



# The Municipal Corporation of the Town of Fort Erie

## By-law No. 160-2019

---

### Being a By-law to Authorize the Acquisition of 1555 Garrison Road from YMCA of Niagara (E.J. Freeland Community Centre)

---

**Whereas** the acquisition of 1555 Garrison Road, in the Town of Fort Erie, was considered and approved by the Municipal Council of The Corporation of the Town of Fort Erie at the Closed Session Special Meeting of Council, held on December 16, 2019; and

**Whereas** it is deemed desirable to enter into an Agreement of Purchase and Sale with YMCA of Niagara for the acquisition of the said property;

**Now therefore** the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** the entry into an Agreement of Purchase and Sale with YMCA of Niagara for 1555 Garrison Road, legally describes as Part of Lot 7, Concession 3, Lake Erie, Bertie, Part 3, 59R-5645, Except Part 1, 59R-8660 and Part 1, 59R-9391, Part 1, 59R-14264, in the Town of Fort Erie, being all of PIN 64203-0093 (LT), in the form of Schedule "A" attached to and forming part of this by-law, is authorized and approved.
2. **That** the Town Solicitor, or in his absence, the Chief Administrative Officer or his designate, is authorized and directed to execute the Agreement of Purchase and Sale and all other documentation necessary to complete the transaction, and to affix the corporate seal thereto.
3. **That** the Clerk of the Town is authorized to effect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

**Read a first, second and third time and finally passed this 19<sup>th</sup> day of December, 2019.**

---

Mayor

---

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. 160 - 2019 of the said Town. Given under my hand and the seal of the said Corporation, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

## AGREEMENT OF PURCHASE AND SALE

This agreement made as of the \_\_\_\_\_ day of December, 2019.

BETWEEN:

**THE CORPORATION OF THE TOWN OF FORT ERIE**  
(hereinafter referred to as the "**Purchaser**")

- and -

**YMCA OF NIAGARA**  
(hereinafter referred to as the "**Vendor**")

**WHEREAS** the Purchaser wishes to purchase and the Vendor wishes to sell the Lands, upon the terms and conditions contained herein;

**NOW THEREFORE** in consideration of the mutual covenants set forth in this agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

### ARTICLE 1 – INTERPRETATION

#### 1.1 Definitions

In this Agreement and in the schedules attached hereto, the following terms shall have the meanings set out below unless the context requires otherwise (in which case the term will not be capitalized):

- (a) "**Adjustments**" means the adjustments to the Purchase Price provided for and determined in accordance with section 3.3;
- (b) "**Agreement**" means this agreement and the schedules attached hereto, as amended from time to time;
- (c) "**Applicable Law**" means any applicable law, rule, statute, regulation, order, judgment, decree or treaty, any zoning, property or other provincial, municipal or city by-law, and any other requirement having the force of law (collectively the "**Law**"). Applicable Law also includes, where appropriate, any interpretation of the Law (or any part) by any Person having jurisdiction over it or charged with its administration or interpretation;
- (d) "**Business Day**" means any day, other than a Saturday, Sunday or statutory holiday in Ontario;
- (e) "**Closing**" means the closing and consummation of the transaction that is the subject of this Agreement, including without limitation the payment of the Purchase Price by the Purchaser and the delivery of the Closing Documents by each of the parties on the Closing Date;

- (f) **"Closing Date"** means February 28, 2020, or such other date that is mutually agreed to in writing by the parties hereto;
- (g) **"Closing Documents"** means the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 7.1 and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendor pursuant to Section 7.2;
- (h) **"Encumbrances"** means mortgages, charges, pledges, security interests, liens, encumbrances, hypothecs, actions, claims and demands of any nature whatsoever or howsoever arising and any rights or privileges capable of becoming any of the foregoing, which affect, by way of a conflicting ownership interest or otherwise, the Vendor's right, title or interest in or to the Lands;
- (i) **"Environmental Laws"** means Applicable Law together with all current policies, guidelines, environmental quality objectives and codes of practice relating to the natural environment, including (but not limited to) the *Environmental Protection Act*, R.S.O. 1990, c.E.19 (Ontario) (the **"EPA"**), the *Canadian Environmental Protection Act*, 1999, R.S.C. 1985, c.16 (4th supp.) (the **"CEPA"**) and the *Ontario Water Resources Act*, R.S.O. 1990, c.O.40;
- (j) **"Hazardous Substance"** means, collectively, any contaminant (as defined in the EPA), toxic substance (as defined in the CEPA), pollutant or any other substance which when released into the natural environment is likely to cause, at some immediate or future time, material harm or degradation to the natural environment or material risk to human health;
- (k) **"Lands"** means the lands and premises municipally described as 1555 Garrison Road, Fort Erie, Ontario, and legally described as Part Lot 7, Concession 3, Lake Erie Bertie, Part 3 59R-5645, except Part 1 59R-8660 and Part 1 59R-9391, Part 1 59R-14264, Town of Fort Erie, being all of PIN 64203-0093 (LT), and all buildings, structures, fixtures, improvements and appurtenances of every nature and kind situated on the Lands;
- (l) **"Purchase Price"** means one dollar (\$1.00 CDN), exclusive of HST, which HST shall be payable by the Purchaser in addition to the Purchase Price;
- (m) **"Purchaser's Solicitors"** means Edward P. Lustig;
- (n) **"Taxes"** means all property and other taxes, charges, fees, levies, imposts and other assessments, local improvement rates and charges, and any interest, fines and penalties thereon, whether disputed or not, imposed, charged, assessed or payable in relation to or respecting the Lands or their use;
- (o) **"Transferred Chattels"** has the meaning ascribed to it in section 2.3;

(p) **"Vendor's Solicitors"** means Sullivan Mahoney LLP.

1.2 Schedules

The following schedules attached hereto form part of this Agreement:

Schedule "A" – Chattels Included (the Transferred Chattels)

Schedule "B" – Permitted Encumbrances

**ARTICLE 2 – AGREEMENT OF PURCHASE AND SALE**

2.1 Purchase and Sale of Lands

Upon and subject to the terms and conditions contained in this Agreement, the Vendor will sell and the Purchaser will purchase, on the Closing Date, the Lands in consideration of the payment of the Purchase Price.

