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GROUND LEASE

between

CITY OF TOLEDO, OHIO

and

[NAME OF QALICB]

Dated as of

[_____]

DRAFT

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I BASIC TERMS AND DEFINITIONS; RULES OF CONSTRUCTION.....	1
ARTICLE II LEASE OF PROPERTY; AS IS CONDITION; AGREEMENT; TERM OF LEASE; PERMITTED USE; CONSTRUCTION OF THE PROJECT	5
ARTICLE III RENT	9
ARTICLE IV PAYMENT OF IMPOSITIONS	10
ARTICLE V EFFECT OF GROUND LEASE ON OWNERSHIP OF PROPERTY; AND CERTAIN OTHER INCIDENTS OF GROUND LEASE.....	10
ARTICLE VI COMPLIANCE WITH LAW; ENVIRONMENTAL LAWS; CONTEST.....	14
ARTICLE VII REPAIRS AND MAINTENANCE; RESERVE FUND	17
ARTICLE VIII INSURANCE; COMPLIANCE WITH INSURANCE REQUIREMENTS	18
ARTICLE IX INDEMNITY	19
ARTICLE X CASUALTY DAMAGE AND DESTRUCTION.....	19
ARTICLE XI CONDEMNATION	20
ARTICLE XII ESTOPPEL CERTIFICATES	22
ARTICLE XIII ASSIGNMENT AND SUBLEASE.....	22
ARTICLE XIV DEFAULT; INSOLVENCY EVENTS; AND CONDITIONS OF LIMITATION.....	23
ARTICLE XV REMEDIES	24
ARTICLE XVI BROKER	26
ARTICLE XVII NO IMPAIRMENT OF THE CITY’S TITLE	26
ARTICLE XVIII QUIET ENJOYMENT	27
ARTICLE XIX LIMITATION OF CITY LIABILITY	27
ARTICLE XX END OF TERM.....	27
ARTICLE XXI MISCELLANEOUS	28
EXHIBIT A - LEGAL DESCRIPTION OF SITE	
EXHIBIT B - MEMORANDUM OF GROUND LEASE	
EXHIBIT C - PROHIBITED NMTC USES	

DRAFT

Ground Lease

THIS GROUND LEASE (this “*Ground Lease*”) effective as of [_____] (the “*Effective Date*”), between the **CITY OF TOLEDO, OHIO**, a municipal corporation of the State of Ohio, (the “*City*”), and [NAME OF QALICB], an Ohio [_____] (the “*QALICB*”).

RECITALS:

WHEREAS, the City owns a fee simple interest in that certain parcel of land commonly known as 2053 N. 14th Street, Toledo, Ohio described on **Exhibit A** hereto (the “*Site*”); and

WHEREAS, the City Council of the City has determined that it is necessary and appropriate to lease the Site to the QALICB with the understanding that the QALICB, in cooperation with the City, will cause the demolitions of the existing improvements and the construction, rehabilitation, and development of a new 50,000 square foot state of the art facility to be operated as the Wayman D. Palmer Community YMCA (the “*YMCA*”) and the new Inez Nash Park (the “*Park*”), providing such services as are provided in a typical community facility with community based programming and related amenities (collectively, the “*Project*”); and

WHEREAS, the parties desire to enter into this Ground Lease, so that the QALICB can commence the construction, development, and operation of the Project, using the proceeds of certain loans from the Sub-CDE Lenders (as defined below); and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, agreements and conditions as set forth herein, and desiring to provide for the terms and conditions in which the efforts of the parties will be conducted, the City and the QALICB hereby covenant and agree as follows:

ARTICLE I

BASIC TERMS AND DEFINITIONS; RULES OF CONSTRUCTION

Section 1.1 Definitions.

Unless otherwise set forth in this Ground Lease, all definitions set forth in the Operating Lease and the QLCI Loan Agreement (each as defined below) shall be applicable to this Ground Lease. The following definitions shall be applicable to this Ground Lease:

“*Additional Rent*” means all amounts payable by the QALICB under this Ground Lease other than the Base Rent and whether or not designated as Additional Rent.

“*Affiliate*” means any Person that directly or indirectly controls, or is controlled by, or is under common control with the designated Person or any officer, director, managing or general partner, or member of such designated Person.

“*Applicable Laws*” means any present or future law (including Environmental Laws), statute, ordinance, regulation, code, judgment, injunction, arbitral award, order, rule, directive, proclamation, decree, common law or other requirement, ordinary or extraordinary, foreseen or unforeseen, of the United States, any state or local government, or any political subdivision thereof, arbitrator, department, commission, board, bureau, agency or instrumentality thereof, or of any court or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction, or of any other public or quasi-public authority or group, having jurisdiction over the Premises; and any reciprocal easement, covenant,

DRAFT

restriction, or other agreement, restriction or easement of record affecting the Premises as of the date of this Ground Lease or subsequent thereto.

“*Architect/Engineer’s Contract*” means _____.

“*Award*” has the meaning provided therefor in Section 11.1 of this Ground Lease.

“*Base Rent*” means the amount required to be paid under Section 3.1 hereof.

“*Business Day*” means any day other than (a) a day on which banking institutions in Pittsburgh, Pennsylvania are authorized to close or (b) a day on which the New York Stock Exchange is closed.

“*City*” means the City of Toledo, Ohio, a municipal corporation organized under the constitution of the State.

“*Closing Date*” means [_____].

“*Completion Date*” on or before [_____].

“*Construction Contract*” means the [_____] between QALICB and [_____], as contractor.

“*Construction Representative*” means those individuals designated pursuant to Section 2.4(d) of this Ground Lease.

“*Construction Schedule*” means a schedule satisfactory to the City and the City’s Construction Representative, establishing a timetable for completion of the Project, showing, on a monthly basis, the anticipated progress of the construction and also showing that the Project can be completed on or before the Completion Date

“*Contested Obligation*” has the meaning provided therefor in Section 6.3 of this Ground Lease.

“*Developing Conditions*” has the meaning provided therefor in Section 2.2 of this Ground Lease.

“*Disbursement Agreement*” has the meaning provided therefor in Section 2.4(d) of this Ground Lease.

“*Environmental Laws*” means all applicable present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes, resolutions, executive orders and decisions of Governmental Authorities relating to Hazardous Substances, natural resources, human health or the environment, including, without limitation, as amended from time to time, the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, 6903 et seq.), Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601(14) et seq.), Federal Hazardous Materials Transportation Control Act (42 U.S.C. Section 1801 et seq.), Federal Clean Air Act (42 U.S.C. Section 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. Section 1317), Federal Water Act of 1977 (93 U.S.C. Section 1251 et seq.), Federal Insecticide, Fungicide and Rodenticide Act, Radioactive Waste Storage and Transportation Act of 1980, and Federal Clean Air Act (42 U.S.C. Section 7401, et seq.).

“*Event of Default*” has the meaning provided therefor in Section 14.1 of this Ground Lease.

“*Final Plans and Specifications*” has the meaning provided therefor in Section 2.4(b)(i) of this Ground Lease.

DRAFT

“*Force Majeure*” means an act of God, act of a public enemy, war declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, lightning, fire, flood, earthquake, explosion, governmental restraint, embargo, epidemic, pandemic or health emergency, and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming Force Majeure.

“*Ground Lease*” means this Ground Lease dated as of the Closing Date, by and between the City and the QALICB, as amended from time to time.

“*Governmental Authority*” means any governmental authority, agency, department, district, commission, board or instrumentality of the United States of America, the State, the City and any other governmental authority having jurisdiction over the Premises.

“*Hazardous Substances*” means any material, waste, substance, industrial waste, toxic waste, chemical contaminant, petroleum, asbestos, polychlorinated biphenyls, radioactive materials or other substances regulated or classified by Environmental Laws as hazardous, toxic, dangerous or harmful to human health or property.

“*Impositions*” has the meaning provided therefor in Section 4.1 hereof.

“*Improvements*” means all improvements or structures made, erected, constructed, installed or placed and existing upon the Premises from time to time.

“*Leasehold Mortgage Beneficiary*” has the meaning provided therefor in Section 5.4 hereof.

“*Liabilities*” means all losses, claims, suits, demands, costs, liabilities, and expenses, including reasonable attorneys’ fees, penalties, interest, fines, judgment amounts, fees, and damages, of whatever kind or nature.

“*Market Value*” means the most probable price which a property (whether fee estate, leasehold estate, the Site or the Project, as the case may be) should bring in a competitive and open market under all conditions requisite for a fair sale, the buyer and seller (or assignee and assignor in the case of the sale of a leasehold estate) each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus or distress, under the following conditions:

- (i) buyer and seller (or assignor and assignee, as the case may be) are typically motivated; and
- (ii) both parties are well informed or well advised, and acting in what they consider their best interests; and
- (iii) a reasonable time is allowed for exposure in the open market; and
- (iv) payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
- (v) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

“*Material*” has the meaning provided therefor in Section 6.2 hereof.

DRAFT

“*Material Change Order*” has the meaning provided therefor in Section 2.4(g) of this Ground Lease.

“*Operating Lease*” means the Operating Lease dated as of the Closing Date, between the QALICB, as lessor, and Tenant, as lessee, relating to the Project.

“*Partial Taking*” has the meaning provided therefor in Section 11.1 of this Ground Lease.

“*Permitted Encumbrances*” means as of any particular time, (i) liens for ad valorem taxes, special assessments, and other charges not then delinquent or for taxes, assessments, and other charges being contested in accordance with the terms of this Ground Lease, (ii) mechanics’ and materialman’s liens that arise by operation of law but that have not been perfected by the required filing of record, for work done or materials delivered after the date hereof to or for the benefit of QALICB, (iii) the Operating Lease and subleases thereunder, (iv) leasehold mortgages granted by the QALICB and encumbering its rights and interests as lessee under the Operating Lease, and (v) any additional exceptions or encumbrances created or consented to by both the City and the QALICB.

“*Permitted Use*” means any lawful use of the Project.

“*Person*” means any individual, corporation, partnership, limited liability company, firm or other legal entity.

“*Personal Property*” means all furniture and other personal property owned or leased by the QALICB, located at the Premises and used in the operation of the Project. Personal Property does not include any personal property of Tenant or any other subtenant.

“*Pre-Existing Conditions*” has the meaning provided therefor in Section 2.2 of this Ground Lease.

“*Premises*” means the Project, the Site and any other Improvements thereon, together with any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto.

“*Prohibited NMTC Uses*” means the uses set forth on **Exhibit C** hereto.

“*Project*” has the meaning provided therefor in the Recitals.

“*Release*” has the meaning provided therefor in Section 6.2(a) hereof.

“*Remedial Action*” has the meaning provided therefor in Section 6.2(a) hereof.

“*Reserve Cap*” has the meaning provided therefor in Section 7.5 hereof.

“*Reserve Fund*” has the meaning provided therefor in Section 7.5 hereof.

“*QLICI Loans*” means one or more loans from the Sub-CDE Lenders to the QALICB evidenced by the QLICI Loan Agreement.

“*QLICI Loan Agreement*” means that certain [Loan Agreement] dated as of the Closing Date between the Sub-CDE Lenders and the QALICB.

“*QALICB*” means [NAME], an Ohio [_____].

DRAFT

“*QALICB Improvements*” means (A) the buildings and improvements described in clauses (i) through (iii) of Section 2.4(a), (B) all buildings or structures hereafter erected on the Premises from time to time, and (C) all expansions, alterations, additions, improvements and other modifications to any QALICB Improvements.

“*Rent*” means the Base Rent and Additional Rent.

“*State*” means the State of Ohio.

