

Attachment 3 - Real Property Exchange Agreement

REAL PROPERTY EXCHANGE AGREEMENT

THIS REAL PROPERTY EXCHANGE AGREEMENT (the "Agreement") is made this ____ day of _____, 2019 by and between **City of Pensacola**, a Florida municipal corporation ("City"), whose address is 222 W. Main Street, Pensacola, Florida 32502, and the **Young Men's Christian Association of Northwest Florida, Inc.**, a Florida not-for-profit corporation ("YMCA"), whose principal address is 165 E. Intendencia Street, Pensacola, Florida 32502.

RECITALS

WHEREAS, YMCA is the owner of certain real property located at 3215 Langley Avenue, Pensacola, Florida as more particularly described on Exhibit A (the "Langley Property");

WHEREAS, the Langley Property was appraised by Fruitticher Lowery Appraisal Group and has an appraised value of Five Hundred Twenty Thousand and No/100 Dollars (\$520,000.00);

WHEREAS, YMCA currently leases a cell tower located on the Langley Property to Verizon Wireless Personal Communications LP D/B/A Verizon Wireless pursuant to that certain Land Lease Agreement between Verizon and YMCA dated July 7, 2015 (the "Verizon Cell Tower Lease");

WHEREAS, City owns the athletic complex located at 2130 Summit Blvd., Pensacola, Florida (the "Roger Scott Athletic Complex");

WHEREAS, YMCA and City desire to exchange the Langley Property for a portion of the Roger Scott Athletic Complex as depicted on Exhibit B (which depiction includes the proposed location of the YMCA health and fitness building referred to as "YMCA @ Vickery", the 8 lane pool, and an area reflected with hashmarks) (the "Roger Scott Parcel");

WHEREAS, the survey of the Roger Scott Parcel is being updated. Upon updating of the survey, a legal description for the Roger Scott Parcel shall be attached as Exhibit C; and

WHEREAS, the Roger Scott Parcel was appraised by Charlie C. Sherrill, Jr. and has an appraised value of One Hundred Ninety-Six Thousand and No/100 Dollars (\$196,000.00).

WITNESSETH

NOW THEREFORE, for and in consideration of the promises and covenants made herein, the promises and covenants made in the Use and Program Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, and intending to be legally bound, the parties hereto mutually agree that (a) YMCA shall convey and City agrees to accept conveyance of the Langley Property, and (b) City agrees to convey and YMCA agrees to accept conveyance of the Roger Scott Parcel, both subject to the terms, conditions, agreements, additional consideration and covenants contained herein. The conveyances contemplated hereunder shall include all appurtenances, easements and privileges thereto belonging, including all right, title and interest of the respective seller in and to any easements, strips, gores, appurtenances adjoining the real property.

1. Incorporation of Recitals. The above recitals are true and correct and are hereby incorporated into this agreement by this reference.

2. Land Exchange Consideration. On the Closing Date (hereinafter defined), subject to retention of the Verizon Cell Tower Lease as described below, YMCA shall convey free and clear title to the

Langley Property to City or its assignee, by conveyance of a special warranty deed substantially in the form of Exhibit D, attached hereto. In partial consideration of the conveyance of the Langley Property, and in addition to other exchange consideration that City agrees to provide to YMCA (as described hereinafter), City shall convey free and clear title to the Roger Scott Parcel, by conveyance of a special warranty deed substantially in the form of Exhibit E, attached hereto.

3. Retention of Cell Tower Lease and Cell Tower Easement. YMCA shall retain the Verizon Cell Tower Lease and a perpetual easement over a portion of the Langley Property granting YMCA sufficient rights and interest to allow YMCA, as lessor, to satisfy the terms and conditions of the Verizon Cell Tower Lease or a similar cell tower lease.

4. Other Exchange Consideration. In addition to the aforementioned exchange of land, City shall provide the following additional consideration:

A. City shall grant YMCA an easement for the construction and use of a stormwater retention pond located in area reasonably appropriate to accept stormwater runoff from the Roger Scott Parcel. The retention pond shall be designed to accept stormwater from the Roger Scott Parcel to accommodate any and all improvements on such property, including but not limited to a YMCA health, wellness and exercise facility, impervious surfaces (include parking areas), and a pool to be developed in the future. City shall also grant YMCA an easement over and across the property retained by City (the "Retained City Property") for the flow of stormwater from the Roger Scott Parcel to the retention pond and an easement to use the retention pond for storm water collection. YMCA shall pay for the design and construction of the retention pond. The stormwater easement shall be in the form attached hereto as Exhibit F. City shall record the stormwater easement within 180 days of a written request by YMCA.

B. City shall construct a minimum of 60 additional public parking spaces in the area depicted on Exhibit G. City shall grant YMCA (i) a perpetual non-exclusive ingress and egress easement for YMCA employees, members, guests, invitees, and contractors for pedestrian and vehicular ingress over and across all service drives located on the Roger Scott Athletic Complex, as the same may change from time to time, and otherwise open to the public to and from Summit Boulevard and 12th Avenue and (ii) a perpetual non-exclusive parking easement to park in parking spaces located on the Roger Scott Athletic Complex, as the same may change from time to time. The parties agree that the value of the parking easement, including the right to use the additional parking spaces, is Two Hundred Twenty-Nine Thousand and No/100 Dollars (\$229,000.00). The ingress, egress and parking easement shall be in the form attached hereto as Exhibit H and shall be recorded simultaneously with Closing (and will be amended to include the to-be-constructed additional parking upon completion). City shall construct such the additional parking spaces within 270 days of written request by YMCA.

C. City shall build a public playground in the area depicted on Exhibit I. At a minimum, the playground shall include features and elements similar to those described on the quote from Gulf Coast Recreation attached here to as Exhibit J. Under the Use and Program Agreement, YMCA shall have certain rights to use the playground. The parties agree that the value of the playground and the right to use the playground is Sixty-Five Thousand and No/100 Dollars (\$65,000.00). City shall construct the playground within 180 days of a written request by YMCA.

D. City agrees to grant easements for any and all utilities necessary to operate a YMCA health, wellness, and fitness facility (and a pool to be developed in the future), including but not limited to utilities for water, sewer, power, fire main, phone, and cable, across the Retained City Property in areas to be reasonably agreed to by YMCA and City. YMCA shall record the easement within a reasonable time after request by YMCA to accommodate construction of improvements on the Roger Scott Parcel. The YMCA shall have its own separate utilities meter. City agrees to allow YMCA to tie into City's utilities if

such connection is acceptable to the utility provider. City also agrees to a shut-down of utilities as necessary for YMCA to install utilities and to tie into City's utilities, if allowed by utility provider.

E. Signage. YMCA and City shall install new signage, with a design mutually agreed upon, at the entrance to the Vickery Center location on Summit Boulevard. City shall pay \$30,000.00 towards the design, purchase and installation of the new signage. Such signage shall be in compliance with applicable law. YMCA and City shall mutually agree on the design and to equally share the cost to maintain any such sign in good state of repair. The sign shall be installed within 90 days of the Effective Date. If requested, City shall grant YMCA a signage easement upon terms reasonably agreed to by the parties hereto.