2.2 Inspections and Investigations of the Land and the Transferred Chattels

The Vendor agrees to provide the Purchaser, its agents, employees, contractors and representatives, reasonable access to the Lands and the Transferred Chattels and to allow the Purchaser, its agents, employees, contractors and representatives to carry out on the Lands and with respect to the Transferred Chattels, prior to the Closing Date, at the Purchaser's sole cost, expense and risk, all such tests, inspections and investigations of and respecting the Lands and the Transferred Chattels (including, but not limited to, structural and physical tests and investigations of the buildings and their mechanical and electrical systems, and soil tests and environmental audits and inspections respecting the Lands) as the Purchaser in its own discretion may deem necessary or advisable, provided that:

- (a) such tests and inspections shall not interfere with the use of, or occupancy by, the Vendor of the Lands and the Transferred Chattels;
- (b) the Purchaser shall provide at least two (2) Business Days' notice to the Vendor of any site visit or the conduct of any such tests and inspections, and the Vendor will be entitled to have a representative present during all such tests and inspections; and
- (c) any damage to any of the Lands and/or the Transferred Chattels caused by such visits, tests and inspections will be promptly repaired by the Purchaser at the Purchaser's sole cost and expense, and the Purchaser will indemnify and save the Vendor harmless from and against any and all losses, costs, claims, third party actions, damages and expenses which the Vendor may suffer or incur as a result of or arising out of the said visits, tests and inspections.

2.3 Chattels Included in Purchase and Sale

The chattels listed in Schedule "A" attached hereto (the "**Transferred Chattels**") are included in the purchase transaction contemplated hereby, and are included in the Purchase Price. The list of Transferred Chattels in Schedule "A" attached hereto is an exhaustive and complete list of all non-real property assets being transferred by the Vendor to the Purchaser hereunder. For clarity, none of the Vendor's personal property, intellectual property, proprietary information, contact information, branding, documents, programs, business information and materials, know-how, members, member lists, clients, client lists, memberships or similar property is being transferred to the Purchaser, and the Purchaser hereby agrees that it shall not use any of same after Closing for any purpose whatsoever.

#### 2.4 Right of First Refusal

Subject to section 2.5 below, if, within the period of three (3) years after Closing, the Purchaser (which shall be deemed to include any of its successors and assigns) (I) determines that it wishes to transfer, convey or dispose of any of its right, title and/or interest in or to the Lands or any part thereof, (II) offers to sell, transfer, exchange, assign, gift or dispose of the Lands or any part thereof to any party, or (III) is desirous of entering into any arrangement or agreement by which possession, legal title or beneficial ownership of the Lands or any part thereof will pass from it, whether or not for value (and any of the above shall be referred to herein as a "**Desire to Transfer**"), then:

- (a) the Vendor shall have the right of first refusal to purchase the Lands from the Purchaser in accordance with the terms and conditions set out below;
- (b) the Purchaser agrees and warrants that, before any arrangement, agreement or offer is accepted or entered into by it in relation to any Desire to Transfer, it shall abide by the terms and conditions set out below;
- (c) the Purchaser shall notify the Vendor in writing of any Desire to Transfer (the "**Purchaser's Notice**") immediately when a Desire to Transfer arises, and the Purchaser's Notice shall include and indicate the amount of the purchase price for the Lands, which shall be equal to the amount that the Purchaser has spent in the aggregate on capital improvements to the Lands and/or the buildings on the Lands during the time period between the Closing Date and the date on which the Purchaser's Notice is given, and the Purchaser's Notice shall also include a detailed calculation together with supporting documentation respecting the determination of the amount of the purchase price for the Lands;
- (d) the Vendor shall have sixty (60) days from the date of receipt of the Purchaser's Notice to exercise its right of first refusal. If the Vendor wishes to exercise its right of first refusal, it shall notify the Purchaser in writing of its exercise of the right within such sixty (60) day period;
- (e) if the Vendor exercises its right of first refusal in accordance with the above provisions, then the result shall be a binding agreement of purchase and sale respecting the sale of the Purchaser's interest in all of the Lands, between the Purchaser as vendor and the Vendor as purchaser, on the same terms and conditions as are set out in this Agreement, except that (i) the purchase price for the Lands shall be equal to the amount that the

Purchaser has spent in the aggregate on capital improvements to the Lands and/or the buildings on the Lands during the time period between the Closing Date and the date on which the Purchaser's Notice is given, which purchase price amount shall be based upon and supported by a detailed calculation together with supporting documentation provided by the Purchaser to the Vendor, and (ii) this right of first refusal provision will not be included in the agreement of purchase and sale respecting the sale of the Purchaser's interest in all of the Lands;

- (f) if the Vendor does not exercise its right of first refusal in accordance with the above provisions, then the Purchaser shall be at liberty to sell or transfer its interest in the Lands;
- (g) if the Vendor does not exercise its right of first refusal in accordance with the above provisions, and the Purchaser does not sell or transfer its interest in the Lands within 120 days after the expiration of the 60-day period outlined in paragraph 2.4(d) above, then the Vendor's right of first refusal shall once again arise in relation to any future or other Desire to Transfer, and the above provisions shall once again apply in relation to any such future or other Desire to Transfer occurring within the period of three (3) years after Closing;
- (h) except in accordance with the terms of this Agreement, or as specifically consented to in writing by the Vendor, the Purchaser shall not, and shall not make any agreement or arrangement to, directly or indirectly, transfer, assign or sell any of its right, title or interest in or to the Lands or any part thereof for any purpose whatsoever within the period of three (3) years after Closing. Any attempt to accomplish or effect any of the above shall be null and void, and the Purchaser shall not register any transfer of the Lands made in breach of the foregoing restrictions; and
- (i) a notice of this right of first refusal shall be registered against title to the Lands, and such registered notice shall be subject to the provision that it shall expire on the date that is three (3) years after Closing.

## 2.5 Exception to the Scope of the Right of First Refusal Provisions in Section 2.4

The Vendor and the Purchaser understand and agree that the right of first refusal described in section 2.4 above shall not apply to any lease by the Purchaser to a lessee for the purpose of operating services on the Lands. In particular, the Vendor and the Purchaser understand and agree that the right of first refusal described in section 2.4 above shall not apply to a lease of part or all of the Lands that is currently being negotiated between the Purchaser and the Boys & Girls Club of Niagara for the purposes of operating services on the Lands.

## **ARTICLE 3 – PURCHASE PRICE**

### 3.1 Payment of Purchase Price

The Purchase Price (subject to Adjustments), together with HST in addition to the Purchase Price (subject to the provisions hereof), shall be paid and satisfied by the

Purchaser paying to the Vendor, or as the Vendor may direct in writing, the Purchase Price plus HST by certified cheque, negotiable bank draft or direct deposit, at the time of Closing.

