



RESOLUTION 2023-019

PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF SHERWOOD AND THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF COLUMBIA-WILLAMETTE, AN OREGON NONPROFIT CORPORATION, DOING BUSINESS AS YMCA OF COLUMBIA-WILLAMETTE

WHEREAS, In 1996, Sherwood Residents passed a 20-Year General Obligation Bond to construct a facility generally located at 23000 S.W. Pacific Highway that would become the Sherwood Family YMCA;

WHEREAS, In 1998, The Sherwood Family YMCA opened its doors, operated by the YMCA of Columbia Willamette under a Twenty-Year Agreement with the City of Sherwood;

WHEREAS, In 2018 the City of Sherwood and the YMCA of Columbia Willamette entered into a Five-Year operating agreement set to expire on October 31st, of 2023;

WHEREAS, The City of Sherwood and the YMCA of Columbia Willamette have completed negotiations on a "Purchase and Sale Agreement" between the two parties;

WHEREAS, The Purchase and Sale includes of the "Land" and "Improvements" generally located at 23000 S.W. Pacific Highway, except for the exclusion of the following item, the Skate Park and access to the skate park, the undeveloped area adjacent to Woodhaven Commons, and easements for the Hwy 99 Pedestrian Bridge;

WHEREAS, The YMCA of Columbia Willamette will grant the City of Sherwood a Twenty-Year "Right of First Refusal" if the YMCA decides to sell the property.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

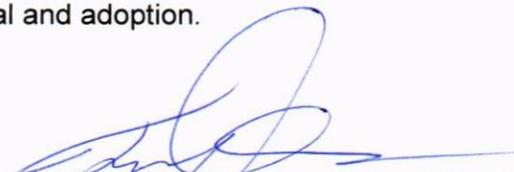
Section 1. The Sherwood City Council approves the Purchase and Sale Agreement, attached as Exhibit A to this Resolution, between the City of Sherwood and the Young Men's Christian Association of Columbia-Willamette, an Oregon nonprofit, doing business as YMCA of Columbia Willamette

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 21st of March 2023.

Attest:


Sylvia Murphy, MMC, City Recorder


Tim Rosener, Mayor

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is dated as of _____, 2023 (the “**Effective Date**”), between City of Sherwood, Oregon, a municipal corporation (“**Seller**”), and The Young Men’s Christian Association of Columbia-Willamette, an Oregon nonprofit corporation, doing business as YMCA of Columbia-Willamette (“**Buyer**”).

Recitals

A. Seller owns certain land described on Exhibit A attached hereto (the “**Land**”), which has a street address of 23000 S.W. Pacific Highway, Sherwood, Oregon 97140. The Land and the buildings and other improvements situated on the Land (collectively, the “**Improvements**”) shall hereinafter be referred to as the “**City Property**.”

B. As of the Effective Date, Buyer possesses and uses a portion of the City Property pursuant to a Master Services Agreement between Seller and Buyer (the “**Master Services Agreement**”).

C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, all of the City Property with the exception of the skate park (the “**Skate Park**”) and the wooded area (the “**Wooded Area**”), which are generally depicted on Exhibit B attached hereto, the ownership of which will be retained by Seller. Seller and Buyer acknowledge that a partition or subdivision will need to take place so that the City Property, excluding the Skate Park and the Wooded Area, may be lawfully conveyed to Buyer. For purposes of this Agreement, the term “**Real Property**” shall mean the City Property, excluding the Skate Park and the Wooded Area.

Agreement

1. **Purchase and Sale.** Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions set forth in this Agreement: (a) the Real Property; (b) all of Seller’s right, title, and interest in and to all building systems, fixtures, equipment, machinery, irrigation systems and equipment and other items of personal property owned by Seller and used in connection with the operation, maintenance, and/or repair of the Real Property (the “**Personal Property**”); (c) all rights, privileges, interests, licenses, claims, easements, benefits, covenants, conditions and servitudes of any type or nature that are appurtenant to or otherwise benefit the Real Property (collectively, the “**Appurtenances**”); (d) to the extent assignable, all of Seller’s interest in all licenses, permits, approvals, certificates of occupancy, dedications, and entitlements issued, approved or granted by any governmental entity or public utility in connection with the Real Property, together with all renewals and modifications thereof (collectively, the “**Licenses and Permits**”); (e) all of Seller’s interest in any as-built plans, drawings and specifications for the improvements on the Real Property and all architectural, structural, mechanical, electrical and landscaping plans and specifications, surveys, engineering studies and reports relating to the Real Property (collectively, the “**Plans**”); and (f) to the extent assignable, any warranties or guarantees received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repairs or alterations of the Real Property (collectively, the “**Warranties**”). The items described in clauses (a) through (f) of this Section 1 shall hereinafter be collectively referred to as the “**Property**.”

2. **Purchase Price.** The purchase price for the Property (the “**Purchase Price**”) shall be the sum of Five Million Dollars (\$5,000,000). On or before the Closing Date (as such term is defined in Section 3.2 of this Agreement), Buyer shall deposit into escrow with the Title Company (as such term is defined in Section 3.1 of this Agreement), in the form of cash, wire transfer of funds, or a cashier’s check, the Purchase Price, subject to adjustments and credits as set forth in this Agreement, which the Title Company shall disburse to Seller at Closing (as such term is defined in Section 3.2 of this Agreement).

3. **Escrow.**

3.1 **Opening of Escrow.** Buyer shall open escrow at Lawyers Title of Oregon, LLC, Attention: Peggy Neikirk, 1455 S.W. Broadway, Suite 1400, Portland, Oregon 97201 (the “**Title Company**”) for consummating the transaction that is the subject of this Agreement. Seller or Buyer shall deliver a copy of this Agreement, fully executed, to the Title Company. Buyer and Seller hereby authorize their respective attorneys to execute and deliver into escrow any additional or supplemental instructions as may be necessary or convenient to implement the terms of this Agreement and to close this transaction. In the event of any conflict between such additional or supplemental instructions and the express terms of this Agreement, the terms of this Agreement shall control.

