

ORDINANCE NO. 5979, AS AMENDED

**AN ORDINANCE AUTHORIZING LEASE OF SPACE IN CITY HALL TO
THE BOYS & GIRLS CLUB OF ALASKA, INC.**

WHEREAS, the City owns and maintains City Hall, located at 800 Cushman Street, also known as Block 104A, Fairbanks Townsite; and

WHEREAS, the City Council has provided lease space in City Hall for the Boys & Girls Club since 1995; and

WHEREAS, the Boys & Girls Club lease will expire on May 31, 2015; and

WHEREAS, by letter to the City Mayor (Exhibit A), the Boys & Girls Club has respectfully requested a new lease of the premises (the Boys and Girls Clubs of Southcentral Alaska, Inc. operate 31 clubhouses across Alaska, including the Boys and Girls Club of the Tanana Valley in Fairbanks); and

WHEREAS, the City administration has reviewed the lease area and determined that it is not required for municipal purposes and can be leased to others; and

WHEREAS, Fairbanks General Code Section 70-44 provides that the City may lease to a non-profit organization without public sale and for less than market value whenever in the judgment of the City Council it is advantageous to do so; and

WHEREAS, it is the finding of the City Council that a lease of the building space, described in Exhibit B, to the Boys & Girls Club of Southcentral Alaska, Inc., is in the best interest of the community.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That a lease instrument substantially in the form shown in attached Exhibit B is hereby authorized by Council for the purposes herein stated, providing for a five-year lease term.

SECTION 2. That the Mayor is hereby authorized and directed to execute said lease on behalf of the City, and the City Clerk is authorized to attest and affix the City Seal to said instrument, the execution of which shall take place not less than thirty (30) days after the effective date of this ordinance, as prescribed by City Charter Sec. 8.3 and FGC Sec. 70-56.

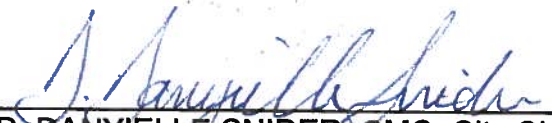
SECTION 3. That the effective date of this ordinance shall be the 23rd day of May, 2015.



JOHN EBERHART, Mayor

AYES: Staley, Matherly, Pruhs, Cleworth, Walley
NAYS: None
ABSENT: Gatewood
ADOPTED: May 18, 2015

ATTEST:



D. DANYIELLE SNIDER, CMC, City Clerk

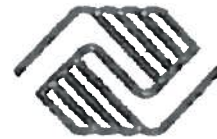
APPROVED AS TO FORM:



PAUL EWERS, City Attorney

ORDINANCE No. 5979
EXHIBIT 'A'

April 28, 2015



BOYS & GIRLS CLUBS
ALASKA

Mayor John Eberhart
City of Fairbanks
800 Cushman Street
Fairbanks, AK 99701

Re: Boys & Girls Club – Fairbanks Lease Renewal

Dear Mayor Eberhart:

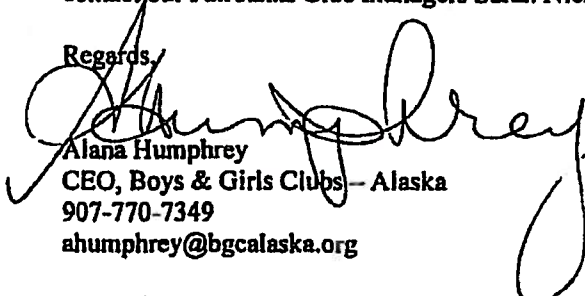
Boys & Girls Clubs of Southcentral Alaska - with 31 Clubhouses across our great state, including the Boys & Girls Club of the Tanana Valley in Fairbanks respectfully requests lease renewal for its current location, the rear portion of City Hall. Our current lease expires in May – it's hard to believe that the Boys & Girls Club has been at its current location for more than 15 years! We request consideration of a *five-year lease extension*.

The Boys & Girls Club of the Tanana Valley (Old Main Clubhouse) has been a staple for safe, positive fun for Fairbanks youth! Programs like Project LEARN enable our Club youth to set academic goals for school attendance, school performance, grade improvement, and high school graduation. Professional staff and volunteer mentors assist in motivating youth in attaining those goals and celebrate successes along the way. Our Triple Play program encourages active, healthy lifestyles and prevention programs address avoiding drugs, alcohol and risky behaviors.

