



# City of Highland

Jimmy Saldana, Member  
District 2

John Timmer, Member  
District 4

## **Parks & Recreation Subcommittee Special Meeting Agenda**

March 23, 2026 at 4:30 PM  
City Hall Upright Conference Room  
27215 Base Line, Highland, CA 92346

### **Staff**

Carlos Zamano, City Manager  
Leticia Nava-Cruz, Director of Administrative Services/City Treasurer  
Lawrence Mainez, Community Development Director  
Maricela Marroquin, City Attorney  
Lissette Nock, Deputy City Clerk

### **Mission Statement**

*Highland is dedicated to the betterment of the individual, the family, the neighborhood and the community. The City Council and the staff of Highland are dedicated to providing the quality of public facilities and services that its citizens are willing to fund and will do so as efficiently as possible.*

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In compliance with the Brown Act, any writings or documents provided to a majority of the legislative body regarding any item on this agenda, that are not exempt from disclosure under the California Public Records Act, will be made available for public inspection at City Hall, 27215 Base Line Highland, CA 92346, during normal business hours. Such documents will also be made available on the City's website at [www.highlandca.gov](http://www.highlandca.gov).

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance, please contact the City Clerk's office at (909) 864-6861, ext. 226, at least 72 hours prior to the meeting for any requests for reasonable accommodations, including interpreters.

Levine Act: Pursuant to Government Code Section 84308, any party to a City proceeding must disclose on the record any campaign contributions made to a member of the City Council (or commission) in excess of \$500 in the past 12 months. This disclosure requirement includes contributions by the party's agent and aggregated contributions from persons or entities related to the party. Please make the disclosure as soon as possible, but no later than the beginning of the proceeding.

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## Call to Order

### Public Comment

Limited to items on this agenda only. To address the Legislative Subcommittee, please complete a speaker form located at the entrance prior to the beginning of the meeting. For those wishing to make public comments by email, please submit your comments by 3:30 p.m. on March 23, 2026, to [publiccomment@highlandca.gov](mailto:publiccomment@highlandca.gov). Please identify the agenda item number in the subject line. Emailed comments will be distributed to the Subcommittee and retained as part of the public record; however, submissions will not be read out loud during the meeting.

### Business Items

#### 1. YMCA Agreement Restructuring and Program Oversight Updates

That the Parks and Recreation Subcommittee review the proposed framework for restructuring the City's agreement with the YMCA in the following areas with an effective date of 7/1/2026:

1. Separate the current agreement into a long-term lease agreement and a separate operating cost subsidy agreement.
2. Establish a flat annual operating contribution subsidy for a five-year term, aligned with the City's fiscal year.
3. Incorporate a City Employee Health and Wellness Membership Benefit into the agreement.
4. YMCA will use current federal and/or state income eligibility programs to qualify individuals and families applying for financial assistance.
5. Clarify reporting and financial oversight requirements.

Based on Subcommittee direction, staff would return with revised agreements for consideration by the appropriate committees and the City Council.

## Adjourn

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### Certification

I, Alondra Muñoz, City Clerk, or my designee, hereby certify that the foregoing agenda was posted on our website at [www.highlandca.gov](http://www.highlandca.gov) and in the following designated areas: Highland Branch Library (7863 Central Avenue), Fire Station No. 1 (26974 Base Line), and City Hall (27215 Base Line) at least twenty-four (24) hours prior to the meeting per Government Code Section 54956.



# Staff Report

## to the Parks & Recreation Subcommittee

Agenda  
Item  
No.1.

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**Date:** March 23, 2026  
**From:** Carlos Zamano, City Manager  
**Reviewed By:** Carlos Zamano, City Manager  
**Prepared By:** Marvin Hernandez, YMCA Director  
Tish Nava-Cruz, Director of Administrative Services/City Treasurer  
**Subject:** YMCA Agreement Restructuring and Program Oversight Updates

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### Recommendation:

That the Parks and Recreation Subcommittee review the proposed framework for restructuring the City's agreement with the YMCA in the following areas with an effective date of 7/1/2026:

1. Separate the current agreement into a long-term lease agreement and a separate operating cost subsidy agreement.
2. Establish a flat annual operating contribution subsidy for a five-year term, aligned with the City's fiscal year.
3. Incorporate a City Employee Health and Wellness Membership Benefit into the agreement.
4. YMCA will use current federal and/or state income eligibility programs to qualify individuals and families applying for financial assistance.
5. Clarify reporting and financial oversight requirements.

Based on Subcommittee direction, staff would return with revised agreements for consideration by the appropriate committees and the City Council.

### Fiscal Impact:

The City currently provides financial support for YMCA operations to support affordable community pricing and financial assistance to ensure services are affordable for all residents. The proposed restructuring would not immediately change the City's overall financial commitment but would establish a flat annual contribution for a defined five-year period, improving budget predictability, planning and administrative efficiency. Future financial commitments would be subject to City Council approval through the annual budget process and the revised operating agreement.

### Public Notice:

The agenda for this item was posted at the three locations per Resolution No. 2011-047 and on the City's website.

### Background:

The City currently maintains an agreement with the YMCA that addresses facility use, financial support, scholarship programs, and reporting requirements within a single document. Over time, staff and YMCA leadership have identified opportunities to improve the clarity and structure of the agreement to better support long-term planning, financial administration, and program oversight.

Staff and the YMCA have discussed restructuring the existing agreement to separate facility use and financial obligations into distinct documents. This approach would allow each component to be managed more effectively while providing greater transparency and operational stability.

## **Discussion**

### **Agreement Structure**

Staff and the YMCA have discussed separating the existing agreement into two documents:

1. A long-term (30–50 year) lease for the facility. A longer lease term would provide operational stability and support donor confidence in continued investment in YMCA facilities and programs. The duration is modeled after lease durations of similar YMCA/City partnerships.
2. A separate operating cost agreement addressing the City's financial contribution to facility operations.

### **Operating Contribution Structure**

Staff supports aligning the operating cost agreement with the City's fiscal year to improve financial administration and planning. Staff also supports establishing a flat annual operating subsidy contribution for a five-year term to provide greater predictability for budgeting. While this approach differs from the current agreement language, it reflects historical practice in which the City has consistently covered the demonstrated annual operating loss, so there is no substantial increased financial impact to the City. Additionally, this model encourages greater donor investment and fundraising growth over time, resulting in greater investment in the city and its residents.

### **City Employee Health and Wellness Benefit**

Staff recommends incorporating a City Employee Health and Wellness Membership and program benefit into the revised agreement in alignment with the employee benefit the YMCA provides to their staff. This would provide City employees access to YMCA facilities and program discounts and support the City's employee wellness initiatives.

### **Scholarship Eligibility Criteria**

Staff and City Attorney recommend aligning YMCA scholarship eligibility criteria with area Median Income (AMI) used by the U.S. Department of Housing and Urban Development (HUD) for the Riverside–San Bernardino–Ontario Metropolitan Statistical Area, the Federal Poverty Level (FPL) standards used for most California assistance programs or HCD (California Department of Housing and Community Development). YMCA will review and adjust their financial assistance scale annually based on state and federal changes. The YMCA also takes into account specific needs and circumstances of families to ensure no one is turned away due to their inability to pay.

### **Reporting and Financial Oversight**

Quarterly reporting is already required under the current agreement; however, staff recommends clarifying reporting expectations under the new flat operating subsidy contribution to ensure oversight and accountability of community impact. Reports would include information such as community impact of financial assistance and subsidy distributed, participation

numbers (people served), gate visits, jobs created, and related financial and community impact summaries.

Staff also recommends maintaining accounting practices consistent with Generally Accepted Accounting Principles (GAAP) and continuing independent financial audits under applicable auditing standards. These practices are consistent with current CDBG requirements and would provide additional transparency.

### **City Oversight**

Staff recommends clarifying the City's oversight role within the revised agreement. Enhanced quarterly reporting and quarterly presentations to the City Council may provide a clearer framework for oversight and program transparency.

### **Next Steps**

Following Subcommittee review and direction, staff in consultation with the City Attorney will:

1. Work with the YMCA to prepare draft lease and operating agreements reflecting Subcommittee feedback.
2. Coordinate review of the financial agreement with the Finance/Personnel Subcommittee, if appropriate.
3. Return with finalized agreements for City Council consideration, with the goal of bringing the item forward as early as May or June, with a July 1, 2026, effective date.
4. Amendment to the current agreement to terminate 6/30/2026, authorizing payment of 50% (\$272,500) of the 2026 approved \$545,000 subsidy.

### **Attachments:**

1. Proposed Subsidy Chart
2. Highland Impact Report
3. Proposed Employee Wellness
4. Current YMCA Lease Agreement

Attachment 1  
Proposed Subsidy Chart

# City of Highland Operating Subsidy to the YMCA

Proposed annual subsidy is based on the currently approved \$545,000 with an annual inflator adjustment not to go below 3%, or exceed 5% in any given year. Annual inflator number to be determined prior to July 1 and will remain fixed for the duration of the fiscal year.

Current				Proposed				
2023	2024	2025	2026	FY 26/27	FY 27/28	FY 28/29	FY 29/30	FY 30/31
507,500	520,000	532,500	545,000	561,350	578,191	595,536	613,402	631,804
				3%	3%	3%	3%	3%
				572,250	600,863	630,906	662,451	695,573
				5%	5%	5%	5%	5%

## Monthly payment schedule

FY 26/27 Example:

	Min	Max
July	46,779	47,688
August	46,779	47,688
September	46,779	47,688
October	46,779	47,688
November	46,779	47,688
December	46,779	47,688
January	46,779	47,688
February	46,779	47,688
March	46,779	47,688
April	46,779	47,688
May	46,779	47,688
June	46,779	47,688

Attachment 2  
Highland Impact Report



# HIGHLAND FAMILY YMCA IMPACT REPORT

## Supporting the City of Highland (2024 - 2025)

The YMCA plays an important role in supporting the health, youth development, and economic vitality of the City of Highland. Through recreational programs, school partnerships, and employment opportunities, the YMCA serves thousands of Highland residents each year.

### COMMUNITY ENGAGEMENT

The YMCA facility is a highly utilized community resource that provides health, wellness, and recreation opportunities for residents of all ages.

#### 2025 Membership Statistics

- Total Number of Members: 3,652
- Total Gate Visits: 85,841

#### Average Visits:

- 1,650 per week
- 235 per day

#### Financial Assistance Provided to the Highland Community

- Memberships and Programs: \$77,143
- Health and Well-Being 3rd Part Memberships like SilverSneaker or Renew Active: \$59,920
- Itty Bitty Sports and CAPS/EXL: \$28,465

**Total Community Financial Support: \$158,528**



### YOUTH DEVELOPMENT PROGRAMS

The YMCA provides year-round youth programming that supports families, promotes healthy lifestyles, and creates positive environments for children and teens.

#### Day Camp Programs

The YMCA operates seasonal day camps to support families when school is not in session.

#### Camps were offered during:

- Summer Vacation
- Thanksgiving Break
- Winter Break
- Spring Break

**Total Participants: 1,253**

#### Youth Programs

Across all youth programs, the YMCA served more than **2,500 children** during the fiscal year.

#### Programs and Participants:

- Day Camp - 1,253
- Youth Sports - 668
- Dance/Gymnastics - 456
- After School Programs - 108
- EXL TK/K Programs - 112

### SUPPORTING HIGHLAND FAMILIES

Through membership programs, youth sports, camps, and school partnerships, the YMCA helps ensure Highland residents have access to:

- **Safe youth development programs**
- **Healthy recreation opportunities**
- **Affordable community activities**
- **Employment opportunities**

Together, these services strengthen families and improve quality of life throughout the City of Highland.

#### Families Served

This fiscal year, **over 700 families** in the city of Highland were provided with valuable resources.





# HIGHLAND FAMILY YMCA IMPACT REPORT (CONTINUED)



## SCHOOL PARTNERSHIPS

The YMCA partners with Highland elementary schools to provide EXL Itty Bitty sports and activity programs for Transitional Kindergarten and Kindergarten students. These programs introduce young children to physical activity, teamwork, and fundamental sports skills

### EXL TK/K Programs – Highland Schools

#### Schools Served:

- Cypress Elementary
- Indian Springs Elementary
- Gomez Elementary
- Highland Pacific Elementary

**Total Students Served: 112**

**Student Activity Participation: 541 (February 2026)**

### After School Programs – ASP

The YMCA provides structured after school sports and activities in partnership with Redlands Unified School District.

#### Schools Served:

- Cram Elementary – 51 Students
- Arroyo Verde Elementary – 34 Students
- Highland Grove Elementary – 23 Students

**Total Students Served: 108**

YMCA staff provide programming 4–5 days per week during after-school hours. Each class averages 8 students, with approximately 180 student participations per month across all sites. **Activities include Team Sports, Speed and Agility Drills, Physical Fitness and Wellness Activities.**

## ECONOMIC IMPACT

The YMCA facility is a highly utilized community resource that provides health, wellness, and recreation opportunities for residents of all ages.

**Total Jobs Supported: 70 Employees**

These positions include youth program staff, coaches, instructors, camp counselors, and administrative staff.

## Attachment 3

### Proposed City of Highland Wellness Program Flyer



175 YEAR ANNIVERSARY



# CITY OF HIGHLAND WELLNESS PROGRAM

FREE ADULT MEMBERSHIP FOR CITY EMPLOYEES

VALUE OF MEMBERSHIP CAN BE USED TO UPGRADE TO FAMILY OR COUPLES MEMBERSHIPS

HIGHLAND FAMILY YMCA

909.425.9622

[ymcaeastvalley.org/highland](http://ymcaeastvalley.org/highland)



JOIN TODAY! 

No Place Like *This Place*™

Attachment 4  
Current YMCA Lease Agreement

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Betty Hughes, MMC  
City Clerk  
City of Highland  
27215 Base Line  
Highland, CA 92346

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[Space Above for Recorder's Use]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code § 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code § 11922.

**AMENDMENT NO. 5**

**JERRY LEWIS COMMUNITY CENTER AND HIGHLAND  
ATHLETIC CENTER LEASE**

This Amendment is made and entered into this 14th day of June 2022 (the "Amendment No. 5") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Amendment (the "Amendment No. 4") may be referred to herein as "party" or collectively as the "parties."

1. RECITALS

A. On or about December 12th, 2006, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park at 7793 Central Avenue (the "Community Park"), which Lease is recorded on January 23, 2007, by the San Bernardino County Recorder as Document No. 2007-0043431 (the "Community Center Lease").

B. On or about September 9, 2008, the City and the YMCA agreed upon (the "Amendment") on the Lease of the Community Park.

C. On or about July 12, 2010, the "City" received a letter from "Tenant" requesting that the Lease be extended for four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

D. On or about September 14, 2010, the City and the YMCA agreed upon (the "Amendment No. 2") on the Lease of the Community Park.

E. On or about June 4, 2014, the "City" received a letter from "Tenant" requesting that the lease be extended for an additional four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

F. On or about October 14, 2014, the City and the YMCA agreed upon (the "Amendment No. 3") on the Lease of the Community Park.

G. On or about May 22, 2018, the City received a letter from the YMCA requesting that the existing Lease be extended for an additional four years beyond the existing extended term.

H. On or about August 14, 2018, the City and the YMCA agreed upon (the "Amendment No. 4") on the Lease of the Community Park.

I. On or about March 8, 2022, the City received a letter from the YMCA requesting that the existing Lease be extended for an additional four years beyond the existing extended term.

J. Because no additional extensions remain under the terms of the Lease, the parties desire to amend the Lease to provide for an additional extended term.

## 2. USE OF PREMISES

A. Exhibit "A" of "Amendment No. 5" shall replace Exhibit "A" of the "Amendment No. 4." City shall reimburse the YMCA up to \$500,000 for calendar year 2023 based on actual documented costs from January 1, 2023, through December 31, 2023, \$505,000 for calendar year 2024 based on actual documented costs from January 1, 2024, through December 31, 2024, \$510,000 for calendar year 2025 based on actual documented costs from January 1, 2025, through December 31, 2025, and \$515,000 for calendar year 2026 based on actual documented costs from January 1, 2026, through December 31, 2026.

B. Except as expressly set forth in this Amendment No. 5, all other Exhibits and provisions of the Lease shall remain in full force and effect.

## 3. EXTENSION

Section 3 A. of the Lease is hereby amended to reflect Tenant's exercise of the Fifth Extended Term. The Term of this Lease, as extended, shall expire on December 31, 2026, unless terminated earlier as provided herein.

## 4. SEVERABILITY

If any provision of "Amendment No. 5" shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) of the Lease, the parties hereby agreeing that they would have entered into the remaining portion of "Amendment No. 5" and continued the unchanged provisions of this Lease notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

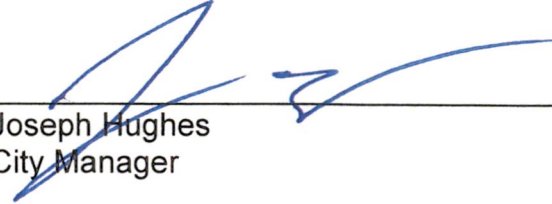
5. COUNTERPARTS

"Amendment No. 5" may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

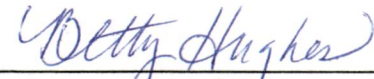
**IN WITNESS WHEREOF**, the parties hereto have executed "Amendment No. 5" on the date and year first above written.

*Signed in Counterpart -*

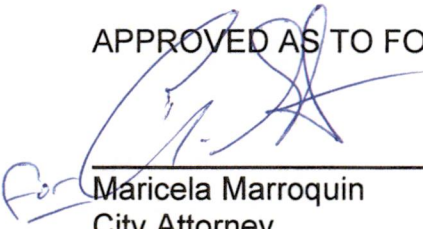
**CITY OF HIGHLAND**

  
\_\_\_\_\_  
Joseph Hughes  
City Manager

ATTEST:

  
\_\_\_\_\_  
Betty Hughes, MMC  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
For Maricela Marroquin  
City Attorney

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Highland Committee Chair

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman of the Board

5. COUNTERPARTS

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**IN WITNESS WHEREOF**, the parties hereto have executed "Amendment No. 5" on the date and year first above written.

**CITY OF HIGHLAND**

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By: *Darwin Barnett*  
Name: DARWIN BARNETT  
Title: CEO

By: *vacant position at this time*  
Name: \_\_\_\_\_  
Title: Highland Committee Chair

By: *Janet C. Grenda*  
Name: Janet C. Grenda  
Title: Chairman of the Board

**EXHIBIT A**

**City Contributions/Funding Limitations**

## EXHIBIT A

	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>
Scholarships	40,000	40,000	40,000	40,000
Additional City Operating Contribution	467,500	480,000	492,500	505,000
Total	<u>507,500</u>	<u>520,000</u>	<u>532,500</u>	<u>545,000</u>

Monthly maximum payment schedule based on actual costs:

January	42,292	43,333	44,375	45,417
February	42,292	43,333	44,375	45,417
March	42,292	43,333	44,375	45,417
April	42,292	43,333	44,375	45,417
May	42,292	43,333	44,375	45,417
June	42,292	43,333	44,375	45,417
July	42,292	43,333	44,375	45,417
August	42,292	43,333	44,375	45,417
September	42,292	43,333	44,375	45,417
October	42,292	43,333	44,375	45,417
November	42,292	43,333	44,375	45,417
December*	42,292	43,333	44,375	45,417

\*Final adjustment month-up to maximum annual amount based on actual costs.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO

City Clerk  
City of Highland  
27215 Base Line  
Highland, Ca 92346

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[Space Above for Recorder's Use]

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**AMENDMENT NO. 4**

**JERRY LEWIS COMMUNITY CENTER AND HIGHLAND  
ATHLETIC CENTER LEASE**

This Amendment is made and entered into this 14th day of August 2018 (the "Amendment No. 4") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Amendment (the "Amendment No. 4") may be referred to herein as "party" or collectively as the "parties."