### 3.2 Adjustments

The Purchase Price shall be subject to such adjustments as are typical in a transaction of this nature, including, but not limited to, adjustments for Taxes, rent paid by tenants on the Lands, local improvement rates and charges, utility payments, utility deposits, water and assessment rates, fuel costs, maintenance costs, cleaning and repair costs, and such other adjustments as are reasonably required and agreed upon by the parties hereto or established by usual practice for the purchase and sale of similar property.

All adjustments made shall be apportioned and allowed to the Closing Date, and the Closing Date itself shall be apportioned to the Purchaser.

## **ARTICLE 4 – CONDITIONS**

### 4.1 Interim Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the transactions contemplated by this Agreement is subject to the fulfillment of the following conditions on or before 5:00 PM on the date that is fifteen (15) days prior to Closing (the “**Interim Condition Date**”), it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time prior to the Interim Condition Date:

- (a) the Purchaser being satisfied, in its sole and absolute discretion, with the results of its due diligence, inspections, tests and investigations of the Lands and the Transferred Chattels in accordance with section 2.2 hereof, and its examination of title to the Lands in accordance with section 6.1 hereof; and
- (b) the Purchaser being satisfied, in its sole and absolute discretion, that the Lands and the present and intended use thereof complies with all Applicable Law.

The above conditions are inserted for the exclusive benefit of the Purchaser. In the event that the Purchaser does not waive the aforementioned conditions in writing or notify the Vendor in writing that the conditions have been satisfied on or before the Interim Condition Date, then this Agreement shall be null and void and terminated, and the obligations of the parties hereunder shall terminate and be discharged.

### 4.2 Closing Conditions in Favour of the Purchaser

The obligation of the Purchaser to complete the transactions contemplated by this Agreement is subject to the fulfillment of the following conditions on or before the Closing Date, it being understood that the following conditions are included for the

exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time prior to Closing:

- (a) the representations and warranties of the Vendor contained in this Agreement or in any other agreements, documents or certificates delivered pursuant to this Agreement shall be true, accurate and correct on the date hereof and at Closing;
- (b) the Vendor shall have performed and complied with all of the terms and conditions required by this Agreement to be performed or complied with by the Vendor at or prior to Closing, and the Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all of the documents outlined in section 7.1 or elsewhere in this Agreement;
- (c) there shall be no litigation or proceedings pending or threatened for the purpose of enjoining, preventing or restraining the completion of the transactions contemplated in this Agreement or otherwise claiming that such completion is improper; and
- (d) with respect to the Vendor's employees that are employed by the Vendor at the premises on the Lands that the Vendor intends to terminate as a result of the transaction contemplated by this Agreement, the Vendor shall have given all such employees proper and lawful notice of the termination of their employment such that the Purchaser (or any lessee of the Purchaser) will not be under any obligation to employ such employees or make any payments to them in respect of their employment with the Vendor.

The above conditions are inserted for the exclusive benefit of the Purchaser. In the event that the Purchaser does not waive the aforementioned conditions in writing or notify the Vendor in writing that the conditions have been satisfied on or before the Closing Date, then this Agreement shall be null and void and terminated, and the obligations of the parties hereunder shall terminate and be discharged.

#### 4.3 Closing Conditions in Favour of the Vendor

The obligation of the Vendor to complete the transactions contemplated by this Agreement is subject to the fulfillment of the following conditions on or before the Closing Date, it being understood that the following conditions are included for the exclusive benefit of the Vendor and may be waived, in whole or in part, in writing by the Vendor at any time prior to Closing:

- (a) the representations and warranties of the Purchaser contained in this Agreement or in any other agreements, documents or certificates delivered pursuant to this Agreement shall be true, accurate and correct on the date hereof and at Closing;
- (b) the Purchaser shall have performed and complied with all of the terms and conditions required by this Agreement to be performed or complied with by the Purchaser at or prior to Closing, and the Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor



at the Closing all of the documents outlined in section 7.2 or elsewhere in this Agreement;

- (c) there shall be no litigation or proceedings pending or threatened for the purpose of enjoining, preventing or restraining the completion of the transactions contemplated in this Agreement or otherwise claiming that such completion is improper; and
- (d) notice of the right of first refusal described in section 2.4 above shall have been registered on title to the Lands.

The above conditions are inserted for the exclusive benefit of the Vendor. In the event that the Vendor does not waive the aforementioned conditions in writing or notify the Purchaser in writing that the conditions have been satisfied on or before the Closing Date, then this Agreement shall be null and void and terminated, the obligations of the parties hereunder shall terminate and be discharged.

## **ARTICLE 5 – REPRESENTATIONS AND WARRANTIES**

### **5.1 Vendor's Representations and Warranties**

The Vendor hereby represents and warrants to the Purchaser as follows, and acknowledges that the Purchaser is relying upon the accuracy of all representations and warranties of the Vendor set out in this Agreement in connection with the purchase of the Lands and the completion of the transactions contemplated by this Agreement:

- (a) The Vendor is a corporation duly incorporated under the laws of Ontario and is duly organized, validly subsisting and in good standing under such laws. The Vendor has the full corporate power, absolute authority and is qualified to own and dispose of the Lands and the Transferred Chattels.
- (b) The Vendor has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments.
- (c) The execution and delivery of this Agreement and all other agreements and instruments to be executed and delivered as contemplated by this Agreement and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Vendor.
- (d) This Agreement is a legal, valid and binding obligation of the Vendor, enforceable against the Vendor in accordance with its terms, subject to:
  - (i) bankruptcy, insolvency, moratorium, reorganization and other laws affecting the enforcement of creditors' rights generally; and

- (ii) the extent that equitable remedies, including the remedies of specific performance and injunction, are only available in the discretion of the court from which they are sought.
- (e) The Vendor is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.).
- (f) The Vendor has not received any notification alleging any violation of any Environmental Laws.
- (g) The Vendor has not received any notification respecting expropriation, condemnation or similar proceedings pending or threatened with respect to any of the Lands or any part thereof.
- (h) During the time the Vendor has owned the Lands, the Vendor has not caused any building or structure on the Lands to be insulated with insulation containing ureaformaldehyde.
- (i) All amounts for labour and materials relating to the construction and repair of the buildings situated on the Lands have been paid in full and no party has a right to file, register or give written notice of a construction, builders', mechanics' or similar lien in respect of the payment of such amounts.
- (j) All Taxes with respect to the Lands which are due have been paid in full, there are no local improvement charges or special levies outstanding in respect of the Lands and the Vendor has not received any notice of proposed local improvement charges or any special levies.