Boys & Girls Clubs – Alaska appreciates the City of Fairbank's partnership over the years to provide terrific space for Boys & Girls Club programs. Our goals are always to deepen the impact on the youth we serve, to reach out to more and more youth that will benefit from our mentoring programs, and to be a positive influence on the youth of our communities – and to be a good neighbor.

Please contact me should you have comments, questions, or concerns – or contact our Fairbanks Club managers Sarah Nichols or Sylvia Hutchinson.

Regards,


Alana Humphrey
CEO, Boys & Girls Clubs – Alaska
907-770-7349
ahumphrey@bgcalaska.org

Cc: Patrick Smith
Sarah Nichols
Sylvia Hutchinson
Lisa Mahan

Main Office

2300 W. 36th Avenue
Anchorage, Alaska 99517
Tel: 907-248-5437
Fax: 907-770-7345
www.bgcalaska.org
Facebook: Boys & Girls Clubs - Alaska

Chief Executive Officer

Alana Humphrey
Tel: 907-770-7349
Fax: 907-770-7345
ahumphrey@bgcalaska.org

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Terry Bailey, CH2MHill

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Bryan Quinn, Capital Office
* Past Chairs, Board of Directors

GREAT FUTURES START HERE.

**EXHIBIT 'B' TO ORDINANCE NO. 5979
DRAFT REAL ESTATE LEASE**

THIS LEASE executed and effective this ____ day of _____ 2015, between THE CITY OF FAIRBANKS, a municipal corporation of the State of Alaska, with address of 800 Cushman Street, Fairbanks, Alaska, 99701, hereinafter called Lessor, and BOYS AND GIRLS CLUB OF SOUTHCENTRAL ALASKA, INC., an Alaska Nonprofit Corporation, with address of 2300 W. 36th Avenue, Anchorage, Alaska 99517, hereinafter called Lessee;

WITNESSETH:

WHEREAS, the City of Fairbanks, by Ordinance No. 5979, authorized execution of this lease of City owned property identified below.

NOW THEREFORE, Lessor, in consideration of the rent hereinafter specified and of the mutual covenants and agreements herein expressed, leases that certain real property, including land and buildings, described as follows:

1. Lease of Premises. The Lessor leases to Lessee, and Lessee leases from Lessor, the real property located at Fairbanks, Alaska, more particularly described as follows:

1.1 Premises. A portion of 800 Cushman Street, Fairbanks, Alaska, located within Block 104, Fairbanks Townsite, known as "City Hall", containing 10,090 square feet, comprised of the following identified building areas:

1.2 Cafeteria. Containing approximately 3,520 square feet; and

1.3 Gymnasium. Containing approximately 3,920 square feet (includes chair storage area; excludes the existing shower facilities); and

1.4 Basement. The south portion of the basement level, City Hall "Northwest Tower", located in the northwest addition to City Hall, containing 2,650 square feet, more or less, hereinafter referred to as "premises", all as indicated in Attachment 1.

2. Parking. The following parking is made part of this Lease:

2.1 Reserved Parking. Lessee shall have exclusive use of 12 designated parking spaces within Block 104, Fairbanks Townsite, as indicated in Attachment 2. Such use shall continue in force at all times during the term of this lease. No vehicles shall be parked in the designated area which impedes traffic flow in the driving lane. No vehicles shall be allowed to stand in the driving lane except for active loading or unloading of passengers or materials.

2.2 Unreserved Parking. Lessee shall have incidental use of available spaces in Block 110, which lies adjacent south of Main School, after normal business hours and at such other times not in conflict with use by Lessor. Other parking on adjacent public streets is available in accordance with regulatory signage and the Fairbanks General Code of Ordinances. No parking shall be permitted on Block 110 during normal business hours.

3. Term. The term of this Lease shall be for five (5) years, commencing on June 23, 2015, and ending at midnight on June 22, 2020.

4. Escape Cancellation. Lessee, upon 90 days advance written notice delivered to the address of Lessor, may cancel and terminate this lease, surrendering the premises in a neat and clean condition.

5. Rent. As compensation for use of the premises during the life of this lease and any extensions thereof, Lessee shall pay monthly rent in the amount of \$1,355.00. Rent is subject to increase or decrease upon annual review of actual utility expenses.