1. RECITALS

A. On or about December 12th, 2006, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue, which Lease is recorded on January 23, 2007, by the San Bernardino County Recorder as Document No 2007-0043431 (the "Community Center Lease").

B. On or about September 9, 2008 the City and the YMCA agreed upon (the "Amendment") on the Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue.

C. On or about July 12, 2010, the "City" received a letter from "Tenant" requesting that the lease be extended for four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend "

D. On or about September 14, 2010 the City and the YMCA agreed upon (the "Amendment No. 2") on the Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue.

E. On or about June 4, 2014, the "City" received a letter from "Tenant" requesting that the lease be extended for an additional four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

F. On or about May 16, 2018, the City received a letter from the YMCA requesting that the existing Lease be extended for an additional four years beyond the existing extended term.

G. Because no additional extensions remain under the terms of the Lease, the parties desire to amend the Lease to provide for an additional extended term.

## 2. USE OF PREMISES

A. Exhibit "A" of "Amendment No. 4" shall replace Exhibit "A" of the "Amendment No. 3." City shall reimburse the YMCA up to \$480,000, for calendar year 2019 based on actual documented costs from January 1, 2019 through December 31, 2019, \$485,000 for calendar year 2020 based on actual documented costs through December 2020, \$490,000 for calendar year 2021 based on actual documented costs through December 2021 and \$495,000 for calendar year 2022 based on actual documented costs through December 2022.

B. All other Exhibits and provisions of the Lease shall remain in full force and effect.

## 3. EXTENSION

Section 3 A. of the lease is hereby amended to reflect Tenant's exercise of the Fourth Extended Term. The Term of this Lease, as extended, shall expire on December 31, 2022, unless terminated earlier as provided herein.

## 4. SEVERABILITY


If any provision of "Amendment No. 4" shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) of the Lease, the parties hereby agreeing that they would have entered into the remaining portion of "Amendment No. 4" and continued the unchanged provisions of this Lease notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

## 5. COUNTERPARTS

"Amendment No. 4" may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed "Amendment No. 4" on the date and year first above written.

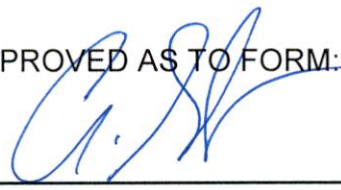
CITY OF HIGHLAND

  
\_\_\_\_\_  
City Manager


ATTEST:

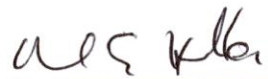
  
\_\_\_\_\_  
City Clerk


APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation

By:   
Name: DARWIN BARNETT  
Title: YMCA CEO

By:   
Name: RICHARD E. HARLOW  
Title: Highland Committee Chair

By:   
Name: TYLER MILLER  
Title: Chairman of the Board

**EXHIBIT A**

**City Contributions/Funding Limitations**

## EXHIBIT A

	2019	2020	2021	2022
Scholarships	40,000	40,000	40,000	40,000
Additional City Operating Contribution	440,000	445,000	450,000	455,000
Total	480,000	485,000	490,000	495,000

### Monthly maximum payment schedule based on actual costs

January	40,000	40,417	40,833	41,250
February	40,000	40,417	40,833	41,250
March	40,000	40,417	40,833	41,250
April	40,000	40,417	40,833	41,250
May	40,000	40,417	40,833	41,250
June	40,000	40,417	40,833	41,250
July	40,000	40,417	40,833	41,250
August	40,000	40,417	40,833	41,250
September	40,000	40,417	40,833	41,250
October	40,000	40,417	40,833	41,250
November	40,000	40,417	40,833	41,250
December*	40,000	40,417	40,833	41,250

\*Final adjustment month up to maximum annual amount based on actual costs.

Betty Hughes  
RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City Clerk  
City of Highland  
27215 Base Line  
Highland, CA 92346

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[Space Above for Recorder's Use]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code § 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code § 11922.

### **AMENDMENT NO. 3**

#### **JERRY LEWIS COMMUNITY CENTER AND HIGHLAND ATHLETIC CENTER LEASE**

This Amendment is made and entered into this 14th day of October 2014 (the "Amendment No. 3") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Amendment (the "Amendment No. 3") may be referred to herein as "party" or collectively as the "parties."

#### **1. RECITALS**

A. On or about December 12th, 2006, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue, which Lease is recorded on January 23, 2007, by the San Bernardino County Recorder as Document No. 2007-0043431 (the "Community Center Lease").

B. On or about September 9, 2008 the City and the YMCA agreed upon (the "Amendment") on the Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue.

C. On or about July 12, 2010, the "City" received a letter from "Tenant" requesting that the lease be extended for four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

D. On or about September 14, 2010 the City and the YMCA agreed upon (the "Amendment No. 2") on the Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue.

E. On or about June 4, 2014, the "City" received a letter from "Tenant" requesting that the lease be extended for an additional four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

## 2. USE OF PREMISES

A. Exhibit "A" of "Amendment No. 3" shall replace Exhibit "A" of the "Amendment No. 2." City shall reimburse the YMCA up to \$477,514 per fiscal year based on actual costs through December 2018.

B. All other Exhibits and provisions of the Lease shall remain in full force and effect.

## 3. EXTENSION

Section 3 A. of the lease is hereby amended to reflect Tenant's exercise of the Second Extended Term. The Term of this Lease, as extended, shall expire on January 1, 2019, unless terminated earlier as provided herein.

## 4. SEVERABILITY

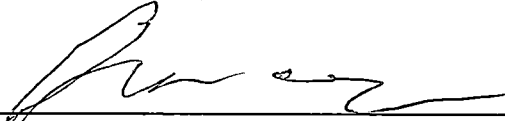
If any provision of "Amendment No. 3" shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) hereof, the parties hereby agreeing that they would have entered into the remaining portion of "Amendment No. 3" notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

## 5. COUNTERPARTS

"Amendment No. 3" may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed "Amendment No. 3" on the date and year first above written.

CITY OF HIGHLAND



Joseph A. Hughes  
City Manager


ATTEST:


  
Betty Hughes, MMC  
City Clerk

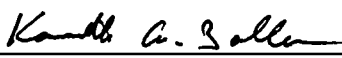
APPROVED AS TO FORM:

 (for CS)  
~~Craig Steele~~ Shiri Klima  
City Attorney

YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation

By:   
Name: DARWIN BARNETT  
Title: YMCA CEO

By:   
Name: RAYMOND E. HALLER  
Title: Highland Committee Chair

By:   
Name: KENNETH A. BALLOU  
Title: Chairman of the Board

**EXHIBIT A**

**City Contributions/Funding Limitations**

## EXHIBIT A

	2015	2016	2017	2018
Scholarships	40,000	40,000	40,000	40,000
Additional City Operating Contribution	437,514	437,514	437,514	437,514
Total	477,514	477,514	477,514	477,514

### Monthly maximum payment schedule based on actual costs:

January	39,793	39,793	39,793	39,793
February	39,793	39,793	39,793	39,793
March	39,793	39,793	39,793	39,793
April	39,793	39,793	39,793	39,793
May	39,793	39,793	39,793	39,793
June	39,793	39,793	39,793	39,793
July	39,793	39,793	39,793	39,793
August	39,793	39,793	39,793	39,793
September	39,793	39,793	39,793	39,793
October	39,793	39,793	39,793	39,793
November	39,793	39,793	39,793	39,793
December*	39,793	39,793	39,793	39,793

\*Final adjustment month up to maximum annual amount based on actual costs.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City Clerk  
City of Highland  
27215 Base Line  
Highland, Ca 92346

The undersigned declare that this Memorandum of Lease  
is exempt from Recording Fees pursuant to California  
Government Code § 27383 and exempt from Documentary  
Transfer Tax pursuant to California Revenue and Taxation  
Code § 11922.

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[Space Above for Recorder's Use]

**AMENDMENT NO. 2**

**JERRY LEWIS COMMUNITY CENTER AND HIGHLAND  
ATHLETIC CENTER LEASE**

This Amendment is made and entered into this 14th day of September 2010 (the "Amendment No. 2") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Amendment (the "Amendment No. 2") may be referred to herein as "party" or collectively as the "parties."

**1. RECITALS**

A. On or about December 12th, 2006, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue, which Lease is recorded on January 23, 2007, by the San Bernardino County Recorder as Document No. 2007-0043431 (the "Community Center Lease").

B. On or about September 9, 2008 the City and the YMCA agreed upon (the "Amendment") on the Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue.

C. On or about July 12, 2010, the "City" received a letter from "Tenant" requesting that the lease be extended for four years per section 3(C) "Term of Lease; Extension; Termination-Option to Extend."

**2. USE OF PREMISES**

A. Exhibit "A" of "Amendment No. 2" shall replace Exhibit "A" of the "Amendment." City shall reimburse the YMCA up to \$477,514 per fiscal year based on actual costs through December 2014.

B. All other Exhibits and provisions of the Lease shall remain in full force and effect.

3. SEVERABILITY

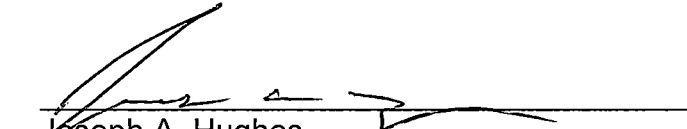
If any provision of "Amendment No. 2" shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) hereof, the parties hereby agreeing that they would have entered into the remaining portion of "Amendment No. 2" notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

4. COUNTERPARTS

"Amendment No. 2" may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed "Amendment No. 2" on the date and year first above written.

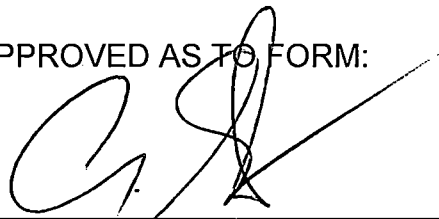
**CITY OF HIGHLAND**

  
\_\_\_\_\_  
Joseph A. Hughes  
City Manager

ATTEST:

  
\_\_\_\_\_  
Betty Hughes, CMC  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Craig Steele  
City Attorney

**[Signatures continued on next page]**

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By: Ken Stern

Name: Ken Stern

Title: General Director

By: R. E. Haller

Name: RICHARD E. HALLER

Title: Highland Committee Chair

By: Charlotte G. Burgess

Name: Charlotte G. Burgess

Title: Chairman of the Board

**EXHIBIT A**

**City Contributions/Funding Limitations**

## EXHIBIT A

	2011	2012	2013	2014
Scholarships	40,000	40,000	40,000	40,000
Additional City Operating Contribution	437,514	437,514	437,514	437,514
Total	477,514	477,514	477,514	477,514

Monthly maximum payment schedule based on actual costs:

January	39,793	39,793	39,793	39,793
February	39,793	39,793	39,793	39,793
March	39,793	39,793	39,793	39,793
April	39,793	39,793	39,793	39,793
May	39,793	39,793	39,793	39,793
June	39,793	39,793	39,793	39,793
July	39,793	39,793	39,793	39,793
August	39,793	39,793	39,793	39,793
September	39,793	39,793	39,793	39,793
October	39,793	39,793	39,793	39,793
November	39,793	39,793	39,793	39,793
December*	39,793	39,793	39,793	39,793

\*Final adjustment month up to maximum annual amount based on actual costs.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City Clerk  
City of Highland  
27215 Base Line  
Highland, Ca 92346

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[Space Above for Recorder's Use]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code § 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code § 11922.

### AMENDMENT NO. 1

#### JERRY LEWIS COMMUNITY CENTER AND HIGHLAND ATHLETIC CENTER LEASE

This Amendment is made and entered into this 9<sup>th</sup> day of Sept. 2008 (the "Amendment") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Amendment may be referred to herein as "party" or collectively as the "parties."

#### 1. RECITALS

A. On or about December 12th, 2006, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue, which Lease is recorded on January 23, 2007, by the San Bernardino County Recorder as Document No. 2007-0043431 (the "Community Center Lease").

#### 2. USE OF PREMISES

A. Exhibit "A" of this Amendment shall replace Exhibit "C" of the Lease Agreement. City shall reimburse the YMCA up to \$477,514 per fiscal year based on actual costs.

B. The YMCA shall operate the premises with enhanced services contained in Exhibit "B" of this Amendment. YMCA may adjust usage rates as necessary for market conditions.

C. All other Exhibits and provisions of the Lease shall remain in full force and effect.

**3. SEVERABILITY**

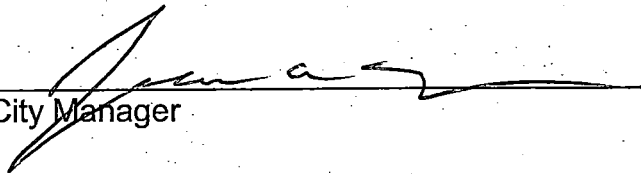
If any provision of this Amendment shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) hereof, the parties hereby agreeing that they would have entered into the remaining portion of this Amendment notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

**4. COUNTERPARTS**

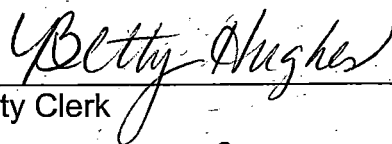
This Amendment may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment on the date and year first above written.

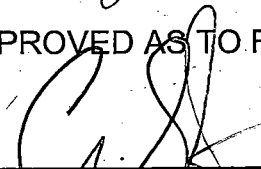
**CITY OF HIGHLAND**

  
\_\_\_\_\_  
City Manager

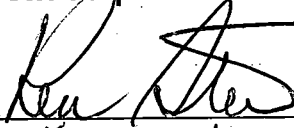
ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By   
\_\_\_\_\_  
Name: KEN STAN  
Title: General Director

[Signatures continued on next page]

By: Sam P. Bacadio  
Name: Sam P. Bacadio  
Title: Highland Committee Chair

By: Jack Avakian  
Name: JACK AVAKIAN  
Title: Chairman of the Board

**EXHIBIT A**

**City Contributions/Funding Limitations**

## EXHIBIT A

	<u>2008/2009</u>	<u>2009/2010</u>	<u>2010/2011</u>
Scholarships	30,000	35,000	40,000
Additional City Operating Contribution	447,514	442,514	437,514
Total	477,514	477,514	477,514

Monthly maximum payment schedule based on actual costs:

July	39,793	39,793	39,793
August	39,793	39,793	39,793
September	39,793	39,793	39,793
October	39,793	39,793	39,793
November	39,793	39,793	39,793
December	39,793	39,793	39,793
January	39,793	39,793	39,793
February	39,793	39,793	39,793
March	39,793	39,793	39,793
April	39,793	39,793	39,793
May	39,793	39,793	39,793
June*	39,793	39,793	39,793

\*Final adjustment month up to maximum annual amount based on actual costs.

**EXHIBIT B**

**ENHANCED SERVICES PROVIDED BY YMCA**

## HIGHLAND FAMILY YMCA PLAN C

Plan C will begin the process for residents of Highland to view the YMCA and Jerry Lewis Community Center as an integral component of community programming for city residents, much like they have with the addition of the Sam Racadio library and environmental learning center. Additionally it will also provide a reduction in membership rates for citizens of Highland as well as three community programs for local residents with-in a two-mile radius of the facility. This will encourage access for both East and West residents but also allow more access for economically disadvantaged youth to participate in swim safety, sports and afterschool programs for little or no cost. This will result in the current loss of \$229,822 (plan B), plus an additional \$93,319, for a total planned loss of \$323,141, focused on the following restructuring:

1. Recruit Senior Sports Director (plan B).
2. Reduce current membership rates by 50% to align with the San Bernardino YMCA, establishing usage for a Highland Only membership (loss of \$70,330).
3. Increase access by establishing daily facility/pool usage fees for youth-seniors.
4. Develop a free afterschool "Teen Zone" program with daily activities to include tutoring, fitness, leaders in training job coach and teen council (loss of \$26,525).
5. Maximize current CDBG support (\$20,794) by establishing a "4<sup>th</sup> Grade Swim" program, targeting Cypress Elementary School, weekly Jan-May (net of \$1,438).
6. Establish "Sports Camps" at a 50% fee reduction as well as flexible options including weekly full day 630am-630pm, ½ day and daily rates (net of \$2,298).

This proposal (plan C) shows a significant loss in membership revenue, nominal revenue expectations from CDBG and Sport Camps, as well as additional expenses including staffing, supplies, training and administrative support. With plan C, the financial contribution for the City of Highland would result in the current contracted supplemental amount of \$164,430, the planned deficit of \$313,084 for a total City of Highland contribution of **\$477,514**.

Highland Family YMCA  
Budget by Branch/Major Acct  
2008-2009 Fiscal Year

1 Operating Fund  
12 Highland Family YMCA  
Budget Summary Plans A-C

	2008-2009 Budget A	2008-2009 Plan B	2008-2009 Budget C
<b>INCOME</b>			
100 CONTRIBUTIONS	20,000	20,000	20,000
200 IN-KIND CONTRIBUTIONS	31,400	31,400	31,400
300 SPECIAL EVENTS	10,400	10,400	10,400
500 UNITED WAY	27,000	27,000	27,000
600 NON-GOVERNMENT GRANTS	2,500	2,500	2,500
700 GOVERNMENT REVENUE	418,151	454,938	543,308
701 AFTERSCHOOL PROGRAM	45,000	45,000	45,000
702 CDBG	20,794	20,794	20,794
703A 08-09 CURRENT CITY OF HIGHLAND	164,430	164,430	164,430
703B SUPPLEMENT NEEDED (plans A-C)	195,846	224,714	313,084
703A+B TOTAL REQUESTED CITY SUPPLEMENT:	360,276	389,144	477,514
1100 MEMBERSHIP INCOME	172,569	172,569	102,239
1300 PROGRAM SERVICE FEES	81,554	81,554	117,829
1301 08-09 CURRENT PROGRAM PLAN	81,554	81,554	81,554
1303 TEEN ZONE	0	0	0
1304 4TH GRADE SWIM	0	0	3,125
1305 SPORT CAMP	0	0	33,150
1400 SCHOLARSHIP	-30,069	-30,069	-30,069
1600 MISC. & RENTAL INCOME	9,660	9,660	9,660
TOTAL INCOME	743,165	779,952	834,267
<b>EXPENSE</b>			
2100 SALARIES	376,683	404,048	441,907
2101 2008-2009 CURRENT STAFFING PLAI	376,683	362,448 (Less coordinators)	362,448
2102 SENIOR SPORTS DIRECTOR	0	41,600	41,600
2103 TEEN ZONE	0	0	20,493
2104 4TH GRADE SWIM	0	0	1,463
2105 SPORT CAMP	0	0	15,903
2200 EMPLOYEE BENEFITS	18,998	23,478	23,478
2201 08-09 CURRENT STAFFING PLAN	18,998	16,834 (Less coordinators)	16,834
2202 SENIOR SPORTS DIRECTOR	0	6,644	6,644
2203 TEEN ZONE	0	0	0
2204 4TH GRADE SWIM	0	0	0
2205 SPORT CAMP	0	0	0
2300 PAYROLL TAXES	45,478	47,609	53,224
2301 08-09 CURRENT STAFFING PLAN	45,478	43,691 (Less coordinators)	43,691
2302 SENIOR SPORTS DIRECTOR	0	3,918	3,918
2303 TEEN ZONE	0	0	3,032
2304 4TH GRADE SWIM	0	0	224
2305 SPORT CAMP	0	0	2,359
2400 PROFESSIONAL SERVICE FEES	400	400	400
2500 SUPPLIES	30,650	30,650	41,450
2501 08-09 CURRENT SUPPLIES PLAN	30,650	30,650	30,650
2503 TEEN ZONE	0	0	3,000
2504 4TH GRADE SWIM	0	0	0
2505 SPORT CAMP	0	0	7,800
2600 TELEPHONE	9,600	9,600	9,600
2700 POSTAGE	2,550	2,550	2,550
2800 OCCUPANCY COSTS	111,836	111,836	111,836
2900 EQUIPMENT COSTS	1,860	1,860	1,860
3100 PUBLIC RELATIONS/PRINTING	28,225	28,225	28,225
3200 TRAVEL EXPENSES	1,370	1,370	1,370
3300 CONFERENCES/MEETINGS	5,140	5,640	5,640
3301 08-09 CURRENT TRAINING PLAN	5,140	5,140	5,140
3302 SENIOR SPORTS DIRECTOR	0	500	500
3500 MEMBERSHIP DUES	5,220	5,220	5,220
3700 FINANCING COSTS	1,320	1,320	1,320
3800 INSURANCE	18,016	18,016	18,016
3900 MISCELLANEOUS EXPENSES	21,900	21,900	21,900
4200 CONTINGENCY	7,511	7,851	8,446
4800 YMCA EXPENSE ALLOCATIONS	56,408	58,379	57,825
TOTAL EXPENSES	743,165	779,952	834,267
BRANCH NET (+/-)	0	0	0