F. City agrees to grant YMCA a temporary easement of ingress, egress, and use of an area for staging during construction of any improvements on the Roger Scott Parcel, including but not limited to the construction of a new YMCA fitness facility and a possible future pool. The area will be located near the Roger Scott Parcel and shall be reasonable in size to accommodate a construction site for the desired improvements.

G. Paragraphs 4, A through 4, F shall survive closing.

5. Survey. A survey of the Langley Property has been completed. The Roger Scott Parcel is being surveyed. The surveys for the Langley Property and the Roger Scott Parcel are each referred to herein as a "Survey." In the event a Survey reflects any easements, encroachments, rights-of-way, roads, lack of access, deficiencies, gaps or gores or hiatus between any of the parcels included within the respective property being exchanged hereunder or between such property and any adjoining streets or roads, or any other adverse matters not acceptable to the respective transferee of such property, such party may notify transferor of such objections to the Survey within the applicable time period set forth in Paragraph 6 hereof. Objections to a Survey shall be treated as Title defects pursuant to Paragraph 6. The transferee of such property shall be entitled to obtain an update of the Survey ("**Updated Survey**") at any time prior to the Closing, at such party's expense. If any Updated Survey reveals any adverse matter not disclosed by the Survey, then such Updated Survey defect shall be handled in the same manner as a new title defect.

6. Evidence of Title. Within Sixty (60) Days after the Effective Date, the respective transferee of a property hereunder shall obtain, at such party's expense, and provide a copy thereof to transferor of such property within five (5) days after receipt thereof, a commitment for an owner's title insurance policy, (the "**Title Commitment**"), agreeing to issue to the transferee, upon recording of a Special Warranty Deed, a title insurance policy in the amount of the appraised value of the property specified in the recitals to this Agreement, insuring the transferee's title to the Property, subject only to encumbrances and matters that are permitted, ("**Permitted Encumbrances**").

A. Permitted Encumbrances include the following:

- i. Requirements, approvals, ordinances, regulations, restrictions, prohibitions or other matters issued by a Governmental Entity, including, but not limited to such matters that involve land use, zoning, water retention, or storm water management;
- ii. Matters appearing on a plat of record or common to a subdivision in which the Property exists, other than plats that may have existed previously but are not part of the current development plan;
- iii. Oil, gas or mineral rights if there is no right of entry;

- iv. Easements to a public utility or governmental entity;
- v. Taxes for the year of Closing and subsequent years;
- vi. Other Permitted Encumbrances: none.

The Title Commitment shall include legible copies of all documents referenced therein. The Title Commitment shall provide that all "standard exceptions" (including exceptions for taxes (for years prior to the year of Closing) and assessments not shown in the public records, claims of unrecorded easements, parties other than owner in possession, construction liens and matters disclosed on an accurate Survey, shall be deleted from the Policy when issued. The transferor of a property hereunder shall provide to the Closing Agent any affidavits, undertakings and other instruments required to delete said standard exceptions.

B. Objections to Title. If the Title Commitment contains exceptions to coverage other than the standard exceptions which adversely affect title to the respective property and render title unmarketable and uninsurable, or if the Survey reveals any defect as set forth in Paragraph 6 hereof, the transferee of such property shall notify the transferor, in writing, of the transferee's objection to such exceptions within ten (10) days after the Title Commitment and copies of all underlying title search instruments and the Survey have been furnished to the transferee.

C. Curing Title Objections. The transferor shall have thirty (30) days after receipt of such notice in which to cure such defects (the "**Title Curative Period**") and furnish to the transferee evidence that same have been cured. The Closing Date shall be postponed and extended for the Title Curative Period. If the Title defects are cured within the Title Curative Period, the sale and purchase shall be closed within seven (7) days after written notice to transferee, but not earlier than the Closing Date. In the event that transferor is unable to cure such defects within the Title Curative period, the transferor may give notice of the necessity to extend the Title Curative Period for an additional one hundred twenty (120) days. If the transferor fails to cure such defects within the Title Curative Period (as extended if applicable), or notifies transferee in writing that transferor has determined, in transferor's sole discretion, that it is not feasible on a commercially reasonable basis to cure one or more of transferee's objections (in which event transferor shall notify transferee of its determination within twenty (20) days after its receipt of transferee's notice of title objections), transferee shall have the option, to be exercised in its sole discretion, to either: (i) complete the purchase in accordance with the Agreement and accept title to the property subject to such objections without any adjustment to the purchase price; or (ii) terminate this Agreement by written notice thereof to the transferor within seven (7) days after transferee's receipt of written notice of the transferor's failure to cure transferee's objections within the Title Curative Period or transferor's determination that curing transferee's objections is not feasible, whereupon this Agreement shall terminate and be of no further force or effect.

D. Updates of Title. If Closing is scheduled to occur more than thirty (30) days from the date of the Title Commitments, the Title Commitments shall be updated by endorsements (each referred to as an "**Update Endorsement**") which endorsements, together with legible copies of any additional matters identified therein, shall be delivered to the respective transferee no less than five (5) days before the respective Closing Date. If any Update Endorsement discloses any new requirement, defect, Encumbrance or other adverse matter that is not a Permitted Encumbrance, then the respective transferee shall notify the respective transferor in writing specifying the new title defect. The transferor shall have a period of thirty (30) days following the receipt of such notice from the transferee to cure such new title defect and, if necessary, the Closing Date shall be extended as provided above. The transferor agrees to use diligent, good faith efforts to attempt to remove the new title defect, as provided above. If the

transferor fails to cure any such new title defect, the transferee shall have the remedies provided above in this Section.

E. **Title Policy.** At or after Closing, the party who procured the Title Commitment shall be responsible for providing the respective transferee a standard ALTA Owner's Policy of Title Insurance (10/17/92) (with Florida modifications) for the property based on the Title Commitment and any issued Update Endorsements (the "Policy"). The Policy will be issued by the Closing Agent and be underwritten by the Closing Agent that underwrote the Title Commitment, will be in the amount of the appraised value as stated in the recitals to this Agreement, and will insure the respective transferee's fee simple title to such property subject only to the Permitted Encumbrances. If the transferee has not provided Closing Agent a Survey certified to all appropriate parties and showing no defects, the policy shall obtain exceptions for matters which would be disclosed by an accurate Survey and inspection of such property, and easements and claims of easements not shown by the public records.

F. **The Parties have been fully advised and agree that time is of the essence with respect to the parties' obligations under this Section.**

7. **Closing.** Provided that all conditions precedent contained in this Agreement have been satisfied or waived, the parties agree that closing shall occur on or before July 26, 2019 (the "Closing Date") at the office of Litvak Beasley Wilson & Ball, LLP or at such other date and location in Pensacola, Florida as the parties may mutually agree.