6. Renovation & Hazardous Materials. When abatement of asbestos or other hazardous materials within the lease area becomes necessary during performance of any tenant renovations, the cost of such abatement shall be the responsibility of Lessee. Abatement of asbestos or other hazardous substances which must be performed as part of said renovation or occupancy of the premises shall be conducted in compliance with rules and requirements of the Alaska Department of Labor, Division of Labor Standards, OSHA, and the US Environment Protection Agency. Qualified, certified and competent workers, techniques and notice and reporting requirements shall be used at all times. Abatement of asbestos or other hazardous substances shall be subject to review and approval by the Building Official and City Engineer. Any tenant renovations or modifications of the lease space shall first be submitted to the City for review by the City Engineer and approval by the City Mayor at his discretion.

7. Condition. Lessee has inspected the premises, is familiar with the physical condition, and accepts the premises in its "as-is" condition.

8. Permitted Uses. Lessee shall use the premises for the nonprofit business of youth sports, educational and development activities and necessary administrative office space. Lessee shall provide 48 hour advance written notice of events or activities which include overnight boarding.

8.1 Third Party Use. Lessee agrees to notify Lessor of any agreements made to allow agencies, groups, or organizations to utilize the leased premises. Lessor shall have the right to reject or restrict such agreements.

8.2 Gymnasium Use. Lessor and its approved licensees may use the gymnasium portion of the leased premises without charge for up to 20 hours per week, said use to be scheduled in advance with the Executive Director or designee of the Boys & Girls club. Such use shall not conflict with Lessee prime activity times. Lessor will be responsible for the cost of any maintenance or repair arising from Lessor's use under this section, and the provisions of subsection 12 will not apply for claims arising from Lessor's use or the use by those licensed by Lessor under this section.

9. Prohibited Uses. Lessee shall not use or permit the use of the premises or any part thereof in violation of any applicable law, ordinance, or regulation. Other uses specifically prohibited shall include: athletic activities involving trampoline, marksmanship using metal darts, arrows or other projectiles, boxing or wrestling, except that self-defense courses employing limited or noncontact techniques may be allowed.

10. Access and Security. Access to the lease area for all purposes shall be through the northwest entrance only, as shown on Attachment 1. Lessee shall be responsible for operation and security of the doors at this location. Emergency exit from the leased space may be through the southwest exit. Entry into or use of City Hall space beyond the leased area is prohibited for any purpose. Lessee shall exercise constant diligence to keep Boys and Girls Club youth members within the lease area, bearing responsibility for same. Boys and Girls Club

attendees frequent Veterans Park, located across the street from the Premises. Child pedestrian safety is of the highest concern to the Parties. To the extent possible, and within the context of the Boys and Girls Club "Open Campus Policy", children crossing shall have adult supervision.

11. Payment of Expenses Relating to the Premises.

11.1 Utilities. Lessee shall be responsible for payment of telephone, cable TV, and other privately contracted services as required by the utility provider. Lessee shall also pay a monthly fee to compensate for general utility usage as set forth in Section 5.

11.2 Maintenance. Lessee shall perform all routine interior maintenance associated with the leased premises proper, including but not limited to incidental replacement of light bulbs repair of electrical and mechanical systems within the lease area, and general maintenance, keeping the premises in a clean, safe condition. In the event that Lessor performs maintenance or repair under this section, whether at its election or upon request of Lessee, Lessee shall repay Lessor for the actual costs of materials and labor. Such charges will not include indirect costs of Lessor's employees.

Lessor shall perform maintenance of the building exterior, roof, and walls, including mechanical and electrical systems beyond the lease area, exterior maintenance, and snow removal. Lessor shall also maintain sidewalk and grounds adjoining the leased premises. Lessee shall notify Lessor of hazards or safety concerns in the exterior common areas in a timely manner.

11.3 Janitorial and Garbage Collection. Janitorial and garbage service within the premises, if any, shall be provided by Lessee.

11.4 Taxes. Lessor is a municipality of the State of Alaska and is therefore exempt from property taxes. If taxes are levied against the leased premises by a governmental body so long as Lessor remains the owner of record, any such taxes shall be paid by Lessee. Should taxes be levied against the property at such time as the record owner of the leased fee estate is a taxable entity, such owner shall be responsible for payment of taxes.