**Branch: (12) Highland Family YMCA**  
**Membership Rates**  
**Plan C**

**Highland Current Fees:**

<b>MembershipType</b>	<b>Current</b>	<b>Annual</b>
Adult Monthly	\$36	\$9,000.00
Adult Basic Annual	\$53	\$0.00
Couples Monthly	\$51	\$18,250.00
Family Monthly	\$58	\$65,500.00
Family Basic Annual	\$87	\$2,100.00
High School Monthly	\$25	\$1,400.00
Senior Monthly	\$31	\$4,600.00
Silver Sneakers Monthly	\$24	\$6,000.00
Single Parent Family Monthly	\$42	\$18,750.00
Young Adult Monthly	\$30	\$2,000.00
Youth Annual	\$140	\$2,400.00
Youth Basic Annual	\$53	\$4,300.00
Scholarship Costs		\$22,569.00
Joining Fees		\$16,000.00
Membership ATS Coll		(\$300.00)
<b>Totals:</b>		<b>\$172,569.00</b>

**San Bernardino Fees:**

<b>MembershipType</b>	<b>Current</b>	<b>Annual</b>	
Adult Monthly	\$18	\$4,500.00	
Adult Basic Annual	\$53	\$0.00	No change
Couples Monthly	\$24	\$8,588.00	
Family Monthly	\$26	\$29,362.00	
Family Basic Annual	\$87	\$2,100.00	No change
High School Monthly	\$14	\$784.00	
Senior Monthly	\$16	\$2,374.00	
Silver Sneakers Monthly	\$24	\$6,000.00	No change
Single Parent Family Monthly	\$21	\$9,375.00	
Young Adult Monthly	\$16	\$1,067.00	
Youth Annual	\$140	\$2,400.00	No change
Youth Basic Annual	\$53	\$4,300.00	No change
Scholarship Costs		\$22,569.00	
Joining Fees		\$9,120.00	
Membership ATS Coll		(\$300.00)	
<b>Totals:</b>		<b>\$102,239.00</b>	

**Difference: (\$70,330.00)**

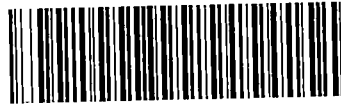


**LARRY WALKER**  
Auditor/Controller – Recorder

645 City of Highland

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:City Clerk  
City of Highland  
27215 Base Line  
Highland, CA 92346

Doc#: 2007 – 0043431



Titles:	1	Pages:	10
Fees			0.00
Taxes			0.00
Other			0.00
PAID			\$0.00

[Space Above for Recorder's Use]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code § 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code § 11922.

**MEMORANDUM OF LEASE**

THIS MEMORANDUM OF LEASE (this "Memorandum") is dated as of December 12, 2006, by and between the CITY OF HIGHLAND, a California municipal corporation ("City") and YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, INC. a California non-profit corporation ("Tenant").

**RECITALS**

A. City and Tenant have entered into that certain Jerry Lewis Community Center and Highland Athletic Center Lease dated as of December 12, 2006, (the "Lease"), pursuant to which City has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from City, premises which include the Jerry Lewis Community Center (the "Community Center") and the Highland Athletic Center (the "Athletic Center") and related amenities in the Highland Community Park, more commonly known as 7793 Central Avenue, in the City of Highland, County of San Bernardino, State of California and more particularly described on **Exhibit A** attached hereto (the "Premises") and appurtenances thereto (the "Improvements"), as provided in the Lease.

B. The Lease further provides for the termination of the Jerry Lewis Community Center Lease (the "Community Center Lease"), recorded on October 22, 2000, by the San Bernardino County Recorder as Document No. 20000390516, upon the effective date of the Lease, as set forth above.

C. City and Tenant now desire to enter into this Memorandum to provide record notice of the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Tenant agree as follows:

1. Lease. City hereby leases and demises the Premises to Tenant, and Tenant hereby leases and accepts the Premises from City, for an initial term of four (4) years, commencing on January 1, 2007, ~~2006~~, at the rental and upon the other terms and conditions set forth in the Lease, which terms and conditions are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only, and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the applicable term or condition of the Lease shall prevail.

3. Counterparts. This Memorandum may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

CITY OF HIGHLAND

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

[Signatures continued on next page]

[Corporate Seal]

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By Ken Stein

Name: KEN STEIN

Title: GENERAL DIRECTOR

By: Christopher R. Tickle

Name: Christopher R. Tickle

Title: Highland Committee Chair

By: Bill Hardy, Jr

Name: BILL HARDY, JR

Title: Chairman of the Board

[Signatures must be notarized]

**CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT**

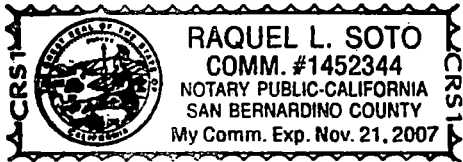
State of California

County of San Bernardino

On January 16, 2007 before me Raquel L. Soto, Notary Public

Personally appeared Ken Stein

personally known to me - **OR** -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Raquel L. Soto

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
Title(s)

- PARTNERS
- LIMITED GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**

\_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Memorandum of Lease  
Title or Type of Document

8  
Number of Pages

December 12, 2006  
Date of Document

\_\_\_\_\_  
Signer(s) other than Named Above

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

No. 5907

State of California

County of San Bernardino

On January 9, 2007 before me, Elizabeth Hughes, Notary Public

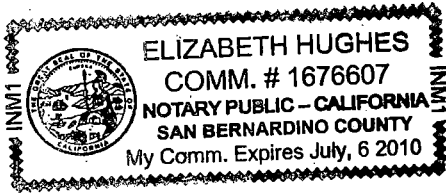
DATE

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Ross B. Jones

NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Elizabeth Hughes  
SIGNATURE OF NOTARY

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER

- PARTNER(S)       LIMITED
- GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

\_\_\_\_\_  
DATE OF DOCUMENT

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

**CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT**

State of California

County of San Bernardino

On December 20, 2006 before me Kathleen Ryan, Notary Public

Personally appeared Bill Hardy

personally known to me - **OR** -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Kathleen Ryan

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
Title(s)

\_\_\_\_\_  
Title or Type of Document

- PARTNERS  LIMITED
- TRUSTEE(S)  GENERAL
- ATTORNEY-IN-FACT
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

8  
\_\_\_\_\_  
Number of Pages

N/A  
\_\_\_\_\_  
Date of Document

SIGNER IS REPRESENTING:

\_\_\_\_\_  
Signer(s) other than Named Above

**CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT**

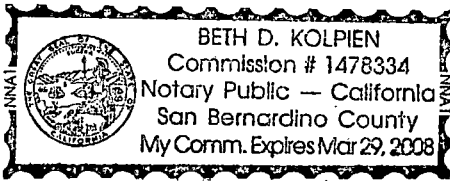
State of California

County of San Bernardino

On December 21, 2006 before me Beth D. Kolpien, Notary Public

Personally appeared Christopher R. Tickell

personally known to me - **OR** -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Beth D. Kolpien

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER

\_\_\_\_\_  
Title(s)

\_\_\_\_\_  
Title or Type of Document

- PARTNERS
- LIMITED GENERAL

- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

\_\_\_\_\_  
Number of Pages

\_\_\_\_\_  
Date of Document

SIGNER IS REPRESENTING:

\_\_\_\_\_

\_\_\_\_\_  
Signer(s) other than Named Above

**EXHIBIT A**

**Legal Description of the Premises**

**EXHIBIT "A"**

BEING A PORTION OF THE SOUTHERLY 1,000 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 5, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND ON FILE IN THE BUREAU OF LAND MANAGEMENT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF CENTRAL AVENUE AND HIBISCUS STREET;

THENCE SOUTH 87°17'06" EAST ALONG SAID CENTERLINE OF HIBISCUS STREET, 611.98 FEET;

THENCE SOUTH 02°42'54" WEST, 40.00 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET (40.00-FOOT SOUTHERLY HALF WIDTH), SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 00°00'00" WEST, 240.67 FEET;

THENCE NORTH 89°55'43" WEST, 76.51 FEET;

THENCE SOUTH 55°30'30" WEST, 107.45 FEET;

THENCE SOUTH 90°00'00" WEST, 70.71 FEET;

THENCE SOUTH 00°00'00" EAST, 105.92 FEET;

THENCE NORTH 89°55'43" WEST, 330.25 FEET TO A POINT ON THE EAST LINE OF CENTRAL AVENUE (44.00-FOOT EASTERLY HALF WIDTH);

THENCE NORTH 00°04'35" EAST ALONG SAID EAST LINE, 424.08 FEET;

THENCE NORTH 46°25'19" EAST 13.36 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET;

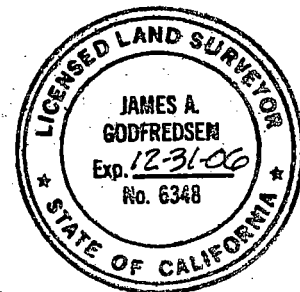
THENCE SOUTH 87°17'06" EAST ALONG SAID SOUTH LINE, 556.42 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 4.72 ACRES

PREPARED UNDER THE SUPERVISION OF:

  
JAMES A. GODFREDSEN

10-26-06  
DATE







## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

---

**City of Highland, its officers, officials,  
Certificate issued to City of Highland, its officers, officials,  
Davis & Graeber Insurance Services, Inc.**

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01/10/2007

01/10/2007

Additional Insured Endorsement and Waiver of Subrogation Endorsement is attached.

Primary/Non-Contributory Wording Endorsement has been requested from company.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS  
TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Condition 8. **Transfer of Rights of Recovery Against Others To Us** of Section IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization when you have agreed to such waiver prior to loss.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - MANAGERS OR LESSORS OF  
PREMISES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

1. Designation of Premises (Part Leased to You):

**ANY LEASED PREMISES**

2. Name of Person or Organization (Additional Insured):

**ANY PERSON OR ORGANIZATION THAT IS REQUIRED BY CONTRACT OR  
AGREEMENT**

3. Additional Premium: **INCL.**

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.

<b>Agency</b>		<b>Insured</b>	
Davis & Graeber Insurance Services, Inc. License No. 0186657 470 E. Highland Ave, PO Box 40 Redlands, CA 92373		YMCA of the East Valley  500 E. Citrus Avenue Redlands, CA 92373	
<b>Company</b>		<b>Policy Number</b>	<b>Policy Period</b>
YMCA SERVICES CORP. Discover Property & Casualty 101 N. Wacker Dr. Suite 1410 Chicago, IL 60606-7386 ATTN: Kathi Schmitt		D217P00197 Package Policy	07/01/2006 07/01/2007
emailed to Kathi Schmitt @ Y Services			
<b>Regarding</b>	First Request	+ Bldg. @ 7793 Central	
<b>Effective</b>	01/01/2007	+ Bldg. @ 7793 Central	

**Comments**

Dear Kathi,

Per my previous email to you dated 1/8/07, effective 1/1/07, please add Building coverage to the following location @ 7793 Central Avenue, Highland, CA. This location is already on the policy for Business Personal Property and General Liability coverage; however, per the insured's new lease with the City of Highland, the YMCA of the East Valley is now responsible for insuring the building and premises at this location.

Please increase Blanket Buildings by \$5,200,000 to contemplate this new building addition. This location is occupied as the Jerry Lewis Community Center and Athletic Center. All the same coverages, terms and conditions shall apply. Please be sure to include coverage for EQSL at this location too.

With respects to General Liability coverage, the City of Highland has requested a waiver of subrogation endorsement in favor of them, as well as primary noncontributory wording.

Per your Blanket Additional Insured Endorsement, Owners of Premises, the following shall also apply per the attached Certificate of Insurance too:

City of Highland, its officers, officials,, employees, agents and volunteers  
Attn: City Manager  
27215 Baseline  
Highland, CA 92346

Thanks!

Regards, Gail Connor

cc: YMCA of the East Valley/Attn: Ken Stein

**JERRY LEWIS COMMUNITY CENTER AND HIGHLAND  
ATHLETIC CENTER LEASE**

This Lease is made and entered into this 12th day of December 2006 (the "Lease") by and between the CITY OF HIGHLAND ("Landlord" and "City") and the YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, a California non-profit corporation ("Tenant" or "YMCA"). The parties to this Lease may be referred to herein as "party" or collectively as the "parties."

**1. RECITALS**

A. On or about September 22, 2000, the City and the YMCA entered into a Lease of the Jerry Lewis Community Center, located in the Highland Community Park (the "Community Park," at 7793 Central Avenue, which Lease is recorded on October 26, 2000, by the San Bernardino County Recorder as Document No. 20000390516 (the "Community Center Lease"). The initial term of the Community Center Lease ended on January 31, 2006, and has been extended pursuant to the terms thereof.

B. It is the intent of the Parties hereto that this Lease supersede the Community Center Lease and that, upon the effective date of this Lease, the Community Center Lease be considered terminated in its entirety and of no further force or effect, and merged.

C. With the pending completion of the City's new Athletic Center, City and Tenant now desire to amend and restate the Community Center Lease, and to provide terms and conditions for Tenant's occupancy and operation of the Jerry Lewis Community Center (the "Community Center") and the Highland Athletic Center (the "Athletic Center") (the "Premises"), and appurtenances thereto (the "Improvements"), which are located in the Highland Community Park, at 7793 Central Avenue, in the City of Highland, San Bernardino County, on that certain real property more specifically described in **Exhibit "A"** hereto and incorporated herein in full. A site plan of the Highland Community Park, depicting the general location of the Community Center and the Athletic Center, and related parking lots and amenities which are the subject of this Lease, is attached hereto as **Exhibit "B"** and incorporated herein in full (the "Site Plan").

In consideration of the mutual covenants, conditions and agreements contained herein to be done, kept and performed, City and Tenant hereby adopt the Recitals set forth hereinabove and agree as follows:

## 2. LEASED PREMISES

City hereby leases to Tenant and Tenant hereby leases from City, on the terms and conditions hereinafter set forth in this Lease, the Premises and related Improvements on, in and commonly known as the Jerry Lewis Community Center and the Highland Athletic Center, located at 7793 Central Ave. and more fully described in Exhibits "A" and "B" hereto.

## 3. TERM OF LEASE; EXTENSION; TERMINATION

A. The term of this Lease shall commence on January 1, 2007, ~~2006~~, and shall expire four (4) years thereafter, on January 1, 2011, ~~2010~~, unless sooner terminated as provided herein and in Sections 16, 19 and 20 hereinbelow.

B. Early Possession. In the event City permits Tenant to occupy the Athletic Center prior to the commencement date of the term of this Lease, such occupancy shall be subject to all of the provisions of this Lease. Said early possession shall not advance the termination date of this Lease.

C. Option to Extend. Provided that Tenant shall not be in default or breach of any term of this Lease, upon delivery by Tenant to City of written notice of its election to exercise such option(s) at least ninety (90) days prior to the expiration of the original (or extended) term hereof, City grants to Tenant, on the same terms and conditions of this Lease, the option to extend the term hereof for three (3) additional periods of (4) years each, commencing on the following dates:

1. On the expiration date of the initial term of this Lease, for the first four ( 4 ) year option to extend Lease term ("First Extended Term").

2. On the expiration date of the First Extended Term of this Lease, for the second four ( 4 ) year option to extend Lease term ("Second Extended Term").

3. On the expiration date of the Second Extended Term of this Lease, for the third four ( 4 ) year option to extend Lease term ("Third Extended Term").

### D. Termination for Convenience.

1. After the initial four (4) year term of this Lease, City shall have the right to terminate this Lease at any time whenever City, in its sole discretion, determines it would be in the best interest to terminate this Lease. City shall give Tenant written notice of any termination pursuant to this Subsection at least one hundred and eighty (180) days prior to the date of termination.

2. The Tenant shall have the right to terminate this Lease at anytime whenever Tenant, in its sole discretion, determines it would be in Tenant's best

interest to terminate this Lease. Tenant shall give City written notice of any termination pursuant to this Subsection at least one hundred and eighty (180) days prior to the date of termination. During the notice period, Tenant shall continue in good faith to perform its duties and obligations under the Lease.

#### **4. RENT**

A. In consideration of the benefits accruing to the public and to the City of Highland by Tenant's performance of its obligations under this Lease, Tenant shall pay to the City rent in the amount of one dollar (\$1.00) per year due and payable on January 1<sup>st</sup> of each year.

B. Rent shall be payable in lawful money of the United States to the City at the address stated herein for notices or to such other person or such other place as the City may designate to Tenant in writing.

C. The in kind value of this Lease is \$11,667 per month.

#### **5. TAXES AND ASSESSMENTS**

A. Payment of Taxes and Assessments. City is exempt from payment of property taxes; and represents that at the beginning of the Lease term, no taxes, assessments, fees or charges are due or owing on the Premises or Improvements as a result of the City's ownership thereof. Tenant agrees to pay or cause to be paid, prior to delinquency any and all taxes, assessments, license fees and public charges levied, assessed or imposed or which may become payable during the term hereof upon the Premises and the Improvements and upon all of Tenant's furnishings, appliances, equipment and all other personal property installed or located on the Premises, including, but not limited to, personal property or possessory interest taxes. At the end of the Lease term, the taxes, assessments, and public charges to be paid by Tenant shall be prorated so that at the end of the Lease term, with respect to any taxes, assessments and public charges levied or assessed for a tax year extending beyond the Lease term, Tenant will pay only such proportion thereof as the portion of the tax year preceding the end of the Lease term bears on the entire tax year.

B. Privilege of Contesting Levy. Tenant shall have the privilege of protesting, contesting, objecting to or opposing the legality or amount of any such taxes, assessments, license fees or public charges to be paid by Tenant hereunder. Any such contest, whether before or after payment, may be made in the name of City or Tenant or both as the Tenant may determine, but if such contest is made by Tenant in the name of City, then City shall be notified thereof at least fifteen (15) days prior to the commencement of the proceeding, and City shall cooperate reasonably in such request. Any such contest shall be at the sole cost and expense of Tenant, and Tenant shall pay any costs or expenses incurred by City as a result of any such contest. City may require Tenant to provide an adequate bond or other security to indemnify City pending resolution of the

dispute. Each refund of any tax, assessment, fee or charge so contested shall be paid to Tenant and City shall not, without prior approval of Tenant, make or enter into or finally agree to any settlement, compromise or any disposition of any contest, or discontinue or withdraw any contest or accept any refund, other adjustment or credit of or from any such tax or assessment as a result of any contest.

## **6. TENANT LEGAL STATUS**

YMCA Non-Profit Status. Tenant shall maintain in good standing its non-profit status at all times during the term of this Lease, and shall not allow any for-profit use of the Premises, without the prior written consent of City.

## **7. USE OF PREMISES**

A. Tenant shall use the Premises for athletic, social and recreational activities available to the public, including, but not limited to fitness programs, handball, racquetball, basketball, teen programs, recreation classes, educational programs and similar programs.

