

Jefferson County Industrial Development Agency

800 Starbuck Avenue, Suite 800

Watertown, New York 13601

Telephone: (315) 782-5865 or (800) 553-4111 Facsimile (315) 782-7915

www.jcida.com

Special Meeting Notice

Date: July 13, 2022

To: John Jennings
W. Edward Walldroff
David Converse
Paul Warneck
William Johnson
Lisa L'Huillier

From: Chairman Robert Aliasso

Re: **SPECIAL Board of Directors' Meeting**

A Special Board of Directors' Meeting has been scheduled for **Tuesday, July 19, 2022 at 8 a.m.** in the board room at 800 Starbuck Avenue, Watertown, NY.

The purpose of the special meeting:

1. Consider the YMCA Amended Lease Agreement

Please confirm your attendance with Peggy Sampson at 315-782-5865 or by email pssampson@jcida.com.

The live stream link will be available at www.jcida.com.

Zoom:

<https://us02web.zoom.us/j/84355250468?pwd=R0t4VjRPdGJBZDJrL2JQYVVVjKytDdz09>

Meeting ID: 843 5525 0468

Passcode: 011440

1-929-205-6099 US (New York)

pss

c:	David Zembiec	Rob Aiken
	Marshall Weir	Justin Miller, Esq.
	Lyle Eaton	Tim Fitzgerald, Esq.
	Jay Matteson	Media
	Joy Nuffer	
	Christine Powers	
	Kent Burto	
	Gregory Gardner	

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Special Meeting

Tuesday, July 19, 2022

8 a.m.

Agenda

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Special Business**
 - 1. Consider the YMCA Amended Lease Agreement**
- IV. Adjournment**

AMENDED AND RESTATED GROUND LEASE

THIS AMENDED AND RESTATED GROUND LEASE (this "Lease") is dated July 19, 2022 (the "Effective Date") and made by and between **JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, having an address of 800 Starbuck Avenue, Watertown, New York 13601 ("Landlord"), and **THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF WATERTOWN NY INC. D/B/A WATERTOWN FAMILY YMCA**, having an address of 119 Washington Street, Watertown, New York 13601 ("Tenant").

RECITALS:

WHEREAS, Landlord and Tenant entered into that certain Ground Lease dated as of March 16, 2021, as amended and modified by that certain First Amendment to Lease Agreement dated July 13, 2021 (the "First Amendment"), that certain Second Amendment to Lease Agreement dated January 10, 2022 (the "Second Amendment"), that certain Third Amendment to Lease Agreement dated April 7, 2022 (the "Third Amendment"), and that certain Fourth Amendment to Lease Agreement dated June 2, 2022 (the "Fourth Amendment"), and together with First Amendment, Second Amendment, and Third Amendment, the "Initial Ground Lease") whereby Landlord leased to Tenant and Tenant leases from Landlord a portion of the real property located at 146 Arsenal Street in the City of Watertown, County of Jefferson, State of New York, identified as City of Watertown Tax Map Parcel No. 7-02-102.001, and more particularly described in the Initial Ground Lease (the "Initial Premises"); and

WHEREAS, Landlord and Tenant desire to expand the Initial Premises to hereafter include an additional parcel of land located at Arsenal Street in the City of Watertown, County of Jefferson, State of New York, currently identified as City of Watertown Tax Map Parcel No. 7-04-101, as more particularly set forth and described on Exhibit A-1 attached hereto ("the "Pool Parcel"); and

WHEREAS, by the execution and delivery of this Lease, Landlord and Tenant desire to substitute and replace, and amend and restate in its entirety, the Initial Ground Lease; and

WHEREAS, Landlord is the recipient of a U.S. Department of Defense Office of Local Defense Community Cooperation (OLDCC) grant (the "Federal Grant"), a copy of the commitment for such Federal Grant is attached hereto as Exhibit B, which grant proceeds will be used to improve, construct and develop the Premises (hereinafter defined) for a YMCA Community Center (sometimes hereinafter referred to as the "Project"); and

WHEREAS, pursuant to the terms of the Federal Grant, Landlord must hold the Premises in trust for the entire Federal Interest Period, which is thirty (30) years from the date construction commences (the "Federal Interest Period"); and

WHEREAS, it is the intent of Landlord and Tenant that Tenant acquire rights in and develop the Premises for the use set forth above; and

WHEREAS, in order to comply with the terms of the Federal Grant, during the Federal Interest Period, Landlord shall retain ownership of the Premises and lease the Premises to Tenant; and

WHEREAS, the parties desire to enter into this Lease to identify and specify their respective rights and obligations with respect to the Premises during the Federal Interest Period, following which Tenant has an option to purchase the Premises as hereinafter provided.

NOW THEREFORE, in consideration of the foregoing, for Ten and 00/100 Dollars (\$10.00), and for other for good and valuable consideration, the payment, receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. PREMISES: Landlord, for and in consideration of the covenants contained in this Lease and made on the part of Tenant, demises and leases unto Tenant, and Tenant leases from Landlord, the Initial Parcel and the Pool Parcel (hereafter, the "Leased Space"), such Leased Space being more particularly described on Exhibit A attached hereto, together with all of Landlord's easement rights and appurtenances thereto, all buildings and improvements now located on the Leased Space, all rights in and to any common areas shared with others and benefiting the Leased Space, and all necessary easements and appurtenances in Landlord's adjoining and adjacent land, highways, roads, streets, lanes, whether public or private, reasonably required for the installation, maintenance, operation and service of utilities and for driveways and approaches to and from abutting highways, for the use and benefit of the Leased Space, including any improvements to be erected on the Leased Space (the Leased Space, together with the easements, appurtenances, buildings and improvements described above and now existing or hereafter constructed are collectively referred to as the "Premises"). For the avoidance of doubt, the parties hereto acknowledge and agree that this Lease and the foregoing defined term "Premises" now and for hereafter includes the Initial Premises and the Pool Parcel (defined below).¹

2. LEASE TERM: Tenant shall have and hold the Premises for a term (the "Term") commencing on the Effective Date and ending one month following the thirtieth (30th) anniversary of the Notice of Federal Interest being recorded in the Jefferson County Clerk's Office, such notice being required by the Federal Grant. The Term shall coincide with the thirty (30) year Federal Interest Period plus one month.

3. RENT AND TAXES:

A. Initial Term Rent: Tenant's liability for rent shall commence on the Effective Date. Tenant, in consideration of the covenants made by Landlord, promises to pay rent to Landlord at the address provided in the Notices paragraph of this Lease (or such other address as Landlord may designate in writing from time to time) in the amount of \$1.00 per year.

¹ Landlord and Tenant may mutually agree in the future to request the creation of one (1) single tax map parcel number from the City of Watertown for the Leased Space, comprised of both the Initial Premises and the Pool Parcel.

- B. **Deferred Rental Payment.** Tenant shall pay to Landlord an additional rental payment in an amount not to exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00) (the "Deferred Rental Payment") upon the terms set forth in this Section:

Upon Tenant's receipt of non-private and non-foundation grant funds for the Project which are awarded or committed after the Effective Date ("Tenant Grant Funds") and which at any time alone or in aggregate exceed \$125,000, then in any such event, Tenant shall pay to Landlord the Deferred Rental Payment (or portion thereof) in the amount(s) of Tenant Grant Funds received by Tenant, pursuant to payment terms to be mutually agreed upon by Landlord and Tenant. If Landlord and Tenant cannot agree on payments terms within ninety (90) days following Tenant's receipt of the Tenant Grant Funds, the payment will be due at the end of such ninety (90) day period. In the event Tenant receives additional Tenant Grant Funds after having made a partial Deferred Rental Payment, Tenant shall pay such additional Tenant Grant Funds over to Landlord pursuant to terms to be mutually agreed upon by Landlord and Tenant. If Landlord and Tenant cannot agree on payments terms within ninety (90) days following Tenant's receipt of the additional Tenant Grant Funds, the payment will be due at the end of such ninety (90) day period. In no event shall Tenant be required to pay any amount which in the aggregate exceeds the total amount of the Deferred Rental Payment. Whenever in this Lease reference is made to the term "rent" it shall be deemed to include the Deferred Rental Payment.