3.2 **Closing Date.** This transaction shall close at or through the office of the Title Company on a date selected by Buyer that is reasonably acceptable to Seller and that is not more than sixty (60) days after the Due Diligence Date (as such term is defined in Section 9.2 of this Agreement). “**Closing**” shall occur when the Deed (as such term is defined in Section 10.1(a) of this Agreement) is recorded and the Purchase Price is disbursed to Seller pursuant to Section 2 of this Agreement. The date on which the Closing occurs shall hereinafter be referred to as the “**Closing Date.**”

4. **Title Exceptions.**

4.1 **Title Report.** A preliminary title report for issuing title insurance related to the City Property (the “**Title Report**”), together with copies of documents affecting title referenced in the Title Report, shall be ordered from the Title Company by Buyer and provided to Seller and Buyer.

4.2 **Objectionable Exceptions.** Within thirty (30) days after the last to occur of the Execution Date (as such term is defined in Section 25.12 of this Agreement) and Buyer’s receipt of the Title Report (the “**Objection Period**”), Buyer shall notify Seller in writing of all title exceptions to which Buyer objects (the “**Objectionable Exceptions**”). Those exceptions not objected to by Buyer within the Objection Period shall be deemed “**Permitted Exceptions.**” Within fifteen (15) days after receiving Buyer’s notice of Objectionable Exceptions, Seller will notify Buyer whether Seller will remove, prior to Closing, the Objectionable Exceptions. (If Seller fails to provide such notice to Buyer within such fifteen (15)-day period, Seller shall be deemed to have elected not to remove the Objectionable Exceptions.) If Seller is unable or unwilling to remove any Objectionable Exceptions, Buyer shall, within ten (10) days after receiving Seller’s response (or within ten (10) days after the expiration of the fifteen (15)-day period for Seller’s response if Seller fails to provide notice to Buyer within such fifteen (15)-day period), by notice to Seller, elect whether to purchase the Property subject to the Objectionable Exceptions that will not be removed by Seller, or terminate this Agreement. If Buyer elects to terminate this Agreement, Buyer shall have no further obligations under this Agreement. If Buyer fails to notify Seller within such ten (10)-day period that Buyer elects to terminate this Agreement, or if Buyer elects to purchase the Property subject to the Objectionable Exceptions that will not be removed by Seller, Buyer shall be deemed to have waived its objection to such Objectionable Exceptions, and they shall be deemed “**Permitted Exceptions.**” Notwithstanding any other term or provision of this Agreement, any monetary liens against the Property (which shall include, without limitation, judgment liens, construction or mechanic’s liens, mortgages, and trust deeds affecting the Property or any portion thereof) shall not be deemed Permitted Exceptions and shall be removed by Seller prior to Closing.

5. **Seller’s Documents and Buyer’s Inspections.**

5.1 **Seller’s Documents.** Within ten (10) days after the Execution Date, Seller shall deliver to Buyer the documents described on Exhibit C attached hereto (“**Seller’s Documents**”), to the extent such documents are in the possession, custody, or control of Seller.

5.2 **Buyer’s Inspections.** Buyer and its representatives may conduct any inspection, investigation, test, or survey, including without limitation environmental assessments, of the City Property as Buyer deems necessary. Buyer shall promptly repair any damage to the City Property resulting from any such inspection, investigation, test, or survey.

6. **Partition; Easement Agreement; Skate Park Agreement.** Promptly after the Execution Date, Seller shall seek a partition or subdivision (the “**Partition**”) that will make the Skate Park, the Wooded Area, and the Real Property separate legal parcels such that the Real Property may be lawfully conveyed to Buyer. Buyer shall reasonably cooperate, at no cost or expense to Buyer, in connection with the Partition; and Buyer shall be allowed to participate in the process of determining the boundary lines for the Real Property. Seller and Buyer acknowledge that it is likely that Seller and Buyer, as a condition to the Partition, will be required to enter into an easement agreement pursuant to which Buyer grants Seller an easement over a portion of the Real Property such that users of the Skate Park will have vehicular and pedestrian ingress to the Skate Park from Woodhaven Drive, vehicular and pedestrian egress from the Skate Park to Woodhaven Drive, and certain parking rights in the parking lot on the Real Property as part of the sale and with no reduction in Purchase Price (the “**Skate Park Easement Agreement**”). Among other things, the Skate Park Easement Agreement will contain language pursuant to which Seller agrees to indemnify Buyer for, hold Buyer harmless from, and defend Buyer against claims for personal injury and/or death and property damage asserted by users of the Skate Park and of the portions of the Real Property that are the subject of the Easement Agreement. At Closing, Seller and Buyer intend to enter into an agreement (the “**Skate Park Use Agreement**”) pursuant to which Seller shall grant Buyer certain

rights to use the Skate Park. The Skate Park Easement Agreement and the Skate Park Use Agreement must be satisfactory in form and content to Seller and Buyer in the sole discretion of each.

7. **Pedestrian Bridge Easement Agreement.** Seller intends to construct a pedestrian bridge over Highway 99W (the "**Pedestrian Bridge**") and is, as of the Effective Date, developing plans for the Pedestrian Bridge. The eastern end of the Pedestrian Bridge will likely be situated at or near the southwest corner of the Real Property, near the intersection of Sunset Boulevard and Highway 99W. At Closing, Seller and Buyer intend to enter into an easement agreement (the "**Pedestrian Bridge Easement Agreement**") pursuant to which Buyer will grant Seller an easement for pedestrian access over a portion of the Real Property for pedestrian ingress to and egress from the eastern end of the Pedestrian Bridge; provided, however, that such agreement must be satisfactory in form and content to Seller and to Buyer in the sole discretion of each.

8. **Seller's Contingencies.** In addition to the other conditions set forth in this Agreement, Seller's obligation to close this transaction shall be subject to the following conditions:

(a) Buyer shall have complied in all material respects with all of Buyer's covenants and agreements to be performed under this Agreement; and the representations and warranties of Buyer under this Agreement shall, in all material respects, as of the Execution Date and Closing Date, be true and complete.

(b) Buyer's delivery to the Title Company on or before the Closing Date, for disbursement as provided herein, the Purchase Price pursuant to Section 2 of this Agreement, and any other amounts due to Seller pursuant to this Agreement, and the documents and materials described in Section 10.2 of this Agreement.

(c) The Partition shall have been completed and approved under conditions of final approval that are satisfactory to Seller in Seller's sole discretion, and the boundary lines and the legal descriptions of the new parcels created for the Wooded Area and Skate Park shall be satisfactory to Seller in Seller's sole discretion.