B. Tenant shall in good faith and with reasonable diligence develop and offer programs that reflect community needs with the mission and goals of the YMCA as parameters and shall cooperate and consult with the City in the development of such programs. The programs to be provided shall not be less than the service levels provided by other YMCA's with comparable facilities in the Inland Empire.

C. Tenant shall offer memberships in Tenant's organization to persons using the facilities, but shall also offer single-day passes or other short-term and specific purpose passes or entry to the Premises and Improvements to members of the public who are not members of Tenant's organization, and scholarships consistent with the terms of Subsection E.2 herein, all of which shall be subject to compliance with Tenant's lawful rules and regulations. Tenant shall have the right to adopt and enforce a policy which limits the number of day passes issued to any single individual, or converts multiple day passes to an annual membership, to encourage the purchase of an annual membership instead of a day pass.

D. Tenant shall enter into a use agreement or other mutually agreeable arrangement with the Highland Senior Center (the "Senior Center"), under which the Senior Center will have the exclusive use of the therapy/exercise pool at least ten (10) hours per week, for senior programs. The basic terms of the agreement shall be confirmed by Tenant and the Senior Center in writing prior to the City Council's approval of this Lease. The City Council shall be the arbiter of any dispute between Tenant and the Senior Center regarding reasonableness of Senior Center use.

E. Membership, Entry and Program Fees.

1. Tenant may (but is not required to) charge reasonable membership, single entry and program fees for the use of the Premises by patrons.

2. During the first four (4) years of operation (the initial term of this Lease), City shall provide the tenant with supplemental funding for membership, single entry and program scholarships for qualified low income citizens who are City of Highland residents. Tenant shall provide a quarterly report detailing such scholarship expenditures and resident requests. Also during the first four (4) years of operation, City shall provide an additional operating contribution to Tenant, in amounts not to exceed those amounts set forth in Exhibit C hereto, to support documented operating losses experienced by Tenant during the start up period. Supplemental funding for memberships and operational contributions shall be invoiced on a monthly basis at a rate of up to 1/12 of the annual funding based on actual expenses with the twelfth month final adjustment up to the maximum annual amount based on actual expenses. Tenant shall make quarterly written reports to the City which detail program, membership and facility operations and document requested operating contribution from the City. Tenant shall make an annual oral and detailed written report to the City Council pertaining to the programs, requirements, and subsidies provided for in this Lease, commencing with the first City Council meeting in July of each year.

F. Tenant shall be open for business and maintain the Premises and Improvements open and available for the intended uses set forth in Subsections A and B of this Section, for a minimum of 96 hours per week. Tenant shall have the Athletic Center open and available to the public in accordance with this provision within ninety (90) days following Tenant's occupancy of the Athletic Center.

G. Parking.

1. Tenant shall have a non-exclusive easement for temporary vehicular parking and vehicular and pedestrian ingress and egress to and from the Premises and Improvements to adjacent buildings and facilities within the Community Park, and over and across the parking areas, driveways, exits and entrances of the Community Park, as more fully designated on the Site Plan which is attached as Exhibit B hereto, at all times when the Community Park and/or the Premises and Improvements are open to the public. Such parking rights, during the term of this Lease, shall be limited to a total of 214 parking spaces, in the locations and as designated on Exhibit B hereto, and shall be provided by City without charge to Tenant or Tenant's employees and invitees.

2. Tenant may mark its designated parking spaces, and restrict parking in those spaces during Tenant's regular business hours or during Tenant or Tenant-sponsored special events. During non-business hours and unless specially marked and designated during Tenant or Tenant-sponsored special events, the Tenant designated parking spaces shall be available to the public for parking.

3. The parking lots in the Community Park shall be considered common area, and shall be maintained by the City.

4. Tenant may not store vehicles or erect any permanent or semi-permanent structures in the common area parking lots, or within the Tenant-designated parking spaces without the prior written consent of the City.

H. Tenant Signs. Tenant may, at Tenant's sole cost and expense, place signs on and within the Premises and Improvements which incorporate Tenant's logo, together with City's adopted names for the Premises and Improvements. All such signs placed on the Premises or Improvements shall be approved by the City prior to their installation, and shall be in compliance with City ordinances and regulations.

I. Waste.

1. Tenant shall not conduct or permit to be conducted any public or private nuisance on or from the Premises or Improvements, or commit or permit to be committed any waste upon the Premises or Improvements; provided, however, that Tenant may perform any other work reasonably necessary to cause the Premises and Improvements to be suitable for Tenant's permitted uses subject to the terms of this Lease.

2. Tenant shall not do, bring or keep anything in or about the Premises or Improvements that will cause a cancellation of any insurance covering the Premises or Improvements.

J. Prohibited Activities. Tenant may not do any of the following on the Premises or Improvements:

1. Place or permit the placement of any pay telephones, or amusement or video games on the Premises or Improvements, without the prior written consent of the City;

2. Permit the making of any noise or sounds that carry beyond the boundaries of the Premises or Improvements, whether through loudspeakers, other types of electronic devices, or otherwise;

3. Conduct or permit any type of unlawful conduct on the Premises; or

4. Allow the consumption or sale of alcohol in or outside of the Premises or Improvements.

K. Security. Tenant may, at its option, and at Tenant's sole cost and expense, employ or post a security person at the Premises and Improvements.

L. Use and Scheduling of Ball Fields. Tenant shall schedule the use of the ball fields at 27003 Hibiscus (and designated on the Site Plan at Exhibit B hereto), on behalf of the City. Tenant shall require all users of the ball fields to pay the required fees at City Hall prior to their use. In consideration for scheduling use of the ball fields, Tenant shall have reasonable use of the ball fields at no fee, for Tenant's programs. Tenant shall be responsible for the actual cost of field lighting when used for its programs. Tenant's use of the ball fields shall not unreasonably interfere with other uses, and City shall determine in its sole discretion the reasonableness of Tenant's use of the ball fields.

M. City Use of Premises. City shall retain the right to use the Premises and Improvements for City-sponsored/sanctioned special events or meetings. Wherever possible, City shall notify Tenant at least thirty (30) days in advance of a proposed event or meeting. Event and/or meeting times requested by the City shall not be unreasonably denied by Tenant. The City shall not be charged for its scheduled use of the Premises and Improvements. The City may also use a portion of the office space for a Police Substation, which use shall be the subject of a separate agreement between the City and Tenant.

## **8. COMPLIANCE WITH GOVERNMENTAL REGULATIONS.**

A. Observance of Governmental Regulations. Tenant shall comply with all laws, orders, rules, regulations, ordinances and requirements of the Federal, State, County and City governments and all other governmental authorities, affecting the Premises or Improvements, or any part thereof, including, without limitation, those relating to hazardous materials, recycling, water quality and the Immigration Reform and Control Act of 1986, codified at 8 U.S.C. §§ 1324a and 1324b (the "IRCA"), which require and ensure the hiring and retention of employees who are United States citizens, permanent residents and/or who are otherwise authorized by law to work in the United States of America, and, as required by the IRCA, shall affirmatively verify the identity and employment authorization of every employee as a condition of employment or continued employment. The tenant shall further include this requirement in any subcontract made pursuant to this contract.

B. Non-Discrimination. Tenant shall not discriminate in the use of the Premises or Improvements or in its operations thereon, including, but not limited to, membership, administration, and/or employment, against any person or class of persons by reason of race, color, creed, national origin, religion, age or sex or for any other reason prohibited by law.

C. Drug Free Workplace. Tenant shall at all times observe and comply with the City's Drug Free Workplace policy, as that policy may in the future be amended, and a copy of which Tenant acknowledges having received from City.

## 9. CONDITION OF PREMISES

A. City covenants that Tenant's leasehold estate in the Premises and Improvements is and shall be subject to all matters of record and any other matters disclosed or known to Tenant. City covenants that so long as Tenant shall perform the obligations of Tenant contained herein and shall not be in default in the performance of any of such covenants, Tenant shall freely, peaceably, and quietly have, hold and enjoy the full and exclusive use and enjoyment of the Premises and Improvements subject to City's obligations hereunder, and subject to the provisions of this Lease.

B. Tenant acknowledges that it is sophisticated and knowledgeable with regard to evaluating and leasing real property in the area and that prior to the commencement of his Lease will have had sufficient opportunity to enter the Premises to perform such tests and investigations Tenant deems necessary to satisfy itself as to the condition of the Premises for the uses set forth in this Lease. Tenant shall not be responsible for Hazardous Materials (as defined in this Lease) which may be present on the Premises as of the date of this Lease.

TENANT IS ACQUIRING A LEASEHOLD INTEREST IN THE PREMISES "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTY OF ANY KIND WHATSOEVER AS TO ITS CONDITION EXCEPT AS DESCRIBED IN THIS LEASE, PROVIDED, HOWEVER, THAT TENANT SHALL NOT BE RESPONSIBLE FOR HAZARDOUS MATERIALS (AS DEFINED IN THIS LEASE) ON THE PREMISES WHICH MAY BE PRESENT ON THE PREMISES AS OF THE LEASE COMMENCEMENT DATE.

C. Tenant represents that during the term of its occupancy and use of the Community Center pursuant to the Community Center Lease, no waste was committed, that Tenant has fully disclosed to City all matters which are subject to disclosure or which may affect the condition of the Community Center Premises or Improvements, that both Tenant and City are in full compliance with their maintenance and other obligations pursuant to the Community Center Lease, and further that Tenant has not permitted any Hazardous Materials (as defined in this Lease) to be present on the Premises during Tenant's previous occupancy of the Community Center Premises pursuant to the Community Center Lease.

D. City represents that (1) it is the owner in fee simple of the Premises; (2) the use of the Premises as set forth in this Lease does not violate any restrictions applicable to the Premises; (3) the use of the Premises as set forth in this Lease is a use permitted upon the Premises by the applicable zoning requirements, subject to issuance of applicable permits and approvals; and (4) this Lease has been approved as required by law.

E. Tenant represents that: (1) this Lease has been approved by all persons and boards required to approve it within the corporate or other organizational structure of Tenant; and (2) the persons executing this Lease on behalf of the Tenant are duly authorized to do so.

F. Tenant hereby accepts the Premises and Improvements and accepts this Lease subject thereto and to all matters disclosed thereby.

## 10. ALTERATIONS AND ADDITIONS

A. Tenant shall make no alterations, additions or improvements to the Premises or Improvements, except for non-structural work which does not exceed \$3,500.00 in total cost, without City's prior written consent. City shall not unreasonably withhold such consent. Tenant shall not segment construction or improvement projects or work to avoid obtaining City's consent as required herein. At least thirty (30) days prior to the commencement of any work, construction, repair, alteration, addition or replacement of any structure or other improvement on the Premises or Improvements, Tenant shall submit to City a written request to perform the work, specifying the nature and location of the intended work and the expected date of commencement thereof.

B. Mechanic's Liens. To the extent Tenant performs any work on the Premises or Improvements, Tenant shall promptly pay or cause to be paid, all money due and payable for and on account of the construction, repair, restoration, replacement, or improvement done by or on behalf of Tenant to or on the Premises or Improvements. Tenant shall indemnify and keep and hold City free and harmless from any and all mechanics', materialmen's, contractors' and sub-contractors' liens arising from or growing out of the aforesaid work. If Tenant shall in good faith contest the validity of any such lien, claim or demand, then Tenant shall, at its expense, defend itself and City against the same and shall pay and satisfy any adverse judgment that may be rendered thereon prior to execution thereof and in the event of any such contest Tenant shall provide City with a security or lien release bond in a form reasonably acceptable to City.

C. Bonds. To the extent Tenant performs any work upon the Premises or Improvements with a value in excess of twenty five thousand dollars (\$25,000), Tenant shall, at its sole expense, provide for City's benefit, labor, material and performance bonds or other security meeting the approval of City for all work performed on City's property. Except as may be necessary for Tenant to satisfy its obligations, all warranties and guarantees of manufacturers, suppliers, materialmen and contractors shall be assigned to City.

D. Ownership of Improvements/Alterations. All alterations, improvements or additions which are made on the Premises and Improvements by the Tenant shall become the property of the City and shall remain upon and be surrendered with the Premises at the expiration of the term of this Lease. Upon expiration of this Lease, or earlier termination thereof, the Premises and Improvements (and any alterations or additions thereto) shall be free, clear and unencumbered, and Tenant shall defend and indemnify City against any future claims arising in connection with any encumbrance placed upon or allowed to be placed upon the Premises or Improvements by Tenant. Notwithstanding the above, this paragraph shall not apply to Tenant's trade fixtures, furniture, equipment and other machinery, which are not affixed to the Premises in a

manner so that they cannot be removed without material or structural damage to the Premises, which shall remain the property of the Tenant and may be removed by the Tenant on or before the expiration of the term of this Lease.

## **11. UTILITIES**

A. During the term of this Lease, Tenant agrees to pay when due and to hold City harmless from any liability for, all charges for electric, gas, water, sewage, trash, telephone, custodial, fire sprinkler testing, fire extinguisher maintenance and security monitoring, and all other services of every kind and nature supplied to and used on the Premises or Improvements.

B. City shall maintain and provide and/or pay for landscaping services and water used for landscaping.

## **12. MAINTENANCE AND REPAIRS**

A. Except as provided in Section 13 hereof, and except for damage caused by the negligence or intentional act(s) or omission(s) of Tenant, Tenant's agents, employees or invitees, at all times during the term of this Lease, City shall, at City's sole cost and expense, repair and maintain the following components of the Premises and Improvements:

1. Foundations;
2. Exterior roof and gutters and downspouts on the buildings;
3. Exterior walls;
4. Unexposed electrical, plumbing and sewer systems including, without limitation, those portions lying outside the Premises;
5. Utility lines and service to common areas of the Premises;
6. Window frames;
7. Sidewalks;
8. Landscaping and related irrigation systems;
9. Fencing;
10. Window glazing and store front glass;
11. Exterior signs installed by City;
12. Marquee flooring;
13. Other improvements which were installed by City and that are a part of the Premises, or of which the Premises are a part;
14. Heating, ventilating and air conditioning systems servicing the Premises; and
15. Parking area on or adjacent to the Premises.

B. The City shall provide initial inventory of exercise and fitness equipment for the Athletic Center, at City's sole cost and expense, and as listed in Exhibit D, attached hereto and incorporated herein.

C. The City shall have thirty (30) days after receipt of written notice from Tenant to commence to perform its obligations under this Section 12. The foregoing notwithstanding, the City recognizes that owing to the nature of the Tenant's use of the property for recreational and educational purposes, Tenant shall have the right to take those corrective emergency measures necessary to remediate conditions which have arisen with respect to electrical, plumbing, and sewage systems, where, in the opinion of Tenant, an immediate threat to the public health or safety exists, and City has refused or is not immediately available to perform the work. In the event of such emergency circumstances, City shall, within thirty (30) days after receiving a written demand from Tenant, reimburse Tenant's reasonably-incurred expenses. If City fails to reimburse Tenant within thirty (30) days after its receipt of a written demand from Tenant, Tenant shall have the right to withhold from future rent the sums the Tenant has expended.

D. Subject to the provisions of Subsection A above and Section 13, and throughout the term of this Lease, Tenant shall, at Tenant's sole cost and expense, repair, maintain and, where necessary replace, all components of the Premises and Improvements, including but not limited to the following items, in good working order, condition and repair, and in a condition sufficient to support the programs of the Tenant:

1. All of Tenant's personal property;
2. Signs installed by Tenant;
3. Interior doors, walls and ceilings (excluding water damage);
4. Lighting fixtures that have been damaged as a result of Tenant's use of the premises;
5. Light bulbs/fluorescent tubes, etc.;
6. Pest control;
7. The Athletic Center exercise and fitness equipment provided by City;
8. The Athletic Center swimming pool and pool equipment; and
9. The Plumbing fixtures in restrooms and swimming pool-related facilities.

E. Tenant shall also, at all times and at its sole cost and expense, maintain the Premises (including the interior and exterior storefront window surfaces) in a clean, safe, sanitary, and orderly condition, free from insects, pests, vermin and other vectors. Tenant shall also be responsible for keeping the parking lot free from garbage and debris.

F. Additionally, throughout the term of this Lease, Tenant shall, at Tenant's sole cost and expense, repair and maintain the athletic, fitness, and other exercise equipment provided initially by City as furnishings for the Premises and Improvements, and as set forth in Exhibit D hereto, or their equivalent, in good working order and safe condition. Purchase prices/values and dates shall be added by City to Exhibit D when the equipment has been provided. City may, but is not required to, enter into a lease for the athletic, fitness and exercise equipment, which may provide for maintenance and replacement of the equipment. City and Tenant may enter into a separate agreement regarding responsibility for maintenance and replacement of the equipment, depending on the terms of any equipment lease the City may obtain.

G. Tenant shall further secure and provide adequate supervision of the athletic, fitness and other exercise equipment, and adequate maintenance and supervision of the swimming pool in the Athletic Center at all times during their use.

H. Tenant shall at all times comply with all Health Department and other State and Local requirements for the operation of the kitchen including, but not limited to, assuring that all caterers comply with those requirements.

I. If Tenant fails to perform Tenant's obligations as stated herein, City may elect to perform any obligation of Tenant pursuant to this Section at Tenant's cost and expense following ten (10) days' written notice delivered to Tenant and opportunity to cure as set forth in this Lease. Said election by City shall not constitute a waiver of any right or remedy for Tenant's default. Tenant shall reimburse City for the cost and expense it incurred in the performance of Tenant's obligation within thirty (30) days of City's request for payment.

J. Use of Pesticides, Poisons and Herbicides. To the extent required by their respective maintenance responsibilities as described in this Lease, City and Tenant shall use pesticides, poisons and herbicides everywhere on the Premises in strict accordance with all applicable statutes, ordinances, rules and regulations. When such pesticides, poisons and herbicides are used by a party, that party shall dispose of all pesticides, poisons and herbicides, and any containers, clothing, equipment and other materials contaminated therefrom, in such a manner as prescribed by law.

K. Use of Swimming Pool Chemicals. To the extent required by their maintenance responsibilities as described in this Lease, Tenant shall use swimming pool chemicals on the Premises in strict accordance with all applicable laws, ordinances, rules and regulations. Tenant shall dispose of all chemicals, and any containers, clothing, equipment and other materials contaminated thereby, in such a manner as prescribed by law.

### **13. INDEMNIFICATION AND HOLD HARMLESS**

A. The Tenant shall indemnify, defend (with legal counsel approved by City, which such approval by City shall not be unreasonably withheld) and hold harmless City and its elected and appointed officials, officers, employees, servants and agents from and against all claims, actions, liabilities, losses, damages, costs, attorneys' fees and other expense(s) of any nature for loss or damage to property, or injury to or death of persons, arising in any manner whatsoever, directly or indirectly, by reason of this Lease or the use or occupancy of the Premises or Improvements by Tenant (collectively "Claim(s)"), whether the Claim be made during the Lease term or thereafter, except such loss, damage, injury or death caused by the negligence of City or any of its elected and appointed officials, officers, employees, servants or agents. The liability of Tenant hereunder shall not be limited by the insurance provisions of this Lease. The indemnification, legal defense and hold harmless provisions of this Section shall survive the expiration or termination of this Lease and shall relate back to all periods of Tenant's previous possession of the Premises and Improvements.

B. Additionally, Tenant shall indemnify, defend with legal counsel approved by City (which such approval shall not be unreasonably withheld) and hold harmless City and its elected officials, officers, employees, servants and agents from and against any and all claims, actions, liabilities, losses, damages, costs, attorneys' fees and other expenses of any nature (a) including, without limitation, all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the presence, use, generation, storage, release or disposal of Hazardous Materials on the Premises or Improvements, except for those present on the Premises or Improvements as of the date of this Lease, which were not caused by Tenant during Tenant's occupancy of the Community Center under the Community Center Lease, or which may be placed on the Premises or Improvements by City or City's employees, agents or contractors after the date of this Lease, and (b) including, without limitation, the cost of any required or necessary repair, cleanup, or detoxification, and the preparation of any response, remediation, closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the presence, use, generation, storage, release, or disposal of Hazardous Materials on the Premises or Improvements.