YMCA agrees to convey the Langley Property by Special Warranty Deed and to pay the documentary stamp taxes in connection with the deed. YMCA shall pay the cost to record the deed, the examination of the title, title insurance premium, escrow fees, and survey and appraisal fees in connection with the sale and conveyance of the Langley Property. Each party shall be responsible for the fees and expenses of their own counsel and other consultants.

City agrees to convey the Roger Scott Parcel by Special Warranty Deed and to pay the documentary stamp taxes in connection with the deed. City shall pay the cost to record the deed, the examination of the title, title insurance premium, escrow fees, and survey and appraisal fees in connection with the sale and conveyance of the Roger Scott Parcel. Each party shall be responsible for the fees and expenses of their own counsel and other consultants.

8. **Proration of Real Estate Taxes.** Ad valorem real property taxes shall be prorated based on taxes for the current year, if known, and allowances made for the maximum discount. If Closing occurs before the amount of current year's taxes or current year's millage is fixed, the taxes shall be prorated based upon the assessment and/or millage rate for the immediately preceding year. If the information for the current year is not available, the proration shall be the previous year's tax figure. Any proration based upon an estimate shall be readjusted upon request by either Party when the actual tax statement is received. This covenant shall survive Closing.

9. **Risk of Loss.** The RISK OF LOSS related to the Langley Property shall remain with YMCA until the Closing Date. After the Closing Date, City shall be responsible for all costs associated with the Langley Property, and YMCA shall be responsible for all costs associated with the Roger Scott Parcel.

10. **Contingent Upon Execution of the Use and Program Agreement.** This Agreement and the transactions contemplated herein are contingent upon the following:

A. City and YMCA entering into a Use and Program Agreement (the "Use and Program Agreement") acceptable to each party concerning YMCA's use of the Vickery Resource Center located at

the Roger Scott Athletic Complex to provide certain membership programs; and

B. The Property's lawful use would allow the construction and operation of a recreation and health wellness facility.

C. Obtaining necessary variances from applicable land use and zoning code restrictions to allow for the construction of a proposed 20,000 sq. foot health and fitness building (a 2-story building, with 10,000 square feet per floor) and an enclosed 8 lane swimming pool, with necessary parking and green space.

D. The City and the YMCA shall each have a reasonable opportunity to conduct a suitable environmental assessment of the properties being conveyed, if they so choose, with each party to bear its own cost of assessment.

11. Miscellaneous Provisions

A. Assignment. YMCA may assign this Agreement to a new entity formed and wholly owned by YMCA for the purpose of acquiring the Roger Scott Parcel.

B. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument. This Agreement shall become binding when one or more counterparts shall bear the respective signatures of all of the parties designated as signatories herein. If this Agreement shall be executed in counterparts, then upon the subsequent written request of any signatory, all parties shall join in the signing of one complete original instrument. A facsimile or pdf copy of this Agreement evidencing any signatures shall be considered as an original for all purposes.

C. Calculation of Time. All references to days shall mean calendar days unless Business Days are specifically stated. "Business Days" shall mean Monday through Friday, and exclude legal holidays. If any time period ends on a Saturday, Sunday, or legal holiday, it shall instead be deemed to expire at the end of the next Business Day.

D. Time of the Essence. **The Parties have been fully advised and agree that time is of the essence in this Agreement.**

E. Brokerage. Both City and YMCA warrant that no brokers, agents or finders were involved in this transaction, and each party indemnifies and holds harmless the other party against any broker, agent or finder claiming a commission as a result of the conduct of said party.

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

G. Governing Law. This agreement shall be governed by and construed under the laws of the State of Florida.

H. Survival. This Agreement shall survive Closing hereunder.

I. Time. Time shall be of the essence.

J. Effective Date. The Effective Date of this Agreement shall be the date that the last of YMCA and City have executed this Agreement.

K. Enforcement and Waiver. This Agreement may be enforced only by and against the parties hereto, their successors and assigns. It shall not be construed so as to confer any rights on anyone else or to render any party a third-party beneficiary of this Agreement. The failure to enforce any requirement, term, restriction or obligation herein, shall not be deemed a waiver of the right to do thereafter, or in other situations, nor of the right to enforce any other term, condition or restriction contained herein.

L. Authority. Each party represents and warrants to the other that they have the full and unrestricted power and authority to execute and deliver this Agreement and all other documents required or contemplated by the terms of this Agreement and to consummate the transactions and activities contemplated herein, without the necessity of joinder by any other party.

12. Default. If either YMCA or City defaults hereunder, the other party shall have all legal and equitable remedies, including the right of specific performance.

13. The City of Pensacola expressly reserves and does not waive its municipal authority and police power by entering into this Agreement, including its sovereign immunity, its legislative authority, and its power of eminent domain.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by a duly authorized officer.

THE CITY:

City of Pensacola

By: _____
Grover Robinson, Mayor

Date: _____, 2019

Attest:

City Clerk
Approved as to Content

Department Head

Approve as to Form:

City Attorney

Witnesses:

Print

Signature

Print

Signature

THE YMCA:

Young Men's Christian Association of Northwest
Florida, Inc.

By: _____

Its: _____

Date: _____, 2019

Attest:

Secretary (SEAL)

Witnesses:

Print

Signature

Print

Signature

Exhibit A
To Real Property Exchange Agreement
Legal Description of Langley Property

Commence at the southwest corner of Section 13, Township 1 South, Range 29 West; thence South 64° 00' East along the south line of said Section 13, 812.24 feet, thence North 26° 00' East, 501.67 feet to the Point of Beginning; thence South 26° 00' West, 758.47 feet; thence North 64° 00' West, 369.94 feet; thence North 19° 19' 21" East, 258.55 feet to the South line of said Section 13, thence North 64° 00' West along said Section line, 30.46 feet; thence North 62° 24' 30" East, 341.72 feet to the point of curvature of a circular curve concave to the southeast, and having a radius of 1060.00 feet; thence northeasterly along said circular curve, 322.41 feet to the Point of Beginning.

The above described parcel lies within Section 13 and Section 14, Township 1 South, Range 29 West, Escambia County, Florida, and contains 5.00 acres, more or less.