12. Exculpation and Indemnity.

12.1 Exculpation of Lessor. Lessor shall not be liable to Lessee for any damage to Lessee or Lessee's property from any cause. Lessee shall bear all risk of loss as to all personal property of the Lessee, stored, or remaining on or near the premises, including without limitation, inventory, equipment, fixtures, and employees' personal effects.

12.2 Indemnity. Lessee shall defend and hold the Lessor harmless from all damages arising out of any damage or injury to any person or property occurring in, about, or on the premises, excluding exterior public areas.

12.3 Public Liability and Damage Insurance. Lessee at its sole cost shall at all times maintain public liability and damage insurance with a single combined liability limit of \$2,000,000 and insuring against all liability of Lessee and its authorized representatives arising out of and in connection with Lessee's use or occupancy of the premises, excluding exterior public areas. All public liability insurance and property damage insurance shall insure performance by Lessee of the indemnity provisions provided herein. Lessor shall be named as an additional insured.

13. Prevention of Waste and Nuisance. Lessee shall not use the premises in any manner that will constitute waste, nuisance, or unreasonable annoyance to Lessor or the owners or occupants of adjacent properties. Violation or breach under this section shall be determined at the sole discretion of the City Mayor.

14. Assignment and Sublease. Lessee shall not assign its rights under this Lease or sublet all or any portion of the premises without the prior written consent of Lessor. Consent shall be at the sole discretion of Lessor.

15. Liens. Lessee shall keep the premises free from any liens, including without limitation those liens arising out of any work performed, materials furnished, or obligations incurred by Lessee.

16. Consultation with Attorney. Lessee acknowledges that it has the right to review this Lease and all other documents relating to the Lease with its own attorney. Each party electing to have this Lease reviewed by an attorney shall bear the costs and expenses so incurred.

17. Destruction. If during the Lease term, the premises are totally or partially destroyed from any cause, rendering the premises totally or partially inaccessible or unusable, Lessee, at its election, may either terminate this Lease or restore the premises. Lessor shall have no duty to repair or restore the premises. If lessee elects to restore the premises, Lessee will have 120 days in which to complete the repairs. If Lessee elects not to repair the premises, this agreement will terminate.

18. Right of Entry. Lessor, its agents and authorized employees, shall have the right to enter the leased premises to examine it and to make repairs as Lessor may deem necessary or desirable during Lessee's business hours. All such entry shall be preceded by 24 hours advance notice to Lessee, except that immediate entry shall be allowed in event of emergency, as determined by the City Engineer.

19. Default. Failure to occupy and operate the premises for 30 consecutive days, or failure to perform any provision of this Lease shall constitute default by Lessee of this Lease. Upon Lessee's default, Lessor shall give Lessee ten days' notice to cure the default. No default notice shall be deemed a forfeiture or a termination of this Lease unless Lessor so elects in the notice.

20. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, addressed to the other party at the address set forth in the introductory paragraph of this Lease. Either party may change its address by notifying the other party of the change of address.

21. Effect of Prior Agreements. This lease supersedes and replaces the previous lease dated July 1, 2010, between the parties, and any revisions or amendments thereto.

22. Attorney's Fees. If Lessor brings or maintains an action for enforcement of any of the covenants, terms or conditions of this Lease, Lessee shall pay all costs incurred by Lessor for such action, including attorney's fees, in the event Lessee is found to be at fault.

23. Time of the Essence. Time is of the essence of each provision of this Lease.

24. Successors. This Lease shall be binding on and inure to the benefit of the parties and their successors.

25. Captions. The captions of this Lease shall have no interpretive effect.

26. Singular and Plural. When required by the context of this Lease, the singular shall include the plural.

27. Severability. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first written above.

LESSEE:
Boys and Girls Club of Southcentral Alaska, Inc.

LESSOR:
City of Fairbanks

By:
Title: Executive Director

By: John Eberhart
Title: Mayor

ATTEST:

APPROVED AS TO FORM:

D. Danyielle Snider, CMC
City Clerk

Paul Ewers
City Attorney

(City seal)

ACKNOWLEDGMENT

THIS IS TO CERTIFY that on this _____ day of _____ 2015, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared JOHN EBERHART, and D. DANYIELLE SNIDER, and that they acknowledged before me that they executed the same for and on behalf of The City of Fairbanks and under the authority of said municipal corporation so granted by the City Council, as their free and voluntary act and deed of said corporation.