(d) The execution by Buyer of the Skate Park Easement Agreement, which must be satisfactory in form and content to Seller in Seller's sole discretion.

(e) The execution by Buyer of the Skate Park Use Agreement, which must be satisfactory in form and content to Seller in Seller's sole discretion.

(f) The execution by Buyer of the Pedestrian Bridge Easement Agreement, which must be satisfactory in form and content to Seller in Seller's sole discretion.

(g) The termination of the Master Services Agreement pursuant to a termination agreement (the "**Agreement Terminating the Master Services Agreement**"), executed by Buyer, that is satisfactory in form and content to Seller in Seller's sole discretion.

9. **Buyer's Contingencies.**

9.1 **Conditions.** Buyer's obligation to purchase the Property is subject to the satisfaction of each of the following conditions:

(a) Buyer's satisfaction, in Buyer's sole and absolute discretion, with the Property and every aspect thereof, including without limitation the physical condition of the Property, zoning and land use restrictions applicable to the Property, the location of the Property, all systems, utilities, and access rights relating to the Property, the condition of title, any survey of the Property, the economic feasibility of the Property to Buyer, Seller's Documents, the suitability of the Property for Buyer's intended use, and the environmental condition of the Property.

(b) Seller having complied in all material respects with all of Seller's covenants and obligations to be performed by Seller under this Agreement (including, without limitation, the delivery of the documents and materials described in Section 10.1 of this Agreement), and the representations and warranties of Seller under this Agreement shall, in all material respects, as of the Effective Date and Closing Date, be true and complete.

(c) Issuance to Buyer at Closing of the Title Policy (as such term is defined in Section 12 of this Agreement) in the amount of the Purchase Price.

(d) There shall have been no material adverse changes to the Property or to the condition of the Property created or caused by Seller between the Effective Date and the Closing Date.

(e) The Partition shall have been completed and approved under conditions of final approval that are satisfactory to Buyer in Buyer's sole discretion, and the boundary lines of the Real Property and the legal description of the Real Property shall be satisfactory to Buyer in Buyer's sole discretion.

(f) The execution by Seller of the Skate Park Easement Agreement, which must be satisfactory in form and content to Buyer in Buyer's sole discretion.

(g) The execution by Seller of the Skate Park Use Agreement, which must be satisfactory in form and content to Buyer in Buyer's sole discretion.

(h) The execution by Seller of the Pedestrian Bridge Easement Agreement, which must be satisfactory to Buyer in Buyer's sole discretion.

(i) That certain Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for Woodhaven dated as of December 7, 1998, and recorded in the real property records of Washington County, Oregon, on January 14, 1999, as Fee No. 99004854.1 [**Confirm recording number**] (the "**Amended and Restated Declaration**") shall have been properly and validly amended, in accordance with the terms and provisions of the Amended and Restated Declaration and applicable law, to remove and release the City Property from the scope and coverage of the Amended and Restated Declaration such that (1) the Real Property is no longer deemed to be part of the "Property," as such term is defined in the Amended and Restated Declaration, and (2) the "Association," as such term is defined in the Amended and Restated Declaration, shall have no right or control whatsoever over the Real Property or any other portion of the Property. Such amendment shall be recorded, at Seller's expense, in the real property records of Washington County, Oregon, and shall be satisfactory to Buyer in Buyer's sole discretion.

(j) Seller's execution and delivery to the Title Company, at or prior to Closing, of the Agreement Terminating the Master Services Agreement, which shall be satisfactory in form and content to Buyer in Buyer's sole discretion.

9.2 Due Diligence Date. If on or before August __, 2023 (the "**Due Diligence Date**"), any of the conditions described in Section 9.1(a) of this Agreement are not satisfied or waived by Buyer, or if Buyer otherwise determines, in Buyer's sole and absolute discretion, that the Property, or any aspect thereof, for any reason or no reason whatsoever, is not satisfactory to Buyer, Buyer may terminate this Agreement by written notice to Seller given on or before the Due Diligence Date, in which event Buyer shall have no further obligations under this Agreement. If Buyer fails to provide such written notice of termination on or before the Due Diligence Date, the conditions set forth in Section 9.1(a) above shall be deemed to have been satisfied or waived by Buyer. Buyer may elect to provide written notice to Seller, prior to August __, 2023, of the satisfaction of or Buyer's waiver of the conditions set forth in Section 9.1(a) of this Agreement; and if Buyer provides such notice, the date on which such notice is given to Seller shall be deemed to be the Due Diligence Date.

9.3 Closing Conditions. If any of the conditions described in Sections 9.1(b), 9.1(c), 9.1(d), 9.1(e), 9.1(f), 9.1(g), 9.1(h), 9.1(i), and 9.1(j) of this Agreement have not been satisfied or waived by Buyer on or before the date that is sixty (60) days after the Due Diligence Date, Buyer may terminate this Agreement by written notice to Seller given at any time before the Closing, in which event Buyer shall have no further obligations under this Agreement.

10. Deliveries to Title Company.

10.1 By Seller. On or before the Closing Date, Seller shall deliver the following in escrow to the Title Company:

(a) A statutory warranty deed (the "**Deed**"), executed by Seller in the presence of a notary public, in substantially the same form and content as that which is attached hereto as Exhibit D, conveying the Real Property to Buyer, subject only to the Permitted Exceptions. (The Permitted Exceptions shall be set forth on Exhibit B to the Deed.)

(b) A Bill of Sale (the "**Bill of Sale**"), executed by Seller and in substantially the same form and content as that which is attached hereto as Exhibit E, transferring the Personal Property to Buyer. (The "Effective Date" of the Bill of Sale shall be the Closing Date.)

(c) An Assignment of Appurtenances, Licenses and Permits, Plans, and Warranties (the “**Assignment of Appurtenances**”), executed by Seller and in substantially the same form and content as that which is attached hereto as Exhibit E, pursuant to which Seller assigns to Buyer Seller’s right, title, and interest in and to the Appurtenances, the Licenses and Permits, the Plans, and the Warranties. (The “Effective Date” of the Assignment of Appurtenances shall be the Closing Date.)

(d) The Skate Park Easement Agreement, executed by Seller in the presence of a notary public.

(e) The Skate Park Use Agreement, executed by Seller.

(f) The Pedestrian Bridge Easement Agreement, executed by Seller in the presence of a notary public.