- C. **Taxes:** Tenant shall pay promptly and before they become delinquent any and all general real estate taxes and special assessments and charges, fees and levies imposed at any time during the Term, upon or against the Leased Space, including the land and all buildings, furniture, fixtures, equipment and improvements now or later located on the Leased Space, lawfully assessed either in the name of Landlord, fee owner or Tenant. Tenant's obligation to pay taxes shall commence to accrue upon the Effective Date.

If not yet established on the Effective Date, Landlord and Tenant shall work cooperatively to obtain from the taxing authorities a separate assessment for the land and buildings comprising the Leased Space and Landlord agrees to sign the Notice to Tax Assessor attached to this Lease as Exhibit B in order to facilitate this process. If such separate assessment shall be obtained, the real estate taxes payable by Tenant shall be paid by Tenant directly to the taxing authority. If the parties shall be unable to obtain such separate assessment, Tenant shall pay such taxes to Landlord within 15 days after Landlord notifies Tenant of the amount due and furnishes Tenant with a copy of the tax bill. Landlord shall pay the tax bill when due.

Tenant shall have the right, in its own name or in the name of Landlord, to make and prosecute application(s) for abatement of taxes or appeals for correction of assessments, and Landlord agrees to cooperate fully with Tenant in this regard but at no cost or expense to Landlord. Landlord agrees to sign all necessary instruments in connection with such application or appeal and, in addition, appoints Tenant its agent-in-fact for purposes of such signature, which shall be

an agency coupled with an interest. Landlord shall not settle any such application or appeal without Tenant's prior written approval in each instance.

Notwithstanding anything contained in this Lease, Tenant shall not be obligated to pay any part of any franchise, excise, estate, inheritance, income or similar tax which is or may become payable by Landlord or against the rents payable under the Lease or upon the income or profits of Landlord by reason of any law now in force or later enacted.

4. LANDLORD'S WARRANTIES AND COVENANTS: Landlord covenants, represents and warrants to Tenant that:

- A. **Approvals:** Landlord shall, if necessary and requested by Tenant, cooperate with Tenant and use Landlord's diligent efforts at no cost or expense to Landlord to assist Tenant in obtaining the approval of all public and governmental authorities as to all matters relating to zoning or similar requirements for Tenant's intended use of the Premises in accordance with Tenant's plans and specifications as will permit Tenant to obtain all necessary permits, licenses and approvals referred to in Article 7A. Tenant agrees to pay the expense of application and engineering and any other incidental costs relating to such approval or the recordation of a final parcel map or plat.
- B. **Utilities:** All water and gas mains, electric power lines, telephone lines, sanitary and storm sewers are located in the public right-of-way and contiguous with the property line of the Leased Space and are available for Tenant's intended use. Any and all impact, tap and connection fees associated with such utilities shall be paid by Tenant.
- C. **Possession:** The Leased Space is free and clear of all tenancies, whether oral or written, and Tenant shall have sole and actual possession from the date of last execution of this Lease.
- D. **Covenant of Title and Quiet Enjoyment:** Except for the certain parcel of land acquired from the City of Watertown by quit claim deed on or about the date of this Lease, as more particularly set forth and described on Exhibit A-1 attached hereto (the "Pool Parcel"), Landlord is well seized of and has good title to the Leased Space and all improvements located on it on the date of this Lease, free and clear of all liens, encumbrances, easements, tenancies, and restrictions. Landlord warrants and will defend title and will indemnify Tenant against any damage and expense which Tenant may suffer by reason of any claim against title or defect in the title or description of the Premises, except those claims against title to the Pool Parcel, which portion of the Leased Space Tenant leases from Landlord without representation or warranty of any kind whatsoever. In addition, so long as no Event of Default on behalf of Tenant has occurred and is continuing Landlord agrees that Tenant's quiet enjoyment of the Premises (excepting the Pool Parcel) will not be disturbed or interfered with by Landlord or by anyone claiming by, through or under Landlord.

- E. **Tenant's Remedies:** Landlord acknowledges that in executing this Lease, Tenant is relying upon all of the covenants, representations and warranties contained in this Lease and that matters so covenanted, represented and warranted are material ones. Landlord accordingly agrees that if Landlord does not cure or diligently commence to cure a default within 10 days after written notice from Tenant, or if the default cannot be cured within such 10 day period, if Landlord does not commence to cure the default within such 10 day period and thereafter diligently pursue a cure, any breach of covenant, warranty or misrepresentation shall be grounds for Tenant to elect, at its option, to terminate this Lease or cure Landlord's default(s). These remedies are in addition to all other remedies Tenant may have in law or equity.

5. **TENANT'S COVENANTS:** Tenant covenants and agrees, during the Term:

- A. **Rent:** To pay the rent on the days and in the manner as provided in this Lease.
- B. **Liens and Encumbrances:** Not to cause the estate of Landlord in the Premises to become subject to any lien, charge or encumbrance whatsoever, and to indemnify and defend Landlord against all such liens, charges and encumbrances, and discharge of record any such lien, charge or encumbrance within forty-five (45) days following the filing of the same.
- C. **Insurance and Indemnity:** Tenant shall procure and maintain during the Term, at its expense, (i) builder's risk insurance in amounts and under terms and conditions reasonably approved by Landlord considering the scope and budget for the construction of the Project; (ii) all-risk (special form) property insurance in an amount equal to the full replacement cost of the Premises (now existing and to be constructed); (iii) a policy or policies of general liability and umbrella or excess liability insurance applying to Tenant's operations and use of the Premises, providing a minimum limit of \$5,000,000.00 per occurrence and in the aggregate, naming Landlord as additional insured, (iv) automobile liability insurance covering owned, non-owned and hired vehicles in an amount not less than a combined single limit of \$3,000,000.00 per accident, and (v) workers' compensation insurance in accordance with the laws of the State of New York and employer's liability insurance in an amount not less than \$3,000,000.00 each accident, \$3,000,000.00 disease-each employee and policy limit, with the insurance policies required under this clause (vi) to be endorsed to waive the insurance carriers' right of subrogation. Notwithstanding the foregoing, Tenant shall be permitted to provide any and/or all such required coverages under an umbrella policy evidencing the same.

Tenant covenants and agrees that each such policy shall (i) name Landlord as additional insured (where applicable), (ii) contain a provision that Landlord shall be given thirty (30) days' prior written notice of any material change or cancellation of said policy, (iii) contain an endorsement that such insurance shall remain in full force and effect notwithstanding that the insured may have waived its claims against any person prior to the occurrence of a loss, and (iv) provide

that the insurer waives all right of recovery by way of subrogation against Landlord, its officers, directors, agents, contractors and employees. Tenant further covenants and agrees to cause all said insurance to be placed with insurance companies authorized and licensed to issue such policies in the State of New York and to maintain such insurance at all times during the Term. Tenant shall deliver to Landlord, upon request, copies of policies and/or certificates of insurance and of any renewals from time to time during the Term.