C. City shall indemnify, defend (with legal counsel approved by Tenant, which such approval by Tenant shall not be unreasonably withheld) and hold harmless Tenant and its officers, employees, servants and agents from and against all claims, actions, liabilities, losses, damages, obligations, costs, damage to property, or injury to or death of persons, arising in any manner whatsoever, directly or indirectly, by reason of the negligent or wrongful actions of the City, its officers, employees, servants or agents pursuant to this Lease (collectively the "Claim") whether the Claim be made during the Lease term or thereafter, except (1) such loss, damage, injury or death caused by the act or omission of Tenant for which it is required to indemnify the City pursuant to Subsection A or B above, (2) the presence of Hazardous Materials on the Premises or Improvements as of the date of the Lease. The indemnification, legal defense and hold harmless provisions of this Section shall survive the expiration or termination of this Lease and shall relate back to all periods of Tenant's previous possession of the Premises and Improvements.

D. As used in this Section, Hazardous Materials means any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated or addressed pursuant to (1) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; Health and Safety Code Sections 25501 et seq. (Hazardous Materials Response Plans and Inventory); or the Porter-Cologne Water Quality Control Act, Water Code Sections 13000 et seq., all as amended, (2) any other federal or state law or any local law

regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now is, or at any time hereafter may be, in effect, and (3) any rule or regulation adopted or promulgated under or pursuant to any of said laws.

E. If Tenant receives any notice, whether oral or written, of any inquiry, test, investigation, enforcement proceeding, environmental audit or the like regarding any Hazardous Material on the Premises or Improvements, Tenant shall immediately notify City in writing of such notice.

F. The provisions of this Section shall survive the expiration or termination of this Lease and shall relate back to all periods of Tenant's and City's previous ownership or possession of the Premises and Improvements. The provisions of this Section are intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e), and Health and Safety Code Section 25364 to insure, protect, hold harmless and indemnify Tenant and City from any liability pursuant to such laws.

#### **14. LIABILITY INSURANCE**

A. Tenant shall procure and maintain for the duration of this Lease, at its own cost and expense, insurance against claims for injuries to persons or damages to property which may arise from or in connection with Tenant's use or occupancy of the Premises or Improvements, or from Tenant's disuse or condition of the Premises or Improvements.

B. Waiver of Subrogation. City and Tenant agree that in the event of loss due to any of the perils for which they have agreed to provide insurance, each party shall look solely to its insurance for recovery. City and Tenant hereby grant to each other, on behalf of any insurer providing insurance to either of them with respect to the Premises and Improvements, a waiver of any right of subrogation that any such insurer of one party may acquire against the other by virtue of payment of any loss under that insurance.

C. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurances Service Office Commercial General Liability coverage (occurrence form CG 0001), including a provision providing for a comprehensive broad form of contractual liability, including leases.

2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

3. Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.

D. Minimum Limits of Insurance. Tenant shall maintain limits no less than:

1. General Liability: Four Million Dollars (\$4,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the premises and Improvements.

2. Automobile Liability: One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

3. Employer's Liability: One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

E. Increases in Coverage. The amount of insurance coverage described in Subsection D shall be reviewed and may be increased every four (4) years on the anniversary of the Lease Commencement Date in such an amount as the City may reasonably determine based upon inflation, increased liability awards, recommendations of professional insurance advisors and other factors customarily used to determine appropriate levels of coverage of the insurance required by this Lease. City shall provide written notice to the Tenant at least sixty (60) days prior to the date of any proposed increase in insurance coverage requirements. If the Tenant disagrees with the City's determination of the increase in coverage, the City and Tenant shall meet and confer in good faith with each other in order to resolve their difference and reach agreement as to the increase, provided, however, the final decision as to the increase in insurance coverage shall be made by the City pursuant to this subsection.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees agents and volunteers; or the Tenant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

G. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or shall be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Tenant; products and completed operations of the Tenant; premises owned, occupied or used by the Tenant; or vehicles owned, leased, hired or borrowed by the Tenant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, agents, employees or volunteers.

2. For any claims related to this Lease, the Tenant's insurance coverage shall be primary insurance as respects the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its

officers, officials, agents, employees or volunteers shall be excess of the Tenant's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, agents, employees or volunteers.

4. Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, amended, voided, or cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

H. Notice of Amendment and Cancellation. In the event of amendment or cancellation of an insurance policy for any reason whatsoever, Tenant shall give notice thereof to City within three (3) business days after it is in receipt of written notice of the amendment or cancellation. Tenant shall also give City thirty (30) days' written notice of the expiration of the insurance policy.

I. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Tenant shall furnish the City with original endorsements effecting coverage required by this Section. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided or approved by the City. All endorsements are to be received and approved by the City before this Lease takes effect.

## **15. FIRE AND SPECIAL FORM COVERAGE INSURANCE**

Tenant shall at its sole cost and expense provide and maintain fire and special form coverage insurance on the premises, improvements, plate glass and equipment on the premises in accordance with this Section. Tenant shall assume responsibility for procuring at its sole cost and expense fire and special form coverage insurance covering 100% of the replacement cost of its equipment and property as well as the City purchased exercise equipment to be used and housed at the Premises or in the Improvements. City shall have no responsibility to provide fire and casualty insurance for Tenant's equipment or property used or housed on the Premises or in the Improvements. City shall be an additional insured on the policies. The coverage amounts and the form of the policies shall be approved in advance of the effective date of the policies or the renewal date by the City Manager. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A unless otherwise acceptable to the City. Tenant shall furnish the City with original endorsements effecting coverage required by this Section. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before the effective date of the Lease.

## 16. CONDEMNATION

A. Event of Condemnation. If, during the term of this Lease there is a taking, or transfer of, or damage to all or any part of the Premises or Improvements for a public use by any individual or entity, public or private, possessing the power of eminent domain, whether by a condemnation proceeding or otherwise ("taking, transfer and damage" herein), the rights and obligations of City and Tenant, with regard to such taking, transfer or damage shall be governed by the provisions set forth in this Section.

B. "Date of Taking." The date of taking, as used hereafter, is defined as the earliest of the following dates:

1. the date legal possession is taken, which is defined as the date, if any, after which the condemnor may take possession of the Premises or Improvements, as stated in an order authorizing the condemnor to take possession;

2. the date a final order of condemnation or final judgment is filed or recorded or the date a deed is recorded, in the event of a transfer; or

3. The date that physical possession of the Premises or Improvements is taken.

C. Termination. This Lease shall, as to the part transferred or taken, terminate as of the date of taking, as herein defined. In the event only a portion of the Premises or Improvements is taken or transferred and the part remaining is not susceptible to the use to which Tenant had put the Premises or Improvements prior to such taking or transfer, or if no land is actually taken but the entire property is damaged by reason of the taking of access rights or similar valuable property rights so that the entire remainder is not susceptible to such use, then this Lease may be terminated at the option of Tenant by written notice. Such option to terminate must be exercised at the earlier of the following dates:

1. at the date legal possession or physical possession is taken; or

2. the date the entire Premises or Improvements is damaged, as herein defined.

Such termination shall be effective as of the date of the taking, as herein provided.

D. Abandonment. In the event the condemning agency shall abandon an eminent domain proceeding after service of any notice of termination by Tenant, as provided for in the next preceding Section, then Tenant at its option may revoke and cancel such notice by notifying City, in writing, not more than thirty (30) days after there has been an abandonment, as provided in Section 1268.510 of the California Code of Civil Procedure, or any amendment thereof. Upon an abandonment, either party hereto shall have a right to contest the condemnor's abandonment, and to recover its respective litigation costs, as provided for in Code of Civil Procedure, Section 1268.610 or any amendment thereof. If, after the condemnor takes possession or Tenant moves from the

property sought to be condemned in compliance with an order of possession, the condemnor abandons the proceedings as to such property or a portion thereof, or if it is determined that the condemnor does not have authority to take such property or portion thereof by eminent domain, and the condemnor is required by law to deliver possession of such property or such portion hereof to the parties entitled to the possession thereof and pay damages as are provided for in Code of Civil Procedure, Section 1268.620, or any amendment thereof, then City and Tenant shall equitably prorate the award of such damages and Tenant shall take possession of the Premises, and all the terms of this Lese shall remain in operation as though never terminated.

E. Right to Award. In the event that an award is made for an entire or partial taking or for damage to the Premises or Improvements or any interest therein in any action in direct or inverse condemnation, the parties hereto agree that their respective right to the award or the compensation paid shall be as follows:

1. Tenant shall be entitled to such portion of the award as may be allocated to its leasehold interest;

2. City shall be entitled to that portion of the award allocated to the Premises and Improvements exclusive of Tenant's leasehold interest;

3. Severance damages shall be provided between the parties in the ratio in which they share the award as provided in Subsections 1 and 2 above;

4. If there is an award made pursuant to a judgment, and neither party can agree as to the values to be assigned to their respective interests in such award, the values of these interests shall be determined under a proceeding governed by Code of Civil Procedure, Section 1260.220, or any amendment thereof. Neither party will do any act or make any agreement which will impair the legal obligation of the condemnor to bear the costs of such proceeding. Both parties agree, however, that in the event such a proceeding is used, the rights of the respective parties hereto shall be governed by the formula set forth herein;

5. Any interest paid on the award in condemnation shall be divided between the parties in the same ratio as the award has been divided under the terms of Subsections 1 and 2 above. Interest payable because of a taking of legal or physical possession, or damage to the Premises or Improvements by the condemnor, shall be paid to the City.

F. Attorneys Fees, Appraisal Fees and Costs. Each party shall bear its own costs, attorneys' fees, appraiser fees and all other costs in connection with any matter contained herein, except as may be otherwise provided.

G. Right of Entry. Neither party hereto shall grant a right of entry to any condemnor without the written consent of the other party hereto.

H. Notice of Action. In the event either party hereto receives actual or constructive notice of any acts on the part of an entity possession the power of eminent domain, which would cause or allow any of the provision hereof to be invoked, then and in that event, such party shall immediately notify the other party, in writing, of such information.

## **17. ASSIGNMENT AND SUBLETTING**

Tenant shall not assign nor sublet this Lease or the Premises or Improvements to other than a qualified non-profit (501c(3) corporation, and may not in any instance assign this Lease or the Premises or Improvements without the prior written consent of the City. City shall, in each case, determine, in its sole discretion (1) whether or not such an assignment will benefit the City, its residents and users of the Premises and Improvements, (2) whether the proposed new use under the assignment will fulfill the public purposes of this Lease in providing athletic, recreational and social activities for the people of the City of Highland, and (3) whether the proposed assignee is sufficiently experienced and financially capable to fulfill the purposes of this Lease. If City determines that the proposed assignment would not be to the benefit of the City as described above, it may elect to disapprove the proposed assignment.

## **18. MORTGAGES AND OTHER ENCUMBRANCES**

Tenant shall not mortgage, hypothecate or otherwise encumber or cause any liens to be placed upon the Premises or Improvements or the freehold estate of City.

## **19. DAMAGE**

Subject to the availability of funds from insurance recovery, should any of the Premises or Improvements be damaged or destroyed during the Lease term by any casualty, City shall as soon as reasonably practicable, subject to force majeure, repair and/or rebuild the same to substantially the condition in which the same were immediately prior to such damage or destruction. The complete work of repair, restoration or replacement shall be equal in value, quality, and use to the condition of the improvements before the event giving rise to the work except as expressly provided to the contrary in this Lease. Notwithstanding the provision of this Section, however, the City's obligation to rebuild the Premises or Improvements shall be limited by and only extend to the amount of recovery received from insurance policies in effect to cover such casualties. In the event insurance is not sufficient to rebuild the Premises and/or Improvements as provided herein, City and Tenant shall each have the option to terminate this Lease on thirty (30) days' prior written notice to the other.

## **20. DEFAULT**

A. Except as otherwise provided in this Lease, at any time one party is in default or breach of any provision of this Lease, the other party may give written notice to remedy such default or breach. If the default or breach is remedied within thirty (30) days following such notice, then this Lease shall continue in full force and effect. If, (1) such default or breach is not remedied within said thirty (30) day period, or (2) the nature of the default or breach is such that it cannot reasonably be cured within thirty (30) days

and the defaulting party fails to commence to cure within the thirty (30) day period and thereafter diligently prosecute the cure to completion, then the non-defaulting party may, at its option, terminate this Lease and, if terminated by City, take possession of the Premises and Improvements without further notice and shall also be entitled to such damages or other remedies at law or in equity are available to either party because of such default or breach. Termination of this Lease pursuant to this Section shall not be considered a waiver of damages or other remedies at law or in equity available to either party because of such default or breach. Each term and condition of this Lease shall also be deemed to be a covenant.

B. A waiver by either party of any default or breach by the other party of any provision of this Lease shall not constitute or be deemed to be a waiver of any subsequent or other default or breach. No waiver shall be binding, unless executed in writing by the party making the waiver; waivers on behalf of City shall only be given by resolution of the City Council. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other party any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default in the payment of the particular rental payment so accepted, regardless of City's knowledge of the preceding breach at the time of accepting the rent; nor shall acceptance of rent or any other payment after expiration or termination constitute a reinstatement, extension, or renewal of the Lease or revocation of any notice or other act by City.

C. The making by Tenant by any general assignment, or general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days; the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in the Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interests in the Lease, where such seizure is not discharged within thirty (30) days; shall constitute a default under this Lease.

D. City's Remedies. City shall have the following remedies if Tenant is in default or breach of the Lease, following notice and opportunity to cure, as set forth hereinabove:

1. City may continue this Lease in full force and effect, and the Lease will continue in effect so long as City does not terminate Tenant's right to possession, and the City shall have the right to the continued performance of Tenant of all of Tenant's obligations and duties under this Lease, and to collect rent when due. Following Tenant's default and for so long as City has not terminated Tenant's right to possession on the Premises and Improvements, if Tenant obtains the consent of the City Council given at an open and public meeting, Tenant shall have the right to assume, sublet or assign its interest in the Lease.

2. If Tenant is in default under terms of this Lease, City may, after thirty (30) days' written notice of default, terminate Tenant's right to possession of the Premises and Improvements. No act by City other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or Improvements, the appointment of a receiver at City's initiative to protect City's interest in this Lease shall not constitute a termination of Tenant's right to possession.

## **21. HOLDING OVER**

If Tenant should hold over the Premises or Improvements after the expiration of the term hereof, with the consent of City, either express or implied, such holding over shall be construed to be only a tenancy from month to month, subject to all of the covenants, conditions and obligations hereof, and Tenant hereby agrees to pay to City the same monthly rental as provided in this Lease; provided, however, that nothing herein contained shall be construed to give Tenant any rights to so hold over and to continue in possession of the Premises or Improvements after the expiration of the term hereof.

## **22. SUBORDINATION**

A. Except as provided in Subsection B of this Section, this Lease and all of Tenant's rights in this Lease shall be subject and subordinate to any mortgage, deed of trust, ground lease, or other instrument of encumbrance (collectively referred to in this Section as a "security instrument") that is now or hereafter placed against any part of the real property on which the Premises and Improvements are located. On written request of the holder of any security instrument ("Lender") or City, Tenant shall execute, acknowledge, and deliver any documents evidencing subordination that the Lender or City may reasonably request. For each security instrument, the Lender shall agree in writing that, in the event of a default under the security instrument, Lender shall not terminate this Lease and shall not disturb Tenant's right to possession under this Lease, provided Tenant is not then in default under this Lease and continues thereafter to fully perform all of its obligations under this Lease.

B. Notwithstanding the provisions of Subsection A of this Section, any Lender may subordinate its security instrument to this Lease by executing and recording a written document subordinating its security instrument to this Lease as provided in the document. In that case, this Lease shall be deemed prior to the security instrument as provided in the document, without regard to the execution, delivery, or recording dates of the subordination document or the security instrument. Subordination of a security instrument described in this subsection shall not require the consent of Tenant, but Tenant agrees to execute and deliver, in recordable form, any instrument requested by Lender or City to confirm or acknowledge the subordination.

## **23. SURRENDER OF PREMISES AND IMPROVEMENTS AT END OF TERM**

On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Premises and Improvements to the City in good condition, broom clean, ordinary wear and tear excepted. Tenant shall repair any damage to the Premises and Improvements, and furnishings provided by City, occasioned by Tenant's use thereof, or by the removal of Tenant's trade fixtures, furnishings and equipment, which repair shall

include the patching and filling of holes and repair of structural damage. Tenant may remove all of its personal property and fixtures on the Premises prior to the expiration of the term of this Lease, so long as Tenant continues to perform its service obligations in accordance with the requirements hereof.

## 24. ESTOPPEL CERTIFICATES

Each party, within a reasonable time after notice from the other party, shall execute and deliver to the other party a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modification. The certificate shall also state the amount of minimum monthly rent, the dates to which rent has been paid in advance, and the amount of any prepaid security deposit or prepaid rent, if any, and acknowledge that there are not, to that party's knowledge, any uncured defaults on the part of the other part, or specifying such defaults, if any, which are claimed. Failure to deliver such a certificate within a reasonable time period shall be conclusive upon the party failing to deliver the certificate to the benefit of the party requesting the certificate that this Lease is in full force and effect, that there are not uncured defaults hereunder, and that the Lease has not been modified except as may be represented by the party requesting the certificate.

## 25. GENERAL PROVISIONS

A. Attorneys' Fees. In the event that any action is brought by either party hereto as against the other party hereto for the enforcement or declaration of any right or remedy in or under this Lease or for the breach or enforcement of any covenant or condition of this Lease, the prevailing party shall be entitled to recover reasonable attorneys' fees and litigation costs from the other party.

B. Waiver.

1. No waiver of any breach of any of the terms, covenants, agreements, restrictions or conditions of this Lease shall be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions and conditions hereof.

2. City's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of City's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by City shall not constitute a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted, regardless of City's knowledge of such preceding breach at the time of its acceptance of such rent.

C. Lease Binding on Successors and Assigns.

1. Subject to the limitations on assignment, each of the terms, covenants and conditions of this Lease shall extend to and be binding on and inure to the benefit of not only City and Tenant, but to each of their respective successors and assigns. Whenever in this Lease reference is made to either City or Tenant, the reference shall be deemed to include, whenever applicable, the legal representatives, successors and assigns of each of the parties, the same as if they were in every case expressed.

2. The term "City" or "Landlord" as used in this Lease shall mean only the owner or owners of the fee title to the Premises at the time in question, or a lessee's interest in a ground lease of the Premises. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers to the then successor) shall be relieved from and after the date of such transfer of all liability in respect to that Landlord's obligations thereafter to be performed. The obligations contained in this Lease to be performed by Landlord shall be binding upon the Landlord's successors and assigns, only during their respective periods of ownership.

D. Entry by City; Inspection. City reserves the right for City and City's agents and representatives to enter upon the Premises and Improvements at any reasonable time and after reasonable notice to Tenant for the purpose of inspecting the Premises and Improvements to examine the condition thereof, including their environmental condition; showing the same to prospective purchasers, tenants or lenders; making such alterations, repairs, improvements or additions to the Premises or Improvements as City deems reasonable or necessary; or attending to City's business and City's interest hereunder, as City may deem necessary or desirable. City may, at any time during the last one hundred eighty (180) days of the term of this Lease, place any ordinary "For Sale or Lease" signs on the Premises or Improvements, without rebate of rent or liability to Tenant.

E. Relationship of the Parties. The relationship of the parties hereto is that of landlord and tenant, and it is expressly understood and agreed that City does not in any way, nor for any purpose, become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business, or otherwise.

F. Incorporation of Prior Agreements. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified only in writing, and signed by the parties in interest at the time of such modification.

G. Time of Essence. Time is expressly declared to be of the essence of this Lease. Each term and each provision of this Lease, performable by Tenant, shall be construed to be both a covenant and a condition.