“*Sub-CDE Leasehold Mortgage*” means the leasehold mortgage on the QALICB’s leasehold interest in the Premises granted by the QALICB to the Sub-CDE Lenders to secure the QALICB’s obligations under the QLICI Loans.

“*Sub-CDE Lender*” means, collectively, [____], a [STATE] limited liability company, (ii) [____], a [STATE] limited liability company, and (iii) [____], a [STATE] limited liability company, as lenders to the QALICB and beneficiary of the Leasehold Mortgage.

“*Substantial Taking*” has the meaning provided therefor in Section 11.1 of this Ground Lease.

“*Taking*” has the meaning provided therefor in Section 11.1 of this Ground Lease.

“*Temporary Taking*” has the meaning provided therefor in Section 11.1 of this Ground Lease.

“*Tenant*” means The Young Men’s Christian Association of Greater Toledo, an Ohio nonprofit corporation, as tenant under the Operating Lease.

“*Term*” means the period beginning on the date of execution and delivery hereof and ending on the date that is [ninety-nine (99)] years after such date.

Section 1.2 Rules of Construction.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words used herein shall include the plural as well as the singular number.

(b) References herein to particular articles or sections are references to articles or sections of this Ground Lease unless some other reference is indicated.

ARTICLE II

LEASE OF PROPERTY; AS IS CONDITION; AGREEMENT; TERM OF LEASE; PERMITTED USE; CONSTRUCTION OF THE PROJECT

Section 2.1 Term. Subject to the terms and conditions of this Ground Lease, the City leases to the QALICB, and the QALICB leases from the City, the Premises for the Term, subject to earlier termination pursuant to any of the terms, covenants, or conditions of this Ground Lease or pursuant to Applicable Laws.

Section 2.2 As-Is Condition. The QALICB has examined the Premises and accepts possession of the Premises in its condition as is on the Closing Date, but free and clear of all liens and

DRAFT

encumbrances other than the Permitted Encumbrances, provided however that the QALICB shall not be deemed (i) to have assumed any Liabilities for environmental or other conditions that are in existence prior to the Closing Date and violate any Applicable Laws, whether or not discovered or discoverable (collectively, the “*Pre-Existing Conditions*”), or (ii) to assume at any time during the Term any Liabilities associated with environmental or other conditions violating any Laws that develop during the Term as a result of the City or any third party under the City’s direction or control (collectively, the “*Developing Conditions*”). Except (x) as otherwise expressly provided in this Ground Lease, (y) with respect any obligations the City may have as a sublessee of the Park and (z) for the Pre-Existing Conditions and the Developing Conditions, the City has no obligation whatsoever to perform any work or make any repairs with respect to the Premises, to furnish any services with respect to the Premises, or to incur any expenses with respect to the Premises, and the City has no responsibility with respect to the condition of the Premises. The QALICB expressly acknowledges and agrees that the City has not made and is not making, and the QALICB, in executing and delivering this Ground Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Ground Lease. Notwithstanding the foregoing, during the Term, the City shall not encumber the Premises with any liens or encumbrances of any nature whatsoever except for the Permitted Encumbrances without the QALICB’s prior written consent.

Section 2.3 Permitted Use. Subject to all of the other terms, covenants and conditions of this Ground Lease, the QALICB shall use the Premises only for the Permitted Use and for the construction, development, and leasing of the Project and the QALICB acknowledges that such use is a material consideration for the City’s entering into this Ground Lease. The QALICB may provide for the operation of a food pantry, and/or a farmers market and/or sell healthy foods on the Premises, subject to prior approval by the City, such approval not to be unreasonably withheld, conditioned or delayed. Upon the City’s request from time to time, the QALICB shall promptly provide the City with a written summary of all programs and services provided at the Premises for the City’s review and approval. The parties hereby acknowledge and agree that the QALICB shall sublease all of the Premises to the Tenant pursuant to the Operating Lease. For so long as the QLCI Loans remain outstanding, the Operating Lease and any other subleases of the Premises or any portions thereof will contain prohibitions on use of the Premises for Prohibited NMTC Uses and the QALICB as landlord will strictly enforce such prohibitions. For so long as the QLCI Loans remain outstanding, each executed lease with respect to any portion of the Premises shall include representations, warranties and covenants of the subtenant to the effect that the subtenant is not and will not carry on any Prohibited NMTC Uses and shall provide that any violation of the use restrictions shall permit the QALICB to immediately terminate the lease to the extent permitted by applicable law subject to the minimum notice requirements of applicable law. Notwithstanding the foregoing, the QALICB shall not at any time use or occupy the Premises, or consent to anyone else using or occupying the Premises: (a) in any manner that violates the provisions of this Ground Lease or the certificate of occupancy, if any, for the Premises, or (b) so as to cause waste, or (c) so as to violate any insurance policy then issued in respect of the Premises, or (d) so as to create a nuisance. In the event of the exercise of remedies under the Sub-CDE Leasehold Mortgage, the City understands that the term Permitted Use may include any lawful use that complies with NMTC program requirements. Notwithstanding the foregoing to the contrary, the City acknowledges that Tenant may enter into subleases for portions of the Premises for use by public schools, nonprofit behavioral health providers and the City (with respect to the Park), and the City consents to such subleases.

Section 2.4 Construction of the Project.

- (a) The QALICB shall, at its sole cost and expense, perform the following:
 - (i) the construction of any related improvements and site work on the Premises described in the Final Plans and Specifications and the guaranteed maximum price construction

DRAFT

contract for the Project, including, without limitation, utility lines; access ways and driveways; sidewalks; stormwater management systems; loading facilities and site lighting

(ii) the construction of related improvements located wholly or partially outside of the Premises, if any, including, without limitation, a stormwater management system; roadway connections; utility lines and utility connections; and all other infrastructure improvements, repairs, relocations and upgrades as necessary to develop the Premises for the Permitted Uses to the extent shown on the Final Plans and Specifications (collectively, the “*Off-Site Improvements*”); and

(iii) the performance of all mitigation measures, including without limitation any off-site mitigation measures required by any Governmental Authority issuing any approvals or any other permits or approvals required in conjunction with the construction of the QALICB Improvements.

(b) Prior to start of construction on QALICB Improvements, the following conditions must be met to the satisfaction of the City:

(i) City approval of the final construction plans and specifications for QALICB Improvements developed by QALICB in accordance with the City’s design review and permitting process (the “*Final Plans and Specifications*”);

(ii) City approval of the Construction Schedule;

(iii) Land use and zoning approvals;

(iv) Building permit(s);

(v) Appropriate security for the Site during construction; and

(vi) An assignment of all construction, architectural and management documents contracts for the Project, which assignment may be subject and subordinated to similar rights granted in favor of the Sub-CDE Lenders;

(c) QALICB shall provide QALICB Improvements Construction Schedule which shall include Final Completion and issuance of certificate(s) of occupancy no later than the Completion Date. Subject to delays due to Force Majeure events, QALICB shall commence construction of QALICB Improvements on or before the date that is ninety (90) days from and after the Effective Date and shall diligently and continuously proceed with construction of improvements until Final Completion.

(d) The City and QALICB shall each designate, by written notice from time to time, a construction representative or representatives for the construction of QALICB Improvements; and, after notice thereof to the other and until such designation is changed or withdrawn, such construction representative shall participate in construction progress meetings, deliver and receive all notices, approvals, communications, plans, specifications or other materials required or permitted to be delivered or received under this Ground Lease with respect to construction of the QALICB Improvements. The City’s designated Construction Representative(s) is(are): [_____]. The QALICB’s designated Construction Representative(s) is(are): [_____]. QALICB shall keep the City’s Construction Representative informed on a periodic (but not less than once every month) basis, unless circumstances dictate the need to do so more frequently, regarding actual progress made on the construction of QALICB Improvements. The City acknowledges and agrees that monthly progress updates may be provided in the form of delivery of construction draw requests simultaneously with the delivery of such draw requests to

DRAFT

the Sub-CDE Lenders, and the City's approval rights may be subject to the provisions of a construction disbursement agreement or similar agreement among the Sub-CDE Lender, QALICB, the City and other parties providing financing for the Project (a "*Disbursement Agreement*").

(e) QALICB shall provide monthly updates to the Construction Schedule including: variances; minutes of weekly on-site construction meetings; any claims of any sort or nature whatsoever with respect to the Construction Contract; any claims of any sort or nature whatsoever related to QALICB Improvements; and any accident reports or reports related to safety incidents at the Premises during the construction of QALICB Improvements. QALICB shall inform the City's Construction Representative of any deviation from the Construction Schedule which, in QALICB's good faith determination, is likely to cause a material delay in the Final Completion (as shown on the current Construction Schedule), reasonably promptly after such deviation becomes apparent.

(f) The City shall have the right to review all aspects of any work being performed on the Premises by QALICB or its employees, agents and contractors to the extent reasonably required by the City to ensure that such work is being performed in a manner consistent with the rights and obligations of QALICB hereunder; provided, however, that, in connection with such review, the City shall not unreasonably interfere with the contractors and employees hired by QALICB to complete QALICB Improvements.

(g) Subject to the provisions of the Disbursement Agreement, the City shall have the right to review and approve any proposed amendments or change orders that are inconsistent with the Final Plans and Specifications and that require the consent of the Sub-CDE Lenders (a "*Material Change Order*"). The City acknowledges that change orders are customarily proposed in the middle of an active construction project, and that QALICB shall be permitted to make change orders without the City's consent (and such change order shall not be considered Material Change Orders) to comply with applicable Legal Requirements or the requirements of any Governmental Authority and to make changes so long as such modifications are consistent with all applicable Legal Requirements and the requirements of any applicable Governmental Authority and do not involve both a substantial downgrade in the QALICB Improvements and modifications to any approvals, and the City agrees to use all reasonable efforts to review any proposed Material Change Orders promptly to enable QALICB to proceed with construction in a continuous manner.

(h) The City shall be given an opportunity to review and reasonably approve any proposed material amendment to, or any new or substituted agreement of, the Construction Contract or the Architect/Engineer's Contract. Any such review and approval by the City shall be solely for assuring that any such amendment to or new or substituted form of Construction Contract or Architect/Engineer's Contract are consistent with the requirements of, and QALICB's obligations under this Ground Lease. Any written request to approve an amendment to or a new or substituted Construction Contract or Architect/Engineer's Contract shall not be deemed to have been received by the City unless it is sent to the attention of the City's Construction Representative (s). The City shall respond to QALICB's request for approval to such material amendment or substituted form of Construction Contract or Architect/Engineer's Contract within ten (10) business days of QALICB's submission.

(i) Prior to the commencement of actual physical work (including, without limitation, demolition or site work) on the Premises or any portion thereof pursuant to a building permit (which may be a demolition, foundation or partial building permit) for the construction of QALICB Improvements, QALICB shall deliver to the City an agreement or agreements in form and substance reasonably satisfactory to the City, executed by the Architect/Engineer(s) of record for the Final Plans and Specifications, permitting the City or any party designated by the City, without additional payment (beyond that specified to be paid by QALICB in the applicable contract between QALICB and each such Architect/Engineer), to use the Final Plans and Specifications and any other plans and specifications delivered to QALICB to

DRAFT

complete the QALICB Improvements if QALICB should fail to do so, and such failure constitutes an Event of Default beyond all applicable grace, notice and cure periods resulting in the City's termination of this Ground Lease.

(j) If, at any other time during the Term, QALICB engages any additional or replacement Architect/Engineer in connection with the QALICB Improvements in excess of \$250,000, QALICB shall notify the City and, if the City so requests, QALICB shall furnish a similar agreement to the City prior to commencement of work by such Architect/Engineer. The City hereby agrees, for the benefit of such Architect/Engineer, by accepting such plans, that the City will use them only for completion of the QALICB Improvements.