Tenant further agrees to indemnify, defend and save Landlord harmless from any and all liability, loss, cost, damage, expense or claim of any nature, except for such liability, loss, cost, damage, expense or claim solely resulting from Landlord's negligence or willful misconduct, resulting from any damage, injury or death to person or damage or destruction to property (i) occurring in, on or about the Premises during the Term howsoever caused; and/or (ii) relating to or arising out of the failure of Tenant or Tenant's agents, employees, servants, licensees or contractors, in any respect, to keep the Premises in a safe condition; and/or (iii) relating to or arising out of the construction of the Project or any component thereof; and/or (iv) Tenant's failure or refusal to comply with and perform any and all of the obligations, requirements and provisions of this Lease. Tenant shall have the sole and exclusive right to retain counsel of its choice, to determine all litigation issues including, without limitation, trial strategy, trial preparation, discovery techniques and strategy, right of appeal, and settlement decisions.

- D. **Maintenance, Repairs and Replacements:** To keep the Leased Space in a safe and good condition and repair, subject to ordinary wear and tear occasioned by Tenant's lawful and permitted use set forth herein. To that end, subject to the Declaration of Mutual Covenants, Easements, Liens and Rights of First Refusal between Landlord and Gary Juster recorded August 8, 2002 in the Jefferson County Clerk's Office in Book 1874 of Deeds at Page 112 (as the same has been amended and modified from time to time to the date hereof, the "Declaration"), Tenant shall be solely and completely responsible, at Tenant's sole cost and expense, for completing any and all routine maintenance and repairs of the Leased Space and any and all structural maintenance, repairs and replacements, and any and all capital improvements, including but in no way limited to repairs and replacements to the foundation, structure, roof and any systems serving the Leased Space (including but not limited to plumbing, electrical, security, sprinkler and HVAC systems). Tenant at Tenant's sole cost and expense shall be solely and completely responsible for landscaping and snow removal at the Leased Space. For purposes of clarification, upon the Effective Date, Landlord shall no longer have any responsibility whatsoever for any maintenance, repairs or replacements at the Leased Space.
- E. **Utilities:** To pay when due all charges for all utility services used on or at the Leased Space.
- F. **Compliance with Law:** To comply with all governmental laws, statutes, rules and regulations applicable to the use, development, construction, or operation of

the Premises. This provision shall include the requirement to comply with any governmental orders and guidance, as well as CDC and NYSDOH guidance, now in effect or in the future, relating to the COVID-19 pandemic.

- G. **Construction; No Liens.** To construct and complete the Project including any and all improvements upon the Premises in a good and workmanlike, lien-free manner, free of all material defects and otherwise in accordance with plans and specifications prepared by licensed architects and engineers and in strict compliance with any and all applicable laws, statutes, rules, codes, permits and regulations. Tenant will not permit any mechanic's liens or other liens to be placed upon the Premises. If a lien is attached to the Premises, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same. Any amount paid by Landlord for any of the aforesaid purposes including, but not limited to, reasonable attorneys' fees and costs, shall be paid by Tenant to Landlord within twenty (20) days after demand, together with an administrative fee of eighteen percent (18.0%) of the subject lien amount to cover Landlord's cost of oversight and administration. Tenant shall within forty-five (45) days of receiving such notice of lien or claim have such lien or claim released of record. Tenant's failure to comply with the provisions of the foregoing sentence shall be deemed an Event of Default entitling Landlord to exercise all of its remedies therefor without the requirement of any additional notice or cure period.
6. **ACCESS:** Upon the Effective Date, Landlord grants to Tenant, its agents and contractors, the full and exclusive right to enter upon the Premises to construct the Project and operate its business operations in accordance with this Lease.
7. **USE, ALTERATIONS AND TITLE TO IMPROVEMENTS:**
- A. **Use:** Notwithstanding any other provision herein to the contrary, Tenant shall have the right to use or occupy the Leased Space for a YMCA Community Center to include an aquatic, racquet sport and wellness center, all in accordance with any and all applicable laws, statutes, rules, codes, permits and regulations.
- B. **Alterations and Title to Improvements:** Tenant shall have the right to make alterations, additions and improvements to the Leased Space from time to time; provided, however, that Tenant shall provide all construction drawings, plans and schedules (collectively, the "Plans") to Landlord and Washington Street Properties, LLC ("WSP"), owner of the first level of the building in which the Leased Space exists, and obtain consent to the Plans from Landlord and WSP prior to commencing construction. In the event Landlord does not respond to Tenant within fifteen (15) days of when Tenant provides the Plans to Landlord, Landlord shall be deemed to have consented to the Plans. In addition, Landlord shall have the right to participate in all construction meetings.

All of such alterations, additions and improvements constructed by Tenant shall be and remain the property of Tenant at all times during the Term. Landlord

agrees to execute all applications, consents and other reasonable documents, which may from time to time be required by Tenant to obtain any permits, variances, or other governmental approvals in connection with any construction or other use of the Leased Space by Tenant, which may be permitted under this Lease. Tenant shall have the right to remove any such alterations, additions and improvements at any time during the Term. However, Tenant shall not be required to remove any such alterations, additions or improvements, and Tenant's failure to do so prior to the expiration of the Term shall be deemed to be an abandonment and the same shall, at such time, become a part of the real estate with title vesting in the owner of the Premises. Tenant may install on the Premises signage of such size, design and character as shall be in full compliance with all applicable laws.

8. **ASSIGNMENT AND SUBLETTING:** This Lease may not be assigned in whole or in part except to a Related Person of the Tenant (as that term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the Internal Revenue Code of 1986, as amended, hereinafter "Related Person"), and the Premises may not be subleased, in whole or in part, by the Tenant except to a Related Person of the Tenant without the prior written consent of the Landlord. A transfer in excess of fifty percent (50%) of the equity voting interests of the Tenant (including all parent companies of the Tenant though and including the ultimate taxpayer(s) owning or controlling the Tenant), other than to a Related Person of the Tenant, shall be deemed an assignment and require the prior written consent of the Landlord. Any assignment of this Lease and/or sublease of the Premises in whole shall require the prior written consent of the Landlord upon application 45 days prior to a regularly scheduled meeting of the Landlord, which shall not be unreasonably withheld or delayed.
9. **LANDLORD'S RIGHT OF RE-ENTRY:** If Tenant shall fail to promptly keep and perform any affirmative covenant of this Lease strictly in accordance with the terms of this Lease and shall continue in default for a period of 30 days after written notice by Landlord of default and demand for performance, then, as often as any such event shall occur, Landlord may (a) declare the Term ended, and enter into the Premises and expel Tenant or any person occupying the same in or upon the Premises and repossess and enjoy the Premises; and/or (b) re-let the Premises. Anything contained in this Lease to the contrary notwithstanding, if any default shall occur, which cannot with due diligence be cured within a period of 30 days, and Tenant, prior to the expiration of 30 days from and after the giving of the notice, commences to eliminate the cause of such default and pursues the same to completion with all reasonable diligence, then Landlord shall not have the right to declare the Term ended and/or relet the Premises by reason of such default.
10. **HOLDING OVER:** If Tenant continues to occupy the Premises after the last day of the Term, and Landlord elects to accept rent thereafter, a tenancy from month-to-month only shall be created, and not for any longer period.

11. **CONDEMNATION:** If the whole or any part of the Premises is taken or condemned by any competent authority for any public use or purpose during the Term, Tenant reserves unto itself the right to claim and prosecute its claim in all appropriate courts and agencies for an award or damages for such taking based upon its leasehold interest, business and ownership of buildings, alterations and improvements. Landlord shall have the right to make a claim for the taking of or injury to the reversion.