IN WITNESS, I have set my hand and affixed my official seal on this _____ day of _____ 2015.

Notary Public
My Commission Expires: _____

ACKNOWLEDGMENT

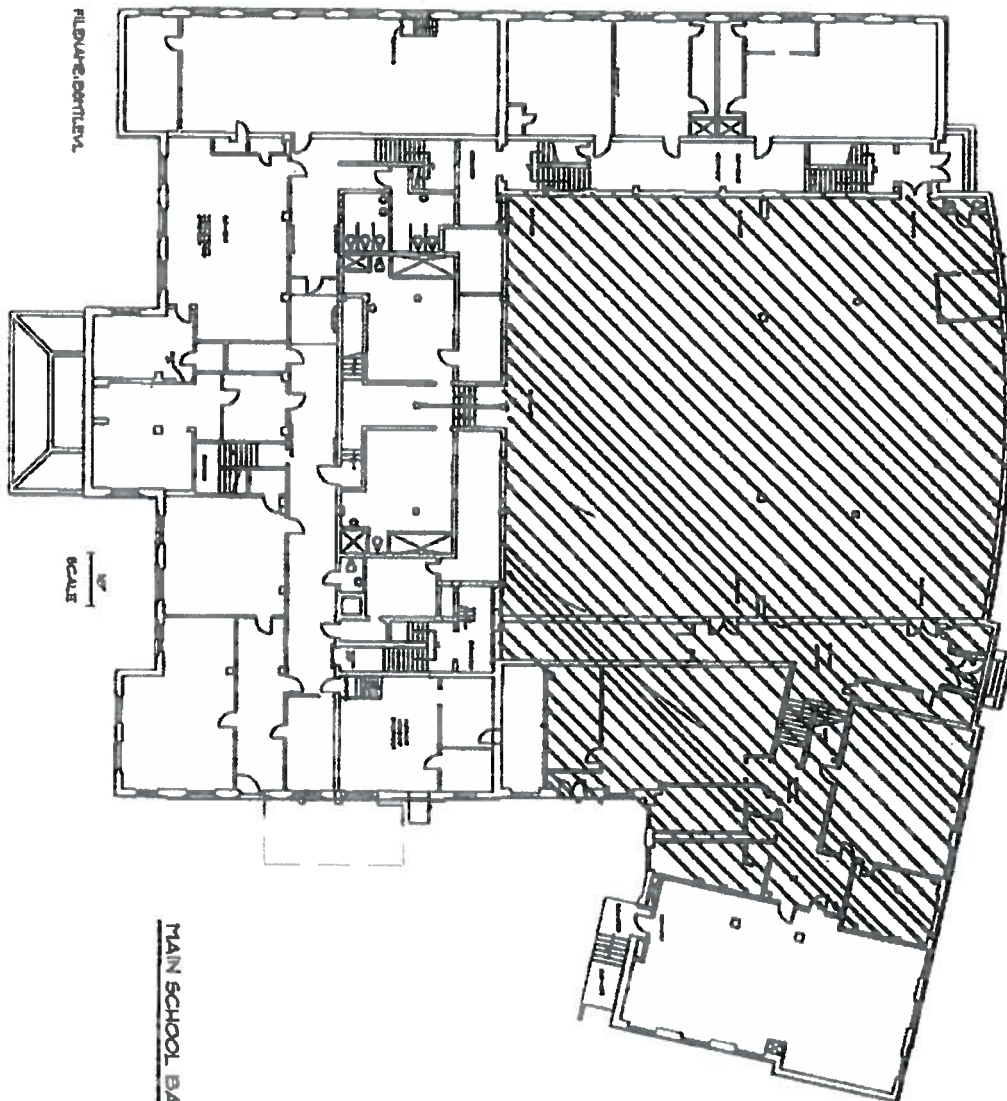
THIS IS TO CERTIFY that on this _____ day of _____ 2015, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared _____

_____, of the Boys and Girls Club of Southcentral Alaska, Inc., to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that she/ he signed the same freely and voluntarily for the uses and purposes therein mentioned, having authority to do so.