UPDATED EXHIBIT B

ISSUE DATE: Issue Date		
REVISIONS		
#	Description	Date

STOA
Architects
121 E GOVERNMENT STREET
PENSACOLA, FL 32502
(904) 433-1912
FL LIC. A0003564

Consultant

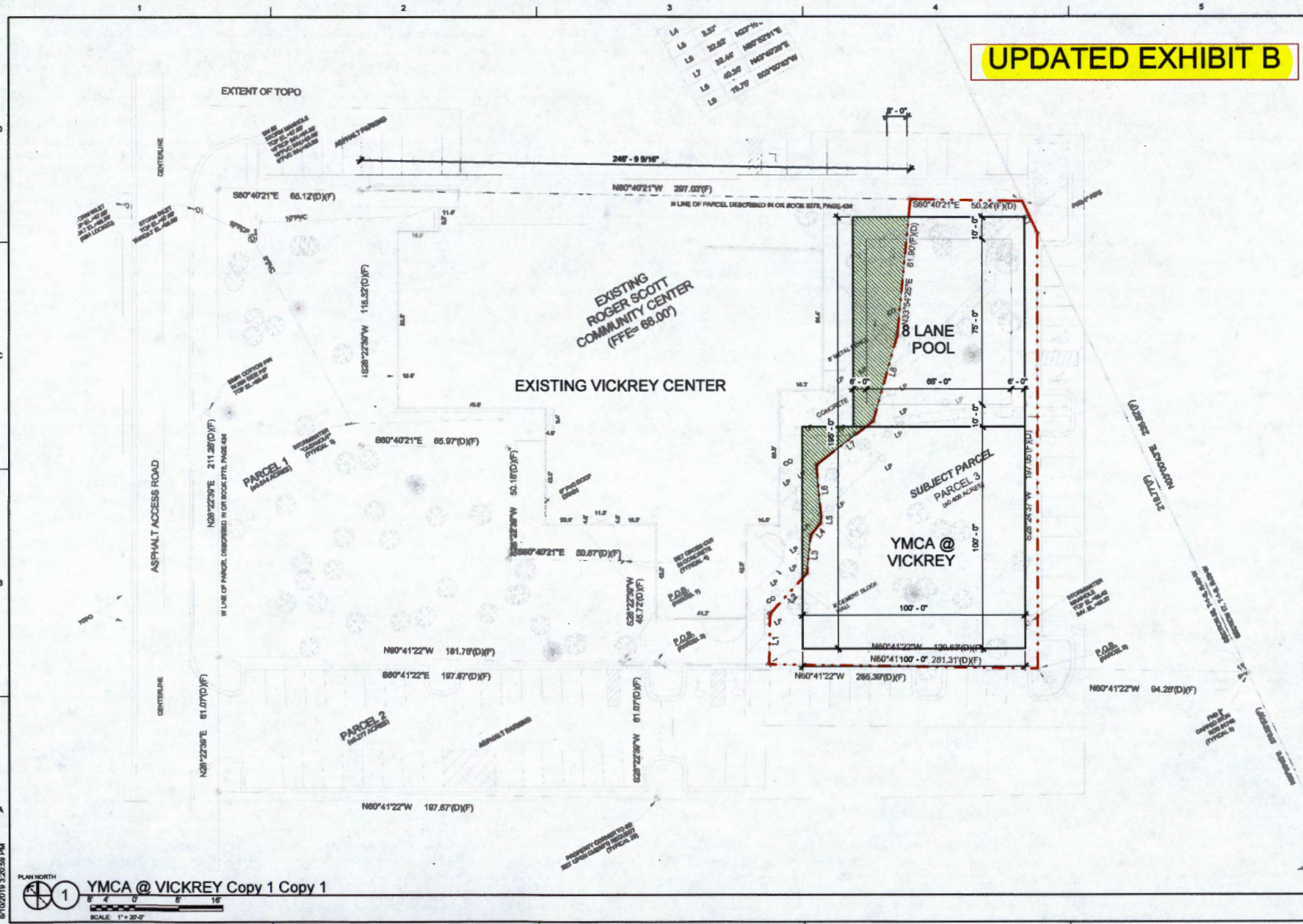
Seal

VICKREY CENTER YMCA SUMMIT BLVD, PENSACOLA, FL ARCHITECTURAL SITE PLAN

DRAWN BY: Author
DESIGNED BY: Designer
CHECKED BY: Checker
PROJECT NO: 19006
SHEET NUMBER

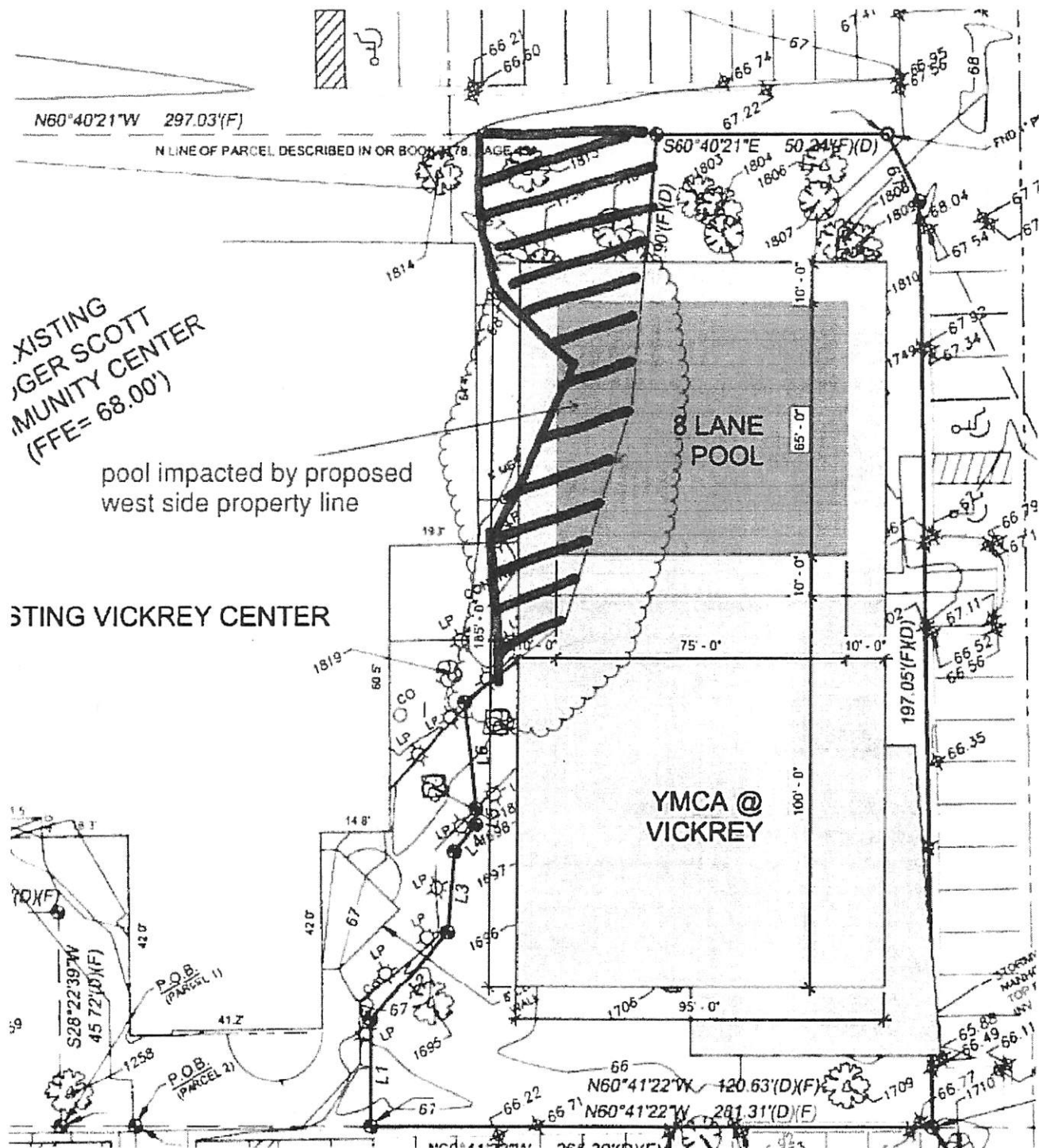
A-524

PROJECT STATUS



A-524
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PLAN NORTH
1
YMCA @ VICKREY Copy 1 Copy 1
SCALE 1" = 20'-0"



Thanks!