## 5.2 Purchaser's Representations and Warranties

The Purchaser hereby represents and warrants to the Vendor as follows, and acknowledges that the Vendor is relying upon the accuracy of the representations and warranties of the Purchaser set out in this Agreement in connection with the sale of the Lands and the completion of the other transactions contemplated by this Agreement:

- (a) The Purchaser is a corporation duly incorporated under the laws of Ontario and is duly organized, validly subsisting and in good standing under such laws.
- (b) The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments.
- (c) The execution and delivery of this Agreement and all other agreements and instruments to be executed and delivered as contemplated by this Agreement and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.

- (d) This Agreement is a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms subject to:
  - (i) bankruptcy, insolvency, moratorium, reorganization and other laws affecting the enforcement of creditors' rights generally; and
  - (ii) the extent that equitable remedies, including the remedies of specific performance and injunction, are only available in the discretion of the court from which they are sought.
- (e) There are no actions, suits, applications, claims, proceedings, complaints or investigations, judicial or administrative (whether or not purportedly on behalf of the Purchaser) at law or in equity, before or by any court, any federal, provincial, municipal or other governmental department, non-governmental body, arbitrator, regulatory body, commission, board, bureau, agency or instrumentality, domestic or foreign, pending or threatened, by or against the Purchaser or affecting the transactions contemplated by this Agreement.
- (f) The Purchaser is purchasing the Lands in its own right as the beneficial owner of the Lands, and the Purchaser is not purchasing the Lands as a trustee or nominee or agent on behalf of or for any other party.

### 5.3 Survival of Representations and Warranties

The representations and warranties contained in sections 5.1 and 5.2 hereof shall survive for a period of one (1) year after Closing.

### 5.4 Vendor's Indemnity

The Vendor agrees to indemnify and hold the Purchaser and its respective directors, officers and employees harmless from and against any claim, demand, action, cause of action, damage, loss, deficiency, cost, liability or expense ("**Claim**") which may be made or brought against any such party or which any such party may suffer or incur, directly or indirectly, as a result of, in respect of, or arising out of:

- (a) any incorrectness, inaccuracy, misrepresentation or breach of any representation or warranty made by the Vendor in this Agreement or under any other agreement, certificate or instrument executed and delivered pursuant to this Agreement;
- (b) any non-performance or non-fulfilment of any covenant or agreement on the part of the Vendor contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; and
- (c) all costs and expenses, including legal fees on a solicitor-and-client basis, incidental to or in respect of the foregoing.

This indemnity shall survive for a period of one (1) year after Closing.

## 5.5 Purchaser's Indemnity

The Purchaser agrees to indemnify and hold the Vendor and its respective directors, officers and employees harmless from and against any claim, demand, action, cause of action, damage, loss, deficiency, cost, liability or expense ("**Claim**") which may be made or brought against any such party or which any such party may suffer or incur, directly or indirectly, as a result of, in respect of, or arising out of:

- (a) any incorrectness, inaccuracy, misrepresentation or breach of any representation or warranty made by the Purchaser in this Agreement or under any other agreement, certificate or instrument executed and delivered pursuant to this Agreement;
- (b) any non-performance or non-fulfilment of any covenant or agreement on the part of the Purchaser contained in this Agreement or in any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; and
- (c) all costs and expenses, including legal fees on a solicitor-and-client basis, incidental to or in respect of the foregoing.

This indemnity shall survive for a period of one (1) year after Closing.

## 5.6 Purchaser's Acknowledgment

The Purchaser hereby acknowledges, confirms and agrees that, except as specifically provided for herein:

- (a) there is no representation or warranty of any kind, on the part of the Vendor, that the present use of the Lands or the future intended use of the Lands by the Purchaser is or will be permitted or lawful;
- (b) the Lands are being sold by the Vendor "as is where is", and there are no assurances, warranties or representations of any kind whatsoever made by the Vendor as to the title, condition, quality, size, area, suitability for development, use or intended purpose, physical characteristics, profitability, use or zoning, the existence of patent or latent defects, or any environmental matter respecting the Lands, or as to the accuracy, currency or completeness of any information or documentation supplied or to be supplied in connection with the Lands by the Vendor;
- (c) the Transferred Chattels are being sold by the Vendor "as is where is", and there are no assurances, warranties or representations of any kind whatsoever made by the Vendor as to the title, condition, quality, state of repair, suitability for use or intended purpose, physical characteristics, use, the existence of patent or latent defects, or as to the accuracy, currency or completeness of any information or documentation supplied or to be supplied in connection with the Transferred Chattels by the Vendor;

- (d) in entering into this Agreement, the Purchaser has relied and will continue to rely entirely and solely upon its own inspections and investigations with respect to the Lands (including without limitation, the physical and environmental condition of the Lands and/or the presence of any Hazardous Substance on, in or under the Lands), and the Purchaser acknowledges that it is not relying on any information furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor in connection with the Lands or its purchase of the Lands;
- (e) in entering into this Agreement, the Purchaser has relied and will continue to rely entirely and solely upon its own inspections and investigations with respect to the Transferred Chattels, and the Purchaser acknowledges that it is not relying on any information furnished by the Vendor or any other person or entities on behalf of or at the direction of the Vendor in connection with the Transferred Chattels or its purchase of the Transferred Chattels;
- (f) the Vendor shall have no obligations, liabilities or responsibilities whatsoever to the Purchaser after Closing with respect to any matter relating to the Lands and the Transferred Chattels, or the condition of the Lands and the Transferred Chattels, and the Purchaser shall have no recourse whatsoever against the Vendor after Closing in relation to any matter relating to the Lands and the Transferred Chattels;
- (g) upon completion, the Lands and the Transferred Chattels shall be entirely at the risk of the Purchaser, and the Purchaser shall assume any and all responsibilities and liabilities in any way related to, attached to, arising out of, or in connection with the Lands and the Transferred Chattels, or in connection with the state, quality or condition of the Lands and the Transferred Chattels, existing as of or prior to Closing and following Closing, including, but not limited to, the presence of any Hazardous Substance, and whether environmental or otherwise, and whether imposed by any Applicable Law or by way of regulatory directive or guideline or otherwise;
- (h) the Purchaser hereby agrees to indemnify and hold harmless the Vendor, its successors and assigns, from and against any and all costs, losses, claims, demands, liabilities and damages that are suffered or sustained by, or made against, the Vendor arising out of or in any way related to the Lands and/or the Transferred Chattels, the Vendor's or the Purchaser's use of the Lands and/or the Transferred Chattels, and/or any state, quality or condition in, on or of the Lands and/or the Transferred Chattels, existing as of or prior to the Closing Date and thereafter;
- (i) the Purchaser hereby expressly and fully releases the Vendor and its successors and assigns from any and all liability and/or claims of any nature and kind relating to or in respect of the Lands and the Transferred Chattels and/or the Vendor's use of the Lands and the Transferred Chattels, including (but not limited to) the matters referred to above, whether arising before or after the Closing Date; and

- (j) all of the above provisions shall not merge on Closing, but shall survive Closing indefinitely and shall continue in full force and effect after Closing.