(k) For the purposes of this Ground Lease, "*Final Completion*" of all QALICB Improvements will be deemed to have occurred upon the date of final completion, as determined by the City in its reasonable discretion, of the QALICB Improvements in accordance with the Final Plans and Specifications, and shall require the issuance of a Certificate(s) of Occupancy.

ARTICLE III RENT

Section 3.1 Base Rent. In consideration for the granting of this Ground Lease, the QALICB shall pay rent to the City in the amount of \$1.00 annually during the Term (the "*Base Rent*"). The Base Rent due under this Ground Lease may be prepaid at any time by QALICB.

Section 3.2 Additional Rent. The parties hereto understand and agree that this is a so-called "triple net" lease and that the QALICB shall pay, or cause to be paid, any and all costs and expenses, and shall perform (or cause to be performed) all obligations, relating to the ownership, use, occupancy, operation, maintenance and repair of, and maintenance of insurance on, and payment of taxes or assessments of any sort with respect to, the Premises, including all Impositions, and all such payments shall be deemed Additional Rent for purposes of this Ground Lease whether paid directly to the City or to others. Additional Rent paid directly to others shall be paid on or before the initial due date thereof. Additional Rent paid directly to the City for any period shall be paid within thirty (30) days after the City provides the QALICB with a written statement of the estimated or actual additional rent due for such period; the City will provide the QALICB with a final adjustment statement within ninety (90) days after the close of each calendar year.

Section 3.3 Additional Rent Payment. Additional Rent may be paid directly to the person to whom it is owed in lawful money of the United States of America by good check or, at the City's request if owed to the City, by wire transfer. A bill for Additional Rent payable to the City sent by first class mail to the address to which notices are to be given to QALICB under this Ground Lease shall be deemed a proper demand for the payment of the amounts set forth therein.

Section 3.4 Non-Waiver. City's delay in rendering, or failure to render, any statement or bill for Additional Rent for any period shall not waive the City's right to render a statement or collect such Additional Rent for that or any subsequent period. If the City delivers to the QALICB an incorrect statement with respect to any Additional Rent, the City shall have the right to give the QALICB a corrected statement for the period covered by the incorrect statement and to collect the correct amount of the Rent.

Section 3.5 Interest and Charges on Late Payments. If any Base Rent is not paid within ten (10) days of when due, the QALICB shall pay an amount equal to 1% of the amount overdue for each month, or partial month when such payment is overdue. If any Additional Rent payable directly to the City is not paid within thirty (30) days after the date any written statement therefor is mailed to the QALICB

DRAFT

due under this Ground Lease, the QALICB shall pay the City, as Additional Rent an amount equal to 1% of the amount overdue for each month, or partial month when such payment is overdue. Such additional payments shall be in addition to, and not in lieu of, any other remedy the City may have.

ARTICLE IV PAYMENT OF IMPOSITIONS

Section 4.1 Impositions. The term “Impositions” shall mean, collectively, (a) all real estate taxes, all special assessments and all other property assessments, including all assessments for public improvements or betterments, whether or not commenced or completed within the term of this Ground Lease, (b) all ad valorem, sales and use taxes, (c) all rent taxes, occupancy taxes and all similar taxes, (d) all fines, fees, charges, penalties, and interest imposed by any Governmental Authority, and (e) all other governmental charges and taxes, in each case of any kind or nature whatsoever, general or special, foreseen or unforeseen, ordinary or extraordinary, which are at any time during or with respect to the Term assessed, levied, charged, confirmed or imposed with respect to the Premises or the use, leasing, ownership or operation thereof, or become payable out of or become a lien upon the Premises or the rents or income therefrom. If at any time during the Term the present method of real estate taxation or assessment is changed so that there is substituted for the type of Impositions presently being assessed or imposed on real estate, or in lieu of any increase in such Impositions, a tax, such substitute taxes shall be deemed to be included within the term “Impositions.”

Section 4.2 Payable When Due. While it is anticipated that there will be no Impositions during the Term hereof, in the event there are Impositions, the QALICB will pay, or cause to be paid, as Additional Rent, all Impositions as and when the same shall become due and payable directly to the Governmental Authority charged with the collection thereof, provided that if any Imposition may by Applicable Laws be paid in installments, the QALICB may pay such Imposition in installments as permitted by Applicable Laws.

Section 4.3 Reduction of Impositions. The QALICB may, at no cost or expense to the City, endeavor from time to time to reduce the assessed valuation, if any, of the Premises for the purpose of reducing the Impositions payable by the QALICB. Notwithstanding the foregoing, the QALICB shall timely pay all Impositions. The City agrees to offer no objection to such contest or proceeding and, at the request of the QALICB, to reasonably cooperate with the QALICB in pursuing such contest or proceeding, but without expense to the City. Any such contest or proceeding shall be brought in the QALICB’s name unless otherwise required by Applicable Laws in which case the contest or proceeding may be brought in City’s name.

Section 4.4 Refund of Impositions. If all or any part of an Imposition is refunded (whether through cash payment or credit against Impositions), the party who paid the Imposition to which the refund relates shall be entitled to such refund to the extent such refund relates to any Imposition paid by such party. If either party receives a refund (whether by cash payment or credit) to which the other party is entitled, the receiving party shall promptly pay the amount of such refund or credit to the entitled party, less the receiving party’s reasonable expenses, if any, in obtaining such refund or credit.

ARTICLE V EFFECT OF GROUND LEASE ON OWNERSHIP OF PROPERTY; AND CERTAIN OTHER INCIDENTS OF GROUND LEASE

Section 5.1 Ownership of Property. At all times during the Term, all Improvements made, erected, constructed, installed or placed upon the Premises and all Personal Property acquired (or leased) by the QALICB shall be the property of the QALICB. During the Term, the QALICB alone shall be entitled

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to all of the tax attributes of ownership of the Improvements made, erected, constructed, installed or placed upon the Premises and all Personal Property acquired (or leased) by the QALICB, including, without limitation, the right to claim depreciation or cost recovery deductions. This Ground Lease is intended to convey to the QALICB all the benefits and burdens of ownership and to cause the QALICB to be treated as the owner of the Improvements for federal income tax purposes. The parties agree to treat this Ground Lease in a manner consistent with this intention, including filing all federal income tax returns and other reports consistent with such treatment. The City will not claim tax credits, depreciation or any other federal or state income tax benefits with respect to the Improvements or take any action which is inconsistent with this provision. In furtherance of the above, the City hereby grants, bargains, sells and releases to the QALICB all of the City's right, title and interest in and to the Improvements and Personal Property located on the Premises.

Section 5.2 *Replacement of Fixtures.* Notwithstanding the foregoing, the QALICB may replace and may permit the Tenant or any other tenant to replace any fixtures, machinery and equipment from time to time, provided such replacements are new and of quality and utility at least equal to the fixtures, machinery and equipment being replaced. Any such replacements shall, subject to the provisions of Section 5.1 above, remain on the Premises and become the property of the City at the expiration or sooner termination of this Ground Lease.

Section 5.3 *Lien-Free.* The QALICB shall keep the Premises and this Ground Lease free from any lien or other encumbrance filed or recorded in favor of any mechanic, materialman, architect or engineer and free from any similar lien or encumbrance with respect to work, material or services alleged to have been performed for the QALICB. If any such lien or encumbrance is filed or recorded, the QALICB shall discharge any such lien or encumbrance by bond or otherwise within 30 days after the QALICB receives notice of such lien or encumbrance. If the QALICB fails to discharge such lien or encumbrance within such 30-day period, the City may pay the amount reflected on such lien or encumbrance (or any portion thereof) and any costs, interest, and/or penalties imposed in connection therewith or take such other action as the City deems necessary or desirable to remove such lien or encumbrance, without being responsible for investigating the validity thereof and without regard to any objection by the QALICB. The amount so paid and costs incurred by the City shall be deemed Additional Rent under this Ground Lease payable within thirty (30) days after the QALICB is billed therefor. Nothing in this Ground Lease shall be deemed in any way to: (a) constitute the City's consent or request, express or implied, that any contractor, subcontractor, laborer or materialman provide any labor or materials for any alteration, addition, improvement or repair of the Premises; or (b) evidence the City's agreement to subject the Premises to any such lien.

Section 5.4 *Certain Rights and Duties of Leasehold Mortgage Beneficiaries.* The QALICB shall have the right from time to time to apply for and obtain mortgage loan financing and to grant to the providers of such financing (the "*Leasehold Mortgage Beneficiaries*") leasehold mortgages, assignments of leases and rents and such other security instruments covering and affecting all or any portion of the QALICB's interest in the Premises as the QALICB may deem necessary or appropriate.

(a) ***Mortgagee's Right to Take Possession.*** Any of the Leasehold Mortgage Beneficiaries, including the Sub-CDE Lenders, during the term of their mortgage and subject to clause (e) below, may, under the provisions of such mortgage, have inter alia the right to enter upon and take possession of the Premises, for any default in or breach of the QALICB's obligations to such Leasehold Mortgage Beneficiary. Notice thereof shall be sent to the City.

(b) ***Right of Leasehold Mortgage Beneficiaries to Cure Defaults.*** Each Leasehold Mortgage Beneficiary who gives written notice to the City shall have the benefit of the following provisions in addition to those elsewhere provided in this Ground Lease:

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(i) all notices or copies of notices which are by the terms of this Ground Lease to be sent to such Leasehold Mortgage Beneficiaries shall be in writing and shall be sent to the address set forth in Section 21.13 hereof;

(ii) no notice of default given by the City to the QALICB shall be effective unless it sets forth in sufficiently reasonable detail the nature of the QALICB's uncured default and until a copy thereof shall also be sent to all Leasehold Mortgage Beneficiaries; and

(iii) after the occurrence of a default and receipt of the notice described in clause (ii) above, Leasehold Mortgage Beneficiaries shall have the same time period subsequent to the receipt of such notice to cure any default or cause the same to be cured as shall be permitted under this Ground Lease to the QALICB, plus an additional sixty (60) days, or such other reasonable period of time as shall be necessary for any of the Leasehold Mortgage Beneficiaries to take possession or title to the Premises pursuant to this Section and the terms of their mortgage in order to effectuate a cure, and the City shall not exercise any remedy provided for in Section XVII hereof until such cure period has expired.

Nothing contained in this clause (b) shall require a Leasehold Mortgage Beneficiary to begin or continue such possession or foreclosure proceedings or to begin or continue to cure any default by the QALICB.

(c) ***Attornment and Non-Termination of this Ground Lease.*** In the event any Leasehold Mortgage Beneficiary enters upon and takes possession of the Premises due to the default of the QALICB under any loan documents executed for the benefit of Leasehold Mortgage Beneficiary, such Leasehold Mortgage Beneficiary or its nominee shall attorn to the City as landlord under this Ground Lease and the City shall accept and recognize such Leasehold Mortgage Beneficiary or its nominees as tenant for the remainder of the Term so that there shall be no lapse of this Ground Lease, at the Rent and upon the covenants, agreements, terms, provisions and limitations herein contained. Any such Leasehold Mortgage Beneficiary, as tenant under this Ground Lease, shall have the same rights, title and interest in and to the buildings and improvements on the Site as the QALICB had under this Ground Lease.