(g) The Agreement Terminating Master Services Agreement, executed by Seller.

(h) The Memorandum of Right of First Refusal, as such term is defined in Section 24.2 of this Agreement, executed by Seller in the presence of a notary public.

(i) A certification of Seller, executed by Seller, representing and warranting that Seller is not a “foreign person” as defined in Internal Revenue Code Section 1445.

(j) Such proof of Seller’s authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, as may be reasonably required by the Title Company.

(k) Such affidavits or other documents, executed by Seller, that may be reasonably required by the Title Company to issue to Buyer the Title Policy and any extended coverage title insurance or title endorsements that may be purchased by Buyer.

10.2 **By Buyer.** On or before the Closing Date, Buyer shall deliver the following in escrow to the Title Company:

(a) The Purchase Price in accordance with Section 2 of this Agreement.

(b) The amount due to Seller, if any, after the adjustments and prorations are computed in accordance with Sections 13 and 14 of this Agreement.

(c) The Assignment of Appurtenances, executed by Buyer.

(d) The Skate Park Easement Agreement, executed by Buyer in the presence of a notary public.

(e) The Skate Park Use Agreement, executed by Buyer.

(f) The Pedestrian Bridge Easement Agreement, executed by Buyer in the presence of a notary public.

(g) The Agreement Terminating Master Services Agreement, executed by Buyer.

(h) The Memorandum of Right of First Refusal, executed by Buyer in the presence of a notary public.

(i) Such proof of Buyer’s authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, as may be reasonably required by the Title Company.

11. **Delivery of Possession.** On the Closing Date, Seller shall deliver to Buyer exclusive possession of the Property.

12. **Title Insurance.** At Closing, Seller shall provide to Buyer, at Seller’s expense, an ALTA standard owner’s title insurance policy (the “**Title Policy**”), issued by the Title Company, in the amount of the Purchase Price, insuring fee title to the Real Property vested in Buyer, subject only to the Permitted Exceptions and the usual preprinted exceptions. Buyer shall have the right, if Buyer so elects, to cause the Title Policy to be issued as an extended coverage policy, provided that Buyer pays the additional premiums and all survey costs associated therewith.

13. **Adjustments.** At Closing, Seller shall pay for one-half of all escrow fees and costs, all real property transfer taxes and excise taxes (including without limitation the Washington County transfer tax), Seller’s share of prorations (if

any) pursuant to Section 14 of this Agreement, the cost of recording the Memorandum of Right of First Refusal, and any and all dues and/or assessments that are then due and owing or otherwise payable from or in connection with the City Property pursuant to the Amended and Restated Declaration. At Closing, Buyer shall pay all charges relating to the recordation of the Deed and of any security instruments relating to Buyer's financing, one-half of all escrow fees and costs, and Buyer's share of prorations (if any) pursuant to Section 14 of this Agreement. Buyer and Seller shall pay their own respective legal and professional fees.

14. **Prorations.** Any real property taxes and other assessments with respect to the Real Property for the tax or assessment year in which the Closing occurs shall be prorated as of the Closing Date. Seller shall pay any and all delinquent taxes and assessments on or before the Closing Date. For the purpose of calculating prorations, Buyer will be deemed to be in title to the Property and entitled to the income and responsibility for the expenses therefor, beginning at 12:01 a.m. on the Closing Date. Except as otherwise stated herein, all prorations shall be made in accordance with the customary practice in Washington County, Oregon. Such prorations, if and to the extent known and agreed on as of the Closing Date, shall be paid by Buyer to Seller (if the prorations result in a net credit to Seller) or by Seller to Buyer (if the prorations result in a net credit to Buyer) by increasing or reducing the cash to be paid by Buyer at Closing. Except as otherwise provided herein, any such prorations not determined or not agreed on as of the Closing Date shall be paid by Buyer to Seller, or by Seller to Buyer, as the case may be, in cash as soon as is practicable following the Closing Date. The terms and provisions of this Section 14 shall survive the Closing.

15. **Seller's Representations and Warranties; Indemnity.**

15.1 Seller represents and warrants to Buyer as of the Effective Date and, unless Seller notifies Buyer otherwise in writing, as of the Closing, as follows:

(a) Seller has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transaction contemplated herein.

(b) The execution, delivery and performance by Seller of Seller's obligations under this Agreement do not constitute a default under any of the provisions of any law, governmental rule, regulation, judgment, decree or order by which such Seller is bound, or under any provision of any contract to which such Seller is a party.

(c) There is no litigation, claim, or arbitration pending or, to Seller's Knowledge, threatened with regard to the Property or its operation.

(d) There are no leases, subleases, or other tenancies relating to the Property except for the Master Services Agreement.

(e) To Seller's Knowledge, the Property is not currently in violation of any law, including Environmental Laws. "**Environmental Laws**" includes any present and future local, state and federal laws, regulations, rules, or ordinances relating to the environment and environmental conditions, including without limitation the Resource Conservation and Recovery Act of 1976 ("**RCRA**"), 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("**CERCLA**"), 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. §§ 1251 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and all federal, state, or local regulations, orders and decrees now or hereafter promulgated thereunder. There are no underground storage tanks in or beneath the surface of the Real Property. Seller has not received any notice or notices from any regulatory agency regarding any violation of Environmental Laws with respect to the Property.

(f) Seller has not granted an option and has not executed a contract with any other party regarding a purchase or sale of the Property or any portion thereof or interest therein that remains in effect as of the Effective Date. There are no existing rights of first refusal or first offer or options to purchase the Property or any portion thereof. Seller has not sold, transferred, conveyed, or entered into any agreement regarding "air rights" or other development rights or restrictions relating to the Property.

(g) All persons and entities supplying labor, materials, and/or equipment to the Property at the request of Seller have been paid in full and, to Seller's Knowledge, no person or entity is entitled to file or record a construction lien or mechanic's lien with respect to the Property.

15.2 **Seller's Knowledge.** The term "**Seller's Knowledge**," as used in Section 15.1 above, shall mean the current actual knowledge of Seller, with no duty of inquiry or investigation, except for a review of Seller's files by Seller's city manager.