Christopher

CHRISTOPHER KARIHER, AIA, NCIDQ, LEED AP BD+C : ID+C
 Project Manager
 T: 850.432.1912 | C: 850.206.5070
 121 E. Government Street, Pensacola, FL 32502
www.stoaarchitects.com

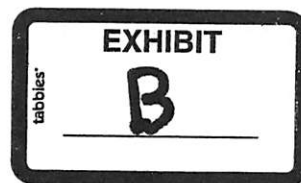


Exhibit C
To Real Property Exchange Agreement
Legal Description of Roger Scott Parcel

[TO BE INSERTED UPON OBTAINING SURVEY OF ROGER SCOTT PARCEL]

Exhibit D
To Real Property Exchange Agreement
Form of Special Warranty Deed (Langley Property)

This Instrument Prepared By:
Kramer A. Litvak
Litvak Beasley Wilson & Ball, LLP
40 S. Palafox Place, Suite 300
Pensacola, Florida 32502
(850) 432-9818
Florida Bar No.: 965881

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation, (herein "Grantor"), whose address is 165 E. Intendencia Street, Pensacola, Florida 32502, for and in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, does hereby bargain, sell, remise, confirm, convey and grant unto City of Pensacola, a Florida municipal corporation (herein "Grantor"), whose address is 222 W. Main Street, Pensacola, Florida 32502, its successors, and assigns, forever, the following described real property located in Escambia County, Florida:

Commence at the southwest corner of Section 13, Township 1 South, Range 29 West; thence South 64° 00' East along the south lien of said Section 13, 812.24 feet, thence North 26° 00' East, 501.67 feet to the Point of Beginning; thence South 26° 00' West, 758.47 feet; thence North 64° 00' West, 369.94 feet; thence North 19° 19' 21" East, 258.55 feet to the South line of said Section 13, thence North 64° 00' West along said Section line, 30.46 feet; thence North 62° 24' 30" East, 341.72 feet to the point of curvature of a circular curve concave to the southeast, and having a radius of 1060.00 feet; thence northeasterly along said circular curve, 322.41 feet to the Point of Beginning.

The above described parcel lies within Section 13 and Section 14, Township 1 South, Range 29 West, Escambia County, Florida, and contains 5.00 acres, more or less.

Subject to taxes and assessments for the year 2018 and subsequent years, which are not yet due and payable.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, free from all exemptions and right of homestead, in fee simple forever. And Grantor covenants that Grantor has good right, full power, and lawful authority to grant, bargain, sell, and convey the same, and hereby warrants title to said interest in the property and will defend same against the lawful claims of all persons claiming by, through or under the Grantor, but against no others.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 2019.

Young Men's Christian Association of Northwest Florida, Inc.

WITNESSES:

Name:

By: _____
Printed Name: _____

Its: _____

Name:

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as _____ of Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Exhibit E
To Real Property Exchange Agreement
Form of Special Warranty Deed (Roger Scott Parcel)

This Instrument Prepared By:
Kramer A. Litvak
Litvak Beasley Wilson & Ball, LLP
40 S. Palafox Place, Suite 300
Pensacola, Florida 32502
(850) 432-9818
Florida Bar No.: 965881

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that City of Pensacola, a Florida municipal corporation (herein "Grantor"), whose address is 222 W. Main Street, Pensacola, Florida 32502, for and in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, does hereby bargain, sell, remise, confirm, convey and grant unto Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation, (herein "Grantee"), whose address is 165 E. Intendencia Street, Pensacola, Florida 32502, his heirs, successors, and assigns, forever, the following described real property located in Escambia County, Florida:

[LEGAL DESCRIPTION TO BE INSERTED UPON OBTAINING SURVEY OF ROGER SCOTT
PARCEL]

Subject to taxes and assessments for the year 2018 and subsequent years, which are not yet due and payable.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anyway appertaining, free from all exemptions and right of homestead, in fee simple forever. And Grantor covenants that Grantor has good right, full power, and lawful authority to grant, bargain, sell, and convey the same, and hereby warrants title to said interest in the property and will defend same against the lawful claims of all persons claiming by, through or under the Grantor, but against no others.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 2019.

City of Pensacola, a Florida municipal corporation

WITNESSES:

Name:

By: _____
Grover Robinson, Mayor
Its: Mayor

Name:

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Grover Robinson, as Mayor of the City of Pensacola, a Florida municipal corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Exhibit F
To Real Property Exchange Agreement
Form of Stormwater Easement

Prepared by:
Kramer A. Litvak, of
Litvak Beasley Wilson & Ball, LLP
40 S. Palafox Place, Suite 300
Pensacola, Florida 32591-3503

STATE OF FLORIDA

COUNTY OF ESCAMBIA

NONEXCLUSIVE GRANT OF STORMWATER EASEMENT

This Nonexclusive Grant of Easements (this "Agreement") is made and entered into this ____ day of _____, 2019, by City of Pensacola, a Florida municipal corporation ("Grantor") in favor of the Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the athletic complex located at 2130 Summit Blvd., Pensacola, Florida (the "Parcel 1");

WHEREAS, previously hereto, Grantor sold, transferred, and conveyed that certain parcel of property located in Escambia County, Florida, and described on the attached **Stormwater Easement Schedule A** (referred to as "Parcel 2") to Grantee; and

WHEREAS, Parcel 1 and Parcel 2 are contiguous;

WHEREAS, Grantor desires to grant to Grantee, its successors and assigns, certain easements over, across, and upon Parcel 1 and does further desire that said easements run with the property, subject to the terms, provisions and conditions of this agreement.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of their mutual covenants, terms, and conditions hereinafter expressed, the parties hereto agree as follows:

1. Grant of Easement to Use Retention Pond and Stormwater Collection System. Grantor does hereby grant, transfer, convey, and deliver to Grantee, its successors and assigns, a perpetual nonexclusive easement to cause water run-off from Parcel 2 to flow through the stormwater collection system located in the Access Utility & Stormwater Easement area of Parcel 1 ("Stormwater Easement Area") as depicted on **Stormwater Easement Schedule B** and as described on **Stormwater Easement Schedule C**. Grantor does hereby also grant, transfer, convey, and deliver to Grantee, its successors and assigns, a perpetual nonexclusive easement to use the retention pond ("Retention Pond") located in the Easement Area and depicted on **Stormwater Easement Schedule B**. City, at its expense, shall maintain the Retention Pond located on Parcel 1 and the stormwater collection system located on Parcels 1 and 2 shall be paid 50% by the owners of Parcel 1 and 50% by the owners of Parcel 2. If the parties cannot agree on an issue concerning the maintenance and repair of the Retention Pond and the stormwater collection system, or any facilities and appurtenances thereto, then such matter shall be resolved according to the provisions of

Section 4 below. If the required repair necessitates immediate or expeditious action, then either party may cause commercially reasonable repairs to be made and shall be entitled to reimbursement of the pro-rata share of the expense by the other party. The grant of the easements under this Section 1 are subject to and the Grantor reserves unto itself the right to utilize the Retention Pond for water run-off and retention and the right to utilize the stormwater collection system in any other manner not inconsistent with the rights herein conveyed to Grantee.