(d) ***Protection of Interests of Leasehold Mortgage Beneficiary.*** If a Leasehold Mortgage Beneficiary, through its rights hereunder or through its leasehold mortgage or operation of its loan documents, or by entry as a mortgagee in possession or by foreclosure, or by acceptance of an assignment in lieu of foreclosure, acquires the QALICB's interest in the Premises, such Leasehold Mortgage Beneficiary shall have the right, at its option, to:

(i) operate the Premises itself and in all respects comply with the provisions of this Ground Lease from and after the date on which such Leasehold Mortgage Beneficiary acquired possession; or

(ii) assign or transfer the QALICB's interest in the Premises, provided that the assignee or transferee shall expressly assume all of the covenants, agreements and obligations of the QALICB under this Ground Lease arising from and after the date of such assignment or transfer by written instrument to be recorded in the appropriate real property records and such assignment or transfer shall not be subject to approval by the City.

No such action by a Leasehold Mortgage Beneficiary shall relieve the QALICB of any of its obligations hereunder.

(e) ***Obligations and Rights of a Leasehold Mortgage Beneficiary in Possession.*** If a Leasehold Mortgage Beneficiary, or its assignee or designee, shall enter upon and take possession of the

DRAFT

Premises in connection with a foreclosure or an acceptance of an assignment in lieu of foreclosure, but not otherwise, it shall be bound thereafter to keep and perform all duties and covenants and agreements of the QALICB arising under this Ground Lease (including the duty and covenant to cure defaults under this Ground Lease) from and after the date on which such Leasehold Mortgage Beneficiary entered and took possession of the Premises in connection with a foreclosure or an acceptance of an assignment in lieu of foreclosure and neither the Leasehold Mortgage Beneficiary, nor any of its successors, assigns or grantees, shall be liable for any duties, covenants, agreements or obligations of the QALICB arising prior to the date on which such Leasehold Mortgage Beneficiary, or its successor, assign or grantee, enters and takes possession of the Premises in connection with a foreclosure or an acceptance of an assignment in lieu of foreclosure. In addition notwithstanding anything in the foregoing or any other provision hereof to the contrary, (i) if any default shall have been cured and the QALICB shall resume possession, or (ii) if after such entry upon and taking possession of the Premises, the City and the Leasehold Mortgage Beneficiary shall accept, in writing, another tenant in place of the QALICB or the Leasehold Mortgage Beneficiary shall have assigned or transferred the QALICB's interest in the Premises pursuant to subsection (d)(ii) above, then the Leasehold Mortgage Beneficiary shall no longer be so bound as of such date.

(f) ***No Modification or Termination by the QALICB.*** During the term of any leasehold mortgage, this Ground Lease shall not be (i) amended or modified or (ii) terminated or canceled by the QALICB hereunder, or by the giving of any notice by the QALICB hereunder nor shall the City accept a surrender of the QALICB's leasehold interest, unless such amendment, modification, termination, surrender or cancellation is assented to in writing in advance by all Leasehold Mortgage Beneficiaries. Any such attempted amendment or modification, termination, surrender or cancellation without such prior written assent shall be void.

(g) ***Rights of Purchaser/Assignee.*** The rights of Leasehold Mortgage Beneficiaries described in this Section 5.4 also shall inure to the benefit of any purchaser at a foreclosure sale or any purchaser or assignee or nominee of the Leasehold Mortgage Beneficiaries' interest after the Leasehold Mortgage Beneficiaries have acquired leasehold title by foreclosure or acceptance of a deed in lieu of foreclosure.

(h) ***New Ground Lease.*** In the event this Ground Lease is rejected or disaffirmed pursuant to any bankruptcy, insolvency or other law affecting creditors' rights, the City shall give written notice that such termination has occurred to each Leasehold Mortgage Beneficiary. In addition to any other rights, the Leasehold Mortgage Beneficiary may have hereunder, the Leasehold Mortgage Beneficiary may request a new lease for the Premises on the same terms as this Ground Lease (in such capacity, the "*New Lessee*") for the remaining balance of the Term. In such event, the City and such New Lessee shall, within sixty (60) days thereafter, to the extent permitted by law, mutually execute and deliver a new lease of the Premises. Upon the execution and delivery of a new lease pursuant to this Section, the Improvements, and all subleases and other agreements pertaining to the Premises which may have reverted to the City upon termination of this Ground Lease and which have not terminated shall be transferred to the extent transferable, without any warranty or recourse whatsoever, by the City to and assumed by New Lessee. Any new lease made pursuant to this Section shall have the same priority as this Ground Lease with respect to any fee mortgage, if applicable, or other lien, charge or encumbrance, if any, on the fee simple title to the Premises and/or the City's reversionary interest in the Premises. QALICB shall cause each such fee mortgagee, judgment lienor or creditor, from time to time upon written request and without charge, to execute, acknowledge and deliver, such instruments reasonably requested by such Leasehold Mortgage Beneficiary to evidence the foregoing.

(i) ***Additional Documentation.*** The City will execute and deliver, within ten (10) days of the QALICB's request therefor, estoppel certificates or such other similar certificates as may be reasonably requested from any Leasehold Mortgage Beneficiary, affirming such facts with respect to this Ground Lease as may be required by parties to such financing and offering, among other matters, that this Ground Lease

DRAFT

is in full force and effect. Furthermore, the City agrees, promptly after written request therefor, to execute, acknowledge and deliver any normal and customary agreements modifying this Ground Lease reasonably requested by a Leasehold Mortgage Beneficiary, provided that such modifications do not decrease the QALICB's obligations or increase the City's obligations under this Ground Lease.

ARTICLE VI

COMPLIANCE WITH LAW; ENVIRONMENTAL LAWS; CONTEST

Section 6.1 Compliance with General Laws. The QALICB, at no expense to the City, shall comply, and shall cause any tenant to comply, in all material respects at all times, with all Applicable Laws. Without limiting the foregoing, the QALICB shall promptly cure, or cause the cure of, all violations of Applicable Laws caused by the QALICB as to which a notice of violation has been issued or as to which a directive or order has been issued by any public officer or other person having authority; promptly discharge of record any such notice of violation by the QALICB; promptly comply with any such order or directive; and pay all fines, penalties, interest, and other costs imposed by any Governmental Authority in connection with any violation or requirement of Applicable Laws by the QALICB; provided, however, that the QALICB shall not be deemed to be in violation of this Section 6.1 with respect to the Tenant's or any other subtenant's failure to comply with any Applicable Laws as long as the QALICB is using commercially reasonable efforts to enforce the terms of the Operating Lease regarding such violation. Notwithstanding the foregoing, the QALICB shall not have any responsibility or liability with respect to any Pre-Existing Conditions or Developing Conditions, which shall remain the responsibility of the City in accordance with Section 2.2 above.

Section 6.2 Compliance with Environmental Laws.

Without limiting the foregoing:

(a) The following terms, as used in this Ground Lease and in all amendments hereto (unless otherwise specified or unless the context otherwise requires), shall have the meanings and/or be construed, as the case may be, as set forth below:

"*Remedial Action*" shall mean the investigation, response, clean up, remediation, prevention, mitigation or removal of contamination, environmental degradation or damage caused by, related to or arising from the release of sediment or the existence, generation, use, handling, treatment, storage, transportation, disposal, discharge, Release (including a continuous Release) or emission of any Hazardous Substance, including the investigation, removal or closure of any underground storage tanks and any soil or groundwater investigation, remediation or other action required under or necessary to comply with any Environmental Laws.

"*Release*" shall mean the release or threatened release of sediment or any Hazardous Substances into or upon or under any land, water or air, or otherwise into the environment, including by means of burial, disposal, discharge, emission, injection, spillage, leakage, seepage, leaching, dumping, pumping, powering, escaping, emptying, placement and the like.

"*Material*", as used to describe the QALICB's compliance obligations in this Article VI, shall mean that the failure to so comply may reasonably be expected to result in material risk of (1) physical injury or illness to any individual, (2) physical damage to the Site or the Project, (3) criminal liability or (4) fines or Remedial Action.

(b) Subject to subparagraph (c) and to Section 6.4 below, the QALICB, at no expense to the City, shall comply in all material respects at all times, with all Environmental Laws. Such compliance

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includes the QALICB's obligation, at no expense to the City, to take, or cause the taking of, Remedial Action when required by Applicable Laws (in accordance with Applicable Laws and this Ground Lease) and to pay, or cause the payment of, all fines, penalties, interest and other costs imposed by any Governmental Authority in connection with any violation or requirement of Applicable Laws by the QALICB, including any additional fines or penalties levied in the matter resulting from the City's failure to comply with any Environmental Laws in the past. Notwithstanding the foregoing, the QALICB shall not be deemed to be in violation of this Section 6.2 with respect to the Tenant's or any other subtenant's failure to comply with any Environmental Laws as long as the QALICB is using commercially reasonable efforts to enforce the terms of the Operating Lease regarding such violation.

(c) The QALICB shall notify the City promptly if (i) the QALICB becomes aware of the presence of any sediment or Hazardous Substances or Release at, on, under, within, emanating from or migrating to the Premises in any quantity or manner, which could reasonably be expected to violate in any material respect any Environmental Laws or give rise to any Material liability or the obligation to take Remedial Action or other material obligations under any Environmental Law, or (ii) the QALICB receives any written notice, claim, demand, request for information or other communication from a Governmental Authority, or a third party, regarding the presence of any sediment or any Hazardous Substances or Release at, on, under, within, emanating from or migrating to the Premises or related to the Premises which could reasonably be expected to violate in any material respect any Environmental Laws or give rise to any Material liability or obligation to take Remedial Action or other material obligations under any Environmental Law.

(d) If the Release of any Hazardous Substance onto the Premises or the Release of sediment was the result of action or omission of the QALICB or any party holding an interest in the Premises by or through QALICB (and in all events excluding any such Release that was the result of action or omission of the City), the QALICB shall take and complete, or cause the taking and completion of, any Remedial Action with respect to the Premises in full compliance with all Laws and shall, when such Remedial Action is completed, submit to the City written confirmation from the applicable Governmental Authorities that no further Remedial Action is required to be taken ("*Final Governmental Approval*"). In connection with any Material Remedial Action, (i) the QALICB shall promptly submit, or cause the submission, to the City the plan of Remedial Action and all material modifications thereof, (ii) the QALICB shall use an environmental consultant reasonably acceptable to the City, and (iii) the QALICB shall apprise the City, on a quarterly basis (or more frequently if reasonably requested by the City), of the status of such remediation plan and provide the City with copies of all correspondence, plans, proposals, contracts and other documents relating to such plan or proposed plan. If the QALICB's environmental consultant determines that there is not a reasonable likelihood of obtaining Final Governmental Approval prior to the third anniversary of the date on which the remediation plan is first submitted to the City, a certificate to that effect shall be provided to the City by such environmental consultant on behalf of the QALICB, which certificate shall also state, to the reasonable satisfaction of the City, the status of the Remedial Action and the schedule for completion of the Remedial Action, the reasons why such Final Governmental Approval is not likely to be obtained within such time period and that all Remedial Actions to date have been completed in accordance with all Environmental Laws.

