

## PROPERTY IMPROVEMENT AND LEASE AGREEMENT

This PROPERTY IMPROVEMENT AND LEASE AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and among METROPOLITAN NASHVILLE DEPARTMENT OF PARKS AND RECREATION ("Metro"), and BELMONT UNIVERSITY, a tax-exempt educational organization ("Belmont").

### RECITALS:

WHEREAS, Metro desires to provide for improvements to the facilities it owns in Nashville, Tennessee, generally known as E.S. Rose Park, containing approximately 25 acres (the "Property"), more fully described in Exhibit A to this Agreement; and

WHEREAS, Belmont competes at the NCAA Division I level of intercollegiate sports and is seeking to improve Metro park facilities and provide for suitable amenities for its baseball, softball, soccer and track teams to practice and compete; and

WHEREAS, the Edgehill community utilizes the Property for school events at Rose Park Middle School and Carter Lawrence Elementary School, picnics, and spontaneous recreation and supports several youth and adult sports leagues that compete on the Property; and

WHEREAS, Belmont proposes to pay for the design and construction of an upgraded baseball field, softball field, soccer field, and track as well as improvements to certain common areas to be shared by Metro, Belmont and the Edgehill community, including the Sports Fields and other improvements described herein (collectively "Improvements"); and

WHEREAS, Metro has concluded that the proposed redevelopment is consistent with its Parks Master Plan and will benefit the Edgehill community, the school athletic teams utilizing the current facilities and seeking additional opportunities, and the youth and adult recreational programs of the parks department.

### AGREEMENT:

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties mutually agree and covenant as follows:

- 1. Conditions Precedent.** Notwithstanding anything in this Agreement to the contrary, the duties and obligations of the parties to this Agreement as set forth in Sections 2 through 26 and in Section 36 below shall be subject to and contingent upon the satisfaction of all of the following conditions precedent.

- a. Metro and Belmont shall have approved construction plans and specifications for the Improvements.
  - b. Belmont shall have negotiated a guaranteed maximum price with a contractor for the redevelopment of the Property that is acceptable to Belmont.
  - c. Belmont shall have secured any zoning changes, licenses, permits, and/or approvals required to allow construction of the Improvements and the Contemplated Use. Metro shall assist in these efforts as appropriate.
  - d. Belmont shall have obtained at Belmont's expense a title commitment for the Property from a title company reasonably acceptable to Belmont and such title commitment will confirm ownership by Metro subject only to exceptions of record which are reasonably acceptable to Belmont.
2. **Improvements.** At its own expense, Belmont will construct Improvements on the Property. Improvements shall include baseball, softball, soccer and track venues ("Sports Fields") as well as a building for concessions, storage and locker rooms and improvements to certain common areas, including parking lots, circulation infrastructure and site furnishings. Metro shall determine necessity of and pay for upgrades to portions of the Property outside the Improvements. Belmont warrants that all of the completed Improvements will fully comply with all Metropolitan Parks Department regulations, building and other applicable codes, rules, laws, ordinances and regulations, including, without limitation, the Americans With Disabilities Act. Belmont shall make every effort to include qualified minority and women-owned business in the construction improvements. No improvements shall place exterior chain link fence around the park. In addition, access to parking and to the park shall not be limited, unless specifically to improve the safety of Carter Lawrence or Rose Park dismissal. Belmont agrees that during initial construction and future improvements it will minimize the disruption to adjacent public schools and residents; maximize the safety of school children and pedestrians; maintain as much access as possible to parks grounds; and minimize dust associated with construction.
3. **Lease.** In consideration of the obligations assumed hereunder as well as those reflected in the Recitals by Belmont, Metro hereby leases to Belmont to have and to hold those portions of the Property on which Improvements are located and the common areas for the Contemplated Use, upon the terms, conditions, covenants and undertakings, and to the extent set forth in this Agreement (the "Lease"). In connection therewith, Metro hereby further grants Belmont the right to nonexclusive ingress and egress by Belmont (or its contractors) through any portion of the Property for the purpose of taking any action necessary or convenient for construction, maintenance, repair, or alteration of the Improvements or as necessary for the enjoyment of the Contemplated Use. No part of the Property or Improvements shall be sold or conveyed by Belmont or Metro to any other entity, nor mortgaged, pledged or used to secure any obligation of Belmont or Metro. In the event any lien of any kind shall be filed or asserted against the Property or

Improvements as a result of the actions or inactions of Belmont, Belmont shall promptly cause an appropriate bond to be filed and said lien transferred to the bond.

