S. Mail.

ARTICLE XXIV

EXECUTIVE DIRECTOR ASSISTANCE

Section 24.01 – Executive Director Assistance: The Landlord directly benefits from the ability of the Tenant to operate the Northwest Valley Family YMCA. The Tenant has identified a need for financial assistance to recruit and retain a qualified Executive Director solely dedicated to the Northwest Valley Family YMCA. In exchange for financial assistance from the Landlord the Tenant agrees to consistently staff the Northwest Valley Family YMCA with a

qualified Executive Director who will work to ensure that the Northwest Valley Family YMCA meets its membership, programming, operations, public support, and community obligations.

The amount of annual financial assistance for a qualified fulltime Executive Director is \$40,000 payable by Landlord upon receiving an invoice from the Tenant after January 1 of each calendar year, beginning January of 2017. The Landlord is also making \$10,000 available toward the end of each calendar year, beginning 2017, as an incentive program for the Executive Director; the terms regarding the incentive program will be agreed upon and set forth in a separate document between the Landlord and Tenant.

The Landlord reserves the right to terminate the annual financial assistance by providing 90 days written notice, before the start of the next calendar year.

This constitutes the entire addendum/amendment to the adopted lease agreement. All other terms and conditions contained in the lease agreement and prior addendums remain in force and effect.

(Signature pages to follow)

IN WITNESS WHEREOF, the parties have set their hand the last date signed below.

LANDLORD:

City of El Mirage, Arizona,
A political subdivision of the State of Arizona

By: [Signature]
Print Name: Spencer A. Ison
Title: City Manager

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Dr. Spencer A. Ison the duly authorized City Manager of The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 21 day of December, 2016.

[Signature]
Notary Public

My Commission Expires: 10/14/2020

Linda Capriotti
Type or Print Name



TENANT:

Northwest Valley Family YMCA, LLC
An Arizona limited liability company

By: Valley of the Sun Young Men's Christian
Association, an Arizona non-profit
corporation, its sole member

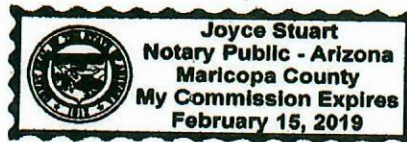
By: Susan M Suman
Print Name: Susan M Suman
Title: CFO

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Susan M. Suman the duly authorized CFO of Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, which is the sole member of Northwest Valley Family YMCA, LLC, and Arizona limited liability company, the Tenant in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 15th day of December, 2016.

Joyce Stuart
Notary Public
My Commission Expires: February 15, 2019
Joyce Stuart
Type or Print Name



ADDENDUM #5
CITY OF EL MIRAGE AND THE NORTHWEST VALLEY FAMILY YMCA, LLC
LEASE AGREEMENT

This Addendum to the Lease Agreement dated September 1, 2012, is hereby made and entered into this 20th day of Nov 2018, by and between the City of El Mirage ("Landlord") and the Northwest Valley Family YMCA, LLC ("Tenant").

RECITALS

WHEREAS, Landlord and Tenant entered into a lease agreement (the "Lease") on September 1, 2012; and

WHEREAS, Landlord and Tenant entered into Addendum #1 to the Lease on August 20, 2013; and

WHEREAS, Landlord and Tenant entered into Addendum #2 to the Lease on May 8, 2014; and

WHEREAS, Landlord and Tenant entered into Addendum #3 to the Lease on July 20, 2015; and

WHEREAS, Landlord and Tenant entered into Addendum #4 to the Lease on December 21, 2016; and

WHEREAS, Landlord and Tenant desire to further amend the Lease; and

WHEREAS, the Lease may be amended in writing by the parties.