Section 6.3 QALICB's Right to Contest Claimed Violations. The QALICB shall have the right to contest, at no cost to the City, by appropriate legal proceedings, the amount or validity of any fine, charge or penalty imposed in connection with an alleged violation of Applicable Laws the validity of any Applicable Laws to the Premises, the validity of any application of any Applicable Laws to the Premises, the existence of any violation of Applicable Laws, and/or the validity of any notice of violation of Applicable Laws issued to the QALICB or the City (the "*Contested Obligation*"). The QALICB may defer payment and/or performance of the Contested Obligation to the extent that and so long as the QALICB is

DRAFT

diligently contesting, at no expense to the City, by appropriate legal proceedings the existence, amount or validity of the Contested Obligation, provided that all of the following conditions are met:

- (a) There is no outstanding Event of Default.
- (b) Such contest is made and prosecuted in good faith.
- (c) Such proceeding shall operate during the pendency thereof to prevent (i) the sale, forfeiture or loss of the City's fee or leasehold estate in the Site, (ii) the forfeiture or loss of the Base Rent or Additional Rent, (iii) any interference with the use or occupancy of the Premises, and (iv) the cancellation of any insurance policy required to be maintained by the QALICB pursuant to Article VIII of this Ground Lease. In addition, such proceeding shall not create an imminent, material risk that any of the foregoing will occur.
- (d) The City is not exposed to any risk of criminal liability, penalty, or sanction.
- (e) The QALICB reimburses the City, within ten days of being billed therefor, for all Liabilities incurred by the City in connection with such contest.
- (f) The QALICB is not contesting a criminal liability, penalty, or sanction.
- (g) The QALICB shall, promptly upon the City's request, apprise the City of the status of the contest and provide the City with copies of all documentation relating to such contest.
- (h) The QALICB promptly and diligently prosecutes such contest to final conclusion by appropriate legal proceeding, but the QALICB shall have the right to attempt to settle or compromise such contest, subject to receipt of the City's consent, which shall not be unreasonably withheld, unless the settlement or compromise will in the City's reasonable judgment have a material impact on the use and occupancy of the Premises.

The QALICB shall indemnify and save the City harmless against any and all Liabilities incurred by the City in connection with any such contest or the Contested Obligation, excepting Liabilities arising from the City's fraud or willful misconduct. The QALICB shall, promptly after the final determination of such contest, comply with the requirements of such determination and pay all amounts levied, assessed, charged or imposed on the City, the QALICB, the Premises or any part thereof, in connection therewith, together with all fines, penalties, interest, costs and Liabilities.

Section 6.4 Environmental Matters. To the best of the City's knowledge, without independent investigation, and except as expressly disclosed in writing by the City, the City represents that (a) the Premises, including, without limitation, soil and groundwater conditions, is not in violation of any Environmental Law, nor has the City received any written notice nor is the City otherwise aware of any such violation or alleged violation; (b) neither the City nor any third party has used, manufactured, stored or disposed of, on, under or about the Premises, or transported to or from the Premises, any Hazardous Substances; and (c) no underground storage tanks exist on or have been removed from the Premises, nor have the Premises ever been used as a dump or landfill site. The City acknowledges and agrees that, notwithstanding anything to the contrary in this Ground Lease, it shall be solely responsible for any and all Liabilities associated with any Pre-Existing Conditions and any Developing Conditions.

Section 6.5 Reservation of Rights. Nothing contained in this Ground Lease shall prevent or in any way diminish or interfere with any rights or remedies, including, without limitation, the right to contribution, which the QALICB may have against any third party under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), as it may be amended from

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time to time, or any other applicable federal, state or local laws, all such rights being hereby expressly reserved

ARTICLE VII REPAIRS AND MAINTENANCE; RESERVE FUND

Section 7.1 Standards. The QALICB, at no expense to the City (except to the extent the City is obligated under a sublease for the Park), shall at all times (a) maintain or cause to be maintained the Premises in an orderly and safe condition, in a good state of repair, and in a manner consistent with the standards of operation and maintenance of first class properties similar to the Premises, subject to reasonable wear and tear, and (b) make or cause to be made such repairs, replacements and alterations to the Premises as are necessary to keep it in the condition required by the preceding clause (a) and to comply or require any tenant to comply with the requirements of Article V, whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen. The parties hereto acknowledge that under the terms of the Operating Lease, QALICB has provided for compliance with these requirements.

Section 7.2 No Waste or Nuisance. The QALICB shall not permit any waste of the Premises or permit any nuisance to exist on the Premises.

Section 7.3 No Accumulation. The QALICB shall keep or cause to be kept the entire Premises, including adjoining sidewalks, substantially free of any accumulation of dirt, rubbish, snow and ice.

Section 7.4 City's Obligation. Unless otherwise expressly provided in this Ground Lease, the City is under no obligation to maintain, repair, clean, alter or improve the portion of the Premises on which the YMCA is located, to comply with any requirements of Applicable Laws or to provide any service to the portion of the Premises on which the YMCA is located.

Section 7.5 Capital Expenditures Maintenance Reserve Fund. Commencing on the twenty-fourth (24) month following the Completion Date, the QALICB shall pay \$50,000 per year into a Capital Expenditures Maintenance Reserve Fund (the "*Reserve Fund*") for five years, which shall be held by the QALICB (except following and during the continuance of any Event of Default by the QALICB under this Ground Lease, in which case the Reserve Fund shall be held by the City until such Event of Default is cured by the QALICB), until the balance in the Reserve Fund reaches \$250,000 (the "*Reserve Cap*"). Thereafter, the required annual deposits and the Reserve Cap may be adjusted by the City every five years based upon a physical needs assessment and the expenditure of amounts in the Reserve Fund to date. The QALICB will maintain the Reserve Cap in the Reserve Fund until a capital event related to the Project, without limitation, any major systems repair or capital improvements necessitated by a change of law and/or change of policy, takes place that requires the Reserve Fund to be drawn upon. The QALICB may withdraw funds from the Reserve Fund in its reasonable discretion to pay for any such matters. Prior withdrawing any funds from the Reserve Fund, the QALICB shall provide written notice to the City of capital event necessitating such withdrawal. In the event the Reserve Fund falls below the Reserve Cap, as the Reserve Cap may be adjusted in accordance with this Section, the QALICB shall make equal monthly deposits until the Reserve Cap is reached. The QALICB shall provide monthly bank statements of Reserve Fund to the Director of Economic Development and Director of Recreation of the City. The QALICB shall not withdraw funds from Reserve Fund for staffing and operating expenses of the Project. Any accrued interest or other income, which causes the balance of the Reserve Fund to exceed the Reserve Cap, shall be the sole property of the QALICB to be used in its sole discretion.

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ARTICLE VIII INSURANCE; COMPLIANCE WITH INSURANCE REQUIREMENTS

Section 8.1 Insurance. During the Term, the QALICB shall maintain or cause to be maintained (except as otherwise specifically provided below), the insurance coverages as are set forth in the QLICI Loan Agreement.

Section 8.2 Insurance Policies. All policies required by this Article shall be issued by insurance companies licensed to do business in the State and must be approved by the City. All such insurers shall have the rating of “A-V” or better corresponding to an adjusted policyholder surplus of not less than \$500,000,000 by A.M. Best (or any successor rating agency or entity reasonably selected by the City if A.M. Best discontinues publishing ratings of insurance companies or if the rating system is changed). If it is commercially impracticable to obtain insurance from an insurer with the “A-V” rating because of changes in the insurance industry or conditions in the vicinity of the Premises, the QALICB’s insurers shall have a policy holder’s rating that is at least equal to the customarily required rating.

Section 8.3 Blanket Coverage. Such policies may be carried under a blanket or umbrella policy covering the Premises and other locations of the QALICB, if such blanket policy contains an endorsement that guarantees a minimum limit available for the Premises equal to the minimum limits required by this Article and that the minimum limits shall not be reduced for claims made with respect to other properties, and otherwise complies with this Article.

Section 8.4 Named and Additional Insured. The liability policy shall name the QALICB as insured and shall include the City as an additional insured.

Section 8.5 No Cancellation without Notice to the City. All insurance policies required by this Article shall (i) contain endorsements that such insurance may not be canceled, except upon not less than thirty (30) days prior written notice to the City from said insurance carrier or the QALICB, and (ii) be written as primary policies not contributing to or in excess of any policies carried by the City, and (iii) each contain a waiver of subrogation endorsement, in form and substance reasonably satisfactory to the City, in favor of the City.

Section 8.6 Certificate of Insurance. Concurrently with execution of this Ground Lease and thereafter at least fifteen (15) days prior to the expiration of any policy, the QALICB shall deliver to the City certificates evidencing the insurance required by this Article in form and content reasonably satisfactory to the City, together with evidence of payment of the annual premium for each policy (the “Property Damage Policy”).

Section 8.7 Failure to Maintain Insurance. If the QALICB fails to maintain the insurance required by the foregoing provisions of this Article or to timely furnish to the City the required evidence of such insurance and payment of the insurance premiums, the QALICB shall be responsible for all Liabilities incurred by City with respect to such default, including any Liabilities that would have been covered by the insurance the QALICB is required to maintain. If the QALICB fails to maintain any of the insurance required by this Article, the City may, at its option, in addition to exercising any other remedies available to it under this Ground Lease or at law, obtain the insurance described in this Article, in which event the QALICB shall reimburse the City, as Additional Rent, within ten (10) days of being billed therefor, for the costs incurred by the City to obtain such insurance.

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ARTICLE IX INDEMNITY

Section 9.1 Indemnity. The QALICB shall indemnify and hold harmless the City from and against any and all Liabilities arising from or in connection with all of the following: (a) the Premises and/or any operations or activities thereon during the Term and after the Term for so long as the QALICB, or any person holding through or under the QALICB, remains in possession of the Premises, except to the extent such Liabilities arise out of (i) any Pre-Existing Conditions or Developing Conditions, which shall remain the responsibility of the City in accordance with Section 2.2 above, or (ii) the fraud or willful misconduct by the City or its officers, representatives, agents, contractors, employees or invitees; (b) any act, omission, negligence, or misconduct of the QALICB, or any person holding through or under the QALICB and/or any of the QALICB's officers, directors, employees, partners, members, agents, contractors, invitees; (c) any accident, injury or damage (including death) occurring in, at or about the Premises during the Term and after the Term for so long as the QALICB, or any person holding through or under the QALICB, remains in possession of the Premises, except to the extent such Liabilities arise out of the fraud or misconduct by the City or their respective officers, representatives, agents, contractors, employees or invitees; (d) any breach or default by the QALICB, or any person holding through or under the QALICB under this Ground Lease; and (e) any holdover by the QALICB, or by any person(s), other than the City, holding through the QALICB, after the Term. If any action or proceeding is brought against the City by reason of any such claim(s), the QALICB, upon notice from the City, shall cooperate with City to resist and defend such action or proceeding by counsel reasonably satisfactory to the City.

ARTICLE X CASUALTY DAMAGE AND DESTRUCTION

Section 10.1 Damage. If the Premises are damaged or destroyed by fire or other cause (ordinary or extraordinary), the QALICB shall give the City prompt notice of such event and (i) so long as the Sub-CDE Leasehold Mortgage is in effect, shall take such action as is required by the Sub-CDE Leasehold Mortgage and (ii) after the termination of the Sub-CDE Leasehold Mortgage and except as provided in Section 10.3 below, the terms and conditions of which are incorporated herein by this reference, the QALICB, shall repair such damage and restore the Premises to the condition existing prior to such damage or destruction and to a standard and quality no less than the construction of the original Improvements (the "Restoration"). Such repair and restoration shall be effected with reasonable diligence, subject to reasonable delays for adjustment of the insurance loss. Subject to Section 10.3, such obligation shall survive any termination of this Ground Lease. Except as provided in Section 15.1, this Ground Lease shall not terminate solely by reason of such damage or destruction, and all obligations of the QALICB for the payment of Base Rent and other amounts due hereunder shall continue without abatement or set-off. Notwithstanding the above, to the extent permitted pursuant to the Sub-CDE Leasehold Mortgage, the City and the QALICB hereby agree that during the term of the Operating Lease, any insurance proceeds arising from insurance provided by the Tenant shall first be used to repair or replace the Premises, except as otherwise provided in the Operating Lease.