2. Term. This easements and conditions, rights, and privileges herein granted shall be perpetual. Grantor hereby warrants and agrees to forever defend the above-described easements and rights unto Grantee against every person whomsoever lawfully claiming or to claim the same or any part thereof.

3. Easement to Run with Land. The easements and conditions shall run with the land and shall be binding on, and shall inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the parties hereto.

4. Dispute Resolution. The Parties acknowledge that the easements granted herein will establish a long-term working relationship between the City and the YMCA, which will require each party to act in good faith and fair dealing in order to render a high quality of public service to the citizens of Pensacola and the patrons of the YMCA. The parties further acknowledge that use, operation, and maintenance of the easements granted herein will require cooperation between the parties, their agents, officers, employees, and volunteers, and that in the process of drafting the easements it has not been possible to anticipate and resolve in advance all disagreements that may arise. In order to provide a framework for ensuring good faith and a process for resolution of unanticipated matters, the following commitments are agreed to:

- A. Each party shall inform the other at the earliest practicable time that a problem has arisen that requires action on the part of the other party.
- B. If a party believes that a provision of the easements granted herein has been or is anticipated to be breached, or if a party believes there is a dispute concerning an issue or problem not contemplated by the terms of these easements, the party shall notify the other party in writing of that position.
- C. Upon receipt of a notification of an issue, problem or an asserted or anticipated breach of these easements, the parties will arrange for authorized representatives to meet and confer as soon as possible, but no later than 72 hours following notification.
- D. If the resolution of the issue or problem requires the development of a procedure or protocol to be followed to avoid a recurrence, that procedure shall be developed and implemented immediately upon mutual consent to it.
- E. If the resolution of the issue or anticipated breach requires the expenditure of funds beyond the authority of the City's Parks and Recreation Director or his/ her YMCA counterpart to commit, the party bearing the responsibility to make the expenditure will advise the other party as promptly as possible regarding the action to be taken and the timetable required.
- F. In the event that a problem or issue cannot be resolved through the steps outlined above, the parties agree that they will utilize a mediation process substantially similar to that utilized by the Florida court system, although it shall not be necessary to utilize a compensated mediator or panel of mediators if there is mutual agreement not to do so. If a mediator or panel of mediators cannot be agreed upon, the Mayor and the YMCA Executive Director shall appoint one nominee each and those two nominees shall select the mediator. The issue shall thereafter be scheduled for mediation at the earliest practicable opportunity.
- G. In the event that mediation is not successful in resolving the dispute or problem, and litigation is being considered, the party seeking to initiate litigation shall be required to secure the approval of a majority of its governing board or body prior to the initiation of litigation.

(Signature Page to Follow)

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the day and year first above written.

GRANTOR:

City of Pensacola, a Florida municipal corporation

WITNESSES:

Name:

By: _____
Grover Robinson, Mayor
Its: Mayor

Name:

Attest:

City Clerk

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Grover Robinson, as Mayor of the City of Pensacola, a Florida municipal corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

GRANTEE:

Young Men's Christian Association of Northwest Florida, Inc.

WITNESSES:

Name:

By: _____
Printed Name: _____
Its: _____

Name:

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as _____ of Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

**SCHEDULES TO BE ATTACHED TO
NONEXCLUSIVE GRANT OF STORMWATER EASEMENTS**

**Stormwater Easement Schedule A
Legal Description of Parcel 2**

[TO BE INSERTED UPON ATTAINING SURVEY OF PARCEL 2 (THE ROGER SCOTT PARCEL)]

**Stormwater Easement Schedule B
Depiction of Stormwater Easement Area**

**[TO BE INSERTED UPON DETERMINING APPROPRIATE LOCATION OF EASEMENT AND PRIOR TO
RECORDING THIS EASEMENT]**

**Stormwater Easement Schedule C
Legal Description of Stormwater Easement Area**

**[TO BE INSERTED UPON DETERMINING APPROPRIATE LOCATION OF EASEMENT AND PRIOR TO
RECORDING THIS EASEMENT]**



Roger Scott
Vickery Center



Roger Scott
Athletic Complex



Ben & Lu



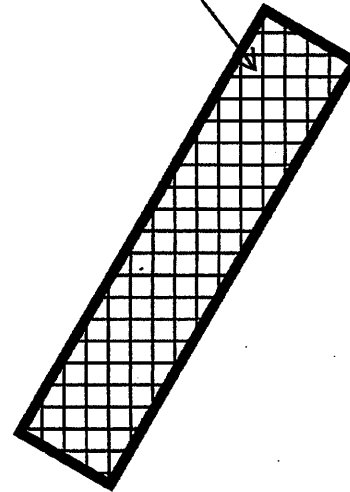
Roger Scott Pool



Roger Scott Dog Park



proposed
parking area



Summit Blvd

Summit Blvd

Summit Blvd

Summit Blvd

Exhibit G

Page 4 of 6

Exhibit H
To Real Property Exchange Agreement
Form of Ingress, Egress and Parking Easement

Prepared by:
Kramer A. Litvak, of
Litvak Beasley Wilson & Ball, LLP
40 S. Palafox Place, Suite 300
Pensacola, Florida 32591-3503

STATE OF FLORIDA

COUNTY OF ESCAMBIA

**NONEXCLUSIVE GRANT OF INGRESS AND EGRESS
AND PARKING EASEMENTS**

This Nonexclusive Grant of Ingress and Egress and Parking Easements (this "Agreement") is made and entered into this ____ day of _____, 2019, by City of Pensacola, a Florida municipal corporation ("Grantor") in favor of the Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the athletic complex located at 2130 Summit Blvd., Pensacola, Florida (the "Parcel 1");

WHEREAS, simultaneous herewith, Grantor sold, transferred, and conveyed that certain parcel of property located in Escambia County, Florida, and described on the attached **Parking Easement Schedule A** (referred to as "Parcel 2") to Grantee; and

WHEREAS, Parcel 1 and Parcel 2 are contiguous;

WHEREAS, Grantor desires to grant to Grantee, its successors and assign, certain easements over, across, and upon Parcel 1 and does further desire that said easements run with the property, subject to the terms, provisions and conditions of this agreement.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of their mutual covenants, terms, and conditions hereinafter expressed, the parties hereto agree as follows:

1. Grant of Ingress and Egress Easement. Grantor does hereby grant, transfer, convey, and deliver to Grantee, its successors, assigns, members, employees, contractors, invitees, visitors, and guests, a perpetual nonexclusive easement (the "Ingress and Egress Easement") on, over, across and through all service drives located on the Roger Scott Athletic Complex, as the same may change from time to time, and otherwise open to the public to and from Summit Boulevard and 12th Avenue (the "Ingress and Egress Easement Area") for pedestrian and vehicular ingress and egress to and from Summit Boulevard and Parcel 2 and to access the Parking Spaces described in Section 3 below.