ADDENDUM

NOW THEREFORE, the Landlord and the Tenant hereby agree to amend the Lease and Addendums as follows and add Article XXV of the Lease and add Section 25.01 and 25.02, as follows:

"Section 3.01(a) – Base Rent" is hereby replaced with a new Section 3.01(a) that reads as follows:

(a) Tenant agrees to pay Landlord Base Rent for the Premises in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year commencing on the Commencement Date. A "Lease Year" shall be a period of twelve (12) consecutive calendar months, the first of which shall commence on the Commencement Date, except that if the Commencement Date is a day other than the first day of the month, the Commencement Date shall be the first day of the next succeeding calendar month. Each succeeding Lease Year shall commence on the anniversary thereof. All such Base Rent shall be payable to Landlord on the first day of the month. Base Rent shall be payable to

Landlord at the address set forth in the first paragraph hereof, unless Landlord directs otherwise in writing.

Notwithstanding the first paragraph of this Section "3.01(a)" above, the Landlord hereby reduces the Base Rent to \$1.00 per month and the rate will automatically renew for additional 12 month terms during the remainder of the Lease unless notice is provided by the Landlord. After December 31, 2022, the Landlord may reinstate the Base Rent in equal monthly installments of Eight Thousand Three Hundred Thirty-Three and 34/100 Dollars (\$8,333.34) per Lease Year by giving written notice ninety (90) days before the start of the calendar year, and the Tenant agrees to begin paying the reinstated monthly Base Rent the first of the following month, and no more reductions in Base Rent shall be granted unless otherwise agreed to by the parties. In exchange for the reduced rent the Tenant agrees not to invoke Section 2.05 of the Lease (including prior Addendums) prior to December 31, 2022.

Section 25.01 – Administration of Gateway Park Sports Fields: Tenant is responsible for all administrative duties related to the reservation and use of the properties detailed in **Exhibit I**. Administrative duties include:

(a) Reservation and programming of properties in **Exhibit I**. Reservation and programming are defined as any and all administrative duties required to maintain a schedule of reservations and use of the properties detailed in this section. A reservation is defined as removal of a designated property from open public use for a pre-determined function. The Tenant is assumed to have the administrative capacity to handle reservations and programming in any form, including but not limited to verbal, walk-up, and online reservation requests.

(b) Reservation of sports fields detailed in **Exhibit I**. This section covers reservation of the five (5) general sports field areas at Gateway Park as identified in **Exhibit I**. This includes three (3) multipurpose fields and two (2) baseball/softball fields. The Tenant has the authority to divide these spaces to accommodate programming but may not make any physical changes to the field areas.

(c) Sports field programming. Programming is defined as the allotment of the properties detailed in this section for a specific purpose. Generally acceptable purposes for these properties include but are not limited to youth/adult sports activities (soccer, football, baseball) and related events. Any use outside of the generally accepted activities outlined above will be agreed upon by the Landlord and Tenant prior the use of the fields.

(d) Revenue collection/sharing from rentals for properties in **Exhibit I**. Revenues collected from the reservation and use of the properties outlined in **Exhibit I** are considered operating revenues for the Tenant. Tenant may charge fees to program participants and agrees to pay the Landlord a total of fifty (50%) percent of the gross revenue over \$25,000 received annually from program registrations as a cost share. Any Landlord use of the properties are exempt from any tenant program fees and take precedence over any other use of the fields. The Landlord will provide the Tenant with a list of events, dates, and times annually. Tenant will provide a summary of planned programs and program fee schedule for Landlord review and approval prior to any fee collection taking place.

As such, all Tenant collected revenues generated from the reservation and use of these properties shall be recorded and documented by the Tenant and provided for review on an annual basis. Revenue share shall be paid by Tenant at the time that annual revenue report is produced.

(e) Advertising/sponsorship opportunities. Tenant may use property in **Exhibit I** to advertise program sponsors. Any revenue collected from sponsor advertising will be included and treated as operating revenues for the Tenant and will be subject to the revenue sharing and reporting stipulations outlined in section (d) of this addendum.