### 3.a Contributions

In order to ensure the community has access to the park and that programming for the community is enhanced, Belmont will annually make lease payments of \$50,000 with a 3% escalator for inflation annually. Twenty percent of the allocation will be evenly distributed to parent teacher organizations (PTOs) of the Carter Lawrence and Rose Park public schools. The remaining 80% will be allocated to Metro Parks, specifically to the Easley Center to support improved programming for area youth and seniors. These contributions will not supplant regular funding provided to Metro Parks for the operations of the Easley Center.

4. **Term and Termination.** This Agreement shall become effective upon execution by Belmont, approval by the Metropolitan Council and delivery to the Metropolitan Clerk (the “Commencement Date”). Unless sooner terminated pursuant to this Agreement, the Term shall expire on the fortieth (40<sup>th</sup>) anniversary of the Commencement Date. Either party may terminate this Agreement for its convenience prior to expiration upon written notice delivered to the non-terminating party. Termination as contemplated by this paragraph shall take effect on the first (1st) anniversary of delivery of the notice (“Termination Date”). In the event Metro exercises its right to terminate the Agreement under this paragraph, Metro shall make a payment (the “Termination Payment”) to Belmont on or before the Termination Date in an amount equal to the Fair Value. “Fair Value” shall be determined as follows. Belmont and Metro shall each select an MAI appraiser to appraise the value of the Improvements (and not the underlying real property) as of the Termination Date. If the values as determined by the appraisers do not differ by more ten percent, then Fair Value shall be the average of the two values. If the values determined by the appraisers differ by more than ten percent, then the two appraisers shall select a third MAI appraiser, who shall similarly appraise the value of the Improvements (and not the underlying real property) as of the Termination Date and whose determination of value shall be the Fair Value.
5. **Removal of Property upon Termination.** Upon termination of Belmont’s rights under this Agreement, Belmont shall be entitled to remove any or all of its property and vacate the Improvements within sixty (60) calendar days. The Improvements shall remain on the Property and shall become the sole property of Metro. Unless stated otherwise in this Agreement, all personal property and fixtures obtained by Belmont for use on the Property will remain the property of Belmont,; provided, however, that fixtures that cannot be removed without material damage to the Improvements shall remain on the Property and become the sole property of Metro, unless Belmont agrees to promptly repair any damage caused by the removal of such fixtures.
6. **Use of Improvements by Belmont.** Notwithstanding any other provision of this Agreement, at all times throughout the term of the Agreement Metro shall retain sole authority to schedule dates and times of Belmont and Community Events.

Belmont shall use Improvements for tryouts, training, practice, competition and sports camps related to its intercollegiate athletic programs in baseball, softball, soccer, and track and field (“Belmont Events”). Belmont’s use shall be subject to requirement that Belmont work with Metro to schedule Belmont’s use of the Improvements for Belmont Events six months or more in advance. In scheduling Belmont Events that are intercollegiate competitions, Metro shall, at all times during the term of this Agreement, make reasonable efforts to schedule Belmont’s first choice of dates and times; however, adjacent public schools and Metro Parks activities will be given priority scheduling. Metro will schedule events sponsored by other school, neighborhood and community groups (“Community Events”). Belmont Event and Community Event conflicts shall be resolved by the Metro Parks Department. Besides Belmont Events, other uses by Belmont may be scheduled as long as they do not conflict with Community Events and provided that requests for such events are made in accordance with Metro’s standard policies and procedures. Belmont warrants that its uses of the Property and Improvements shall comply in full with all Board of Parks and Recreation policies of general applicability to all Metro Parks containing athletic fields, as well as every applicable law, ordinance, statute, rule and regulation. Belmont shall not begin scheduled games until thirty minutes after dismissal by Rose Park and Carter Lawrence Schools.