IN WITNESS, I have set my hand and affixed my official seal on this _____ day of _____ 2015.

Notary Public

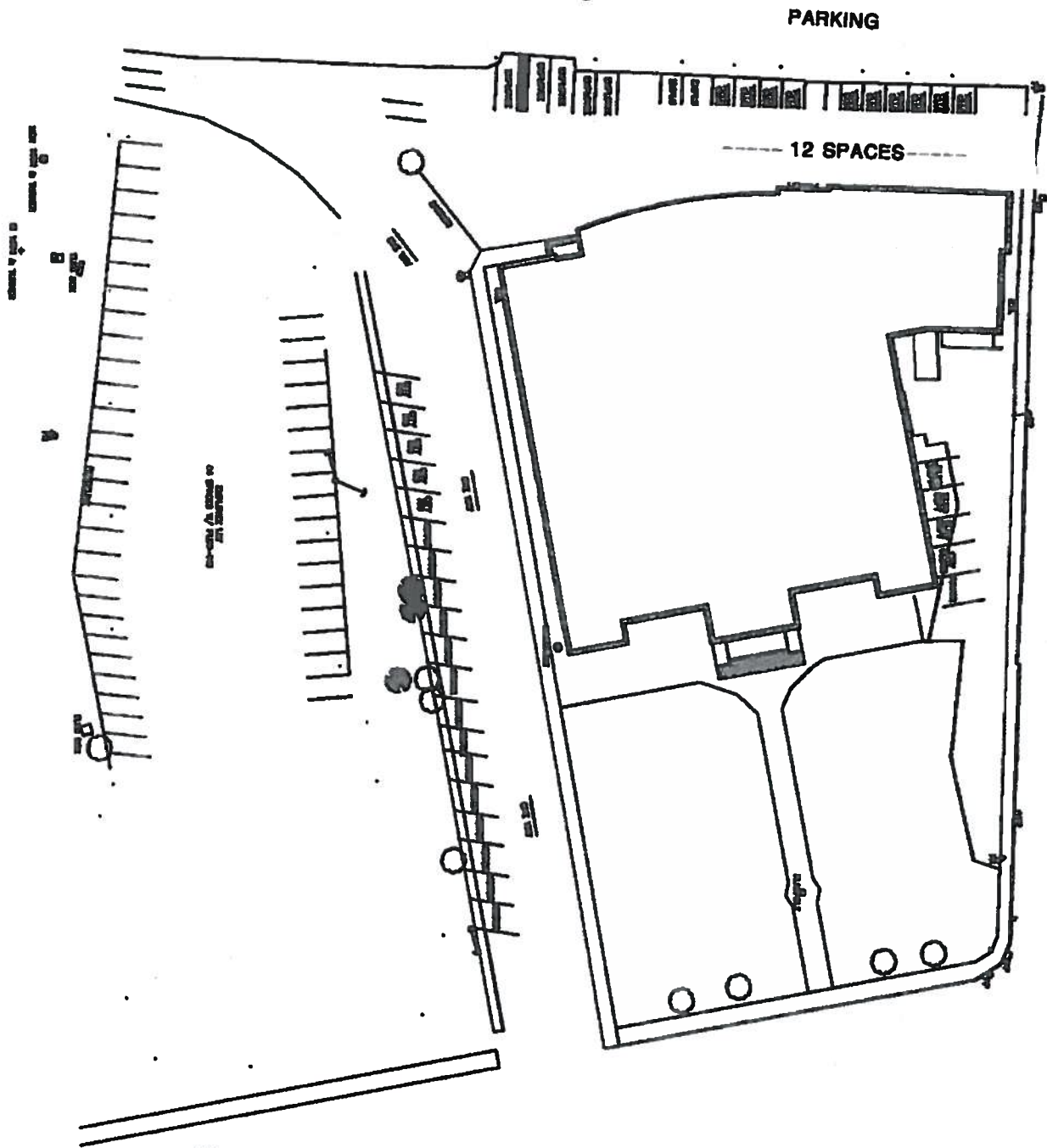
My Commission Expires: _____



MAIN SCHOOL BASEMENT LEVEL

ATTACHMENT 1
TO

BOYS and GIRLS LEASE



CITY HALL
PLAYING PLAN

ATTACHMENT 2
TO
BOYS and GIRLS LEASE