15.3 **Indemnity.** To the fullest extent permitted by law, Seller shall indemnify Buyer for, hold Buyer harmless from, and defend Buyer (with counsel reasonably acceptable to Buyer) against all claims, liabilities, demands, damages, suits, proceedings, judgments, costs and expenses (including, without limitation, reasonable attorney fees) resulting or arising from (a) the breach or falsity of any of the representations and/or warranties set forth in Section 15.1 above and/or (b) the existence in or on the Real Property or beneath the surface of the Real Property, as of the Closing Date, of any Hazardous Materials that were not placed upon or otherwise brought to the Real Property by Buyer. The term "**Hazardous Materials**" as used in this Agreement means any hazardous or toxic substance, material, waste or similar term that is regulated by local authorities, the State of Oregon and/or the federal government under Environmental Laws including, but not limited to, (A) pollutants, contaminants, pesticides, asbestos, petroleum or petroleum products or byproducts thereof, any natural gas, natural gas liquids, liquefied natural gas, or synthetic gas, any formaldehyde, any polychlorinated biphenyls (PCBs), radioactive substances, solid wastes or hazardous or extremely hazardous, special, dangerous, or toxic wastes, substances, chemicals or materials within the meaning of any Environmental Laws, including any "hazardous substance" as defined in or under CERCLA, and any "hazardous waste" as defined in or under RCRA; and (B) any other pollutants, contaminants, hazardous, dangerous or toxic chemicals, materials, wastes or other substances, including any industrial process or pollution control waste or asbestos, which pose a hazard to the environment or the health and safety of any person. Notwithstanding clause (a) of this Section 15.3, Seller shall have no liability to Buyer for a breach of any representation or warranty set forth in Section 15.1 above if Buyer obtains actual knowledge of such breach prior to the Closing and fails to terminate this Agreement by notice to Seller prior to the Closing. The terms and provisions of this Section 15.3 shall survive the Closing.

16. **Buyer's Representations and Warranties.** In addition to any express agreements of Buyer contained herein, the following constitute representations and warranties of Buyer to Seller as of the Effective Date and, unless Buyer notifies Seller otherwise in writing, as of the Closing:

(a) Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transaction contemplated herein.

(b) The execution, delivery and performance by Buyer of Buyer's obligations under this Agreement do not constitute a default under any of the provisions of any law, governmental rule, regulation, judgment, decree or order by which Buyer is bound, or under any provision of any contract to which Buyer is a party or by which Buyer is bound.

17. **As Is.** Except as expressly set forth in this Agreement or in the Deed or any of the other documents that are to be delivered by Seller to the Title Company or Buyer at Closing (collectively, the "**Other Closing Documents**"), Buyer acknowledges that no warranties, guarantees or representations have been or are being made by Seller or any agent or representative of Seller concerning the Property. Buyer accepts the Property, "AS IS, WITH ALL FAULTS" without any representations or warranties by Seller or any agent or representative of Seller, expressed or implied, except as set forth in this Agreement, the Deed, or the Other Closing Documents. Seller shall not be responsible for any failure to investigate the Property on the part of Buyer.

18. **Casualty and Condemnation.** If, prior to Closing, any portion of the Real Property is damaged or destroyed by fire or other cause or taken or threatened to be taken under power of eminent domain, Seller shall give Buyer written notice thereof within ten (10) days after Seller first receives knowledge or notice of such damage, destruction, taking, or threatened taking, and Buyer may elect to terminate this Agreement by giving written notice of its election to Seller within fifteen (15) days after receiving notice of such damage, destruction, taking, or threatened taking.

If Buyer does not give such written notice within such fifteen (15)-day period, then Closing shall occur as scheduled, with no reduction in the Purchase Price, and Seller will assign to Buyer the physical damage proceeds of any insurance policies payable to Seller or Seller's portion of any condemnation award; and, if it is an insured casualty, the amount of any deductible of Seller's insurance (not to exceed the amount of the loss) shall be credited against the Purchase Price. If Buyer elects to terminate this Agreement as provided above, this Agreement shall be deemed canceled and of no

further force or effect. In such event, Seller shall be entitled to retain all insurance and/or condemnation proceeds received by Seller with respect to such destruction or condemnation.

19. **Notices.** All notices or other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered (including by means of professional messenger service), which notice or other communication shall be deemed given on the date of its receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, which notice or other communication shall be deemed given two (2) business days after the date of its deposit in the United States mail; (c) sent by overnight delivery using a nationally recognized overnight courier service, which notice or other communication shall be deemed given one business day after the date of its deposit with such courier; or (d) if an email address is shown below, sent by email, which notice or other communication shall be deemed given on the date sent as long as such date is a business day and is received by 5 p.m. (Pacific time) on that day; if the email is sent on a day that is not a business day or is received after 5 p.m. (Pacific time) on a business day, the notice or other communication that is contained in such email shall be deemed given on the first business day after the day on which the email is sent. Notices shall be sent to the following addresses:

To Seller: City of Sherwood
22560 S.W. Pine Street
Sherwood, Oregon 97140
Email: campbellk@sherwoodoregon.gov

To Buyer: YMCA of Columbia-Willamette
9500 S.W. Barbur Boulevard, Suite 200
Portland, Oregon 97219
Attn: Tyler Wright
Email: twright@ymcacw.org

With a copy sent
on the same day
to: James F. Dulcich
Schwabe, Williamson & Wyatt, P.C.
1211 S.W. Fifth Avenue, Suite 1900
Portland, Oregon 97204
Email: jdulcich@schwabe.com

Notice of change of address shall be given by written notice in the manner detailed in this Section 19. Notices may be given by a party or a party's attorney.

20. **Brokers.** Buyer represents and warrants to Seller that no broker or finder has been engaged by Buyer in connection with the transaction contemplated by this Agreement. Seller represents and warrants to Buyer that no broker or finder has been or engaged by Seller in connection with the transaction contemplated by this Agreement. Seller shall indemnify Buyer for, hold Buyer harmless from, and defend Buyer against any claims for commissions or fees asserted by any broker or finder claiming by, through, or under Seller; and Buyer shall indemnify Seller for, hold Seller harmless from, and defend Seller against any claims for commissions or fees asserted by any broker or finder claiming by, through, or under Buyer.

21. **Required Actions of Buyer and Seller.** Buyer and Seller agree to execute all such reasonable instruments and documents and to take all reasonable actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated herein, and shall use their respective commercially reasonable efforts to accomplish the Closing in accordance with the provisions herein. The immediately preceding sentence shall not affect Buyer's right to terminate this Agreement pursuant to Section 4.2, 9.2, 9.3, 18, or 22.1 of this Agreement.