Section 10.2 Proceeds of Insurance. So long as the Sub-CDE Leasehold Mortgage is in effect, the parties hereto acknowledge that the proceeds of any Property Damage Policy shall be disbursed to the Sub-CDE Leasehold Mortgage Beneficiaries to be applied as provided in the Sub-CDE Leasehold Mortgage. In the event the Sub-CDE Leasehold Mortgage is no longer in effect and unless the QALICB is permitted to terminate this Ground Lease pursuant to Section 10.3, the proceeds of any Property Damage Policy shall be disbursed to the QALICB, to be used for the repair and restoration of the Premises as required by Section 10.1 hereof. Notwithstanding the above, to the extent permitted pursuant to the Sub-CDE Leasehold Mortgage, the City and the QALICB hereby agree that during the term of the Operating Lease, any insurance proceeds arising from insurance provided by the Tenant shall first be used to repair

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or replace the Premises, unless it is impossible or impracticable to repair or replace the Premises, except as otherwise provided in the Operating Lease.

Section 10.3 Termination Rights. Subject to the foregoing:

(a) If the Operating Lease is terminated as a result of such casualty, or the proceeds of any Property Damage Policy are insufficient to pay for the cost of Restoration; or

(b) If the Premises (or any discrete portion thereof) are damaged or destroyed by fire or other cause during the last 5 years of the Term and the cost to restore the Premises (or portion thereof), as reasonably estimated, would equal or exceed 25% of the full replacement cost of the Improvements;

then, the QALICB may, to the extent permitted pursuant to the Sub-CDE Leasehold Mortgage, terminate this Ground Lease with respect to the Premises (or any discrete portion thereof) within ninety (90) days after such fire or casualty event, provided that the QALICB must as a condition precedent to such termination cause the Site to be in a safe condition, free and clear of any debris or other hazardous conditions. In such event, this Ground Lease shall cease and come to an end as of the date forty-five (45) days after the date the City receives such notice.

ARTICLE XI CONDEMNATION

Section 11.1 Definitions. The following basic terms, as used in this Ground Lease and in all amendments to this Ground Lease (unless otherwise specified or unless the context otherwise requires), shall have the meanings set forth below:

“*Taking*” shall mean a taking during the Term of all or any part of the Premises, or any interest therein or right accruing thereto including any right of access, by or on behalf of any Governmental Authority or by any entity granted the authority to take property through the exercise of a power of eminent domain granted by statute, any agreement that conveys to the condemning authority all or any part of the Premises as the result of, or in lieu of, or in anticipation of the exercise of a right of condemnation or eminent domain, or a change of grade affecting the Premises. The date of the Taking shall be deemed to be the date that title vests in the condemning authority or its designee.

“*Award*” shall mean the condemnation award and/or proceeds of the Taking, including any interest earned on the Award.

“*Partial Taking*” means any taking that is not a Substantial Taking or a Temporary Taking.

“*Substantial Taking*” means a taking that would render the Premises unusable for the Permitted Use during the remainder of the Term.

“*Temporary Taking*” means a taking of the use of the Premises that renders the Premises unusable for the Permitted Use during the period of the Temporary Taking.

Section 11.2 Nature of Taking. The City and the QALICB shall each notify the other if either becomes aware of a threatened or possible Taking (including any letter of interest from the condemning authority or its designee), or the commencement of any proceedings or negotiations which might result in a Taking. The City and the QALICB shall have the right to appear in such proceedings, as their interests may appear, and be represented by their respective counsel.

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Section 11.3 Taking While Sub-CDE Leasehold Mortgage in Effect. If there is a Taking (whether a Substantial Taking, Partial Taking or Temporary Taking), the parties hereto acknowledge that so long as the Sub-CDE Leasehold Mortgage is in effect the proceeds of any Award shall be disbursed to the Sub-CDE Leasehold Mortgage Beneficiaries to be applied as provided in the Sub-CDE Leasehold Mortgage and related documents, and all obligations of the QALICB for the payment of Base Rent and other amounts due hereunder shall continue without abatement or set-off.

Section 11.4 Taking After Discharge of Sub-CDE Leasehold Mortgage. If there is a taking after the discharge of the Sub-CDE Leasehold Mortgage then the following provisions shall apply.

(a) If such taking is a Substantial Taking, at the QALICB's election, the Term of this Ground Lease shall cease and terminate on the date of the Taking as fully and completely as if such date were the originally stated expiration of the Term hereof. The Award for a Substantial Taking shall be allocated as follows:

(i) to the City, the present value of City's fee interest in and to the Premises as of the end of the Term, without consideration of any earlier termination of this Ground Lease due to such Taking; and

(ii) the balance of the Award, if any, shall be paid to the QALICB.

(b) If such taking is a Temporary Taking the Award shall be allocated as follows:

(i) to the City, a proportionate amount based upon the duration of the Temporary Taking that follows the expiration of the Term as compared with the duration of the Temporary Taking that is during the Term; and

(ii) the balance of the Award, if any, shall be paid to the QALICB.

(c) If such taking is a Partial Taking, this Ground Lease shall remain in full force and effect; provided, however, that on the date of such Taking this Ground Lease shall terminate as to the portion of the Premises taken, which portion shall no longer be deemed part of the Premises and Base Rent shall be equitably reduced. Thereafter, the QALICB, to the extent of the Award made available to it, shall promptly restore, or cause the restoration of, the Premises, to the extent reasonably practicable given the nature and scope of the Taking and the requirements of Applicable Laws to their condition immediately prior to such Partial Taking in accordance with the provisions of this Ground Lease and to a standard and quality no less than the construction of the original Improvements (the "*Condemnation Restoration*"). The Award for the Partial Taking shall be allocated as follows:

If the Partial Taking includes any of the Improvements (including any parking area), the Award shall first be applied to effect the Condemnation Restoration. The balance of the Award (if any) shall be allocated as follows:

(i) The City shall be entitled to an amount equal to the present value of the diminution in the Market Value of its fee interest in the Site as of the end of the Term; and

(ii) the balance of the Award, if any, shall be paid to the QALICB.

If the cost of the Condemnation Restoration, as reasonably estimated, is less than the portion of the Award needed to effect the Condemnation Restoration, the Award shall be paid to the QALICB, who shall effect the Condemnation Restoration, and if the cost of effecting the Condemnation Restoration is equal to

DRAFT

or greater than the portion of the Award needed for restoration of the Premises, the Award shall be paid to the City, who shall distribute such portion of the Award to the QALICB as the Condemnation Restoration progresses in the same manner as provided in Section 10.2 with respect to insurance proceeds and subject to the same conditions.

Section 11.5 Reimbursement for Taxes. Notwithstanding anything in this Article XI to the contrary, to the extent any Award is allocated to reimbursement for real estate taxes and assessments that have been paid with respect to periods after the date title vests in the condemning authority or its designee, such portion shall be paid to the party who paid such taxes and assessments. To the extent any Award is allocated to reimbursement of prepayment penalties, such portion shall be paid to the party that paid the prepayment penalty.

Section 11.6 Rights of Certain Parties. The City's and the QALICB's rights under this Article XI shall be subject and subordinate to the rights of the Sub-CDE Leasehold Mortgage so long as the Sub-CDE Leasehold Mortgage is outstanding.

Section 11.7 No Benefit to Condemning Party. Nothing in this Article is included for the benefit of the condemning authority, the intent being only to set out the rights of the parties vis-a-vis one another.

ARTICLE XII ESTOPPEL CERTIFICATES

Section 12.1 Estoppel Certificates. The City and the QALICB shall, at any time and from time to time, within ten (10) Business Days following receipt of written request from the other party, execute, acknowledge and deliver a written statement certifying to such parties as such requesting party may require, including Sub-CDE Lender and/or the City: that this Ground Lease is in full force and effect and unmodified (or, if modified, stating the nature and date of such modification); the Closing Date; the end of the Term; whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Ground Lease including the payment of Additional Rent (and, if so, specifying each such default of which the signer shall have knowledge and the amount of any unpaid Additional Rent); if the signer is the QALICB, that the QALICB is not in default of any of its obligations under this Ground Lease; and as to such other matters regarding this Ground Lease as may reasonably be requested. Failure to deliver such statement within the ten (10) Business Days' period shall be conclusive as to the facts stated in the requested certification and binding upon the party who failed to deliver such certification as it relates to the entity seeking the certification. However, the failure to deliver said statement shall not be a waiver of any claim the City may otherwise have against the QALICB to the extent the enforcement of the City's claim does not adversely impact the entity seeking the certification.

ARTICLE XIII ASSIGNMENT AND SUBLEASE

Section 13.1 Prohibition of Assignment and Subleasing. Except as permitted by this Article, or Section 5.4 hereof, or with the City's approval, the QALICB may not assign this Ground Lease or sublease all or substantially all of the Premises in a single transaction or related transactions, or otherwise transfer (whether by operation of law or otherwise) all or substantially all of its interest in this Ground Lease or the Premises. The City agrees that it will grant its consent to such assignment requested by the QALICB so long as the proposed assignee would not detract from or reflect negatively upon the City, has the experience, expertise, capability and qualifications to operate and manage the Project and assumes, in writing, the obligations of the QALICB as lessee under this Ground Lease.

DRAFT

Section 13.2 Permitted Assignment and Subletting. The City and the QALICB agree that (i) the Operating Lease and any future sublease(s) of all or any portion of the Premises is permitted and (ii) the Sub-CDE Leasehold Mortgage and any assignment pursuant to Section 5.4(d)(ii) hereof is permitted.

ARTICLE XIV DEFAULT; INSOLVENCY EVENTS; AND CONDITIONS OF LIMITATION

Section 14.1 Events of Default. This Ground Lease and the term and estate thereof are subject to the conditional limitation set forth below. If any of the following events occur and a court of competent jurisdiction renders a judgment in favor of the City (each, an “*Event of Default*”):

(a) The QALICB fails to pay Base Rent to the City when the same is due and payable under the terms of this Ground Lease, and such failure continues for a period of thirty (30) days after written notice thereof is given to the QALICB; or

(b) The QALICB fails to pay to the City any Additional Rent when the same is due and payable under the terms of this Ground Lease and such failure continues for a period of thirty (30) days after written notice thereof is given to the QALICB; or

(c) The QALICB shall fail to observe or perform any other covenant, agreement or obligation under this Ground Lease, and that failure continues for a period of 60 days after written notice of the failure is given by registered or certified mail to the QALICB by the City requesting that it be remedied. The City may agree in writing to an extension of that 60-day period prior to its expiration, provided that if the QALICB proceeds to take curative action that, if begun and prosecuted with due diligence, cannot be completed reasonably within the 60-day period, that period shall be increased without a written extension to any extent that shall be necessary to enable the QALICB to complete the curative action diligently.

Then in any such case the City may, subject expressly to the rights and benefits of Leasehold Mortgage Beneficiary, at any time during the continuance of such Event of Default after the applicable notice and cure periods have expired, give the QALICB notice of termination of this Ground Lease and, upon the date five (5) Business Days after service of such notice, this Ground Lease and the term and estate thereof shall terminate and end with the same force and effect as if that day were the day herein definitely fixed for the end and expiration of this Ground Lease, but the QALICB shall remain liable for damages as provided in this Ground Lease and the City may resort to and enforce any of the remedies provided in Article XV below; provided, however, that the City acknowledges that any rights hereunder are subject to the rights of the Leasehold Mortgage Beneficiaries set forth in Section 5.4 above, including, without limitation, Section 5.4(h).

Section 14.2 Insolvency Events. Following the repayment in full or other discharge of the QALICI Loans, this Ground Lease and the term and estate thereof is subject to the further conditional limitation that if any of the following events occur (“*Insolvency Events*”):

(a) The QALICB makes a general assignment for the benefit of its creditors, or

(b) If an involuntary petition is filed against the QALICB under any bankruptcy or insolvency law or under the reorganization provisions of any law of like import, and such petition is not dismissed within one hundred twenty (120) days after the date filed; or

(c) The QALICB shall file a voluntary petition under any bankruptcy or insolvency law, or whenever any court of competent jurisdiction shall approve a petition filed by the QALICB under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like

DRAFT

import, or whenever a petition shall be filed by the QALICB under the arrangement provisions of the United States Bankruptcy Act or under the provisions of any law of like import.