(f) Sports field lighting and controls – Tenant shall be provided with access and training on field lighting system controls (computer program). Tenant shall be responsible for ensuring that field lights are used only for scheduled programming and training and are turned off when programming is complete each night.

(g) Concession sales. Outside concession sales are prohibited on any of the properties outlined in **Exhibit I**.

(h) Vehicles prohibited on sports fields. Vehicles are prohibited on any of the properties outlined in **Exhibit I**.

(h) Addendum Term and Termination

i. This addendum will be in effect through December 31, 2022.

ii. This addendum may be terminated in whole or in part by either Party for convenience and without cause upon ninety (90) days prior written notice.

iii. This addendum may be terminated in whole or in part by either party for cause upon thirty (30) days prior written notice to the other party specifying the effective date of termination and the reasons (cause) for such termination. Cause for termination includes, but is not limited to, the failure of a party to comply with any term and condition of this addendum or compliance with any federal, state and/or local laws.

iv. Landlord may terminate this addendum immediately if the Landlord determines that the health, welfare, or safety of any participant in the Program is endangered.

Section 25.02 – Landscape maintenance and reporting terms.

(a) Landscape maintenance. The Landlord agrees to regularly maintain landscaping for the property located at 12450 W. Cinnabar Ave., El Mirage, AZ 85335.

(b) Quarterly and annual reporting. The Tenant agrees to provide the Landlord with timely quarterly financial reports. The Tenant further agrees to provide the Landlord with an annual financial report due within sixty days of the completion of an annual financial review of the Tenants finances by a Certified Public Accounting Firm (CPA). The quarterly and annual financial reports to the Landlord do not need to be certified to comply with Section 25.02. The Tenant shall use the certified numbers from the CPA to complete the annual report and the report shall be in a format that complies with Section 2.05 of the Lease.

IN WITNESS WHEREOF, the parties have set their hand this ___ day of _____, 2018.

LANDLORD:

City of El Mirage, Arizona,
A political subdivision of the State of Arizona

By: J. Crystal Dyches
Print Name: J. Crystal Dyches
Title: City Manager

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared J. CRYSTAL DYCHES the duly authorized CITY MANAGER of The City of El Mirage, Arizona, a political subdivision of the State of Arizona, the Landlord in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 30th day of NOV., 2018.

Sharon Antes



Notary Public
My Commission Expires: 2/11/2022

SHARON ANTES
Type or Print Name

TENANT:

Northwest Valley Family YMCA, LLC
An Arizona limited liability company

BY: Valley of the Sun Young Men's Christian
Association, an Arizona non-profit
corporation, its sole member

By: Susan M Suman
Print Name: Susan M. Suman
Title: Chief Financial Officer

STATE OF ARIZONA)
)SS
County of Maricopa)

Before me, the undersigned, a Notary Public for Maricopa County, personally, appeared Susan M. Suman the duly authorized CFO of Valley of the Sun Young Men's Christian Association, an Arizona non-profit corporation, which is the sole member of Northwest Valley Family YMCA, LLC, and Arizona limited liability company, the Tenant in the foregoing instrument who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of the Landlord for the uses and purpose set forth therein.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed my official seal on the 22 day of February, 2018.