22. **Remedies.**

22.1 **Buyer's Remedies.** If the conditions set forth in Section 8 of this Agreement are satisfied or waived by Seller and Seller fails to convey the Property to Buyer as the result of Seller's breach of or default under this Agreement or failure to perform as required by this Agreement, through no fault of Buyer, Buyer may elect (a) to terminate this Agreement or (b) seek and enforce specific performance of this Agreement.

22.2 **Seller's Remedies.** If the conditions set forth in Section 9.1 of this Agreement are satisfied or waived by Buyer and the Closing of the sale of the Property fails to occur as the result of Buyer's breach of or default under this

Agreement or failure to perform as required under this Agreement, through no fault of Seller, Seller's sole remedy hereunder shall be to terminate this Agreement by giving notice to Buyer of such termination. In the event of such termination, neither Seller nor Buyer shall have any further duties or obligations under this Agreement.

23. **Assignment.** Buyer may not assign Buyer's rights and obligations under this Agreement without the prior written consent of Seller. No assignment shall release the Buyer herein named from any obligation or liability under this Agreement; the Buyer herein named and any assignee or assignees shall be jointly and severally liable for all such obligations and liabilities.

24. **Right of First Refusal.** Seller shall have a right of first refusal to purchase the Property from Buyer pursuant to the terms and provisions of this Section 24 (the "**Right of First Refusal**").

24.1 **Procedure.** If, at any time between the Closing Date and the date that is twenty (20) years after the Closing Date, Buyer receives from any third party that is not affiliated with Buyer (an "**Offeror**") a bona fide offer to purchase the Property (the "**Offer**"), and Buyer is willing to accept such Offer, Buyer shall, prior to accepting the Offer, provide Seller with written notice of the Offer (the "**Offer Notice**"), which Offer Notice shall describe the economic and other material terms of the Offer (the "**Offer Terms**"). Within thirty (30) days after Seller's receipt of the Offer Notice ("**Seller's 30-day Response Period**"), Seller shall notify Buyer in writing whether Seller intends to purchase the Property pursuant to the Offer Terms. If Seller provides Buyer with written notice within Seller's 30-day Response Period that Seller accepts the Offer Terms, Seller and Buyer shall use commercially reasonable efforts to promptly enter into a purchase and sale agreement, in a commercially reasonable form to be prepared by Buyer and reasonably acceptable to Seller, that includes the Offer Terms and such other commercially reasonable terms. If Seller fails to notify Buyer within Seller's 30-day Response Period that Seller accepts Offer Terms, or if Seller notifies Buyer within Seller's 30-day Response Period of Seller's acceptance of the Offer but Seller and Buyer fail to enter into a purchase and sale agreement within forty-five (45) days after Buyer provides Seller with an initial draft of a purchase and sale agreement, and such failure is not due solely to Buyer's unreasonable delays, the Offer shall be deemed to have been rejected, and Buyer shall be free to sell the Property to the Offeror during the twelve (12) month period following the date of such rejection, for a sale price equal to or greater than ninety percent (90%) of the sale price set forth in the Offer Terms. If such sale of the Property to the Offeror occurs within such twelve (12)-month period, Seller shall have no further Right of First Refusal with respect to the Property, and Seller shall, within twenty (20) days after Buyer's written request, execute in the presence of a notary public and deliver to Buyer an instrument in commercially reasonable form and content, prepared by Buyer, that confirms the termination of the Right of First Refusal described in this Section 24.1; and Buyer is authorized to record such instrument in the real property records of Washington County, Oregon. If the sale to the Offeror is not consummated within twelve (12) months after Seller's rejection of the Offer for a sale price equal to or greater than ninety percent (90%) of the sale price set forth in the Offer Terms, then, before Buyer may sell the Property to such Offeror, Buyer must resubmit the latest offer of the Offeror to Seller pursuant to the provisions of this Section 24.1, and such resubmitted offer shall be deemed to be the Offer for purposes of this Section 24.1. At such time as Seller rejects or is deemed to have rejected the Offer Terms, Seller shall, upon Buyer's request, execute and deliver to Buyer a commercially reasonable certificate prepared by Buyer stating that Buyer has complied with the procedure set forth in this Section 24.1 and that Seller has rejected the Offer Terms.

24.2 **Memorandum.** Seller and Buyer shall, at Closing, execute a Memorandum of Right of First Refusal that is in substantially the same form and content as that which is attached hereto as Exhibit G (the "**Memorandum of Right of First Refusal**"). The Memorandum of Right of First Refusal shall be recorded at Closing at Seller's expense.

24.3 **Expiration of the Right of First Refusal.** The Right of First Refusal shall expire and be of no further force or effect on the date that is twenty (20) years after the Closing Date, unless it is sooner terminated pursuant to Section 24.1 above. Upon such expiration, Seller shall, within twenty (20) days after Buyer's written request, execute in the presence of a notary public and deliver to Buyer an instrument in commercially reasonable form and content, prepared by Buyer, that confirms the expiration and termination of the Right of First Refusal; and Buyer is authorized to record such instrument in the real property records of Washington County, Oregon.

24.4 **Survival.** The terms and provisions of this Section 24 shall survive the Closing.

25. **Miscellaneous.**

25.1 **Partial Invalidity.** If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not

be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

25.2 **Waivers.** No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

25.3 **Exhibits.** The exhibits referenced in this Agreement are a part of this Agreement as if fully set forth in this Agreement.

25.4 **Successors and Assigns.** Subject to Section 23 of this Agreement, this Agreement shall be binding on and shall inure to the benefit of the permitted successors and permitted assigns of the parties to it.

25.5 **Representation.** The initial draft of this Agreement was prepared by Schwabe, Williamson & Wyatt, P.C., which represents Buyer. Seller acknowledges that Seller had an opportunity to consult with separate legal counsel prior to executing this Agreement. Seller and Buyer waive any claim that any term or condition of this Agreement should be construed against the drafter. This Agreement will be construed as if it had been prepared by both of the parties hereto.