5.7 Clarification of Scope of Indemnity Provisions in Sections 5.6(g) and (h)

For clarity, the indemnity provisions contained in sections 5.6(g) and (h) above shall not apply to any liability claims made against the Vendor by any of its members, customers, clients, contractors or suppliers that are related to the Vendor's operation of its business that it carried on prior to Closing. The intent of this provision is that the Purchaser shall not be liable to indemnify the Vendor in relation to any liability claims that are made against the Vendor after Closing that relate to pre-Closing occurrences involving the Vendor's members, customers, clients, contractors or suppliers.

5.8 Exception to Scope of Provisions in Section 5.6(c)

The only exception to the provisions contained in section 5.6(c) above shall be as follows: To the best of the Vendor's knowledge and belief, the Transferred Chattels are not subject to any Encumbrances.

## ARTICLE 6 – TITLE

6.1 Title Examination

The Purchaser shall be allowed until the Interim Condition Date to examine, at the Purchaser's own expense, the title to the Lands, and to satisfy itself that there are no outstanding work orders or deficiency notices affecting the Lands and that the buildings on the Lands may be insured against risk of fire. The Vendor hereby consents to the appropriate municipality and other governmental agencies releasing to the Purchaser details of all outstanding work orders affecting the Lands, and the Vendor agrees to execute and deliver such further authorizations in this regard as the Purchaser may reasonably require. Title to the Lands shall, on Closing, be free from all registered restrictions, charges, liens and Encumbrances, save and except for (a) any registered restrictions or covenants that run with the Lands, provided that same are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities provided same have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the Lands or adjacent properties; (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the Lands, and (e) the permitted encumbrances listed in Schedule "B" attached hereto (the "**Permitted Encumbrances**"), provided that same have been complied with, subject to all of which the Purchaser agrees to accept title to the Lands. If, on or before the Closing Date, any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the present use may not lawfully be continued, or that the buildings or structures on the Lands may not be insured against risk of fire, is made in writing to the Vendor's Solicitor and which the Vendor is unable or unwilling, prior to the Closing Date, to remove, remedy or satisfy (with all related costs at the expense of the Vendor), and which the Purchaser will not waive, then this Agreement shall be null and void and terminated, the obligations of the parties hereunder shall terminate and be discharged.

## 6.2 Discharge of Mortgages, Liens, etc.

Subject to section 6.1 and the following sentence, the Vendor covenants and agrees to discharge any registered Encumbrances affecting the Lands at its own expense prior to the Closing Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the *Trust and Loan Companies Act* (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company, which is not to be assumed by the Purchaser on Closing, is not available in registrable form on Closing, the Purchaser agrees to accept the Vendor's Solicitors' personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title to the Lands within a reasonable time after Closing, provided that on or before Closing, the Vendor shall provide to the Purchaser a mortgage statement prepared and executed by the mortgagee setting out the balance required to obtain the discharge, together with a direction executed by the Vendor directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on Closing.

## 6.3 Title Documents

The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands except such as are in the control or possession of the Vendor. The Purchaser shall be solely liable for the cost of any up-to-date survey, surveyor's description or reference plan of the Lands which may be required in connection with the completion of the transaction contemplated by this Agreement.

## 6.4 Future Use of Lands

There is no condition, representation or warranty of any kind, express or implied, on the part of the Vendor that the future intended use of the Lands by the Purchaser is or will be lawful or permitted, or that any sketch or survey or document delivered by the Vendor to the Purchaser is complete or accurate, except as otherwise specifically provided for in this Agreement.

# ARTICLE 7 – CLOSING DOCUMENTS AND MATTERS

## 7.1 Vendor's Closing Documents and Deliveries

Subject to the provisions of this Agreement, the Vendor's Solicitors shall prepare and execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser on Closing the following:

- (a) a transfer/deed of land of the Vendor's interest in the Lands in favour of the Purchaser, or the equivalent documents applicable in the electronic registration system, with the *Planning Act* (Ontario) statements included and duly completed;
- (b) a direction as to the payee or payees of the balance due on Closing;

- (c) a statement of Adjustments to be delivered at least three (3) days before Closing;
- (d) an undertaking by the Vendor to re-adjust the Adjustments within the one-year period following Closing;
- (e) a statutory declaration indicating that the Vendor is not and will not be, on the Closing Date, a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
- (f) a certificate of the Vendor indicating that all of the Vendor's representations and warranties set out herein are true and correct as of the Closing Date, and that all of the Vendor's representations and warranties set out herein shall survive for a period of one (1) year after Closing;
- (g) certified copies of the resolutions of the Vendor authorizing the execution of this Agreement and approving the sale of the Lands in accordance with the terms and conditions set out in this Agreement;
- (h) all master keys, duplicate keys and entry cards and devices for all buildings, structures and rooms and units in the buildings on the Lands, and all security and access cards and remote control and other entry devices relating to or providing access to the Lands or the buildings and rooms therein situated on the Lands; and
- (i) such other documents and instruments as the Purchaser may reasonably require in order to give effect to the provisions and intent of this Agreement.