Angelica R Martinez
Notary Public
My Commission Expires: 8/31/21

Angelica R Martinez
Type or Print Name

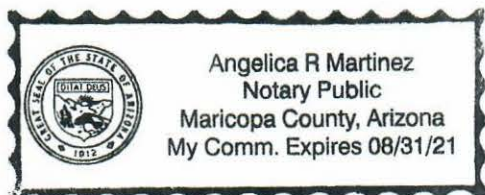
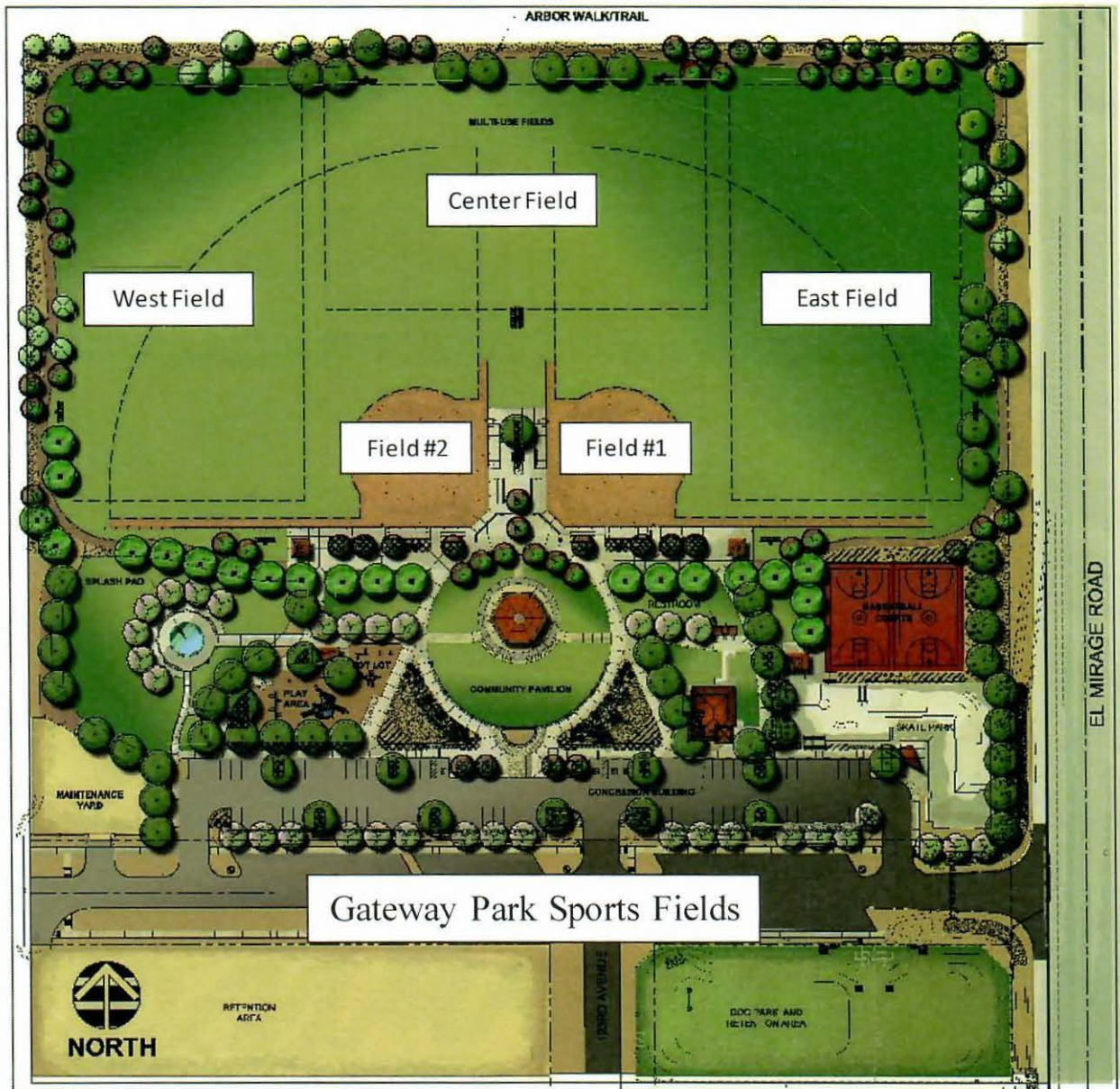


EXHIBIT "I"

GATEWAY PARK SPORTS FIELDS

1. Field #1 (Baseball/Softball)
2. Field #2 (Baseball/Softball)
3. East Field (Soccer/Football)
4. Center Field (Soccer/Football)
5. West Field (Soccer/Football)