Then in any such case the City may, subject to the rights and benefits of Leasehold Mortgage Beneficiary, at any time during the continuance of such Insolvency Event, after the applicable notice and cure period have expired, give the QALICB notice of termination of this Ground Lease and, upon the date five (5) Business Days after service of such notice, this Ground Lease and the term and estate thereof shall terminate and end with the same force and effect as if that day were the day herein definitely fixed for the end and expiration of this Ground Lease, but the QALICB shall remain liable for damages as provided in this Ground Lease and the City may resort to and enforce any of the remedies provided in Article XV below; provided, however, that the City acknowledges that any rights hereunder are subject to the rights of the Leasehold Mortgage Beneficiaries set forth in Section 5.4 above; and provided further that with respect to a default under clause (c), the City shall have, as its sole remedy for such default, the right to maintain an action in law or equity to require specific performance of the terms of this Ground Lease.

Section 14.3 [Reserved].

Section 14.4 City Default. It shall be a default under and breach of this Ground Lease by the City if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Ground Lease for a period of thirty (30) days after notice thereof from the QALICB; provided, however, that if the term, condition, covenant or obligation to be performed by the City is of such nature that the same cannot reasonably be performed within such 30-day period, such default shall be deemed to have been cured if the City commences such performance within said 30-day period and thereafter diligently undertakes to complete the same. Upon the occurrence of any such the default by the City, the QALICB may (a) cure such default by the City and offset Additional Rent against such amounts, or (b) sue for injunctive relief or to recover damages for any loss resulting from the breach or may pursue any other remedies available to it under Applicable Laws.

ARTICLE XV REMEDIES

Section 15.1 Rights of the City. Subject to the rights of the Leasehold Mortgage Beneficiaries set forth in Section 5.4 above; and provided further that with respect to an Event of Default under Clause (c) of Section 14.1 above, the City shall have, as its sole remedy for such default, the right to maintain an action in law or equity to require specific performance of the terms of this Ground Lease, if (a) this Ground Lease is terminated pursuant to Article XIV, or (b) the City re-enters or obtains possession of the Premises by summary proceedings or any other action or proceeding, or (c) the City re-enters or obtains possession by any other legal act (which City may do without further notice and without liability or obligation to the QALICB or any occupant of the Premises if this Ground Lease is terminated pursuant to Article XIV), all of the provisions of this Section shall apply (in addition to any other applicable provisions of this Ground Lease):

(a) The QALICB shall immediately vacate the Premises and surrender the Premises to the City in good order, condition and repair, excepting reasonable wear and tear and damage that is not the QALICB's obligation to repair; and, if the QALICB fails to surrender the Premises in such condition, the QALICB shall reimburse the City for all costs incurred by the City to restore the Premises to such condition.

(b) Subject to the terms of the Operating Lease, the City, at the City's option, may (i) relet the Premises, or any portion of the Premises, from time to time, in the name of the City, the QALICB or otherwise, as determined by the City, to any person and on any terms, but the City shall have no obligation to relet the Premises, or any portion of the Premises, or to collect any rent (and the failure to relet the

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Premises, or any portion of the Premises, or to collect any rent shall not impose any liability or obligation on the City or relieve the QALICB of any obligation or liability under this Ground Lease), and (ii) make any changes to the Premises as the City, in the City's judgment, considers advisable or necessary in connection with a reletting, without imposing any liability or obligation on the City or relieving the QALICB of any obligation or liability under this Ground Lease.

(c) The QALICB shall pay the City the following amounts:

(i) All Rent payable to the date on which this Ground Lease is terminated or the City reenters or obtains possession of the Premises; and

(ii) Any deficiency between (i) the aggregate Rent for the period which otherwise would have constituted the unexpired portion of the Term (conclusively presuming the Additional Rent for each year thereof to be the same as was payable for the 12 month period immediately preceding the termination, re-entry or obtaining of possession); and (ii) the rents, if any, applicable to that period collected under any reletting of any portion of the Premises; and the QALICB shall pay any such deficiency in installments on the dates specified in this Ground Lease for payment of installments of the Base Rent, and the City shall be entitled to recover from the QALICB each deficiency as the same arises. No suit to collect the deficiency for any month shall prejudice City's right to collect the deficiency for any subsequent month. The QALICB shall not be entitled to any rents payable (whether or not collected) under any reletting, whether or not those rents exceed the Rent.

(iii) Any costs and expenses incurred by the City in connection with the termination, re-entry or obtaining of possession, and the reletting of the Premises, including all repossession costs, brokerage commissions, reasonable attorneys' fees and disbursements, alteration costs and other expenses of preparing the Premises for reletting.

The QALICB shall deliver to the City all sums held by the QALICB with respect to the occupancy of the Premises by the City, including prepaid rents, estimated prepayments relating to real estate taxes, operating expenses, and other expenses.

Nothing contained in this Ground Lease shall be considered to limit or preclude the recovery by the City from the QALICB of the maximum amount allowed to be obtained as damages or otherwise by any Applicable Laws; provided, however, for the avoidance of doubt no acceleration of Rent for the unexpired portion of the Term shall be permitted.

Section 15.2 Right of Injunction. Either party may seek to enjoin any breach or threatened breach of any provision of this Ground Lease. The right of any party to exercise any particular remedy available under this Ground Lease, at law or in equity, shall not preclude such party from exercising any other remedy it might have pursuant to this Ground Lease, in law or in equity. Each right and remedy specified in this Ground Lease and each other right or remedy that may exist at law, in equity or otherwise upon breach of any provision in this Ground Lease, shall be deemed distinct, separate and cumulative; and no right or remedy, whether exercised or not, shall be deemed to be in exclusion of any other unless otherwise expressly provided in this Ground Lease.

Section 15.3 City May Cure Default. If (a) there is then an Event of Default, or (b) if the QALICB fails to comply with any obligation under this Ground Lease which in the City's reasonable opinion creates an emergency, the City may, but is not obligated to, cure the default. The QALICB shall reimburse the City, as Additional Rent, for all Liabilities incurred by the City in connection therewith, within ten days after the QALICB is billed for such Liabilities.

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Section 15.4 No Waiver by the City. No payment by the QALICB or receipt by the City of a lesser amount than the Rent shall be considered other than on account of the Rent. No endorsement or statement on any check or letter accompanying any check or payment shall prevent the City from cashing the check or otherwise accepting the payment, without prejudice to the City's right to recover the balance of the Rent or pursue any other remedy.

Section 15.5 QALICB Waiver. The QALICB waives the QALICB's right, if any, to designate the items against which any Rent payments made by the QALICB pursuant to this Ground Lease are to be credited and the QALICB agrees that the City may apply any payments made by the QALICB to any Rent items the City sees fit irrespective of and notwithstanding any designation or request by the QALICB as to the items against which any such payments shall be credited.

Section 15.6 Jurisdiction. All legal actions relating to this Ground Lease shall be adjudicated in any Ohio state court or in any federal court having jurisdiction in the City. The QALICB irrevocably consents to the personal and subject matter jurisdiction of those courts in any legal action relating to this Ground Lease and waives any claim that any legal action relating to this Ground Lease brought in any such court has been brought in an inconvenient forum. This consent to jurisdiction is self-operative and no further instrument or legal action, other than service of process in any manner permitted by Applicable Laws or this Section, is necessary in order to confer jurisdiction upon the person of the QALICB and the subject matter in question in any such court.

Section 15.7 Re-Enter. The words "re-enter," "re-entry" and "re-entered" as used in this Ground Lease shall not be considered to be restricted to their technical legal meanings.

ARTICLE XVI BROKER

Section 16.1 No Broker. Each of the City and the QALICB represents and warrants that it has not dealt with any broker in connection with this Ground Lease, and each party shall be responsible for any broker's fee or commission for any broker claiming through such party. The QALICB shall indemnify and hold the City harmless from and against any and all claims for any brokerage fee or commission with respect to this Ground Lease transaction by any broker with whom the QALICB has dealt or is alleged to have dealt. The provisions of this Section shall survive any termination of this Ground Lease.

Section 16.2 No Broker's Lien. The QALICB shall keep the Premises and this Ground Lease free from any broker's lien, other than the lien of any broker that the City is obligated to pay pursuant to this Ground Lease.

ARTICLE XVII NO IMPAIRMENT OF THE CITY'S TITLE

Section 17.1 Rights Granted by the City. Nothing contained in this Ground Lease or any action or inaction by the City, shall be deemed or construed to mean that the City has granted to the QALICB any right, power or permission to do any act or to make any agreement which may create, give rise to, or be the foundation for, any right, title, interest, lien, charge or other encumbrance upon the estate of the City in the Premises.

Section 17.2 No Impairment of the City's Title. In amplification and not in limitation of the foregoing, the QALICB shall not permit the Premises to be used by any person or persons or by the public, as such, at any time or times during the term of this Ground Lease, in such manner as might reasonably tend to impair the City's title to or interest in the Premises or in such manner as might reasonably make

DRAFT

possible a claim or claims of adverse use, adverse possession, prescription, dedication, or other similar claims of, in, to or with respect to the Premises.

Section 17.3 Liens. The QALICB shall not cause, or permit the City to cause, the City's fee estate in the Premises to be encumbered by any lien or other encumbrance filed or recorded in favor of any mechanic, materialman, architect, or engineer with respect to the work, materials or services alleged to have been performed at or with respect to the Premises. If any such lien or encumbrance is filed or recorded, the QALICB shall discharge any such lien or encumbrance by bond or otherwise within thirty (30) days after the QALICB receives notice of such lien or encumbrance. If the QALICB fails to discharge such lien or encumbrance within such 30-day period, the City may pay the amount reflected on such lien or encumbrance (or any portion thereof) and any costs, interest, and/or penalties imposed in connection therewith or take such other action as the City deems necessary or desirable to remove such lien or encumbrance, without being responsible for investigating the validity thereof and without regard to any objection by the QALICB. The amount so paid and costs incurred by the City shall be deemed Additional Rent under this Ground Lease payable within thirty (30) days after the QALICB is billed therefor.

ARTICLE XVIII QUIET ENJOYMENT

Section 18.1 Quiet Enjoyment. The City covenants that if and so long as the QALICB observes and performs each and every covenant, agreement, term, provision and condition of this Ground Lease on the part of the QALICB to be observed and performed, the QALICB shall quietly enjoy the Premises without hindrance or molestation of the City or any other person or entity acting through or on behalf of the City, subject to the covenants, agreements, terms, provisions and conditions of this Ground Lease and the Operating Lease. The City represents and warrants that there is no lien encumbering the City's fee or leasehold interest in the Premises and the City will not permit or allow any such lien or other encumbrance on its fee or leasehold interest in the Premises during the Term.

ARTICLE XIX LIMITATION OF LIABILITY

Section 19.1 Transfer by the City. If the City sells, assigns, or otherwise transfers (whether by operation of law or otherwise) all or part of its interest in the Premises or this Ground Lease, the assignment agreement must fully obligate the assignee to assume all the City's obligations and responsibilities pursuant to this Ground Lease. The City shall be relieved of all its obligations and liabilities under this Ground Lease accruing after the effective date of the transfer, and the transferee shall be deemed to have assumed all the City's obligations and liabilities under this Ground Lease effective from and after the effective date of the transfer.