If a part of the Premises shall be taken or condemned which, in the sole judgment of Tenant, is sufficient to render the remaining portion unsuitable for its continued use or occupancy, then Tenant may, at any time, either prior to or within a period of 60 days after the date when possession of the Premises shall be required by the condemning authority, elect to terminate this Lease, or, if an option to purchase the Premises is conferred upon Tenant by any other provision of this Lease, may as an alternative to such termination of this Lease, elect to purchase the Premises in accordance with such purchase option.

In the event of any taking or condemnation not resulting in termination of this Lease, this Lease shall continue in effect with respect to the portion of the Premises not so taken. Tenant will, with all due diligence and at its own cost and expense, repair and restore the Premises or what may remain of it to its former condition to the extent practicable, and to the extent that Tenant has received an award or compensation for such repair or restoration.

Landlord shall give Tenant prompt notice of a taking or proposed taking by eminent domain or through temporary or permanent easements of all or any portion of the Premises, and Landlord shall include Tenant in any discussions or negotiations with the right of way agent or other condemning authority.

12. **OPTION TO PURCHASE:** So long as Tenant has fully complied with its obligation to pay the Deferred Rental Payment, if any, Tenant shall have the option to purchase the Premises for \$1.00 following the expiration of the OLDCC Federal Interest Period, which option shall be effective following Tenant's rental payment as required in Article 3(B), provided Tenant shall give Landlord notice in writing of its election to exercise this option to purchase no less than thirty (30) days prior to the expiration of the Term.

If the foregoing option is exercised, Landlord shall convey marketable and insurable fee simple title to the Premises (excepting the Pool Parcel which shall be quit claimed by Landlord to Tenant) by bargain and sale deed free from all encumbrances whatsoever, except those encumbrances created by Tenant. If, after making a good faith effort to do so, Landlord is unable to convey good title to the Premises as required in this Lease, Tenant may, at its option, continue its occupancy of the Premises pursuant to the terms of this Lease or terminate this Lease.

The closing shall be within 30 days from the date Tenant exercises this option to purchase. Tenant shall be responsible for the cost of any transfer tax and the cost to pay to record the deed.

The Premises may not be sold to any third party during the Federal Interest Period. This option to purchase shall be referenced in any short form or memorandum of this Lease that is recorded in accordance with Article 17 herein.

13. **TRADE FIXTURES, MACHINERY AND EQUIPMENT:** Landlord agrees that all trade fixtures, machinery, equipment, furniture or other personal property of whatever kind and nature kept or installed in the Premises by Tenant shall not become the property of Landlord or a part of the realty no matter how affixed to the Premises and may be removed by Tenant, in its discretion, at any time and from time to time during the entire Term.

14. **LEASEHOLD MORTGAGE FINANCING:**

- A. Tenant, may from time to time during the Term mortgage, hypothecate, or encumber, in whole or in part, its leasehold estate in the Premises (each a "Leasehold Mortgage") subject to Landlord's prior written consent, which shall not be unreasonably withheld or delayed, and which consent shall not be withheld provided in each case that:

- (i) The holder of the Leasehold Mortgage shall be a savings bank, savings and loan association, commercial bank, trust company, credit union, insurance company, charitable institution, real estate investment trust or pension fund (an "Institutional Mortgagee" or "Leasehold Mortgagee");
- (ii) the Institutional Mortgagee's lending activities are regulated or supervised by an agency of the federal government or the State of New York;
- (iii) Landlord shall be required to subordinate its fee title to the Premises or any part thereof or interest therein, subject to (A) standard and customary rights of the Landlord, as a ground lessor, to non-disturbance of Landlord's fee interest by or from any Leasehold Mortgagee and opportunity to cure defaults the Tenant; and (B) Landlord's then standard exculpation provisions;
- (iv) In the event the Premises or any portion thereof shall be taken by the exercise of the power of eminent domain and there shall be any indebtedness still due and owing the Leasehold Mortgagee, then and in such event Landlord and Tenant agree that all proceeds of such eminent domain proceedings, to the extent that any indebtedness on the part of Tenant shall then exist, be paid to the Leasehold Mortgagee to the extent of such indebtedness;
- (v) In the event of damage or destruction of the Premises or any portion thereof while there shall be any indebtedness still due and owing the Leasehold Mortgagee, then and in such event the proceeds of such insurance shall be paid over to the Leasehold Mortgagee. The Leasehold Mortgagee shall have the option, in its sole discretion, to apply the insurance proceeds against the balance of the indebtedness to the Leasehold Mortgagee, with the remainder thereof, if any, to be paid over to Landlord;

- (vi) The Leasehold Mortgage shall encumber only the Tenant's interest as Tenant in the Premises and its interest as owner of the Improvements;
- (vii) The Tenant or holder of the Leasehold Mortgage shall promptly deliver to the Landlord, in the manner herein provided for the giving of notice to Landlord, a true copy of the Leasehold Mortgage and any assignment thereof, and shall notify the Landlord of the address of the holder of the Leasehold Mortgage to which notices from the Landlord may be sent; and
- (viii) Until such time as construction of the Improvements contemplated by this Lease is complete, all of the proceeds from any loan secured by the Tenant's interest in the Property shall be utilized in connection with the development and construction of such improvements.

Landlord's consent to a Leasehold Mortgage under this Section 14 shall be deemed to have been given if Landlord does not respond to Tenant's written request for Landlord's consent within ten (10) days of Landlord's receipt of such request accompanied by all information reasonably necessary to consider.

- B. In the event that Tenant encumbers or hypothecates its interest in this Lease as security for a loan as permitted above, and provided that Tenant delivers written notice to Landlord of the name and address of the Leasehold Mortgagee, then Landlord hereby agrees that Landlord will give written notice of any default under the terms of this Lease, by registered or certified mail, to such Leasehold Mortgagee at the address contained in such notice, which notice shall be simultaneous with any notice of default delivered to Tenant. Provided Tenant gives to Landlord written notice of the name and address of such Leasehold Mortgagee as required above, no notice of a default by Landlord to Tenant shall be deemed to have been duly given to Tenant unless and until a copy thereof has been mailed to such Leasehold Mortgagee at the address provided. Such Leasehold Mortgagee, in case Tenant shall be in default under this Lease, shall have the right to remedy such default, or cause the same to be remedied, within the sixty (60) days from the date of such notice, and Landlord shall accept such performance by or at the instance of such Leasehold Mortgagee as if the same had been made by Tenant. Provided Tenant gives to Landlord written notice of the name and address of such Leasehold Mortgagee as required above, Landlord shall not take any action to terminate this Lease because of any default or breach thereunder on the part of Tenant if such Leasehold Mortgagee (i) within sixty (60) days after mailing of written notice to such Leasehold Mortgagee from Landlord of its intention to terminate the Lease for such default or breach, shall cure such default or breach if the same can be cured by the payment of expenditure of money (including but not limited to the obligation, if any, to pay the Deferred Rental Payment), or (ii) shall diligently take action to obtain possession of the Premises (including possession by receiver) and to commence to cure such default or breach in the case of a default or breach which cannot be cured unless and until such Leasehold Mortgagee has obtained possession and shall, during such time, pay all rental and all other payments required to be made under this Lease (including but not limited to the obligation, if any, to pay the Deferred Rental Payment), or (iii) if such default or breach is not so curable under the foregoing subparagraphs (i) or (ii), shall institute and carry forward with due diligence foreclosure

or sale proceedings under its mortgage or deed of trust securing such loan (or assignment of Tenant's interest in lieu thereof) and pay all rental and all other payments required to be made under such Lease (including but not limited to the obligation, if any, to pay the Deferred Rental Payment), until such time as Tenant's interest in this Lease shall be sold upon such foreclosure or sale proceedings pursuant to said mortgage or deed of trust (or assignment in lieu thereof); provided, however, such Leasehold Mortgagee shall not be required to continue such action for possession or such foreclosure or sale proceedings if such default or breach shall be cured by Tenant. Tenant authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the Premises by the Leasehold Mortgagee for such purpose. Subject to all applicable laws, statutes, rules, and regulations, including but in no way limited to laws, statutes, rules, and regulations imposed on Landlord relating to the sale, assignment, leasing or other disposition of Landlord's assets and property, upon completion of any such foreclosure or sale proceedings under said mortgage or deed of trust (or assignment in lieu thereof), the purchaser (whether such Leasehold Mortgagee or otherwise) at such sale will be recognized by Landlord as Tenant under the terms of this Lease for all purposes and shall be bound hereby for the remaining term hereof, and this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease. A party who acquires title to Tenant's interest in this Lease by acceptance of an assignment in lieu of foreclosure shall be deemed a "purchaser" for these purposes.