## 7.2 Purchaser's Closing Documents and Deliveries

Subject to the provisions of this Agreement, the Purchaser's Solicitors shall execute or cause to be executed and shall deliver or cause to be delivered to the Vendor on Closing the following:

- (a) the payment of the Purchase Price as set out in section 3.1, subject to Adjustments;
- (b) an undertaking by the Purchaser to re-adjust the Adjustments within the one-year period following Closing;
- (c) a direction regarding how title to the Lands is to be taken;
- (d) a certificate of the Purchaser indicating that all of the Purchaser's representations and warranties set out herein are true and correct as of the Closing Date, and that all of the Purchaser's representations and warranties set out herein shall survive for a period of one (1) year after Closing;



- (e) a statutory declaration confirming (a) the Purchaser's HST registration number, (b) that the Purchaser will self-assess and remit the HST payable in relation to this transaction to the appropriate authority pursuant to subsections 221(2) and 228(4) of the *Excise Tax Act* (Canada), (c) that the Purchaser will remit and file a return in respect of HST owing as required under the *Excise Tax Act* (Canada) for the reporting period in which the HST in this transaction became payable, and (d) that the Purchaser will indemnify and save harmless the Vendor from and against any and all HST which may be or which may become payable in relation to or arising out of the transfer of the Lands as contemplated hereby, and any and all claims, liabilities, penalties, interest, costs and legal and other expenses suffered, sustained or incurred by the Vendor, directly or indirectly, in connection with the assessment of any HST payable in respect of the transaction contemplated by this Agreement. If the above statutory declaration is provided by the Purchaser on Closing, and if Canada Revenue Agency's HST registry records confirm that the Purchaser's HST registration number is in fact registered to the Purchaser as of the Closing Date, then the Vendor shall not request or demand payment of HST from the Purchaser on Closing in relation to this transaction. If the above statutory declaration is not provided by the Purchaser on Closing, or if Canada Revenue Agency's HST registry records do not confirm that the Purchaser's HST registration number is in fact registered to the Purchaser as of the Closing Date, then the Purchaser shall pay to the Vendor on Closing all HST applicable and payable in relation to this transaction, in addition to the Purchase Price;
- (f) an acknowledgement and direction executed by the Purchaser, in favour of Thomas Wall and the Vendor's Solicitors, authorizing Thomas Wall and the Vendor's Solicitors to register notice of the right of first refusal described in section 2.4 above on title to the Lands, such registration to occur immediately after the transfer of the Lands is registered; and
- (g) such other documents and instruments as the Vendor may reasonably require in order to give effect to the provisions and intent of this Agreement.

All documentation outlined in sections 7.1 and 7.2 shall be in form and substance acceptable to the Purchaser and the Vendor, each acting reasonably and in good faith.

### 7.3 Registration and Other Costs and Taxes

The Vendor shall be responsible for the costs of the Vendor's Solicitors in respect of this transaction. The Purchaser shall be responsible for the costs of the Purchaser's Solicitors in respect of this transaction. The Purchaser shall be responsible for and shall pay all land transfer tax payable in relation to the transfer of the Lands, all legal and registration fees payable in respect of registration by it of any documents on Closing, including the registration of the transfer (but not including discharges of Encumbrances which are required to be registered by the Vendor, which shall be the responsibility and expense of the Vendor), and all federal and provincial sales and other taxes payable by the Purchaser upon or in connection with the conveyance or transfer of

the Lands, including provincial retail sales tax, HST and goods and services tax, if applicable.

#### 7.4 Single Transaction

The Vendor and Purchaser acknowledge and agree that, save as otherwise expressly provided in this Agreement, the transactions provided for in this Agreement require the Purchaser to purchase and the Vendor to sell all of the Lands and, unless the Vendor and Purchaser otherwise agree in writing, the Purchaser shall have no right, and waives any right it may otherwise have, to require the conveyance to it of less than all of the Lands.

#### 7.5 Closing Arrangements

Where each of the Vendor and Purchaser retain a lawyer to complete the transaction contemplated hereby, and where the transaction will be completed by electronic registration pursuant to Part III of the *Land Registration Reform Act* (Ontario) and the *Electronic Registration Act*, S.O. 1991, Chapter 44, as amended, the Vendor and the Purchaser acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "**Requisite Deliveries**") and the release thereof to the Vendor and the Purchaser will (a) not occur at the same time as the registration of the transfer/deed (and other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers, the form of which is as recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers for the parties, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or at such other location as agreed upon by both lawyers, or in such other manner as is agreed upon by the parties hereto.

#### 7.6 Document Preparation

The transfer shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of the Vendor. The Vendor covenants that the transfer to be delivered on Closing shall contain the statements contemplated by Section 50(22) of the *Planning Act*, R.S.O. 1990.

### **ARTICLE 8 – RISK AND PLANNING ACT MATTERS**

#### 8.1 Risk

The Lands shall be and remain at the risk of the Vendor until the Closing Date. On and after the Closing Date, the Lands shall be the risk and responsibility of the Purchaser. Pending the Closing of this transaction, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, the Purchaser may either terminate this Agreement and have all monies paid returned without interest or deduction, or else take the proceeds of any insurance and complete the purchase of the Lands. No insurance shall be transferred on Closing. If the Vendor is taking back a Charge/Mortgage, or if the

Purchaser is assuming a Charge/Mortgage, the Purchaser shall supply the Vendor with reasonable evidence of adequate insurance to protect the Vendor's or other mortgagee's interest on Closing.

8.2 Planning Act (Ontario) Matters

This Agreement shall be effective to create an interest in the Lands for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing.

**ARTICLE 9 – GENERAL**

9.1 Gender and Number

Words importing the singular include the plural and vice versa. Words importing gender include all genders.

9.2 Captions and Table of Contents

The captions, headings and table of contents contained herein are for reference only and in no way affect this Agreement or its interpretation.

9.3 Obligations as Covenants

Each agreement and obligation of any of the parties hereto in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

9.4 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.

9.5 Currency

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

9.6 Invalidity and Severability

If any covenant, obligation or provision or part thereof or the application thereof to any person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any person, party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law. Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid, such illegality or invalidity shall not affect the validity of the remainder hereof.

9.7 Amendment of Agreement

No amendment, supplement, modification, waiver or termination (other than a termination pursuant to Article 4) of this Agreement shall be binding unless executed in writing by the parties hereto in the same manner as the execution of this Agreement.

9.8 Time of the Essence

Time shall be of the essence of this Agreement and every part thereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the parties hereto or by their respective lawyers who may be specifically authorized in that regard.

9.9 Further Assurances

Each of the parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectively implement and carry out the true intent and meaning of this Agreement.

9.10 Entire Agreement

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the parties hereto constitute the entire agreement between the parties hereto pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the parties hereto in connection with the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the schedules attached hereto.

9.11 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

9.12 Solicitors as Agents and Tender

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors on behalf of the Purchaser and by the Vendor's Solicitors on behalf of the Vendor and any tender of Closing Documents and the Purchase Price may be made upon the Vendor's Solicitors and the Purchaser's Solicitors, as the case may be. The Vendor and Purchaser acknowledge and agree that insofar as the tender of any documents to be electronically registered is concerned, the tender of same will be deemed to be effective and proper when the solicitor for the party tendering has completed all steps required by Teraview in order to complete this transaction that can be performed or undertaken by the tendering party's solicitor without the co-operation or participation of the other party's solicitor, and

specifically when the tendering party's solicitor has electronically "signed" the Transfer document (and any other Closing documents to be registered) for completeness, and granted access to the other party's solicitor to same, but without the necessity of the tendering party's solicitor actually electronically "signing" such documents for release to the other party's solicitor for registration.