2. Grant of Parking Easement. Grantor does hereby grant, transfer, convey, and deliver to Grantee, its successors, assigns, members, employees, contractors, invitees, visitors, and guests, a perpetual nonexclusive easement (the "Parking Easement") to park in parking spaces located on the Roger Scott Athletic Complex, as the same may change from time to time (the "Parking Easement Areas"). The grant of the Parking Easement and the grant of the easement to use the parking spaces located therein are subject to and the Grantor reserves unto itself, its successors, assigns, members, employees, contractors, invitees, visitors, and guests the right to utilize the Parking Easement Areas and retention and the right to utilize the parking spaces in any other manner not inconsistent with the rights herein conveyed to Grantee.

3. Maintenance of Ingress and Egress Improvements and Parking Improvements. The City shall maintain the parking surfaces and parking improvements at its cost and to the standards it applies to public parking facilities generally.

4. Term. This easements and conditions, rights, and privileges herein granted shall be perpetual. Grantor hereby warrants and agrees to forever defend the above-described easements and rights unto Grantee against every person whomsoever lawfully claiming or to claim the same or any part thereof.

5. Easement to Run with Land. The easements and conditions shall run with the land and shall be binding on, and shall inure to the benefit of, the heirs, personal representatives, administrators, successors and assigns of the parties hereto.

6. Dispute Resolution. The Parties acknowledge that the easements granted herein will establish a long-term working relationship between the City and the YMCA, which will require each party to act in good faith and fair dealing in order to render a high quality of public service to the citizens of Pensacola and the patrons of the YMCA. The parties further acknowledge that use, operation, and maintenance of the easements granted herein will require cooperation between the parties, their agents, officers, employees, and volunteers, and that in the process of drafting the easements it has not been possible to anticipate and resolve in advance all disagreements that may arise. In order to provide a framework for ensuring good faith and a process for resolution of unanticipated matters, the following commitments are agreed to:

- A. Each party shall inform the other at the earliest practicable time that a problem has arisen that requires action on the part of the other party.
- B. If a party believes that a provision of the easements granted herein has been or is anticipated to be breached, or if a party believes there is a dispute concerning an issue or problem not contemplated by the terms of these easements, the party shall notify the other party in writing of that position.
- C. Upon receipt of a notification of an issue, problem or an asserted or anticipated breach of these easements, the parties will arrange for authorized representatives to meet and confer as soon as possible, but no later than 72 hours following notification.
- D. If the resolution of the issue or problem requires the development of a procedure or protocol to be followed to avoid a recurrence, that procedure shall be developed and implemented immediately upon mutual consent to it.
- E. If the resolution of the issue or anticipated breach requires the expenditure of funds beyond the authority of the City's Parks and Recreation Director or his/ her YMCA counterpart to commit, the party bearing the responsibility to make the expenditure will advise the other party as promptly as possible regarding the action to be taken and the timetable required.
- F. In the event that a problem or issue cannot be resolved through the steps outlined above, the parties agree that they will utilize a mediation process substantially similar to that utilized by the Florida court system, although it shall not be necessary to utilize a compensated mediator or panel of mediators if there is mutual agreement not to do so. If a mediator or panel of mediators cannot be agreed upon, the Mayor

- and the YMCA Executive Director shall appoint one nominee each and those two nominees shall select the mediator. The issue shall thereafter be scheduled for mediation at the earliest practicable opportunity.
- G. In the event that mediation is not successful in resolving the dispute or problem, and litigation is being considered, the party seeking to initiate litigation shall be required to secure the approval of a majority of its governing board or body prior to the initiation of litigation.

(Signature Page to Follow)

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the day and year first above written.

GRANTOR:

City of Pensacola, a Florida municipal corporation

WITNESSES:

Name:

By: _____
Grover Robinson, Mayor
Its: Mayor

Name:

Attest:

City Clerk

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Grover Robinson, as Mayor of the City of Pensacola, a Florida municipal corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

GRANTEE:

Young Men's Christian Association of Northwest Florida, Inc.

WITNESSES:

Name:

By: _____
Printed Name: _____
Its: _____

Name:

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, as _____ of Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation, who personally appeared before me and who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