- C. Subject to all applicable laws, statutes, rules, and regulations, including but in no way limited to laws, statutes, rules, and regulations imposed on Landlord relating to the sale, assignment, leasing or other disposition of Landlord's assets and property, if at the end of the 60-day period referenced above such Leasehold Mortgagee is complying with the terms of such subsection, this Lease shall not then terminate, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Leasehold Mortgage or by other appropriate means with reasonable diligence and continuity. Nothing in this subsection, however, shall be construed to extend this Lease beyond the original term thereof as extended by any options to extend the Term properly exercised by Tenant or a Leasehold Mortgagee, nor to require a Leasehold Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Leasehold Mortgagee shall discontinue such foreclosure proceedings, this Lease shall continue in full force and effect as if Tenant had not defaulted under this Lease.
- D. For the purposes of this Section 14, the making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease or of the leasehold estate hereby created, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such leasehold mortgagee, as such, to assume the performance of any of the terms, covenant or conditions on the part of the Tenant to be performed hereunder, but the purchaser at any sale of this Lease and of the leasehold estate hereby created in any

proceedings for the foreclosure of any Leasehold Mortgage, or the assignee or transferee of this Lease and of the leasehold estate hereby created under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be an assignee or transferee within the meaning of this Section 14, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Tenant to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the leasehold estate. If the Leasehold Mortgagee or its designee shall become holder of the leasehold estate and if the buildings and improvements on the Premises shall have been or become materially damaged on, before or after the date of such purchase and assignment, the Leasehold Mortgagee or its designee shall be obligated to repair, replace or reconstruct the building or other improvements only to the extent of the net insurance proceeds received by the Leasehold Mortgagee or its designee by reason of such damage. However, should such net insurance proceeds be insufficient to repair, replace or reconstruct the building or other improvements to the extent required by this Lease and should the Leasehold Mortgagee or its designee choose not to fully reconstruct the building or other improvements to the extent required by this Lease, such failure shall constitute an Event of Default under this Lease.

- E. Any Leasehold Mortgagee or other acquirer of the Leasehold Estate of Tenant pursuant to foreclosure, assignment in lieu of foreclosure or other proceedings may, upon acquiring Tenant's leasehold estate, without further consent of Landlord, sell and assign the leasehold estate on such terms and to such persons and organizations as are acceptable to such Leasehold Mortgagee or acquirer, provided that such assignee has delivered to Tenant its written agreement to be bound by all of the provisions of this Lease and such assumption of obligations otherwise complies with all applicable laws, statutes, rules, and regulations, including but in no way limited to laws, statutes, rules, and regulations imposed on Landlord relating to the sale, assignment, leasing or other disposition of Landlord's assets and property.
- F. Any sale of this Lease and the leasehold estate hereby created in any proceedings for the foreclosure of any Leasehold Mortgage, or the assignment or transfer of this Lease and of the leasehold estate hereby created in lieu of the foreclosure of any Leasehold Mortgage made in compliance with this Section 14 shall be deemed to be a permitted sale, transfer or assignment of this Lease and of the leasehold estate hereby created.
- G. Nothing herein contained shall require any Leasehold Mortgagee or its designee as a condition to its exercise of right hereunder to cure any default of Tenant not reasonably susceptible of being cured by such Leasehold Mortgagee or its designee, including but not limited to the defaults referred to in Section 17 of this Lease relating to bankruptcy and insolvency and any other sections of the Lease that may impose conditions of default not susceptible to being cured by a Leasehold Mortgagee, or a subsequent owner of the Leasehold Estate through foreclosure hereof, in order to comply with the provisions of this Section 14.

- H. So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Premises and the leasehold estate of Tenant therein created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by Landlord or by Tenant or by a third party, by purchase or otherwise.
- I. In the event on any occasions hereafter Tenant seeks to mortgage Tenant's Leasehold Estate, Landlord agrees to amend this Lease from time to time to the extent reasonably requested by an Institutional Mortgagee proposing to make Tenant a loan secured by a lien upon Tenant's leasehold estate, provided that such proposed amendments do not materially and adversely affect the rights of Landlord or its interest in the Premises. All reasonable expenses incurred by Landlord in connection with any such amendment, including but not limited to Landlord's attorneys' fees, shall be paid by Tenant.
- J. Landlord shall, without charge, at any time and from time to time hereafter, but not more frequently than once in any one-year period (or more frequently if such request is made in connection with any sale or mortgaging of Tenant's leasehold interest by Tenant), within 30 days after written request of Tenant to do so, certify by written instrument duly executed and acknowledged to any Leasehold Mortgagee or purchaser, or proposed Leasehold Mortgagee or proposed purchaser, or any other person, firm or corporation specified in such request: (i) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (ii) as to the validity and force and effect of this Lease, in accordance with its tenor; (iii) as to the existence of any default hereunder; and (iv) as to the existence of any offsets, counterclaims or defenses hereto on the part of the Tenant. Any such certificate may be relied upon by the Tenant and any other person, firm or corporation to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the Landlord.
- K. No cancellation, surrender or modification of this Lease shall be effective as to any Leasehold Mortgagee unless consented to in writing by such Leasehold Mortgagee.

15. ENVIRONMENTAL INDEMNIFICATION: All capitalized terms used in this Section 15 and not otherwise defined shall have the meanings set forth below.

"Environment" means any water or water vapor, any land, including land surface or subsurface, air, fish, wildlife, biota and other natural resources.

"Environmental Law" means all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances, and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

"Environmental Permits" means all permits, licenses, approvals, authorizations, consents of registrations required by any applicable Environmental Law in connection with the ownership, use and/or operation of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Premises.

"Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resources Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 and 27 of the New York State Environmental Conservation Law or any other applicable Environmental Law and the regulations promulgated thereunder.

"Release" has the same meaning as given to that term in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), and the regulations promulgated thereunder.

Tenant hereby covenants and agrees, at its sole cost and expense, to indemnify, protect, defend and save harmless Landlord from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Landlord relating to, resulting from or arising out of (a) the use of the Premises by any party for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (b) the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, (c) the failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally required investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, (d) human exposure to any Hazardous Substance of whatever kind to the extent the same arises from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof, (e) a violation of any applicable Environmental Law with respect to the Premises or any use thereof, (f) non-compliance with any Environmental Permit or (g) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by Tenant in this Lease. The indemnity obligation imposed herein shall survive any termination of the Lease.

16. **RESTATEMENT:** Landlord and Tenant acknowledge and agree that this Lease substitutes and replaces, and amends and restates in its entirety, the Initial Ground Lease.