H. Quitclaim. At the expiration or earlier termination of this Lease, Tenant shall execute, acknowledge and deliver to City, within five (5) days after written demand from City to Tenant, any quitclaim deed or other document deemed necessary or desirable by City's counsel to remove any cloud of this Lease from the real property subject hereto.

I. Construction of Lease. The language in all parts of this Lease shall, in all cases, be construed as a whole and in accordance with its fair meaning and not restricted for or against either City or Tenant. The captions of the sections and subsections of this Lease are for convenience only and shall not be considered or referred to in resolving questions of construction.

J. "City" and "Tenant". The words "City" and "Tenant," wherever used herein, shall be applicable to one or more persons, as the case may be; the singular shall include the plural; the neuter shall include the masculine and feminine; and, if there be

more than one, obligations thereof shall be joint and several. The word "person," whenever used herein, shall include individuals, firms, associations and corporations. Whenever in this Lease any words denoting undertaking, covenant or duty are used, such words shall have the same force and effect as though made in the form of conditions.

K. Choice of Law; Venue. This Lease shall be governed by the laws of the State of California, with venue for any legal actions which may be brought by either party against the other party in the County of San Bernardino, California.

## 26. NOTICES

Any notice to be given or other document to be delivered by either party to the other hereunder may be delivered in person to either party, or may be deposited in the United States mail, in the State of California, duly registered or certified, with postage fully prepaid and addressed to the party for whom intended as follows:

TO CITY:                   City Manager  
                                  City of Highland  
                                  27215 Base Line  
                                  Highland, Ca 92346

TO TENANT:               YMCA of the East Valley  
                                  500 E. Citrus Ave  
                                  Redlands, Ca 92373

Either party hereto may, from time to time, by written notice to the other party, designate a different address which shall be substituted for the one above specified. If any notice or other document is sent by registered or certified mail, as aforesaid, the same shall be deemed served or delivered on the third business day after the mailing thereof, as above provided.

## 27. INCORPORATION OF PRIOR AGREEMENTS/ENTIRE AGREEMENT

A. This Lease constitutes the entire agreement of the parties concerning the subject matter hereof and all prior agreements and understandings, oral or written, are hereby merged herein. This Lease may not be modified or amended except in a writing duly approved and signed by all of the parties hereto. Both parties agree that no estoppel argument can be raised during legal proceedings in order to avoid the provisions of this Section.

B. Addenda. Any addendum attached hereto and either signed or initialed by the parties, indicating their written consent thereto, amending this Lease or any provision hereof, shall be deemed a part hereof and shall supersede any conflicting terms or provisions contained in this Lease.

**28. FORCE MAJEURE**

The time within which either party hereto shall be required to perform any act under this Lease shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably by strikes, lockouts, acts of God, governmental restrictions, failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body, enemy action, civil disturbance, intergalactic invasion, fire, unavoidable casualties or any other cause beyond the reasonable control of either party hereto, excluding, however, the inability or failure of either party to obtain any financing which may be necessary to carry out its obligations.

**29. MEMORANDUM OF LEASE**

The parties hereto shall, promptly after the execution hereof, execute, acknowledge and record in the office of the County Recorder of San Bernardino County and deliver, a memorandum of this Lease, in the form set forth at **Exhibit E** and incorporated herein.

**30. SEVERABILITY**

If any provision of this Lease shall be adjudged to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision(s) hereof, the parties hereby agreeing that they would have entered into the remaining portion of this Lease notwithstanding the omission of the portion or portions adjudged invalid, void or illegal.

**31. COUNTERPARTS**

This Lease may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease on the date and year first above written.

**[Signatures continued on next page]**

CITY OF HIGHLAND

*Ken Stein*  
Mayor

ATTEST:

*Betty Hughes*  
City Clerk

APPROVED AS TO FORM:

*Margaret P. Patton*  
City Attorney

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By: *Ken Stein*  
Name: KEN STEIN  
Title: GENERAL DIRECTOR

By: *C. P. Tickell*  
Name: Christopher P. Tickell  
Title: Highland Committee Chair

By: *Bill Hamm, Jr.*  
Name: BILL HAMM, JR.  
Title: Chairman of the Board

**EXHIBIT A**

**Legal Description of Premises**

**EXHIBIT "A"**

BEING A PORTION OF THE SOUTHERLY 1,000 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 5, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND ON FILE IN THE BUREAU OF LAND MANAGEMENT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF CENTRAL AVENUE AND HIBISCUS STREET;

THENCE SOUTH 87°17'06" EAST ALONG SAID CENTERLINE OF HIBISCUS STREET, 611.98 FEET;

THENCE SOUTH 02°42'54" WEST, 40.00 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET (40.00-FOOT SOUTHERLY HALF WIDTH), SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 00°00'00" WEST, 240.67 FEET;

THENCE NORTH 89°55'43" WEST, 76.51 FEET;

THENCE SOUTH 55°30'30" WEST, 107.45 FEET;

THENCE SOUTH 90°00'00" WEST, 70.71 FEET;

THENCE SOUTH 00°00'00" EAST, 105.92 FEET;

THENCE NORTH 89°55'43" WEST, 330.25 FEET TO A POINT ON THE EAST LINE OF CENTRAL AVENUE (44.00-FOOT EASTERLY HALF WIDTH);

THENCE NORTH 00°04'35" EAST ALONG SAID EAST LINE, 424.08 FEET;

THENCE NORTH 46°25'19" EAST 13.36 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET;

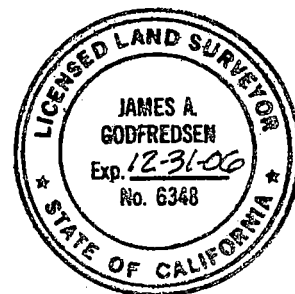
THENCE SOUTH 87°17'06" EAST ALONG SAID SOUTH LINE, 556.42 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 4.72 ACRES

PREPARED UNDER THE SUPERVISION OF:

  
JAMES A. GODFREDSEN

10-26-06  
DATE



CITY OF HIGHLAND  
COUNTY OF SAN BERNARDINO



SCALE: 1"=100'

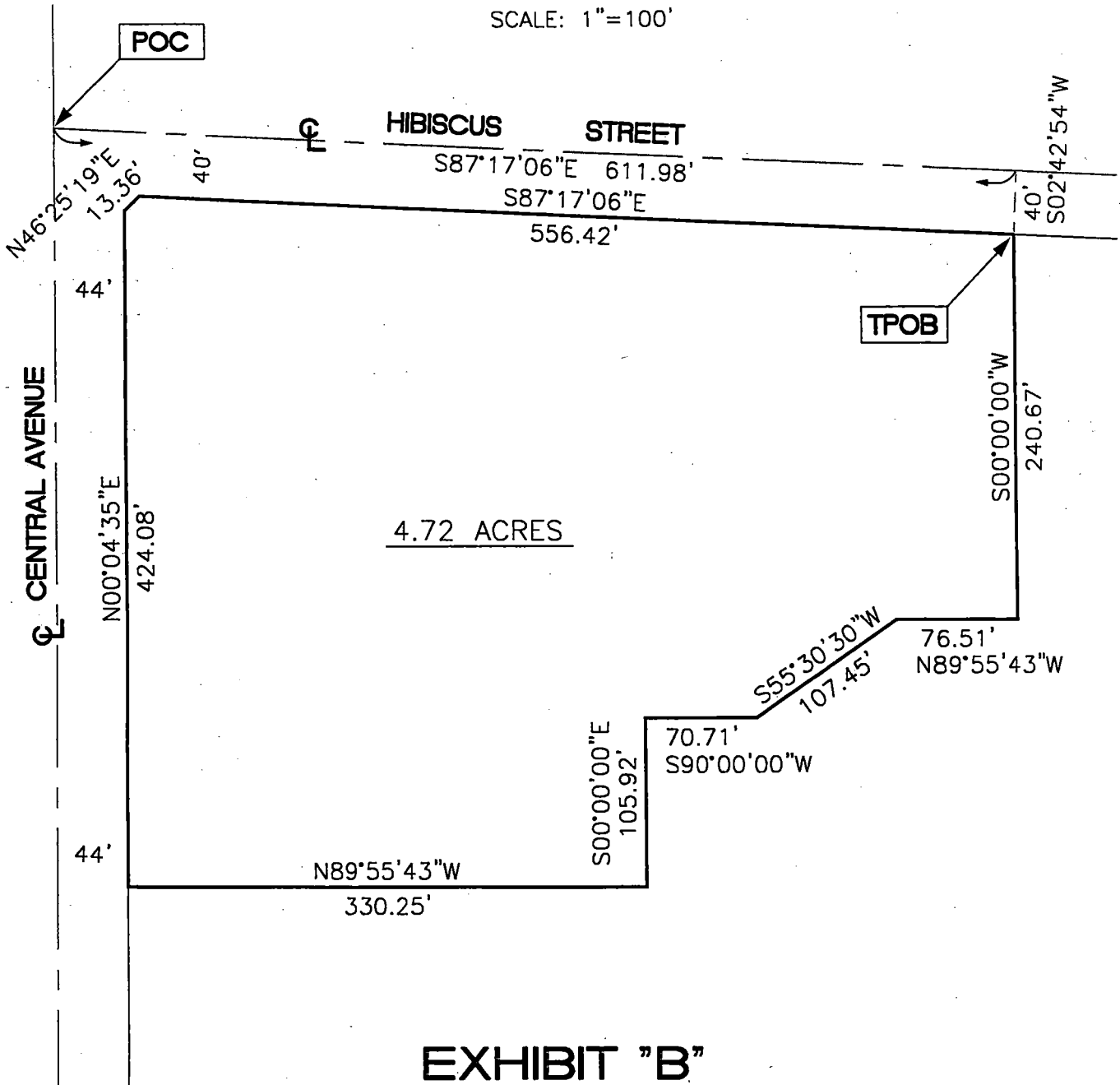


EXHIBIT "B"

PREPARED BY:  
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

## **EXHIBIT B**

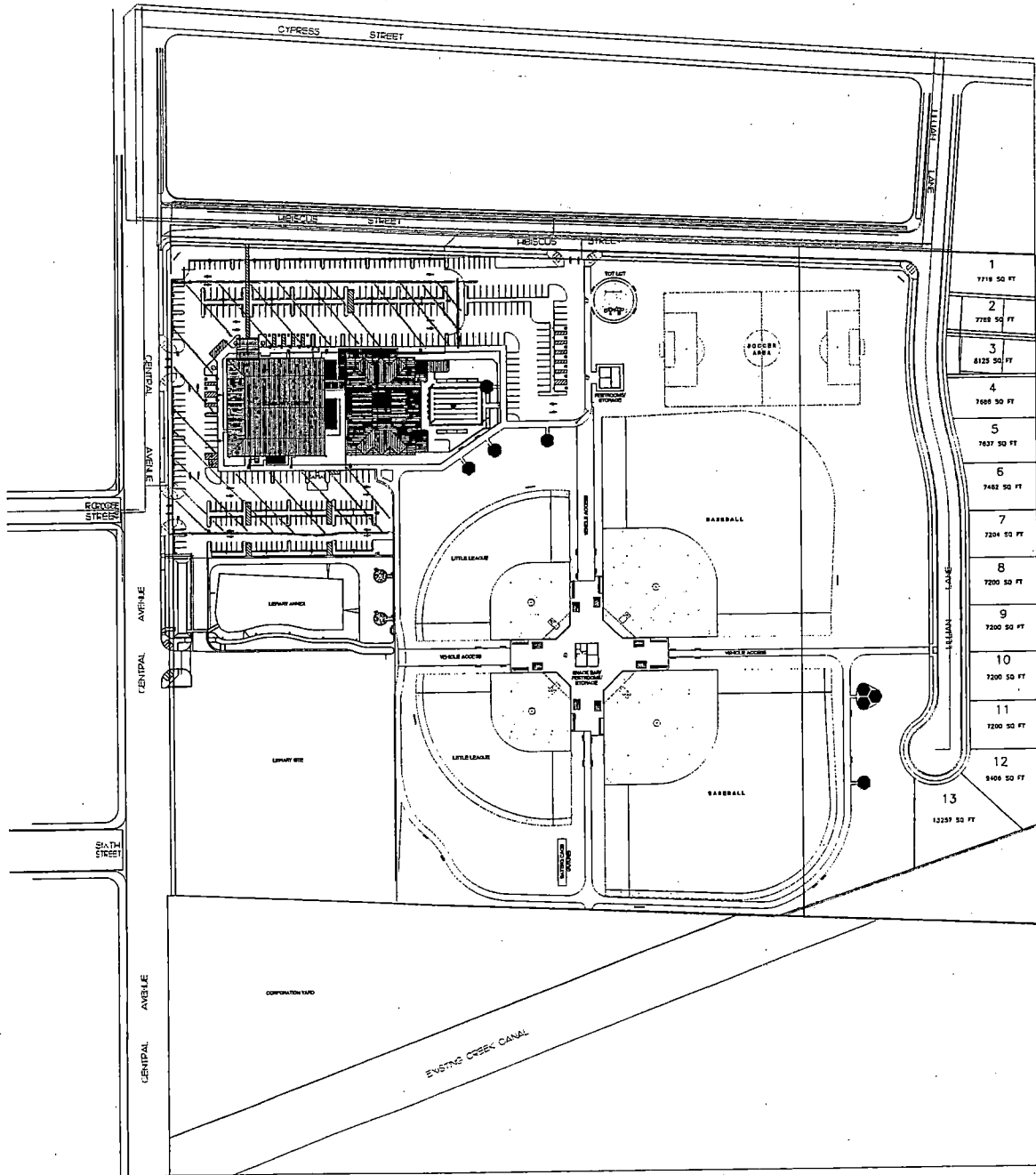
### **Site Plan of Community Park**

- 1. Park**
- 2. Community Center**
- 3. Athletic Center**
- 4. Parking Lots**
- 5. Number and Location of Designated Parking Spaces**
- 6. Other Common Areas Covered by Lease**



SEAL:

CONSULTANTS:



- 1 7718 SQ FT
- 2 7768 SQ FT
- 3 8125 SQ FT
- 4 7088 SQ FT
- 5 7837 SQ FT
- 6 7482 SQ FT
- 7 7204 SQ FT
- 8 7200 SQ FT
- 9 7200 SQ FT
- 10 7200 SQ FT
- 11 7200 SQ FT
- 12 8406 SQ FT
- 13 12257 SQ FT

EXHIBIT B

PROJECT FOR:  
**CITY OF HIGHLAND**  
 2725 Bascom Street  
 Highland, California 92346  
 PROJECT NAME:  
**Highland, California  
 PARK AREA PROJECTS**

ISSUE INFORMATION:  
 DATE: 5-7-05  
 INFORMATION:  
 CONCEPT DESIGN

SHEET INFORMATION:  
 PROJECT NO.:  
 SCALE: AS NOTED  
 DATE: 5-8-05  
 PLOT DATE:  
 DRAWING NAME:

SHEET TITLE:  
**MASTER PLAN**

SHEET NO.:



SCALE: 1/4" = 1'-0" 1

SITE PLAN

**EXHIBIT C**

**City Contributions/Funding Limitations**

**(First 4 years of Lease)**

## EXHIBIT C

	Year 1	Year 2	Year 3	Year 4
Scholarships	41,948	86,947	91,000	91,000
Additional City Operating Contribution	177,808	109,100	41,818	21,567
<b>Total</b>	<b>219,756</b>	<b>196,047</b>	<b>132,818</b>	<b>112,567</b>

Monthly maximum payment schedule based on actual costs:

January	18,313	16,337	11,068	9,381
February	18,313	16,337	11,068	9,381
March	18,313	16,337	11,068	9,381
April	18,313	16,337	11,068	9,381
May	18,313	16,337	11,068	9,381
June	18,313	16,337	11,068	9,381
July	18,313	16,337	11,068	9,381
August	18,313	16,337	11,068	9,381
September	18,313	16,337	11,068	9,381
October	18,313	16,337	11,068	9,381
November	18,313	16,337	11,068	9,381
December*	18,313	16,337	11,068	9,381

\*Final adjustment month up to maximum annual amount based on actual costs.

**EXHIBIT D**

**List of Equipment to be Provided by City**

**1. Description of Each Piece of Equipment**

City of Highland  
Fitness Equipment To Be Provided By City

<b>Equipment Description</b>	<b>Specifications</b>	<b>Unit</b>	<b>Qty</b>
Treadmills	Life Fitness 95Ti-03 230V Treadmill with HR or equal to	each	5
Elliptical Cross Trainers	Life Fitness 91X-01 DOM Cross Trainer or equal to	each	5
Stair Steppers	Life Fitness 95Si-02 DOM Stairclimber with HR or equal to	each	2
Recumbant Bikes	Life Fitness 95Ri-02 DOM Recumbant biker or equal to	each	2
Upright Bikes	Life Fitness 95Ci-02 DOM Lifecycle with HR or equal to	each	2
Upper Arm Ergometer	Techno Gym D370U-ING-E Top XT Pro 600 or equal to	each	1

**Selectorized Equipment**

Leg Press	Techno Gym M95160-ALVL Leg Press or equal to	each	1
Leg Curl	Techno Gym M99030-ALVL Leg Curl or equal to	each	1
Leg Extension	Techno Gym M99130-ALVL Leg Extension or equal to	each	1
Adductor	Techno Gym M91730-ALVL Adductor or equal to	each	1
Abductor	Techno Gym M91830-ALVL Abductor or equal to	each	1
Multi Hip	Techno Gym M96730-ALVL Multi Hip or equal to	each	1
Abdominal Crunch	Techno Gym M95730-ALVL Abdominal Crunch or equal to	each	1
Rotary Torso	Techno Gym M95030-ALVL Rotary Torso or equal to	each	1
Lower Back	Techno Gym M95830-ALVL Lower Back or equal to	each	1
Upper Back	Techno Gym M94630-ALVL Upper Back or equal to	each	1
Vertical Traction	Techno Gym M97130-ALVL Vertical Traction or equal to	each	1
Shoulder Press	Techno Gym M96930-ALVL Shoulder Press or equal to	each	1
Chest Press	Techno Gym M97030-ALVL Chest Press or equal to	each	1
Chest/Pectoral Fly	Techno Gym M91330-ALVL Pectoral or equal to	each	1
Arm/Tricep Extension	Techno Gym M94530-ALVL Arm Extension or equal to	each	1
Arm/Bicep Curl	Techno Gym M99230-ALVL Arm Curl or equal to	each	1
Chin up/Dip Machine	Techno Gym M98700ALVL Easy Chin Dip or equal to	each	1
Cable Crossover Machine	Life Fitness CMACO Cable Crossover or equal to	each	1
4 Station Lat Pulldown	Life FitnessMJ4 Multi Jungle or equal to	each	1
Smith Machine	Hammer Strength PLSM Smith Machine or equal to	each	1
Adjustable Bench	Life Fitness FWMAB Adjustable Bench (Pro Style) or equal to	each	1
FreeMotion Single Arm Crossover	FreeMotion Dual Cable Cross GZFM6024 or equal to	each	1

**Free Weights & Benches**

Rubber Coated Dumb Bells 5lb - 75lbs	Intek RubberDumbbells 5-75 ITDBR 5-75 or equal to	each	1
Dumbbell Racks Double Tier	Life Fitness Dumbbell Rack - double tier FWDR2 or equal to	each	2
Abdominal Crunch Benches	Life Fitness Ab Crunch Bench SABC or equal to	each	2
Utility Benches	Life Fitness Utility Bench - 75 FWUB&% or equal to	each	1
Flat benches	Life Fitness Flat Bench FWFB or equal to	each	3
Olympic Flat Bench	Life Fitness Olympic Flat Bench OFB or equal to	each	1
Olympic Bench Weight Stacks	Life Fitness Olympic Bench Weight Storage OBWS or equal to	each	2
Back Extension	Life Fitness Body Weight Back Extension BWAB or equal to	each	1
Leg Raise	Life Fitness Leg Raise BWLR or equal to	each	1
Rubber Olympic Plates 45lb	Intek Rubber Olympic Plate 45lb ITR-45 or equal to	each	12
Rubber Olympic Plates 35lb	Intek Rubber Olympic Plate 35lb ITR-35 or equal to	each	6
Rubber Olympic Plates 25lb	Intek Rubber Olympic Plate 25lb ITR-25 or equal to	each	6
Rubber Olympic Plates 10lb	Intex Rubber Olympic Plate 10lb ITR-10 or equal to	each	6
Rubber Olympic Plates 5lb	Intex Rubber Olympic Plate 5lb ITR-5 or equal to	each	6
Rubber Olympic Plates 2.5 lb	Intek Rubber Olympic Plate 2.5lb ITR-2.5 or equal to	each	6
Olympic Bar 45lb	IGX Olympic Bar 45lb or equal to	each	1
Olympic EZ Curl Bar	IGX Olympic EZ Curl Bar or equal to	each	1
Quick Release Collars	IQX Heavy-duty Quick Collars or equal to	each	6

**EXHIBIT E**

**Form of Memorandum of Lease**

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City Clerk  
City of Highland  
27215 Base Line  
Highland, CA 92346

---

[Space Above for Recorder's Use]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code § 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code § 11922.

### MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum") is dated as of \_\_\_\_\_, 2006, by and between the CITY OF HIGHLAND, a California municipal corporation ("City") and YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST VALLEY, INC. a California non-profit corporation ("Tenant").

### RECITALS

A. City and Tenant have entered into that certain Jerry Lewis Community Center and Highland Athletic Center Lease dated as of \_\_\_\_\_, 2006, (the "Lease"), pursuant to which City has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from City, premises which include the Jerry Lewis Community Center (the "Community Center") and the Highland Athletic Center (the "Athletic Center") and related amenities in the Highland Community Park, more commonly known as 7793 Central Avenue, in the City of Highland, County of San Bernardino, State of California and more particularly described on **Exhibit A** attached hereto (the "Premises") and appurtenances thereto (the "Improvements"), as provided in the Lease.

B. The Lease further provides for the termination of the Jerry Lewis Community Center Lease (the "Community Center Lease"), recorded on October 22, 2000, by the San Bernardino County Recorder as Document No. 20000390516, upon the effective date of the Lease, as set forth above.

C. City and Tenant now desire to enter into this Memorandum to provide record notice of the Lease.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Tenant agree as follows:

1. Lease. City hereby leases and demises the Premises to Tenant, and Tenant hereby leases and accepts the Premises from City, for an initial term of four (4) years, commencing on \_\_\_\_\_, 2006, at the rental and upon the other terms and conditions set forth in the Lease, which terms and conditions are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only, and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the applicable term or condition of the Lease shall prevail.

3. Counterparts. This Memorandum may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

**CITY OF HIGHLAND**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

[Corporate Seal]

**YOUNG MEN'S CHRISTIAN ASSOCIATION  
OF THE EAST VALLEY, Inc., a California  
non-profit corporation**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[Signatures continued on next page]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Highland Committee Chair

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Chairman of the Board

**[Signatures must be notarized]**

**EXHIBIT A**

**Legal Description of the Premises**

**EXHIBIT "A"**

BEING A PORTION OF THE SOUTHERLY 1,000 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF FRACTIONAL SECTION 5, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF SAID LAND ON FILE IN THE BUREAU OF LAND MANAGEMENT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF CENTRAL AVENUE AND HIBISCUS STREET;

THENCE SOUTH 87°17'06" EAST ALONG SAID CENTERLINE OF HIBISCUS STREET, 611.98 FEET;

THENCE SOUTH 02°42'54" WEST, 40.00 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET (40.00-FOOT SOUTHERLY HALF WIDTH), SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 00°00'00" WEST, 240.67 FEET;

THENCE NORTH 89°55'43" WEST, 76.51 FEET;

THENCE SOUTH 55°30'30" WEST, 107.45 FEET;

THENCE SOUTH 90°00'00" WEST, 70.71 FEET;

THENCE SOUTH 00°00'00" EAST, 105.92 FEET;

THENCE NORTH 89°55'43" WEST, 330.25 FEET TO A POINT ON THE EAST LINE OF CENTRAL AVENUE (44.00-FOOT EASTERLY HALF WIDTH);

THENCE NORTH 00°04'35" EAST ALONG SAID EAST LINE, 424.08 FEET;

THENCE NORTH 46°25'19" EAST 13.36 FEET TO A POINT ON THE SOUTH LINE OF HIBISCUS STREET;

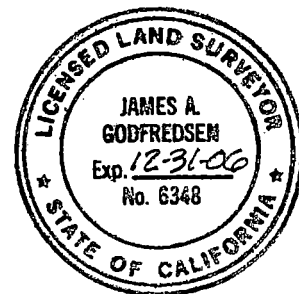
THENCE SOUTH 87°17'06" EAST ALONG SAID SOUTH LINE, 556.42 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 4.72 ACRES

PREPARED UNDER THE SUPERVISION OF:

  
JAMES A. GODFREYSEN

10-26-06  
DATE



CITY OF HIGHLAND  
COUNTY OF SAN BERNARDINO



SCALE: 1"=100'

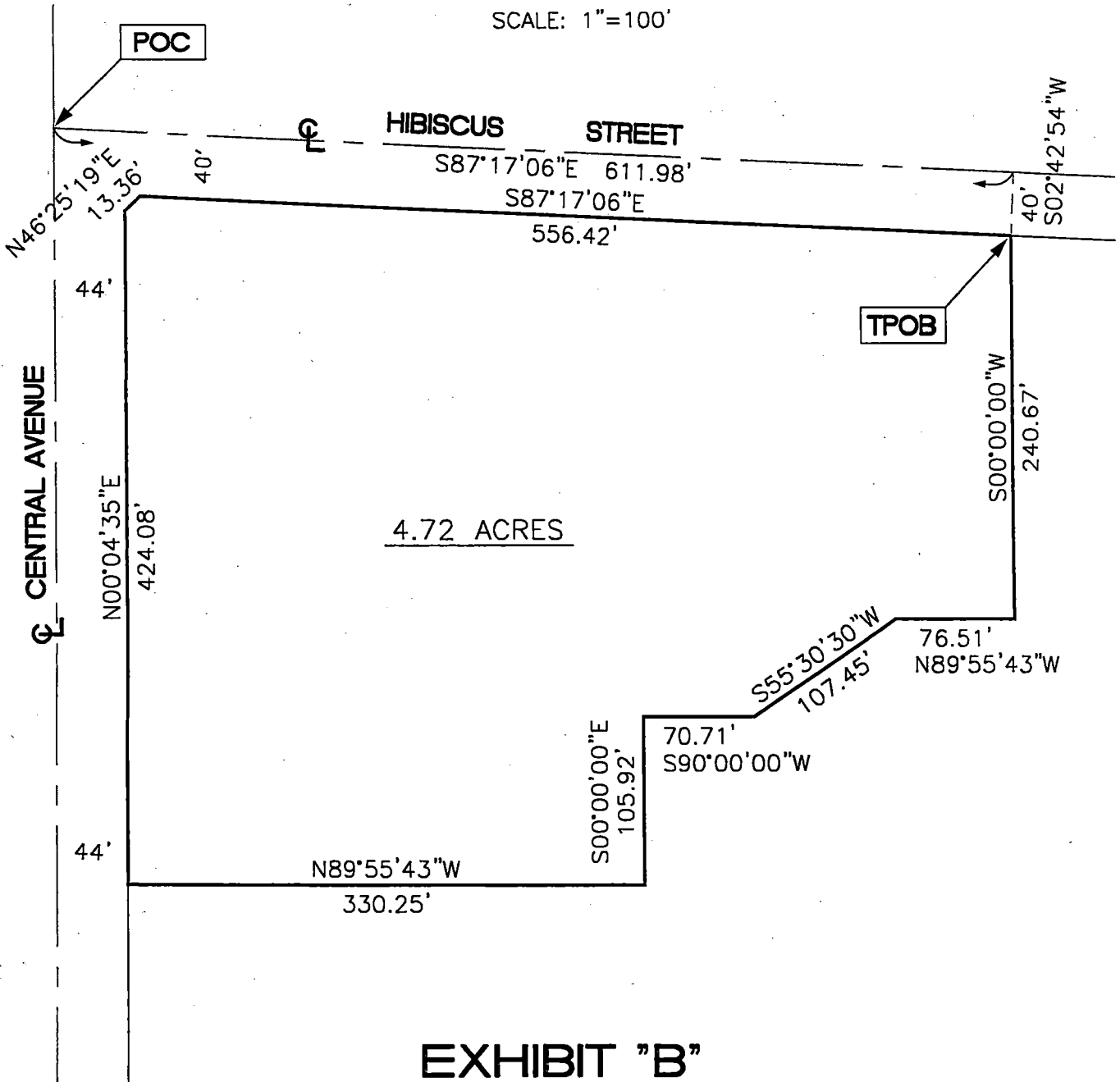
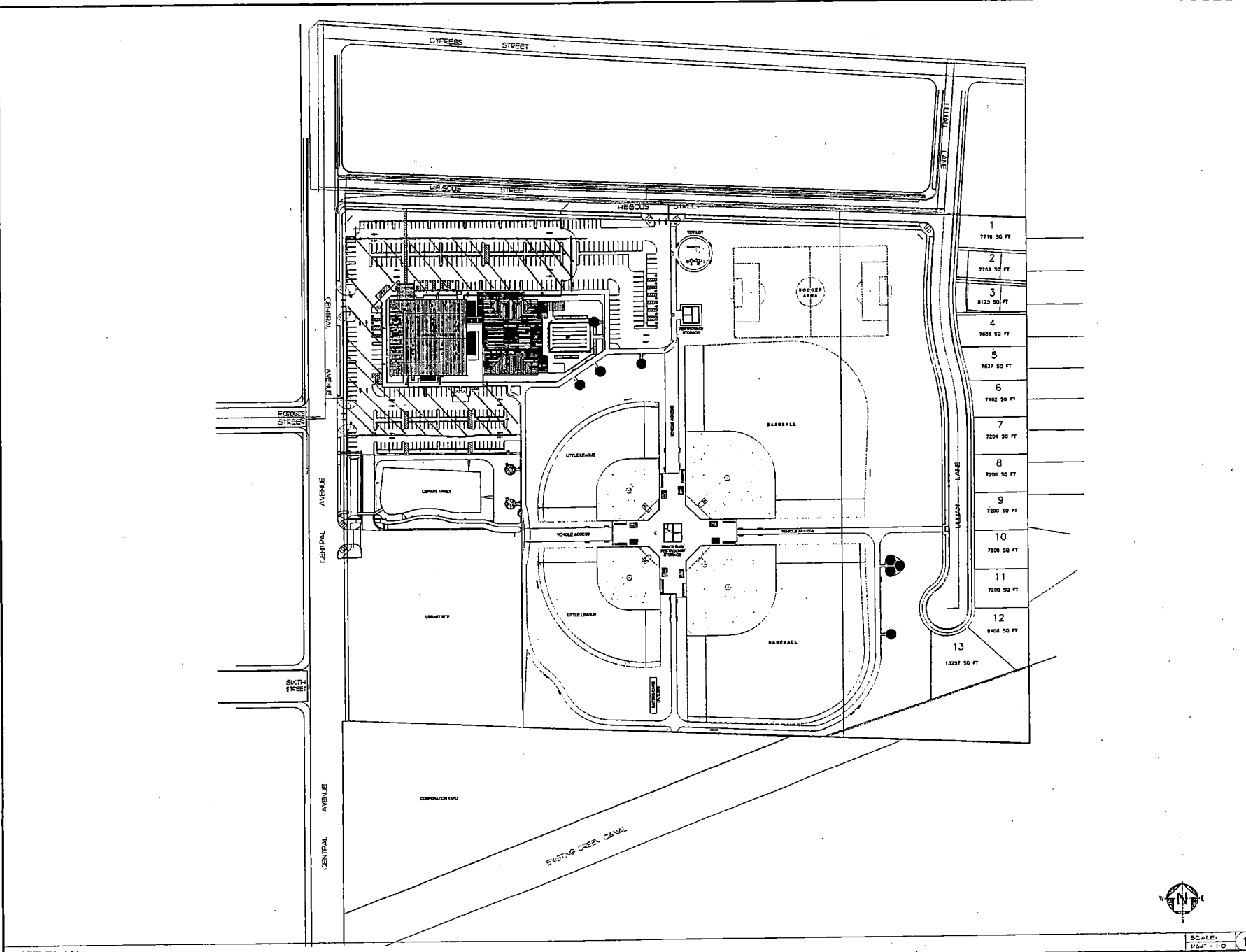


EXHIBIT "B"

PREPARED BY:  
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

**EXHIBIT B**

**Site Plan**



SITE PLAN

SCALE: 1/8" = 1'-0" 1



CONSULTANTS:

PROJECT FOR:  
**CITY OF HIGHLAND**  
 2725 Baseline Street  
 Highland, California 92340  
 PROJECT NAME:  
**Highland, California  
 PARK AREA PROJECTS**

ISSUE INFORMATION:  
 DATE: INFORMATION:  
 5/17/05 CONCEPT DESIGN

SHEET INFORMATION:  
 PROJECT NO.:  
 SCALE: AS NOTED  
 DATE: 5-11-05  
 PLOT DATE:  
 DRAWING TITLE:

SHEET TITLE:  
**MASTER  
 PLAN**

SHEET NO.:

Recording Requested by  
and when Recorded-Mail  
to:

Recorded in Official Records, County of  
San Bernardino, Larry Walker, Recorder

No Fee

Doc No. 20000390516

10:25am 10/26/00

City Clerk  
City of Highland  
27215 Base Line  
Highland, Ca 92346

205 20274395 02 23

1	2	3	4	5	6	7	8	9	0
PG	FEE	APF	GIMS	PH CPY	CRT CPY	ADD NM	PEN PR	PCOR	
17	0								
			5				6		
NON ST	LN	SVY	CIT-CO	TRANS TAX	DA	CHRG	EXAM		

### JERRY LEWIS COMMUNITY CENTER LEASE

#### 1. PARTIES

This Lease is made and entered into this 22<sup>nd</sup> day of September 2000 by and between the YMCA of Redlands Inc. (herein after referred to as "Tenant") and the City of Highland (herein referred to as "Landlord").

#### 2. PREMISES

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, on the terms and conditions hereinafter set forth, that certain real property and the building and other improvements located thereon situated in the City of Highland, County of San Bernardino, State of California, commonly known as Jerry Lewis Community Center and described as 7793 Central Ave. (said real property is hereinafter called the "Premises").

#### 3. TERM

The term of this Lease shall be for five (5) years, commencing on February 1, 2001 and ending on January 31, 2006, unless sooner terminated as hereinafter provided.

#### 4. RENT

The Tenant shall pay to Landlord as rent for the Premises the following sums per year, in advance on the first day of January during the term of this Lease. The sum of \$1.00 (one dollar) per year.

Rent shall be payable in lawful money of the United States to the Landlord at the address stated herein for notices or to such other person or such other place as the Landlord may designate to Tenant in writing.

## **5. SECURITY DEPOSIT**

Tenant shall not deposit with Landlord upon the execution of this Lease any security deposit.

## **6. USE**

Recreational, Educational, or any other legal or similar use.

Tenant shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the building in which the Premises are located. Tenant shall comply with all laws concerning the Premises or Tenant's use of the Premises. Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste. Tenant hereby accepts the Premises upon completion of required Tenant Improvements subject to approval of all applicable zoning, City, County and State laws, ordinances, regulations governing or regulating the use of the Premises and accepts this Lease subject thereto and to all matters disclosed thereby.

## **7. TAXES**

### **(a) Real Property Taxes**

Landlord shall pay all real property taxes and general assessments levied and assessed against the Premises, except possessory interest taxes, during the term of this Lease. Possessory interest taxes shall be paid by Tenant.

### **(b) Personal Property Taxes**

Tenant shall pay prior to delinquency all taxes assessed against and levied upon the trade fixtures, furnishings and equipment and all other personal property to be assessed and billed separately from the property of the Landlord.

### **(c) Possessory Interest Taxes**

Tenant has been advised and agrees that the property interest which is conveyed herein may be subject to property taxation and that Tenant may be subject to the payment of property taxes levied on that interest.

## **8. UTILITIES**

Tenant pays for all electricity, gas, water for building, sewer, phone, trash, custodial, fire sprinkler testing and security monitoring. Landlord shall pay for landscaping services and water for landscaping.

## **9. MAINTENANCE AND REPAIRS**

### **(a) Landlord's Obligations**

Except as provided in Article 12, and except for damage caused by the negligence or intentional act or omission of Tenant, Tenant's agents, employees, or invites, Landlord at its sole cost and expense shall keep in good condition and repair the foundations, exterior walls, and exterior roof of the premises. Landlord shall also maintain the unexposed electrical, plumbing, and sewer systems including, without limitation, those portions lying outside the Premises: utility lines and service to common areas and premises, window frames, gutters, and down spouts on the building, all sidewalks, landscaping, fencing, plate glass windows, glazing exterior signs, marquee flooring, and other improvements that are a part of the Premises or of which the Premises are a part of. The Landlord shall also maintain the heating, ventilating and air conditioning systems servicing the Premises. Landlord shall resurface and restripe the parking area on or adjacent to the Premises when necessary. Landlord shall have thirty (30) days after notice from Tenant to commence to perform its obligation under this Article 9, except that Landlord recognizes that owing to the nature of the Tenant's use of the property for recreational and educational purposes, Tenant has the right to take whatever corrective measures necessary with respect to electrical, plumbing, and sewage systems, if in the opinion of Tenant, a hazard or emergency situation exists. Tenant shall have the right to be reimbursed for the amounts expended in the performance of Landlord's obligations in such situations. If Landlord does not reimburse Tenant within thirty (30) days after demand from Tenant, Tenant shall have the right to withhold from future rent the sums the Tenant has expended.

### **(b) Tenant's Obligations**

Subject to the provisions of sub-paragraph (a) above and article 12, Tenant at Tenant's sole cost and expense shall keep in good order, condition and repair all Tenant's personal property, signs, Interior: doors, walls, interior ceilings, (excluding water damage) and lighting fixtures that have been damaged as a result of Tenant's use of the premises. Tenant shall at all times keep the Premises (including the interior and exterior storefront surfaces) in a clean, safe, sanitary, and orderly condition. Tenant shall at its sole cost and expense maintain premises free from insects, pests and vermin. At its sole expense, Tenant shall replace any cracked or broken storefront glass on the Premises with glass equal in quality and similar in kind to that originally installed on the Premises. Tenant shall

pay for and replace any light bulbs in premises. Tenant shall be responsible for sweeping of parking lot. Tenant shall comply with all Health Department requirements for the operation of the kitchen including assuring that all caterers comply with those requirements.

If Tenant fails to perform Tenant's obligations as stated herein, Landlord may at its option (but shall not be required to), enter the premises, after ten (10) days prior to written notice to Tenant, put the same in good order, condition and repair, and the costs thereof shall become due and payable as additional rental to Landlord together with tenant's next rental installment.

Tenant pays for repair of Tenant induced problems.

## **10. ALTERATIONS AND ADDITIONS**

Tenant shall not, without the Landlord's prior written consent, make any alterations, improvements or additions in or about the Premises except for non-structural work which does not exceed \$3,500.00 in cost.