**SCHEDULES TO BE ATTACHED TO
NONEXCLUSIVE GRANT OF
INGRESS, EGRESS AND PARKING EASEMENTS**

**Parking Easement Schedule A
Legal Description of Parcel 2**

**[TO BE INSERTED UPON OBTAINING A SURVEY OF PARCEL 2 (THE ROGER SCOTT PARCEL) AND
PRIOR TO RECORDING THE EASEMENT]**

EXHIBIT I

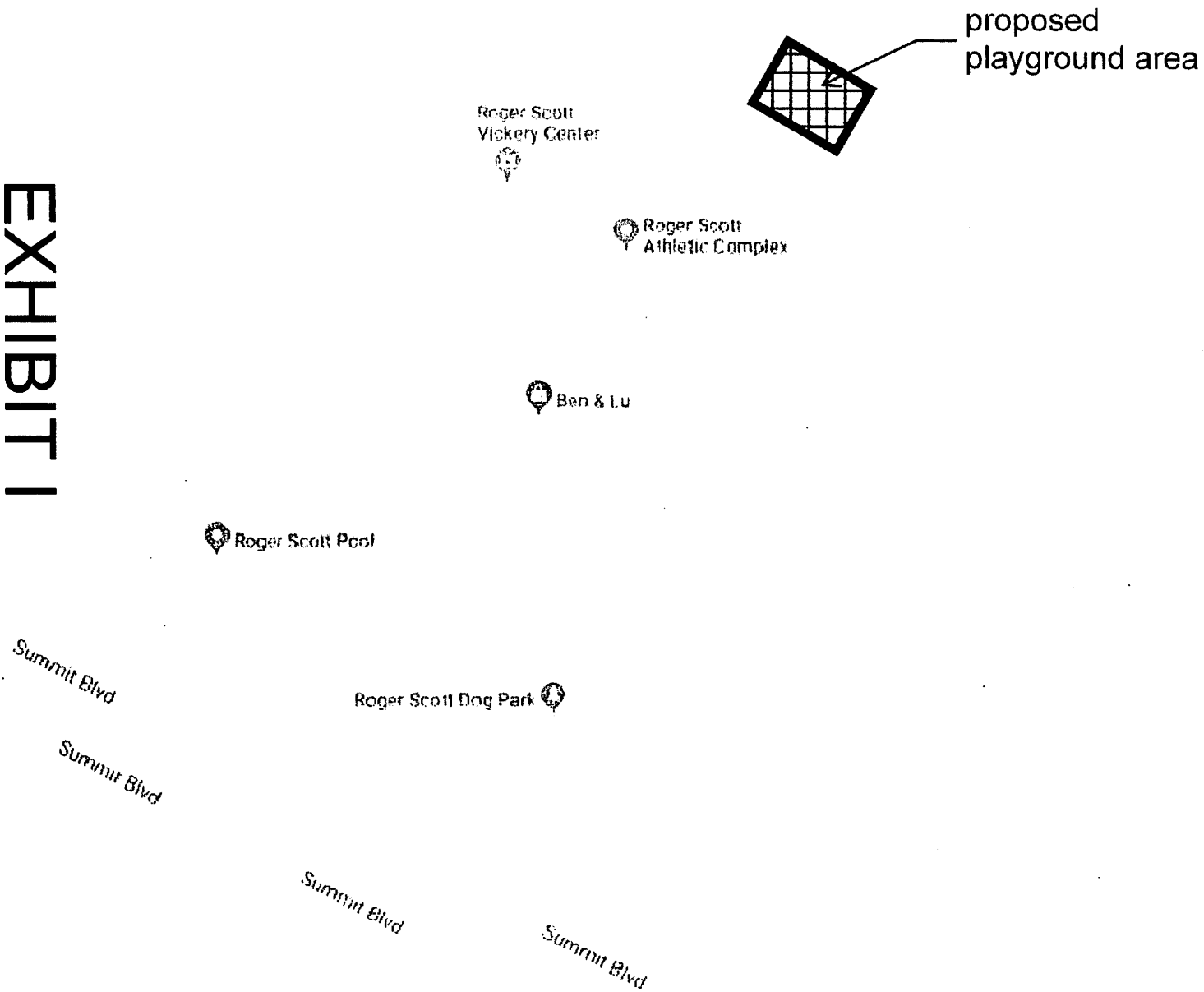
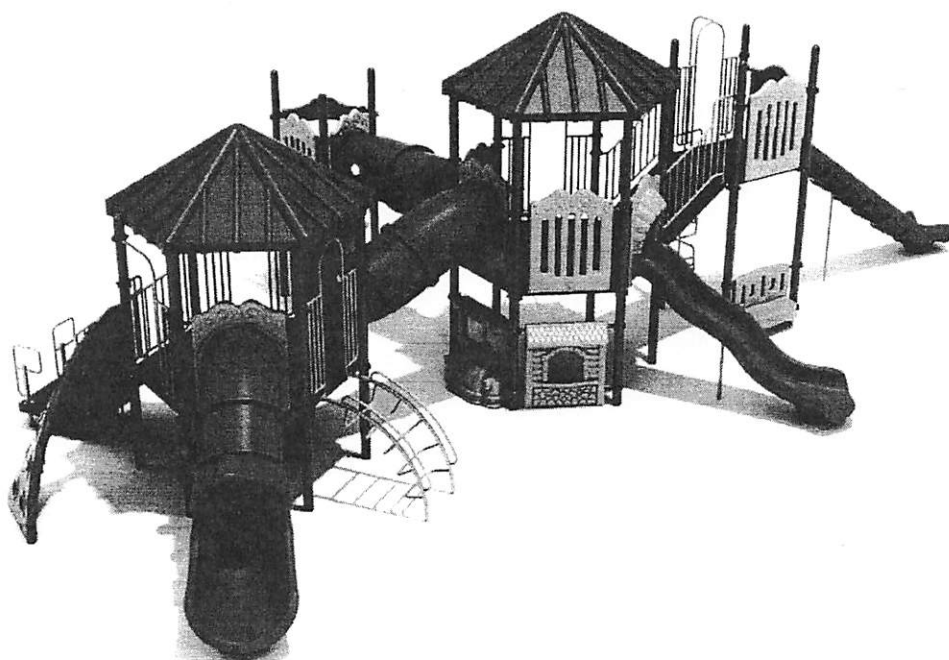


EXHIBIT J



Augusta

\$35,448

AGE RANGE: 2-12 YEARS

CHILD CAPACITY: 69-79

FALL HEIGHT: 84"

SAFETY ZONE: 46'6" x 51'5"

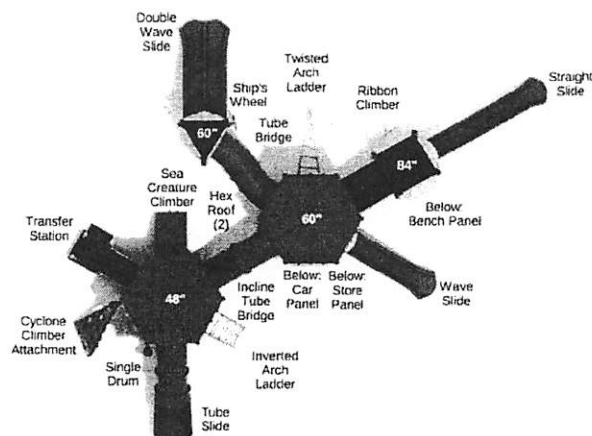
Discover a mystical, gem-toned sea castle fit for a ship of tiny heroes and heroines: the Augusta. With a vibrant color palette and four amazing decks, the Augusta design is a sprawling maze of crawl tubes, slides, and climbers that will entertain kids for hours. It features four types of slides: a Double Slide, Straight Slide, Wave Slide, and a Straight Tube Slide. And it also has a beautiful blue roofline, an Inverted Arch Climber, a Double Loop Climber, a Twisted Ladder Climber, an Arch Panel Climber, and a Twisted Rock Wall Climber for kids who love to scale and swing. Augusta includes fun ground-level elements to engage kids of all ability levels, like the pretend-play Car Panel, Storefront Panel, and Ship's Wheel. Kids can rest awhile and take in the action with the Bench Panel, and they'll need it. Trust us: your kids will want to play on Augusta all day.



ITEM	PRICE
AUGUSTA	\$26,375.00
BORDERS 50 AT \$26/EACH	\$1,300.00
EWf MULCH	\$3,800.00
FREIGHT	\$3,450.00
INSTALLATION	\$10,600.00
TOTAL	\$45,525.00

Page 2

The above information is for estimate and project planning purposes only. Applicable taxes, if any, have not been applied to the estimate.



Please contact us with any questions

Ryan@gulfcoastrecreation.com

1-833-PLAY-FUN