25.6 **Attorney Fees.** In the event that Seller or Buyer institutes against the other a suit, action, arbitration, or other legal proceeding of any nature whatsoever, relating to this Agreement or to the rights or obligations of the parties with respect thereto, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorney, paralegal, accountant, expert witness (whether or not called to testify at trial or other proceeding) and other professional fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, including but not limited to deposition transcript and court reporter costs, as determined by the judge or arbitrator at trial or other proceeding, and including such fees, costs and expenses incurred in any appellate or review proceeding, or in collecting any judgment or award, or in enforcing any decree rendered with respect thereto, in addition to all other amounts provided for by law. This cost and attorney fees provision shall apply with respect to any litigation or other proceedings in bankruptcy court, including litigation or proceedings related to issues unique to bankruptcy law.

25.7 **Entire Agreement.** This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all prior letters of intent and understandings with respect to the subject matter of the Agreement. This Agreement may not be modified, changed, supplemented, or terminated, and no obligations under it may be waived, except by written instrument signed by both parties. The parties do not intend to confer any benefit on any person, firm, or corporation other than the parties hereto.

25.8 **Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

25.9 **Time of Essence.** Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision of this Agreement.

25.10 **Construction.** Headings at the beginning of each section and subsection of this Agreement are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and the masculine shall include the feminine, and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless the last day is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. As used in this Agreement, "**business day**" means a day other than a Saturday, Sunday or legal holiday.

25.11 **Governing Law.** The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Oregon.

25.12 **Execution Date.** The “**Execution Date**” of this Agreement is the later of the dates shown beneath the parties’ signatures below.

25.13 **Statutory Disclaimer.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

SELLER:

CITY OF SHERWOOD, OREGON, a
municipal corporation

By: _____

Name: _____

Title: _____

Date: _____, 2023

BUYER:

THE YOUNG MEN’S CHRISTIAN
ASSOCIATION OF COLUMBIA-
WILLAMETTE, an Oregon nonprofit
corporation, doing business as YMCA of
Columbia-Willamette

By: _____

Tyler Wright, President

Date: _____, 2023

Exhibits:

- Exhibit A: Legal Description of the Land
- Exhibit B: Depiction of the Skate Park
- Exhibit C: Seller’s Documents
- Exhibit D: Statutory Warranty Deed
- Exhibit E: Bill of Sale
- Exhibit F: Assignment of Appurtenances
- Exhibit G: Memorandum of Right of First Refusal

**EXHIBIT A
TO
PURCHASE AND SALE AGREEMENT**

(Legal Description of the Land)

**EXHIBIT B
TO
PURCHASE AND SALE AGREEMENT
(Depiction of the Skate Park)**

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**EXHIBIT C
TO
PURCHASE AND SALE AGREEMENT**

(Seller's Documents)

1. Any surveys relating to the City Property.
2. Copies of all reports, tests, and/or studies relating to the condition of the City Property, including, without limitation, environmental reports, soils and geotechnical reports, and any inspection reports.
3. All permits, warranties or similar documents relevant to the City Property or any rights appurtenant to the City Property.
4. Any written notices or claims received by Seller with respect to the City Property that remain unresolved.
5. Copies of all files, records, permits, reports, and correspondence to or from any governmental agency relating to the use, storage, release, spill, leakage, or disposal of Hazardous Materials at or affecting the City Property, or any other matters that would materially affect the value of the City Property.
6. Any as-built plans and permits relating to the Improvements and all documents relating to the construction, maintenance, and/or repair of the Improvements and any other portions of the City Property.

**EXHIBIT D
TO
PURCHASE AND SALE AGREEMENT**

After recording, return to:

Tyler Wright
YMCA of Columbia-Willamette
9500 S.W. Barbur Boulevard, Suite 200
Portland, Oregon 97219

*Until a change is requested, all tax statements
shall be sent to the following address:*

Tyler Wright
YMCA of Columbia-Willamette
9500 S.W. Barbur Boulevard, Suite 200
Portland, Oregon 97219

STATUTORY WARRANTY DEED

City of Sherwood, Oregon, a municipal corporation, Grantor, conveys and warrants to The Young Men's Christian Association of Columbia-Willamette, an Oregon nonprofit corporation, doing business as the YMCA of Columbia-Willamette, Grantee, the real property located in Washington County, Oregon, described on the attached Exhibit A, free of encumbrances except for those described on the attached Exhibit B.

The true consideration for this conveyance is \$5,000,000.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this _____ day of _____, 202__.

GRANTOR:

CITY OF SHERWOOD, OREGON, a
municipal corporation

By: _____

Name: _____

Title: _____

STATE OF OREGON)
)ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me on _____, 202__, by
_____, as _____ of City of Sherwood, Oregon, a municipal
corporation, Grantor.

Notary Public for Oregon
My commission expires: _____

**EXHIBIT A
TO
STATUTORY WARRANTY DEED
(Legal Description of the Real Property)**

**EXHIBIT B
TO
STATUTORY WARRANTY DEED
(Permitted Exceptions)**

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**EXHIBIT E
TO
PURCHASE AND SALE AGREEMENT**

BILL OF SALE

This Bill of Sale, effective as of _____, 202__ (the “**Effective Date**”), is given by City of Sherwood, Oregon, a municipal corporation (“**Seller**”), in favor of The Young Men’s Christian Association of Columbia-Willamette, an Oregon nonprofit corporation, doing business as the YMCA of Columbia-Willamette (“**Buyer**”).

A. Seller and Buyer entered into a Purchase and Sale Agreement with an effective date of _____, 2023 (the “**Sale Agreement**”), pursuant to which Seller agreed to sell to Buyer and Buyer agreed to purchase from Seller certain real property described on Exhibit A attached hereto (the “**Real Property**”), together with associated personal property.

B. For valuable consideration, the receipt of which is hereby acknowledged, Seller hereby sells, transfers and assigns to Buyer all of Seller’s right, title, and interest in and to all building systems, fixtures, equipment, machinery, irrigation systems and equipment, and other items of personal property owned by Seller and used in connection with the Real Property including, without limitation, the items of personal property described on the attached Exhibit B (collectively, the “**Personal Property**”). Seller hereby represents, covenants and warrants to Buyer that the Personal Property is being sold, transferred, and assigned to Buyer free and clear of all liens, encumbrances, and security interests whatsoever, and that Seller has the right to sell, transfer, and assign the Personal Property to Buyer.