#### 9.13 Non-Merger

Except as otherwise expressly set out herein, all of the representations and warranties set out in this Agreement shall survive and not merge on the Closing of the transaction contemplated herein.

#### 9.14 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns, and shall enure to the benefit of and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

#### 9.15 Assignment

The Vendor shall not assign any or all of its rights and obligations provided for or referred to in this Agreement without the prior written approval of the Purchaser. The Purchaser shall not assign any or all of its rights or interests under this Agreement to any other party or parties without the prior written approval of the Vendor, and the Purchaser shall remain fully and completely liable hereunder notwithstanding any such permitted assignment. In the event of any assignment by the Purchaser, the assignee shall execute and deliver to the Vendor an agreement assuming all of the rights and obligations of the Purchaser under this Agreement, in form and substance acceptable to the Vendor, acting reasonably.

#### 9.16 Notice

Any notice, demand, approval, consent, information, agreement, offer, request or other communication (hereinafter referred to as a "**Notice**") to be given under or in connection with this Agreement shall be in writing and shall be given by personal delivery during regular business hours on any Business Day or by telecopier, facsimile transmission or other electronic communication which results in a written or printed notice being given, addressed or sent, as follows: To the Purchaser, Notice shall be given to the Purchaser's Solicitor; to the Vendor, notice shall be given to the Vendor's Solicitor.

Any Notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by telecopier, facsimile transmission or other electronic communication with confirmation of transmission prior to 5:00 p.m., shall be deemed to have been validly and effectively given and received on the Business Day it was sent, unless the confirmation of transmission was after 5:00 p.m., in which case it shall be deemed to have been received on the next Business Day.

**9.17 No Registration of Agreement**

The Purchaser covenants and agrees not to register this Agreement or any notice of this Agreement on title to the Lands.

**9.18 Fees and Commissions**

The parties to this transaction hereby confirm, represent and warrant to each other that there are no real estate commissions, brokerage fees, finders' fees or similar fees, charges or expenses payable in respect of this transaction, and each party hereto will indemnify and hold harmless the other from and against the same upon the successful completion of the transaction contemplated herein.

**9.19 Counterparts**

This Agreement may be executed in counterparts and by facsimile or electronic transmission, and when each party has executed a counterpart either originally or by facsimile transmission or by way of an electronically transmitted document and signature, each such counterpart shall be deemed to be an original, and all of such counterparts when taken together shall constitute one and the same document, and each such signature shall be deemed to be an original signature binding the parties to this Agreement.

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement as of the day and year first written above.

**THE CORPORATION OF THE TOWN  
OF FORT ERIE**

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

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

We have authority to bind the Corporation.

**YMCA OF NIAGARA**

**By:** \_\_\_\_\_  
**Name:** Kyle Barber  
**Title:** President and CEO

I have authority to bind the Corporation.

**SCHEDULE "A"**  
**CHATELS INCLUDED (THE TRANSFERRED CHATELS)**

## MISCELLANEOUS

<i>Item/description by room</i>	<i>Quantity</i>
<b>Upstairs</b>	
podium	1
water cooler	1
wood park bench	1
Wii's	2
Play Stations	2
<b>Track</b>	
rower	1
upright LifeCycle	1
recumbant LifeCycle	1
signage/charts	multi
<b>Courts</b>	
water cooler	1
<b>Lobby</b>	
tables - silver	8
chairs - silver	28
bulletin boards	
computer desk	1
<b>Other</b>	
garbag cans - secured to walls	
clocks - throughout building	
Blinds	
permanent fountains	
<b>Changeroom - Womens</b>	
couch	1
end table	1
Stairmaster Upright bike	1
Large wood/glass display cabinet	1
bulletin boards	2
ironing board	1
fan	1
<b>Membership Desk</b>	
chairs	2
<b>Changeroom - Men's</b>	
couch	1
chairs	2
ironing board	1
scale	1
shower chair	1
safety equipment - board, pole, ring 1ea	1
<b>Tables and Chairs</b>	
sturdy chairs	57
folding chairs	27



non folding tables (2half moon and 4rectengle)	6
Membership Cafe	
fridge - large	1
fridge - small	1
microwave	1
kettle	1
toaster oven	1
Cash register	1
CM office	
desk (L shaped)	1
chairs - soft seat and back	4
filing cabinet	1
wood cabinet	1
LC shared office	
table (wood base)	1
book shelf - grey	1
filing cabinet - grey	2
small black filing cabinets	7
Safe	1
staff mail box shelf	1
Back office	
desks	1
chairs	2
filing cabinet	1
storage cabinet	1

**FACILITY*****Item/description by room******Quantity*****Receiving Room**

Steel work table/ grinder bench - on castors	1 unit
Furniture dolly's (flat board with castors)	5 each
recycle container - 15 gallon - blue	1 each

**Receiving Room - under stairs to Mechanical penthouse**

Wall glazed tile	19 boxes
VCT tile - various colors matches	4 boxes
Pool tile - white - 1x1"	2 boxes
Pool deck tile - 2X2" mottled white and gray	16 boxes
lobby floor tile	16 boxes
Various size and color tile	4 boxes
grout white	3 bags
thin set mortar	2 bags
grout admix	1 box
Pails of open bags of grout	4 pails
rolls of vinyl base	3 part rolls
roll of carpeted base	1 part roll

**Mechanical Penthouse**

Pipe insulation - various sizes and lengths	24 pieces
Hydronic gross particle filters	1 box
20L pail of Ferroquest - corrosion inhibitor	1 pail
ceiling return grills - various sizes	2 each
part roll of filter media	1 part roll
Flexible ducting - 10 - 12"	3 part boxes
wood core doors with vent holes	2 each
Pool lamp - incomplete - no ballast	1 each
urinal	1 each
hair dryer - wall hung style	1 each
Ceiling mounted exhaust fan	1 each
Steel trays for drink ice - used for past functions	2 each
2 X 4 light fixture frames and one 2 x 4 fixture incomplete	14 each
Various lengths and sizes of PVC pipe	10 each
210 pail of lane rope floats and spindles	1 pail