17. **EVENTS OF DEFAULT; REMEDIES:**

A. **Events of Default.** The following events shall be deemed to be "Events of Default" under this Lease: (i) Tenant fails to pay any rent or taxes when due as obligated under this Lease, including but not limited to the Deferred Rental Payment; or (ii) Tenant fails to perform any other provision of this Lease not described in this Section 17, and such failure is not cured within thirty (30) days after written notice from Landlord, however, if Tenant's failure to comply cannot reasonably be cured within thirty (30) days, Tenant shall be allowed additional time as is reasonably necessary to cure the failure so long as Tenant begins the cure within thirty (30) days and diligently pursues the cure to completion; or (iii) Tenant fails to observe or perform any of the covenants with respect to (a) assignment and subletting as set forth in Section 8; (b) liens including mechanic's liens as set forth in Section 5B, Section 5G, or elsewhere in this Lease; or (c) insurance as set forth in Section 5C; or (iv) Tenant dissolves; or (v) Tenant abandons or vacates the Premises; or (vi) any voluntary or involuntary proceedings are filed by or against Tenant under any bankruptcy, insolvency or similar laws and, in the case of any involuntary proceedings, are not dismissed within sixty (60) days after filing.

B. **Remedies.**

1. Upon the occurrence of any Event of Default, Landlord shall have the following rights and remedies, in addition to those allowed by law or equity, any one or more of which may be exercised without further notice to or demand upon Tenant and which may be pursued successively or cumulatively as Landlord may elect:

- a. Landlord may re-enter the Premises and attempt to cure any default of Tenant, in which event Tenant shall, upon demand, reimburse Landlord for all reasonable costs and expenses which Landlord incurs to cure such default;
- b. Landlord may terminate this Lease by giving to Tenant written notice of Landlord's election to do so, in which event the Lease Term shall end, and all right, title and interest of Tenant hereunder shall expire, on the date stated in such notice;
- c. Landlord may terminate the right of Tenant to possession of the Premises without terminating this Lease by giving notice to Tenant that Tenant's right to possession shall end on the date stated in such notice, whereupon the right of Tenant to possession of the Premises or any part thereof

shall cease on the date stated in such notice; and

- d. Landlord may enforce the provisions of this Lease by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease.

2. If Landlord exercises either of the remedies provided in Section 17(B)(1)(b) or (c), Tenant shall surrender possession and vacate the Premises and immediately deliver possession thereof to Landlord, and Landlord may re-enter and take complete and peaceful possession of the Premises, with process of law, and Landlord may remove all occupants and property therefrom, using such force as may be necessary to the extent allowed by law, without being deemed guilty in any manner of trespass, eviction or forcible entry and detainer and without relinquishing Landlord's right to any rent or other payments due under this Lease or any other right given to Landlord hereunder or by operation of law.

3. If Landlord terminates the right of Tenant to possession of the Premises without terminating this Lease, Landlord shall have the right to immediate recovery of all amounts then due hereunder. Such termination of possession shall not release Tenant, in whole or in part, from Tenant's obligation to pay rent hereunder for the full Term, and Landlord shall have the right, from time to time, to recover from Tenant, and Tenant shall remain liable for, all rent accruing as it becomes due under this Lease during the period from the date of such notice of termination of possession to the stated end of the Term. In attempting to relet the Premises, Landlord may make repairs in or to the Premises and redecorate the same to the extent reasonably deemed by Landlord necessary or desirable, and Tenant upon demand shall pay the reasonable cost of all of the foregoing together with Landlord's reasonable expenses of reletting. The rents from any such reletting shall be applied first to the payment of the expenses of reentry, redecoration, repair and alterations and the expenses of reletting (including reasonable attorneys' fees and brokers' fees and commissions) and second to the payment of rent herein provided to be paid by Tenant. Any excess or residue shall operate only as an offsetting credit against the amount of rent due and owing as the same thereafter becomes due and payable hereunder.

4. If this Lease is terminated by Landlord, Landlord shall be entitled to recover from Tenant all rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant, or for which Tenant is liable or for which Tenant has agreed to indemnify Landlord, which may be then owing and unpaid, and all reasonable costs and expenses, including court costs and reasonable attorneys' fees incurred by Landlord in the enforcement of its rights and remedies hereunder.

5. The receipt by Landlord of less than the full rent due shall not be

construed to be other than a payment on account of rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the rent due or to pursue any other remedies provided in this Lease. The acceptance by Landlord of rent hereunder shall not be construed to be a waiver of any breach by Tenant of any term, covenant or condition of this Lease. No act or omission by Landlord or its employees or agents during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord.

6. In the event of any litigation between Tenant and Landlord to enforce or interpret any provision of this Lease or to enforce any right of either party hereto, the unsuccessful party to such litigation shall pay to the successful party all costs and expenses, including reasonable attorney's fees, incurred therein.

18. **RECORDING:** Tenant and Landlord agree to execute and record a short form or memorandum of this Lease in a form acceptable to Tenant as soon as Tenant has obtained an approved survey and legal description of the Premises. The cost of all documentary stamps, conveyancing or transfer taxes and recording fees shall be paid equally by the parties.

19. **MISCELLANEOUS PROVISIONS:**

- A. **Invalidity:** If any term or provision of this Lease or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances other than those as to which it is held invalid or unenforceable, shall not be affected.
- B. **Successors and Assigns:** The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their heirs, personal representatives, successors or assigns, and shall run with the land; and where more than one party shall be lessors under this Lease, the word "Landlord" whenever used in this Lease shall be deemed to include all lessors jointly and severally.
- C. **Writing:** No waivers, alterations or modifications of this Lease or any agreements in connection with this Lease shall be valid unless in writing duly executed by both Landlord and Tenant.
- D. **Construction:** The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such paragraphs of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular

shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular.

- E. **Notices:** If at any time after the execution of this Lease, it shall become necessary or convenient for one of the parties to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing signed by the party serving notice, sent by nationally recognized overnight carrier or registered or certified United States mail, return receipt requested and postage or other charges prepaid.

If intended for Landlord, the notice shall be addressed to:

Jefferson County Industrial Development Agency
800 Starbuck Avenue
Watertown, New York 13601
Attention: CEO

With a copy to:

Harris Beach PLLC
677 Broadway, Suite 1101
Albany, New York 12207
Attention: Justin S. Miller, Esq.

If intended for Tenant, the notice shall be addressed to:

The Young Men's Christian Association of Watertown NY Inc.
d/b/a Watertown Family YMCA
119 Washington Street
Watertown, New York 13601

With a copy to:

Bond, Schoeneck & King, PLLC
Attn: Kevin M. Pole, Esq.
One Lincoln Center
Syracuse, New York 13202-1355

or such other address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so sent shall be deemed to have been given as of the time it is deposited with the overnight carrier or in the United States mail.

- F. **Waiver of Jury Trial:** Landlord and Tenant agree to waive any right to have a trial by jury with respect to any lawsuit based on, or arising under this Lease or any course of conduct, course of dealing, statements or actions of Landlord or Tenant in connection with this Lease.

- G. **Broker's Commission:** Each Party represents to the other that there are no brokers involved in this matter.
- H. **Counterparts.** This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.
- I. **Computation of Time Periods.** If the date upon which any time period provided for in this Lease is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Eastern Daylight Savings Time of the next day which is not a Saturday, Sunday or federal, state or legal holiday. For purposes of this Lease, unless otherwise specified herein, all time periods and references to "days" shall mean calendar days.
20. **AUTHORITY TO SIGN:** All negotiations, considerations, representations and understandings between the parties are incorporated in this document and may be modified or altered only by agreement in writing between the parties, and no act or omission of any employee or agent of the parties or any broker, if any, shall alter, change or modify any of the provisions of this Lease. The parties executing this Lease on behalf of Landlord and Tenant represent that they have authority and power to sign this Lease on behalf of Landlord and Tenant.
21. **EXHIBITS:** This Lease includes the following Exhibits, which shall take precedence over conflicting provisions (if any) of this Lease, and are made an integral part of this Lease and fully incorporated by reference:
- A. Exhibit A (Description of Leased Space);
 - A-1. Exhibit A-1 (Description of the Pool Parcel);
 - B. Exhibit B (the Federal Grant Commitment);
 - C. Exhibit C (Notice to Tax Assessor); and
 - D. Exhibit D (Notification under NYS Public Authorities Act).