Membership Rate Proposal

Northwest Valley Family YMCA Membership Rate Schedule

	Current Non-Resident Rate	Current Discount	Current Resident Rate	Guaranteed Minimum Subsidy per Rate per Agreement	YMCA Resident Subsidy	Agreement Maximum Resident Rate through 6/30/2019	Proposed 2019 Resident Rate	Proposed 2019 Non-Resident Rate	Proposed Discount	Guaranteed Minimum Subsidy per Rate per Agreement	YMCA Resident Subsidy
Teen	18.00	(5.00)	13.00	4.00	1.00	11.00	14.00	24.00	(10.00)	4.00	6.00
Young Adult	22.00	(4.00)	18.00	4.00	-	36.00	19.00	29.00	(10.00)	4.00	6.00
Adult	35.00	(4.00)	31.00	4.00	-	36.00	36.00	40.00	(4.00)	4.00	-
Couple	55.00	(6.00)	51.00	6.00	-	54.00	54.00	65.00	(11.00)	6.00	5.00
Family	61.00	(4.00)	57.00	4.00	-	63.00	60.00	70.00	(10.00)	4.00	6.00





City Clerk

10000 N El Mirage Road, El Mirage 85335
623-972-2943; Fax 623-876-4603; TDD 623-933-3258
www.elmirageaz.gov

November 21, 2018

Northwest Valley Family YMCA
Susan M. Suman, Chief Financial Officer
12450 W. Cinnabar Avenue
El Mirage, AZ 85335

RE: Northwest Valley Family YMCA, LLC Lease Agreement

Dear Ms. Suman,

Enclosed please find two copies of the above referenced agreement. Please have the documents signed and return one fully executed agreement to:

City of El Mirage
Edith W. Hoover
10000 N. El Mirage Road
El Mirage, AZ 85335

Thank you for your assistance.

Sincerely,

Edith W. Hoover
City Clerk Assistant

**Northwest Valley Family YMCA
Membership Rate Schedule**

	Current Resident Rate	Current Non-Resident Rate	Current Discount	Guaranteed Minimum Subsidy per Rate per Agreement	Maximum Resident Rate through 6/30/2019	Proposed 2019 Resident Rate	Proposed 2019 Non-Resident Rate	Proposed Discount
Teen	13.00	18.00	(5.00)	4.00	11.00	14.00	24.00	(10.00)
Young Adult	18.00	22.00	(4.00)	4.00	36.00	19.00	29.00	(10.00)
Adult	31.00	35.00	(4.00)	4.00	36.00	36.00	40.00	(4.00)
Senior								
Couple	51.00	55.00	(4.00)	6.00	54.00	54.00	65.00	(11.00)
Family 1								
Family 2	57.00	61.00	(4.00)	6.00	63.00	60.00	70.00	(10.00)

	Proposed 2021 Resident Rate	2021 Non-Resident Rate	Proposed Discount	Proposed Subsidy Rate	Previous Subsidy
		MTM/6m/12m			
Teen	\$30/\$25/\$14.90	\$35/\$29/\$19.90	(5)	\$5	\$4
Young Adult	\$36/\$25/\$15.90	\$40/\$29/\$19.90	(4)	\$4	\$4
Adult	\$44.90/\$39.90/\$34.90	\$49.90/\$44.90/\$39.90	(5)	\$4	\$4
Senior	\$40.90/\$35.90/\$30.90	\$45.90/\$39.90/\$35.90	(5)	\$4	
Couple	\$79.90/\$70.90/\$61.90	\$89.90/\$80.90/\$71.90	(10)	\$8	\$6
Family 1	\$86.90/\$76.90/\$67.90	\$96.90/\$86.90/\$77.90	(10)	\$6	
Family 2	\$98.90/\$87.90/78.90	\$108.90/\$97.90/\$88.90	(10)	\$6	\$4