Before commencing any work relating to the alterations, additions, or improvements affecting the Premises, Tenant shall notify Landlord in writing of the expected date of commencement of such work so that the Landlord can post and record the appropriate notices of non-responsibility to protect the Landlord from any mechanics liens, or any other liens. In any event, Tenant shall pay, when due, all claims for labor and materials furnished to or for Tenant at or for use in the Premises. Tenant shall not permit any mechanic's lines or materialmen's liens to be levied against the Premises for any labor or materials furnished to Tenant or Tenant's agents or contractors in connection with work of any character performed or claimed to have been performed in the Premises by or at the direction of Tenant. Tenant shall have the right to assess the validity of any such lien if, immediately on demand by Landlord, Tenant procures and records a lien release bond meeting the requirements of California Civic Code Section 3143 and shall provide for the payment of any sum that the claimant may recover on the claim (together with the costs of suit, if it is recovered in the action).

All alterations, improvements or additions which are made on the Premises by the Tenant shall become the property of the Landlord and shall remain upon and be surrendered with the Premises at the expiration of the term. Notwithstanding the provisions of this paragraph, Tenant's trade fixtures, furniture, equipment and other machinery, other than which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of the Tenant and may be removed by the Tenant on or before the expiration of the term of this Lease.

## 11. INSURANCE

(a) Tenant shall, at its own cost and expense, procure and maintain during the entire term of this Lease the following insurance coverage:

1. Comprehensive general public liability insurance insuring against the risks of bodily injury, property damage, and personal injury liability occurring on the Premises or arising out of Tenant's use or occupancy of the Premises, with a combined single limit of liability of at least \$1,000,000.00, and a general aggregate limit of at least \$3,000,000.00.
2. Fire and extended coverage insurance, and vandalism and malicious mischief insurance, insuring Tenant's fixtures, goods, wares, and merchandise in or on the Premises for 100 percent of their full insurable and replacement costs, without deduction or depreciation.
3. Plate glass insurance covering all plate glass on the Premises.
4. Workers' compensation insurance as required by the laws of the State of California.

Tenant's policy of liability insurance shall list Landlord as an additional insured and shall also contain an endorsement that although Landlord is listed as an additional insured, Landlord shall be entitled to recover under the policy for any loss or damage occasioned to it or its agents or employees by reason of Tenant's negligence.

(b) Any insurance policy Tenant is required to procure and maintain under this Lease shall be issued by a responsible insurance company or companies licensed to do business in the State of California. Further, each such policy shall provide that it may not be canceled, terminated, or changed except after thirty (30) days prior written notice to Landlord. Tenant may maintain all or part of the insurance required under this Lease by means of a blanket insurance policy so long as the provisions of this Article are satisfied. Tenant must deliver to Landlord duplicate originals or certificates of all insurance policies procured by Tenant.

(c) Tenant may not do, omit to do, permit to be done, or keep anything in or on the Premises that will violate the provisions of the liability insurance policy or otherwise adversely affect the ability of either Landlord or Tenant to maintain appropriate insurance in effect with respect to the Premises. If any such act or omission by Tenant results in an increase in Landlord's premiums for any policies maintained by Landlord on the Premises, Tenant shall pay the amount of the increase. Landlord may also, at

Landlord's option, rectify the condition causing the increase if Tenant fails to do so. In that case, on demand of Landlord, the amount expended by Landlord shall be immediately due and payable by Tenant as Additional Rent.

(d) If during the term of this Lease Tenant fails to secure or maintain the insurance required under this Lease, Landlord may obtain the insurance for the Premises in Tenant's name or as the agent of Tenant, and Tenant shall compensate Landlord for the cost of the insurance premiums. Tenant shall reimburse Landlord the full amount paid no later than ten (10) days from the date written notice is received that the premiums have been paid. A failure by Tenant to make reimbursement within the time required under this Subparagraph shall be considered a default under this Lease.

(e) Subrogation Waiver. Landlord and Tenant agree that in the event of loss due to any of the perils for which they have agreed to provide insurance, each party shall look solely to its insurance for recovery. Landlord and Tenant hereby grant to each other, on behalf of any insurer providing insurance to either of them with respect to the Premises, a waiver of any right of subrogation that any such insurer of one party may acquire against the other by virtue of payment of any loss under that insurance.

## **12. INDEMNIFICATION**

Landlord shall not be liable to Tenant, and Tenant hereby waives all claims against Landlord, for any injury or damage to any person or property on or about the Premises by or from any cause whatsoever, excepting injury or damage to Tenant resulting from the acts or omissions of Landlord or Landlord's authorized agents. Tenant agrees to hold Landlord harmless from and defend Landlord against any and all claims or liability for any injury or damage to any person or property, occurring in, on, or about the Premises or any part of the Premises, excepting any damage or injury caused in part or in whole by the act or omission of any duty by Landlord or Landlord's agents or employees.

## **13. CONDEMNATION**

If the premises or any portion thereof are taken by the power of eminent domain, or sold by Landlord under the threat of exercise of said power (all of which is herein referred to as "condemnation"), this lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If more than twenty (20%) percent of the floor area of any buildings on the Premises, or more than twenty (20%) percent of the land area of the Premises not covered with buildings, is taken by condemnation, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes possession by notice in writing of such election within twenty

(20) days after Landlord shall have notified Tenant of such taking or, in the absence of such notice, then within twenty (20) days after the condemning authority shall have taken possession.

If this lease is not terminated by either Landlord or Tenant as provided hereinafter, then it shall remain in full force and effect as to the portion of the Premises remaining, provided that the rental shall be reduced in proportion to the floor areas of the buildings taken within the Premises as bears to the total floor area of the buildings located on the Premises. In the event that this lease is not so terminated, then Landlord agrees at Landlord's sole cost and expense, to as soon as reasonably possible restore the Premises to a complete unit of like quality and character as existed prior to the condemnation.

All awards for the taking of any part of the Premises or any payments made under the threat of the exercise of the power of eminent domain shall be the property of the Landlord, whether made as compensation for the diminution of the value of the leasehold or for the taking of the fee or as severance damages; provided, however, that Tenant shall be entitled to any award for loss of or damage to Tenant's trade fixtures and removable personal property.

Each party hereby waives the provisions of Code of Civil Procedure 1265.130 allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Premises.

#### **14. ASSIGNMENT AND SUBLETTING**

Tenant shall not assign this Lease to other than a qualified nonprofit (501c(3)) corporation and may not assign this Lease without Landlord's prior, written consent, which consent shall not be unreasonably withheld. The premises will not be sublet.

#### **15. DEFAULT**

Tenant shall not be in default under any terms of this Lease without 30 days written notification by Landlord expressing the nature of any violation of Lease provision.

(a) There is no lease default if rent or related expense is less than 10 business days late.

(b) Failure to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) after written notice thereof has been given to Tenant by Landlord. If the default cannot reasonably be cured within said thirty (30) day period, Tenant shall not be in default under this Lease if the Tenant commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(c) The making by Tenant by any general assignment, or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days; the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in the Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interests in the Lease, where such seizure is not discharged within thirty (30) days, shall constitute a default under this Lease.

#### Landlord's Remedies:

The Landlord shall have the following remedies if Tenant commits a default under this Lease. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

Landlord can continue this Lease in full force and effect, and the Lease will continue in effect so long as Landlord does not terminate Tenant's right to possession, and the Landlord shall have the right to collect rent when due. After Tenant's default and for so long as Landlord has not terminated Tenant's right to possession on the Premises, if Tenant obtains Landlord's consent, Tenant shall have the right to assume, sublet or assign its interest in the Lease, per Article 14.

If Tenant is in default under terms of this Lease, Landlord may, after thirty (30) days written notice of default, terminate Tenant's right to possession of the Premises. No act by Landlord other than giving written notice to Tenant shall terminate this lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver on Landlord's initiative to protect Landlord's interest in this Lease shall not constitute a termination of Tenant's right to possession.

#### **16. SIGNS**

Signs placed on the Premises by the Tenant shall be in compliance with the City's sign ordinance.

#### **17. EARLY POSSESSION**

In the event that the Landlord shall permit Tenant to occupy the Premises prior to the commencement date of the term of this Lease, such occupancy shall be subject to all the provisions of this lease. Said early possession shall not advance the termination date of this lease.

## **18. SUBORDINATION**

(a) Except as provided in Subparagraph (b) of this Paragraph, this Lease and all of Tenant's rights in the lease shall be subject and subordinate to any mortgage, deed of trust, ground lease, or other instrument of encumbrance (collectively referred to in this Paragraph as a "security instrument") that is now or hereafter placed against any part of the real property on which the Community Center is located. On written request of the holder of any security instrument ("Lender") or Landlord, Tenant shall execute, acknowledge, and deliver any documents evidencing subordination that the Lender or Landlord may reasonably request. For each security instrument, the Lender shall agree in writing that, in the event of a default under the security instrument, Lender shall not terminate this Lease and shall not disturb Tenant's right to possession under this Lease, provided Tenant is not then in default under this Lease and continues thereafter to fully perform all of its obligations under this Lease.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, any Lender may subordinate its security instrument to this Lease by executing and recording a written document subordinating its security instrument to this Lease as provided in the document. In that case, this Lease shall be deemed prior to the security instrument as provided in the document, without regard to the execution, delivery, or recording dates of the subordination document or the security instrument. Subordination of a security instrument described in this Subparagraph shall not require the consent of Tenant, but Tenant agrees to execute and deliver, in recordable form, any instrument requested by Lender or Landlord to confirm or acknowledge the subordination.

## **19. SURRENDER**

On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Premises to the Landlord in good condition, broom clean, ordinary wear and tear accepted. Tenant shall repair any damage to the Premises occasioned by its use thereof, or by the removal of Tenant's trade fixtures, furnishings and equipment which repair shall include the patching and filling of holes and repair of structural damage. Tenant may remove all of its personal property and fixtures on the Premises prior to the expiration of the term of this Lease.

## **20. HOLDING OVER**

If the tenant remains in possession of the Premises after the expiration or termination of the term of this Lease, such possession by Tenant shall be deemed to be a tenancy from month-to-month at a rental in the amount of the last monthly rental plus all other charges payable hereunder, upon all the provisions of this Lease applicable to month-to-month tenancy.

## **21. BINDING ON SUCCESSORS AND ASSIGNS**

The terms, conditions and covenants of this Lease shall be binding and shall insure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

## **22. NOTICES**

Whenever under this Lease a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: City of Highland  
27215 Base Line  
Highland, Ca 92346

TO TENANT AT : YMCA of Redlands, Inc.  
500 E. Citrus Ave  
Redlands, Ca 92373

Such notices shall be deemed to be received within forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

## **23. LANDLORD'S RIGHT TO INSPECTIONS**

Landlord's and Landlord's agents shall have the right to enter the Premises at reasonable business hours for the purpose of inspecting same, showing the same to prospective purchasers or lenders, and making such alterations, repairs, improvements or additions to the Premises or to the building of which the Premises are a part as Landlord may deem necessary or desirable. Landlord may at any time place about two hundred (200) feet from Tenants leased Premises any ordinary "For Sale" signs and Landlord may at any time during the last one hundred twenty (120) days of the term of this Lease place on or about two hundred (200) feet the Premises any ordinary "For Sale or Lease" signs, all without rebate of rent or liability to Tenant.

## **24. CHOICE OF LAW**

This Lease shall be governed by the laws of the State of California.

## **25. ATTORNEY'S FEES**

If either party commences any litigation action against the other party arising out of or in connection with this Lease, each party shall be responsible for their own attorney's fees and costs of suit.

## **26. LANDLORD'S LIABILITY**

The term "Landlord" as used in this Lease shall mean only the owner or owners at the time in question of the fee title or a Lessee's interest in a ground Lease of the Premises. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers to the then successor) shall be relieved from and after the date of such transfer of all liability in respect to Landlord's obligations thereafter to be performed. The obligations contained in this Lease to be performed by Landlord shall be binding upon the Landlord's successors and assigns, only during their respective periods of ownership.

## **27. WAIVERS**

No waivers by Landlords of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not constitute a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of its acceptance of such rent.

## **28. INCORPORATION OF PRIOR AGREEMENTS**

This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified only in writing, and signed by the parties in interest at the time of such modification.

## **29. TIME**

Time is of the essence of this Lease.

## **30. SEVERABILITY**

If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Lease is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereon and shall in no way effect or impair the validity of this Lease or any other portion thereof.

## **31. ESTOPPEL CERTIFICATES**

Each party, within a reasonable time after notice from the other party, shall execute and deliver to the other party a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modification. The

certificate shall also state the amount of minimum monthly rent, the dates to which rent has been paid in advance, and the amount of any prepaid security deposit or prepaid rent, if any, as well as acknowledging that there are not, to that party's knowledge, any uncured defaults on the part of the other part, or specifying such defaults, if any, which are claimed. Failure to deliver such a certificate within a reasonable time period shall be conclusive upon the party failing to deliver the certificate to the benefit of the party requesting the certificate that this Lease is in full force and effect, that there is not uncured defaults hereunder, and has not been modified except as may be represented by the party requesting the certificate. Tenant will be allowed to return the estoppel certificate by third class mail. Landlord to submit to Tenant an accurate and fully completed estoppel for Tenant to review, execute and return.

### **32. COVENANTS AND CONDITIONS**

Each provision of this Lease performable by Landlord and Tenant shall be deemed both a covenant and a condition.

### **33. SINGULAR AND PLURAL**

When required by the context of this Lease, the singular shall include the plural.

### **34. JOINT AND SEVERAL OBLIGATIONS**

"Party" shall mean Landlord and Tenant; and if one or more person is the Landlord or Tenant, the obligations imposed on that party shall be joined and several.

### **35. OPTION TO EXTEND**

Provided that Tenant shall not be a fault hereunder, upon delivery by Tenant to Landlord of written notice of its election to exercise such option(s) at least ninety (90) days prior to the expiration of the original (or extended) term hereof.

Lessor grants to lessee the option to extend the term of the lease for three (3) additional periods of (3) years each, commencing on the following dates:

(1) February 1, 2006 for the first three (3) year option to extend Lease term (FIRST EXTENDED TERM).

(2) February 1, 2009 for the second three (3) year option to extend Lease term (SECOND EXTENDED TERM).

(3) February 1, 2012 for the third three (3) year option to extend Lease term (THIRD EXTENDED TERM).

Rental rate will be renegotiated at time notice is given to exercise option to extend. All terms and conditions during the extended terms are subject to the provisions of the original lease agreement.

**36. TERMINATION FOR CONVENIENCE**

The Landlord shall have the right to terminate this Lease at anytime whenever Landlord, in its sole discretion, determines it would be in the best interest to terminate this Lease. Landlord shall give Tenant written notice of any termination pursuant to this paragraph at least one hundred and eighty (180) days prior to the date of termination.

The Tenant shall have the right to terminate this Lease at anytime whenever Tenant, in its sole discretion, determines it would be in the best interest to terminate this Lease. Tenant shall give Landlord written notice of any termination pursuant to this paragraph at least one hundred and eighty (180) days prior to the date of termination.

**37. BROKER'S COMMISSION**

None

**38. PARKING**

Landlord to grant non exclusive easement for vehicular parking and vehicular and pedestrian ingress and egress to and from the premises, to adjacent buildings and facilities of the project and over upon and across the parking areas, driveways, exits and entrances of such project, all as shown in the project site plan.

Landlord shall not erect any barriers that prohibit or prevent the exercise by Tenant, Tenants agents, employees, contractors and invites of the easement rights for parking and access described in the Lease or shown on the site plan.

All parking provisions are to be contained in the Lease and not in a separate agreement. Rules and regulations are to be reasonable and not be altered or amended without tenants written consent.

There shall be no charge to Tenant for employee or customer parking for the term of this Lease or any extension thereof.

All parking allocations are to be identified on a project site plan to be apart of the Lease agreement.

All parking areas are to be considered common areas and maintained by the Landlord.

Landlord may not relocate or eliminate Tenant parking without alternative parking and Tenants written consent.

### **39. CONSTRUCTIVE EVICTION**

If the Landlord or any other Tenant of the Landlord substantially interferes with the Tenant beneficial use of the leased premises Tenant will be excused from obligation of the Lease if Tenant moves out of the premises.

Landlord and Tenant have no knowledge of any actions or circumstances which would be cause of constructive eviction already at the time this Lease is signed.

### **40. RULES AND REGULATIONS**

Landlord will attach an exhibit that clearly defines common area, parking and signage rules at the time of Lease execution, not to be modified or amended without mutual consent of Landlord and Tenant.

### **41. HAZARDOUS MATERIAL**

Landlord shall certify that he has no knowledge of any disturbing toxic or hazardous waste, gases, odors or materials either in the Premises or within 1,000 linear feet of the Premises, on or under the surface of the Leased Premises, common areas or within the ceiling, walls or flooring.

### **42. CHATTEL MORTGAGE**

Tenant will not agree to grant to Landlord a chattel mortgage that would include personal furniture, fixtures, desk, equipment, inventory and so forth.

### **43. SECURITY**

Tenant may at its option, and at Tenant's sole cost and expense employ or post a security person at the Premises. However, in no event is Tenant required to implement security.

### **44. MEMBERSHIP AND PROGRAM FEES**

Tenant shall be allowed to charge reasonable membership and program fees for the use of the Premises by patrons.

#### **46. MINIMUM HOURS OF OPERATION**

Minimum hours of operation by the Tenant shall be 9:00 a.m. - 5:00 p.m., Monday through Friday.

#### **47. PROHIBITED ACTIVITIES**

Tenant may not do any of the following on the Premises:

(a) Place or permit the placement of any pay telephones, vending machines (except those intended for the exclusive use of Tenant's employees), or amusement or video games on the Premises, without the prior written consent of Landlord.

(b) Permit the making of any noise or sounds that carry beyond the boundaries of the Premises, whether through loudspeakers, other types of electronic devices, or otherwise.

(c) Conduct or permit any type of unlawful conduct on the Premises.

(d) Store or use any hazardous substances or materials on the Premises other than standard janitorial and office supplies appropriately used and stored..

(e) Allow the consumption or sale of alcohol in or outside of the building or Premises.

#### **48. LANDLORD SPONSORED/SANCTIONED EVENTS**

Landlord shall have the right to use the Premises for Landlord sponsored/sanctioned special events or meetings. Landlord shall notify Tenant at least thirty (30) days in advance of proposed event or meeting. Event and/or meeting times requested by the Landlord shall not be unreasonably denied by Tenant. Landlord shall not be charged for usage of Premises. Landlord may also use a portion of the office space for a Police Substation.

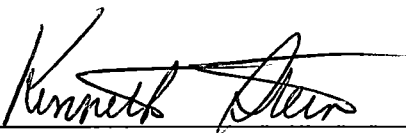
#### **49. ADDENDUM**

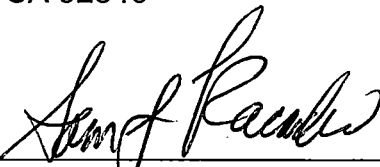
Any addendum attached hereto and either signed or initialed by the parties shall be deemed a part hereof and shall supersede any conflicting terms or provisions contained in this Lease.

The parties hereto have executed this Lease on this date.

**TENANT:**  
YMCA of Redlands, Inc.  
500 E. Citrus Ave  
Redlands, Ca 92373

**LANDLORD:**  
City of Highland  
27215 Base Line  
Highland CA 92346

By:   
YMCA of Redlands, Inc  
Kenneth Stein

By:   
City of Highland  
Sam J. Racadio

Date: 9/16/2000

Date: 9/22/00

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Bernardino

On 10-24-00 before me, Debbie Lee Anderson, Notary Public

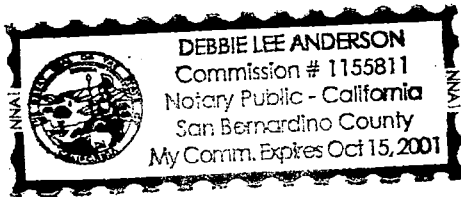
Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Kenneth Stein & Sam J. Racadio

Name(s) of Signer(s)

~~XX~~ personally known to me - ~~OR~~ ~~proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/hand~~ their authorized capacity(ies), and that by ~~his/hand~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Debbie Lee Anderson  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Jerry Lewis Community Center Lease

Document Date: \_\_\_\_\_ Number of Pages: 16

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_