Section 19.2 No Personal Liability. The respective officers, directors, employees, agents and attorneys of the City and QALICB, disclosed and undisclosed, shall have no personal liability under or in connection with this Ground Lease.

ARTICLE XX END OF TERM

Section 20.1 Surrender of Premises. At the end of the Term whether by the running of the Term or on such earlier date that this Ground Lease terminates or expires, the QALICB shall peaceably and quietly surrender the Premises to the City vacant, broom clean, in good order, condition and repair excepting reasonable wear and tear and damage that is not the QALICB's obligation to repair, free and clear of all subleases, liens, and other encumbrances and with all Personal Property acquired (or leased) by the

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QALICB removed. The QALICB shall deliver to the City, on or before the end of the Term or such earlier date that this Ground Lease terminates or expires, upon the City's request, all licenses, permits, warranties, and guaranties then in effect for the Premises (and shall assign same to the City upon the City's request) and all books and records related to the Premises reasonably requested by the City. The QALICB shall cooperate with the City to achieve an orderly transition of the Premises to City's control. The City and the QALICB shall, prior to the expiration of the Term, (a) adjust for Impositions and all other appropriate expenses and income of the Premises, and (b) if a memorandum of lease has been recorded, execute a document in recordable form evidencing the termination of this Ground Lease and all amendments thereto.

Section 20.2 Personal Property. Any Personal Property which shall remain on the Premises after the expiration of the Term or such earlier date that this Ground Lease terminates or expires, may, at the option of the City, be deemed to have been abandoned and either may be retained by the City as its property or be disposed of, without accountability, in such manner as the City may see fit, except that the property of any tenant then in possession shall be retained by such tenant. The QALICB shall reimburse the City, as Additional Rent, for all costs and expenses incurred by the City in connection with disposing of such property.

Section 20.3 Holdover. If the Premises are not vacated and surrendered in accordance with this Ground Lease at the conclusion of the Term or sooner termination of this Ground Lease, the QALICB shall be liable to the City for (a) all Liabilities incurred by the City in connection with such holdover, including Liabilities incurred in connection with any summary proceedings, action or proceeding to recover possession of the Premises from the QALICB, and (b) per diem use and occupancy in respect of the Premises equal to the fair market rental value of the Premises, and (c) all actual damages incurred by the City in connection with such holdover. If only a portion of the Premises is timely vacated and surrendered, the QALICB shall nevertheless remain liable for per diem use and occupancy with respect to the entire Premises, but any reletting proceeds received by the City during the period of the QALICB's holdover shall be credited against the QALICB's liability for use and occupancy for the entire Premises. In no event shall this Section be construed as permitting the QALICB (or other occupants) to remain in possession of the Premises after the Term or sooner termination of this Ground Lease. The QALICB shall indemnify, defend and hold harmless the City against all claims made by any succeeding tenants to the extent such claims arise by reason of the failure of the QALICB (and all other occupants) timely to vacate and surrender the Premises (or any portion thereof) in accordance with this Ground Lease. The City may recover amounts due it under this Section in any summary proceeding and/or any separate action or proceeding.

Section 20.4 No Acceptance of Surrender. No act or thing done by the City or the City's agents (including receipt of keys) during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing signed by the City.

ARTICLE XXI MISCELLANEOUS

Section 21.1 Modifications in Writing. This Ground Lease may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

Section 21.2 No Waiver. Receipt or acceptance of Rent by the City and payment of any Rent by the QALICB shall not be deemed to be a waiver of any default under the covenants, agreements, terms, provisions and conditions of this Ground Lease, or of any right which the City or the QALICB, as the case may be, may be entitled to exercise under this Ground Lease. Failure to insist upon the strict performance of any of the provisions of this Ground Lease or to exercise any right, remedy or election herein contained or permitted by law shall not constitute or be construed as a waiver or relinquishment for the future of such

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provision, right, remedy or election, but the same shall continue and remain in full force and effect. The waiver by either party of any breach of this Ground Lease shall not be deemed a waiver of any future breach.

Section 21.3 Consent of the City. Consent of the City to any act or matter must be in writing and shall apply only with respect to the act or matter to which such consent is given and shall not relieve the QALICB from the obligation wherever required under this Ground Lease to obtain the consent of the City to any other act or matter. If the QALICB requests the City's consent or approval and the City fails or refuses to give such consent or approval, the QALICB shall not be entitled to any damages for any withholding by the City of its consent or approval, it being intended that the QALICB's sole remedy shall be an action for specific performance or injunction, and that such remedy shall be available only in those cases where the City has expressly agreed in writing not to unreasonably withhold or delay its consent or where as a matter of law the City may not unreasonably withhold its consent.

Section 21.4 [Reserved].

Section 21.5 Further Liability. Upon the expiration of the Term of this Ground Lease, neither party shall have any further obligation or liability to the other except as otherwise provided in this Ground Lease and except for (a) such obligations as by their nature or under the circumstances can only be, or by the provisions of this Ground Lease may be, performed after such expiration, and (b) any liability for Rent, and (c) any liability for acts or omissions occurring during the Term, and (d) any obligation or liability under Articles IX and XIX, all of which obligations shall survive such expiration.

Section 21.6 Validity of Lease. Each party represents and warrants (a) that this Ground Lease has been duly authorized, executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, (b) that there are no actions, suits or proceedings pending or, to the knowledge of such party, threatened against or affecting such party, at law or in equity or before any Governmental Authority which would impair such party's ability to perform its obligations under this Ground Lease, and (c) that the consummation of the transactions hereby contemplated and the performance of this Ground Lease will not result in any breach or violation of, or constitute a default under any lease, bank loan or credit agreement. The QALICB shall provide to the City, upon the City's request, evidence that the execution and delivery of this Ground Lease have been duly authorized by the QALICB and that the person or persons executing and delivering this Ground Lease on behalf of the QALICB have been duly authorized to do so, together with a certified copy of the QALICB's articles of incorporation, partnership agreement or operating agreement, as applicable, and all amendments thereto.

Section 21.7 No Merger. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with a fee interest in the Premises by reason of the fact that the same person may acquire, own or hold, directly or indirectly, this Ground Lease or the leasehold estate created by this Ground Lease and the fee estate in the Premises, unless and until such person shall join in a written instrument expressly providing for such merger and such instrument is recorded.

Section 21.8 Memorandum of Ground Lease. The parties shall execute and acknowledge, in a manner suitable for recording, a Memorandum of Ground Lease in the form attached as **Exhibit B**, which Memorandum of Ground Lease may be recorded by either of the parties.

Section 21.9 Entire Agreement. This Ground Lease represents the entire agreement of the parties with respect to the Premises, and, accordingly, all prior understandings and agreements between the parties with respect to the Premises are merged into this Ground Lease, which alone fully and completely expresses the agreement of the parties.

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Section 21.10 Independent Covenants. Each covenant, agreement, obligation, or other provision of this Ground Lease on the QALICB's part to be performed, shall be deemed and construed as a separate and independent covenant of the QALICB, not dependent on any other provision of this Ground Lease.

Section 21.11 Inclusion. All terms and words used in this Ground Lease shall be deemed to include any other number and any other gender as the context may require.

Section 21.12 Negotiations Have No Binding Effect. The submission of drafts of and comments to this Ground Lease, the negotiation of this Ground Lease, and the exchange of correspondence concerning the negotiation and execution of this Ground Lease shall have no binding force or effect and shall confer no rights nor impose any obligations, including brokerage obligations, on either party. This Ground Lease shall become a binding agreement only after both the City and the QALICB have executed this Ground Lease and duplicate originals thereof (including any counterparts) shall have been delivered to the respective parties.

Section 21.13 Notice. All notices or other communications required to be given under this Ground Lease shall be given in writing and shall be deemed to have been duly given on the date delivered, if delivered personally; or the next Business Day, if delivered to a nationally recognized overnight courier service, addressed as follows:

Notice to City:

City of Toledo, Ohio
One Government Center
Suite 2050
Toledo, Ohio 43604
Attention: [NAME/TITLE]
Email: [EMAIL]
Phone: [PHONE]

Notice to the QALICB:

[NAME]
2053 N. 14th Street
Toledo, Ohio 43620
Attention: [NAME]
Email: [EMAIL]
Phone: [PHONE]

Each party hereto may, by notice given to each of the other parties, designate any additional or different addresses to which subsequent notices, certificates, demands, requests, or other communications shall be sent. Notwithstanding anything contained herein to the contrary, any notice required to be given by the City or the QALICB hereunder shall be deemed to have been given and shall be effective as of the date such notice is received or refused reflected on said notice. All notices, certificates, demands, requests, or other communications made by either party to the other which are required or permitted by the provisions of this Ground Lease shall be in writing.

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Section 21.14 No Claims against the City. Except to the extent expressly provided in this Ground Lease, nothing contained in this Ground Lease shall be deemed to authorize the QALICB to enter into any contract or agreement on behalf of the City or to subject the City's interest in the Premises or in this Ground Lease to any lien or encumbrance, including without limiting the generality of the foregoing, any liens for the construction, repair, renovation or addition of any improvements so as to permit the making of any claim against the City or the City's interest in the Site, the Improvements or the Personal Property, or shall be deemed a waiver by the City of any right, remedy, or interest granted to the City under this Ground Lease. The QALICB is hereby prohibited from taking any such action. Any persons rendering any labor or service or furnishing materials to the QALICB or to the Premises, or otherwise contracting with the QALICB, shall look solely to the QALICB for payment therefor.

[signature pages follow]

IN WITNESS WHEREOF, the City and the QALICB have executed this Ground Lease as of the day and year first above written.

QALICB:

[NAME OF QALICB]
an Ohio [_____]

By _____

STATE OF OHIO)
)
COUNTY OF _____)

SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 202__, by _____, the _____ of [NAME OF QALICB], an Ohio _____, on behalf of such _____. This is an acknowledgment certificate; no oath or affirmation was administered to the signer.

Notary Public
My Commission Expires:

City:

CITY OF TOLEDO, OHIO,

A municipal corporation of the State of Ohio

By: _____

STATE OF OHIO)

)

SS:

COUNTY OF LUCAS _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 202__, by _____, the _____ of CITY OF TOLEDO, OHIO, an Ohio municipal corporation, on behalf of such corporation. This is an acknowledgment certificate; no oath or affirmation was administered to the signer.

Notary Public

My

Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF SITE

[TO BE INSERTED]

EXHIBIT B

MEMORANDUM OF GROUND LEASE

EXHIBIT C

PROHIBITED NMTC USES

The following uses shall constitute Prohibited NMTC Uses under this Ground Lease:

1. Any trade or business at the Premises (i) consisting of the rental to others of residential real property (which is defined in Section 168(e)(2)(A) of the Internal Revenue Code of 1986, as amended (the “Code”) as property where eighty percent (80%) or more of the gross rental income from such property is derived from the rental of dwelling units), (ii) consisting predominantly of the development or holding of intangibles for sale or license, (iii) consisting of the operation of (A) a private or commercial golf course, (B) a country club, (C) a massage parlor, (D) a hot tub facility, (E) a suntan facility, (F) a racetrack or other facility used for gambling, or (G) any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or (iv) the principal activity of which is farming (within the meaning of Code Section 2032A(e)(5)(A) or (B) and the applicable regulations promulgated under the Code).

2. Any trade or business at the Premises constituting a shooting gallery; adult bookstore or facility selling or displaying pornographic books, literature or videotapes (materials shall be considered “adult” or “pornographic” for such purposes if the same are not available for sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality); bingo or similar games of chance, however lottery ticket and other items commonly sold in retail establishments may be sold as an incidental part of business; or video game or amusement arcade, except as an incidental part of another primary business.