In the event the layout of the Leased Space is changed, Landlord and Tenant agree to enter into an amendment to the Lease to replace and update the exhibits to reflect such change.

[Signatures to Follow]

IN WITNESS WHEREOF, the undersigned parties have executed this Lease as of the day and year first above written.

LANDLORD:

**JEFFERSON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____

Its: _____

TENANT:

**THE YOUNG MEN'S CHRISTIAN
ASSOCIATION OF WATERTOWN NY INC.
D/B/A WATERTOWN FAMILY YMCA**

By: _____

Its: _____

EXHIBIT A
THE LEASED SPACE

The three parcels located in the City of Watertown, County of Jefferson, State of New York described as Parcel A, Parcel B and Parcel C below:

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Watertown, County of Jefferson, State of New York and being more particularly described as follows:

BEGINNING at the intersection of the northerly street margin of Arsenal Street and the easterly boundary of the parcel of land condemned by the City of Watertown from Standard Oil Company of New York, Inc. and/or its successors Socony Mobil Oil Company, Inc. or Socony Vacuum Oil Company, Inc. and Louis Burns, by a Supreme Court Order recorded in the Jefferson County Clerk's Office in Liber 795 of Deeds, at Page 651, on April 04, 1967;

THENCE N. 19°-45'-00" E., along the aforementioned City of Watertown easterly boundary, a distance of 242.67 feet to a point;

THENCE S. 70°-15'-00" E., passing through the most northwesterly corner of the former "Woolworth Store" building, at a distance of 30.00 feet and continuing along the northerly face of said building, a total distance of 78.28 feet to a point, said point being the intersection of said northerly face of the building and the center of a party wall;

THENCE S. 19°-45'-00" W., along the center of a party wall, a distance of 20.97 feet to an interior corner of the aforementioned party wall;

THENCE N. 70°-15'-00" W., along the center of a party wall, a distance of 1.83 feet to an interior corner of the aforementioned party wall;

THENCE S. 19°-45'-00" W., along the center of a party wall, a distance of 69.91 feet to a point;

THENCE S. 70°-15'-00" E., a distance of 74.05 feet to a point;

THENCE S. 19°-45'-00" W., a distance of 20.90 feet to a point;

THENCE N. 70°-15'-00" W., a distance of 37.43 feet to a point;

THENCE S. 19°-45'-00" W., a distance of 9.12 feet to a point;

THENCE N. 70°-15'-00" W., along the center of a party wall, a distance of 36.62 feet to a point in a party wall;

THENCE S. 19°-45'-00" W., along the center of a party wall, a distance of 110.77 feet to a party wall intersection;

THENCE N. 70°-15'-00" W., along the center of a party wall, a distance of 15.10 feet to an interior corner of the aforementioned party wall;

THENCE S. 19°-45'-00" W., along the center of a party wall, passing through the southerly face of the building at a distance of 9.32 feet and continuing a total distance of 10.99 feet to the northerly street margin of Arsenal Street;

THENCE N. 70°-15'-00" W., along the northerly street margin of Arsenal Street, a distance of 61.36 feet to the POINT of BEGINNING.

CONTAINING 0.4862 acres (20307 square feet) of land and building, more or less.

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Watertown, County of Jefferson, State of New York and being more particularly described as follows:

COMMENCING at the intersection of the northerly street margin of Arsenal Street and the easterly boundary of the parcel of land condemned by the City of Watertown from Standard Oil Company of New York, Inc. and/or its successors Socony Mobil Oil Company, Inc. or Standard Vacuum Oil Company, Inc. and Louis Burns, by a Supreme Court Order recorded in the Jefferson County Clerk's Office in Liber 795 of Deeds, at Page 651, on April 04, 1967;

THENCE S. 70°-15'-00" E., along the northerly street margin of Arsenal Street, a distance of 193.49 feet to a point;

THENCE N. 19°-45'-00" E., a distance of 9.88 feet to the intersection of the southerly face of the lower level of the former "Woolworth Store" building and an interior party wall, said point being the POINT OF BEGINNING.

THENCE N. 19°-45'-00" E., along the center of a party wall, a distance of 17.63 feet to a

THENCE S. 70°-15'-00" E., along the center of a party wall, a distance of 9.35 feet to a

THENCE S. 19°-45'-00" W., along the center of a party wall, a distance of 17.63 feet to point in the southerly face of the lower level of the former "Woolworth Store" building;

THENCE N. 70°-15'-00" W., along the southerly face of the former "Woolworth Store," a distance of 9.65 feet to the POINT OF BEGINNING.

CONTAINING 0.0038 acres (165 square feet) of land and building, more or less;

PARCEL C

The upper level portion of the former Woolworth building situate in the city of Watertown, County of Jefferson, State of New York located above a horizontal plane with an elevation of 481.64 feet, more particularly described as follows:

COMMENCING at the intersection of the northerly street margin of Arsenal Street and the easterly boundary of the parcel of land condemned by the City of Watertown from Standard Oil Company of New York, Inc. and/or its successors Socony Mobil Oil Company, Inc. or Socony Vacuum Oil Company, Inc. and Louis Burns, by a Supreme Court Order recorded in the Jefferson County Clerk's Office in Liber 795 of Deeds, at Page 651, on April 04, 1967;

THENCE S. 70°-15'-00" E., along the northerly street margin of Arsenal Street, a distance of 30.00 feet to a point;

THENCE N. 19°-45'-00" E., a distance of 1.67 feet to the most southwesterly corner of the upper level of the former "Woolworth Store" building at an elevation of 481.64 feet, said point being the POINT OF BEGINNING;

THENCE N. 19°-45'-00" E., along the westerly face of the building, a distance of 241.00 feet to the most northwesterly corner of the upper level of the former "Woolworth Store" building;

THENCE S. 70°-15'-00" E., along the northerly face of the former "Woolworth Store," a distance of 271.00 feet to the most northeast corner of the upper level of said building;

THENCE S. 19°-45'-00" W., along the easterly face of the former "Woolworth Store," a distance of 241.00 feet to the most southeast corner of the upper level of said building;

THENCE N. 70°-15'-00" W., along the southerly face of the former "Woolworth Store," a distance of 271.00 feet to the POINT OF BEGINNING.

EXCLUDING THEREFROM the lower level of the former Woolworth Building located below the horizontal plane with an elevation of 481.64 feet and the land thereunder.

IT BEING the intent to describe only the upper level of the former Woolworth building.

CONTAINING 1.4993 areas (65,311 square feet) of upper floor space, more or less.

SUBJECT TO any rights or restrictions of record which may exist.

The above conveyances are as shown on a map titled "Subdivision Final Plat, a Portion of the Land of Gary Juster, Arsenal Street and Court Street, City of Watertown, County of Jefferson, State of New York, Drawing No. 2 of 2," dated November 28, 2000, prepared by GYMO, Architecture, Engineering & Land Surveying, P.C., Watertown, New York.