SELLER:

CITY OF SHERWOOD, OREGON, a
municipal corporation

By: _____

Name: _____

Title: _____

**EXHIBIT B
TO
BILL OF SALE**

(Specific Items of Personal Property)

**EXHIBIT F
TO
PURCHASE AND SALE AGREEMENT**

**ASSIGNMENT OF APPURTENANCES, LICENSES AND PERMITS,
PLANS, AND WARRANTIES**

This Assignment of Appurtenances, Licenses and Permits, Plans, and Warranties (this “**Assignment**”) is entered into as of this ____ day of _____, 202__ (the “**Effective Date**”), between City of Sherwood, Oregon, a municipal corporation (“**Assignor**”), and The Young Men’s Christian Association of Columbia-Willamette, an Oregon nonprofit corporation, doing business as the YMCA of Columbia-Willamette (“**Assignee**”).

Recitals

A. Assignor and Assignee entered into a Purchase and Sale Agreement with an effective date of _____, 2023 (the “**Sale Agreement**”). Pursuant to the Sale Agreement, Assignor is selling to Assignee, and Assignee is purchasing from Assignor, simultaneously with the delivery of this Assignment, all of Assignor’s right, title, and interest in that certain real property located in Sherwood, Oregon, and described on Exhibit A attached hereto (the “**Property**”).

B. Pursuant to the Sale Agreement, Assignor agreed to transfer and assign to Assignee all of Assignor’s right, title, and interest in and to all Appurtenances, Licenses and Permits, Plans, and Warranties, as such terms are defined in the Sale Agreement.

Assignment

Now, therefore, for valuable consideration, Assignor and Assignee agree as follows:

1. Assignor hereby assigns, transfers and sets over unto Assignee all of Assignor’s right, title, and interest in and to all Appurtenances, Licenses and Permits, Plans, and Warranties, as such terms are defined in the Sale Agreement, free and clear of all liens, encumbrances, and security interests whatsoever.

2. In the event that any party to this Assignment institutes a suit, action, arbitration, or other legal proceeding of any nature whatsoever against the other party, relating to this Assignment or to the rights or obligations of the parties with respect thereto, the prevailing party shall be entitled to recover from the other party the prevailing party’s reasonable attorney, paralegal, accountant, expert witness (whether or not called to testify at trial or other proceeding) and other professional fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, including but not limited to deposition transcript and court reporter costs, as determined by the judge or arbitrator at trial or other proceeding, and including such fees, costs and expenses incurred in any appellate or review proceeding, or in collecting any judgment or award, or in enforcing any decree rendered with respect thereto, in addition to all other amounts provided for by law. This cost and attorney fees provision shall apply with respect to any litigation or other proceedings in bankruptcy court, including litigation or proceedings related to issues unique to bankruptcy law.

3. This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors in interest and assigns.

4. This Assignment may be signed in one or more counterparts, each of which shall be deemed an original and all of which counterparts shall be deemed one and the same instrument.

SELLER:

CITY OF SHERWOOD, OREGON, a
municipal corporation

By: _____

Name: _____

Title: _____

BUYER:

THE YOUNG MEN'S CHRISTIAN
ASSOCIATION OF COLUMBIA-
WILLAMETTE, an Oregon nonprofit
corporation, doing business as YMCA of
Columbia-Willamette'

By: _____

Tyler Wright, President

**EXHIBIT A
TO
ASSIGNMENT OF APPURTENANCES, LICENSES AND PERMITS,
PLANS, AND WARRANTIES**

(Legal Description of the Real Property)

**EXHIBIT G
TO
PURCHASE AND SALE AGREEMENT**

After Recording, Return to:

City of Sherwood, Oregon
22560 S.W. Pine Street
Sherwood, Oregon 97140
Attention: _____

MEMORANDUM OF RIGHT OF FIRST REFUSAL

This Memorandum of Right of First Refusal (this "**Memorandum**") is executed by City of Sherwood, Oregon, a municipal corporation (the "**City**"), whose address is 22560 S.W. Pine Street, Sherwood, Oregon 97140, and The Young Men's Christian Association of Columbia-Willamette, an Oregon nonprofit corporation, doing business as YMCA of Columbia-Willamette (the "**YMCA**"), whose address is 9500 S.W. Barbur Boulevard, Suite 200, Portland, Oregon 97219, as a memorandum of an unrecorded right of first refusal (the "**Right of First Refusal**"), as such Right of First Refusal is described in that certain Purchase and Sale Agreement having an effective date of _____, 2023, between the City, as seller, and the YMCA, as buyer (as amended from time to time, the "**Sale Agreement**") concerning the real property described on Exhibit A attached hereto and having a street address of 23000 S.W. Pacific Highway, Sherwood, Oregon 97140 (the "**Property**").

1. Right of First Refusal. The YMCA, as owner of the Property, has granted the City a Right of First Refusal to purchase the Property, upon and subject to the terms, provisions, and conditions set forth in the Sale Agreement. The Right of First Refusal will expire on the date that is twenty (20) years after the date of the recordation of this Memorandum unless it is sooner terminated pursuant to the terms, provisions, and conditions set forth in the Sale Agreement.

2. Miscellaneous. This Memorandum is not a complete summary of the Right of First Refusal or the terms and provisions of the Sale Agreement relating thereto. Provisions in this Memorandum should not be used in interpreting the terms of the Right of First Refusal. In the event of a conflict between this Memorandum and the terms and provisions of the Sale Agreement relating to the Right of First Refusal, the terms and provisions of the Sale Agreement shall control.

[Signature Page Follows]

THE CITY:

CITY OF SHERWOOD, OREGON, a
municipal corporation

By: _____

Name: _____

Title: _____

THE YMCA:

THE YOUNG MEN'S CHRISTIAN
ASSOCIATION OF COLUMBIA-
WILLAMETTE, an Oregon nonprofit
corporation, doing business as YMCA of
Columbia-Willamette

By: _____

Tyler Wright, President

STATE OF OREGON)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 202__, by _____
_____, as _____ of City of Sherwood, Oregon, an municipal
corporation.

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 202__, by Tyler
Wright, as President of The Young Men's Christian Association of Columbia-Willamette, an Oregon nonprofit
corporation, doing business as YMCA of Columbia-Willamette.

Notary Public for Oregon
My Commission Expires: _____

**EXHIBIT A
TO
MEMORANDUM OF RIGHT OF FIRST REFUSAL
(Legal Description of the Real Property)**

1