**Janitors closet off pool**

Resin rack - 5 shelf - 18" X 36" X 6'	1 unit
Trash pail	1 each

spine board	1 unit
-------------	--------

#### Main Filter room

30 gal blue square recycle bin	1 each
20 gal trash pail	1 each
24 X 36 X 6' steel cabinet - contains chlorine jugs	1 each
24 X 36 X 6' wood cabinet - contains drop cloths	1 each
set of DE filter media covers	1 set
spare DE filter media frames	5 each
Universal spill kit	1 unit
18" X 36" resin rack - 3 shelf	1 unit
Pool vacuum hose and 2 vac heads	1 group
60 Gal salt storage bins with lockable lids - one by front entrance	2 each

#### Main lobby janitors closet

Resin racks - 18" X 36" - total of 19 shelves in various configuration	19 shelves
--	------------

#### Laundry room

Commercial Washer	1 unit
Commercial dryer	1 unit
steel nickel plated rack - 4 shelf	1 unit
Variety of flashlights	6 each

#### Shed

Assortment of gardening tools, shovel, rake, brooms etc.	Assortment
--	------------

#### Maintenance office and Misc.

4 shelf wooden book shelf - 1'X3'X4'	1 unit
4 drawer metal file cabinet	1 unit
Desk and Chair	1 ensemble
water hog Walkoff mats - 45" wide and mostly 8, 10 and 12' lengths	16 each

**ADULT**

<b><i>Item/description by room</i></b>	<b><i>Quantity</i></b>
<b>Studio 1</b>	
cabinets - attached to wall	2
Lrg exercise ball rack on wheels	1
cabinet - attached to wall	1
storage cabinets (1 cream, 1 fake wood)	2
Speakers	2
plastic shelf (beige)	1
<b>Wellness Centre</b>	
Treadmill	10
Upright bikes	3
Arc trainers	6
Rowers	2
Cross trainers	6
Recumbant bikes	5
Squat Rack	1
Olympic Bar	2
Smith Machine	1
Plated Leg Press	1
2 sets of 5,10, 15, 20, 25, 30, 35, 40 dumbbells	2
1 set of 50, 55, 60, 65, 70, 75, 80, 85, 90, 95 dumbbells	1
100 lb dumbbells	3
Flat benches	2
adjustable benches	2
preacher curl	1
sitting bench	1
35lb bar bell	1
decline bench	1
<b>Plates:</b>	
45 lbs	20
35lbs	7
25lbs	12
10lbs	7
5lbs	6
2.5lbs	2
cable attachments	14
racks for dumbbells	3
safety clip sets	3
<b>Cybex - selectorized:</b>	
Chest press	1
Seated row	1
bicep crul	1
tricep extention	1
abdominals	1

back extension	1
leg press	1
seated leg curl	1
lying leg curl	1
leg extension	1
chin dip assist	1
tower cable machine	1
cable multi (2 handles)	1
rear delt chest fly	1
lat pull down	1
calf raise	1
ab/adductor	1
glute	1
half plate 6.25lbs	5
cow mats- under free weights	multi
exertion chart	1
magazine racks	1

**CHILD, YOUTH, CHILDCARE**

<b><i>Item/description by room</i></b>	<b><i>Quantity</i></b>
<b>Child care room</b>	
cubies wood - white	2
bulletin board	1
built in shelving	
<b>Youth Program room</b>	
wood cubies - white	2
wood shelves - white	2
wood divider- white	1
2 bulletin boards	
storage cabinet -press board white	1
wood toy/book shelf - no wheels	1
carpet - burgundy	1
<b>Storage closet</b>	
toy storage rack with bins	
storage cabinets - attached to walls	2
plastic storage bins	2
<b>Preschool Room</b>	
bulletin board	2
carpet - fish	1
1 kids wooden book shelf on wheels	1
kids chalk boards (2) on shelf	1
3 piece wooden kitchen set	1
kids small reading couch	1
Misc toys, books, craft supplies	
<b>Childcare back rooms</b>	
fan	1
radio	2
white wooden cubies	3
metal rolling shelf	1
bulletin board	1
kids wood tables	12
kids small chairs	88
art drying rack wood 2 big 1 small	3
wood cubie	1
white cupboard	1
microwave	1
<b>Childminding</b>	
baby gate	1
baby swing	1
rocking chair	1
playpen	1
permanent attached to wall shelving	
large moveable shelves	2

small movable shelf	1
small kids reading book shelf	1
kids small chairs	2
table	1
exercosors	2
5 wooden chairs	5
kitchen set	1
tool set	1
baby seat	1
stroller	1
misc toys (lots)	
carpets	2
radio	1

---

## POOL & GYMNASIUM

<i>Item/description by room</i>	<i>Quantity</i>
<b>Pool Deck</b>	
lane ropes	
spinal board	
clock	
chair	
signage	
rings	
net/brush	
reach pole	
bulletin board	
stereo	
cupboards -plastoc storgae with dors	2
bulletin boards	2
<b>Pool Storage</b>	
1 wheel chair	1
diving platform	1
small round floating aids - green, blue, yellow	29
small red turtle floating aids	12
bricks	3
bags of actars	4
lifejackets, misc sizes	30
1 large wood storage shelf	1
plastic storage shelves	2
plasticwith wheels storage carts (for noodles)	2
flutter boards	20
pool vacuum	1
<b>Gymnasium</b>	
afixed bball nets	6
<b>Gym Storage</b>	
bucket of bean bags	
wood book shelf	1
plastic shelf	1
large bulletin board	1
wooden ball bins	2
misc balls	100
hua hops	15
pilons - kids	25
misc all sizes gym mats	45
toddler basket ball net	1
plastic hockey nets	2
misc toys	
parachute	1
hockey sticks	24



racquets misc	8
bowling pin game - bag	
sport pinnies	30
volley ball net and poles	1
scooter boards	10
large set hockey nets	1

## KITCHEN

<i>Item/description by room</i>	<i>Quantity</i>
<b>Kitchen</b>	
stove	1
fridge	1
freezer	1
hood	1
metal cart on wheels	1
dishwasher	1
coffee pot - industrial	1
pot, pans, cookware, serving dishes	multi
blender	1
dishes, mugs	multi
<b>cups, bowls</b>	multi
preping utensils	multi

**SCHEDULE "B"**  
**PERMITTED ENCUMBRANCES**

Instrument No. BB99942 – Order

Instrument No. RO106181 – By-Law

Instrument No. RO110929 – Order

Instrument No. 59R-5645 – Reference Plan

Instrument No. 59R-8660 – Reference Plan

Instrument No. SN466017 – Transfer