EXHIBIT A-1

DESCRIPTION AND SURVEY OF POOL PARCEL

City of Watertown – Lot 1

March 15, 2021
Project No. 2020-107

ALL THAT TRACT or parcel of land situate in the City of Watertown, County of Jefferson, State of New York, and further described as follows:

BEGINNING at a point in the westerly property line of the parcel of land conveyed by Gary Juster to Jefferson County Industrial Development Agency by deed recorded in the Jefferson County Clerk's Office in Liber 1874 Page 106 on August 8, 2002, said point of beginning being N 19° 15' 04" E along the Juster to JCIDA westerly property line a distance of 99.81 feet from the westerly property line and northerly street margin of Arsenal Street;

THENCE N 70° 41' 52" W, a distance of 77.19 feet to a point;

THENCE N 19° 18' 08" E a distance of 133.00 feet to a point;

THENCE S 70° 41' 52" E a distance of 45.57 feet to a point;

THENCE S 88° 16' 52" E a distance of 33.04 feet to the most northwesterly corner of the Juster to JCIDA conveyance;

THENCE S 19° 15' 04" W along the Juster to JCIDA westerly property line a distance of 142.98 feet to the point of beginning.

CONTAINING 0.24 acres of land more or less.

SUBJECT to any rights or restrictions of record.

It being the intent to convey a portion of the following conveyances into the City of Watertown:

1. Standard Oil to City of Watertown by deed recorded in the Jefferson County Clerk's Office in Liber 795 Page 651 on April 4, 1967
2. People of the State of New York to City of Watertown by deed recorded in the Jefferson County Clerk's Office in Liber 751 Page 84 on July 9, 1964
3. Daniel M Swan to City of Watertown by deed recorded in the Jefferson County Clerk's Office in Liber 771 Page 247 on December 16, 1965
4. Harlo Motors Inc to City of Watertown by deed recorded in the Jefferson County Clerk's Office in Liber 765 Page 345 on April 2, 1965
5. Manfred Garage Inc to City of Watertown by deed recorded in the Jefferson County Clerk's Office in Liber 778 Page 71 on December 16, 1965.

The above described parcel as shown on the map titled Subdivision Plat and Topographic Survey of the Land of JCIDA and City of Watertown – Arsenal Street, prepared by Bernier Carr and Associates and dated March 15, 2021.

EXHIBIT B
AUTHORIZATION TO TAX ASSESSOR

TO: TAX ASSESSOR OF _____ COUNTY DATE: _____

RE: TAX PARCEL NUMBER(S) _____

ADDRESS AND LOCATION CODE

TENANT:

The undersigned property owner, requests and authorizes you to do the following:

1. You may release or otherwise provide _____ with any and all information regarding the assessment or valuation of the real estate tax parcel described above.
2. The YMCA is authorized to file on behalf an appeal or protest of any general or special assessment.
4. You should mail all further tax bills, notices of assessment and requests for information to YMCA at the following address:

Tenant: _____

5. This authorization shall remain in full force and effect and you may rely upon it without liability to me until it is withdrawn or terminated by the undersigned in writing.

If any of the requests above cannot be granted without completion of additional forms or applications, please forward any such forms and applications, together with instructions, to: (name and address of Regional Coordinator)

TAXPAYER (LANDLORD) SIGNATURE(S)

PRINTED NAME(S) _____

EXHIBIT C
NOTIFICATION UNDER NYS PUBLIC AUTHORITIES ACT

B A R C L A Y D A M O N

Joseph W. Russell
Partner

March 18, 2020

Hon. Thomas P. DiNapoli
Comptroller, New York State
110 State Street
Albany, New York 12236

**RE: Notification of the Sale of Real Property owned by the Jefferson County
 Industrial Development Agency**

Dear Comptroller DiNapoli:

The undersigned is General Counsel to the Jefferson County Industrial Development Agency, 800 Starbuck Avenue, Watertown, New York 13601 (the "Agency") and I have been directed to provide this correspondence pursuant to the requirements of section 2897 (6)(d)(ii) of the New York Public Authorities Act.

The Jefferson County Industrial Development Agency, 800 Starbuck Avenue, Watertown, New York 13601 (the "Agency") has negotiated the sale of a major portion of a large parcel of improved real property owned by the Agency located at 146 Arsenal Street, Watertown, New York, to the Watertown Family YMCA.

The following is an explanatory statement of the circumstances of the proposed transaction:

The parcel owned by the Agency consists of approximately 76,879 square feet of a building located on tax parcels 7-2-102.001, 7-2-102.002 and 7-2-102.003 which contains in total approximately 126,386 square feet. The parcel fronts on Arsenal Street in the City of Watertown. The building improvements include a two story steel and masonry framed office building constructed in 1971.

The Agency parcel was acquired by the Agency in 2002, and until recently housed a large call center employing over 550 individuals. Unfortunately, increased costs forced the Company to close its doors and move its call center services to a location outside of New York State. The building has been vacant since closure in the Summer of 2019. Attempts by the Agency to recruit another call center or back office company for the parcel have failed, and the carrying costs to the Agency of the vacant structure pose a financial burden on the Agency.

Of the 76,879 square foot parcel, the Agency has negotiated the sale of approximately 60,000 square feet to the Watertown Family YMCA for a purchase price of \$500,000.00, (the "Y" parcel), with the remainder of the parcel to be retained by the Agency for use by an occupant to be determined.

120 Washington Street - Suite 500 - Watertown, New York 13601 barclaydamon.com
jrussell@barclaydamon.com Direct: (315) 418-7115 Fax: (315) 793-7858

Hon. Thomas P. DiNapoli
Comptroller, New York State
Page 2

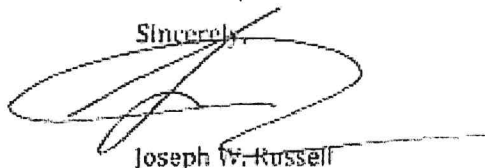
The Watertown Family YMCA proposes to develop the Y parcel and transform it into a multi-million dollar public purpose complex to be known as the YMCA Community Center (preliminary design concepts included). Initial estimates place the total project value at just over \$16,000,000.00 for what is planned to be an aquatic, racquet sport, and wellness center.

Once completed the developed Y parcel will become a focal point for the re-birth of Watertown's downtown and will join several other projects being undertaken through New York State's Downtown Revitalization Initiative. The project has already been awarded a grant in the amount of \$2,133,000.00 through the State's Consolidated Funding Application process.

It is anticipated that the project will result in the creation of thirty (30) new jobs and the retention of thirty five (35) existing jobs, with salaries ranging from \$25,000.00 to \$55,000.00, which places the project within the purposes and mission of the Agency. In addition to the permanent jobs, it is expected that approximately 100 temporary construction jobs will be created during the development of the Y parcel.

As part of its evaluation of the proposal submitted by the Watertown Family YMCA, the Agency Board has commissioned an appraisal of the Y parcel by DGM Coon & Company, which places a market value on the Y parcel at \$1,600,000.00.

Although the negotiated sale is for a price below market value, the Agency Board of Directors has determined that with the significant positive impact which the planned project will have on downtown Watertown, and the entire region, together with the job creation and retention that will follow, the sale below market value is justified and within the mission of the Agency.

Sincerely,

Joseph W. Russell

cc: Director of New York State Budget
New York State Commissioner of General Services
New York State Legislature
New York State Authorities Budget Office
Jefferson County Legislature, Chairman Scott Gray
Jefferson County Administrator, Robert Hagemann
Mayor, City of Watertown, Jeffrey Smith
Keith Caughlin, Esq., Chairman, Board of Directors, Watertown Family YMCA
Denise Young, CEO, Watertown Family YMCA
Donald C. Alexander, CEO, Jefferson County Industrial Development Agency