7. **Revenue.** Belmont shall be entitled to all revenue generated as a result of Belmont Events including, without limitation, those arising from (a) the sale or distribution of tickets, (b) the sale, lease, licensing of, or granting concession with respect to, advertising and other promotional rights of every nature, including those from game day signage and printed materials, (c) all broadcasting, (d) promotion of events at the Property, and (e) the sale of concessions and merchandise at the Property.
8. **Performance and Payment Bond.** Until such time as the Improvements are completed, Belmont shall provide or cause to be provided and maintained in full force and effect a performance bond and a labor and material payment bond in the full amount of the lump sum or guaranteed maximum price payable for the work under any contract issued or executed by Belmont for construction of the Improvements. Such bonds shall be in form and substance and issued by a corporate surety satisfactory to Metro. Each bond shall be in favor of Metro and shall conform in all respects to all requirements imposed by applicable law. Belmont shall pay all premiums for such bonds.
9. **Tickets.** Belmont shall be responsible for the printing, sale and collection of all tickets for admission to Belmont Events. Belmont shall have the exclusive right to set Belmont’s ticket prices, administrative fees and other charges, for admission to Belmont Events. Metro acknowledges that unless approved by Belmont no admission to the Improvements for Belmont Events shall be allowed without a ticket.

If tickets are issued, Belmont shall provide at least ten percent of its tickets per game, or a number as determined by Parks Board, to the Easley Community Center for area children and community members.

10. **Name of Sports Field.** Belmont and Metro shall cooperate in developing a temporary name for one or more of the Sports Fields. Any such name shall expire no later than the expiration of the Term of this Agreement. It is not the intent that any of the fields shall be named after Belmont University.
11. **Broadcast Rights.** Belmont and Metro shall have the exclusive right to broadcast or license to broadcast their respective events by commercial television, cable television, radio, Internet streaming audio and/or video or otherwise.
12. **Concessions.**
  - a. The concession area shall be designed to provide one area for use by Belmont during Belmont Events and another area for use by other users during Community Events. Belmont and each user will be responsible for and bear the sole expense of installation, maintenance, repair and replacement of all furnishings, fixtures and equipment used by that party to operate and sell concessions in their respective areas. On or before the Completion Date and following the installation of all such equipment, machinery, fixtures and facilities, Belmont shall prepare an inventory list of all such items provided by Belmont. The parties shall supplement the inventory list following installation by Belmont of any such items thereafter during the Term. All such items shall remain the property of Belmont. On the termination or expiration of this Agreement, Metro will allow Belmont to remove all such items if this can be accomplished without any damage or injury to the Improvements.
  - b. Belmont shall be entitled to engage one or more qualified and reputable sub-concessionaires to assist Belmont in providing concessions during Belmont Events. If Belmont engages any such sub-concessionaires, Belmont shall be and remain fully responsible for the operation and provision of concessions during Belmont Events to the same extent as if Belmont provided concessions directly without the use of the sub-concessionaire.
  - c. Belmont shall apply for and take any necessary steps to procure and maintain all licenses and permits required for its operation and sale of concessions during Belmont Events. Belmont shall operate and maintain its portion of the concessions area, equipment, machinery, fixtures and facilities in a neat, clean, sanitary and safe condition.
  - d. Metro shall insure that all users take any necessary steps to procure and maintain all licenses and permits required for their respective operation and sale of concessions. Metro shall further insure that all users operate and maintain their portion of the concessions area, equipment, machinery, fixtures and facilities in a neat, clean, sanitary and safe condition.
13. **Sponsorships, Advertising and Signage.**
  - a. In addition to the rights provided under Section 14 below, Belmont shall have

the exclusive right to sell, erect, and display game day signs on the interior of the fences surrounding the Sports Fields and in all other portions of the interior of the Sports Fields. Such signs shall only be displayed on game days of Belmont Events. The method of erection of advertising signs and devices and general location within the Sports Fields shall be included as part of the construction plans and specifications that shall be approved by Metro. Any changes to such specifications shall require subsequent Metro approval.

- b. Belmont shall bear all expenses associated with advertising sold and displayed by or on behalf of Belmont including, without limitation, the cost of erection, maintenance, repair and replacement of all advertising signs and devices.
  - c. Belmont shall have the exclusive right to sell all program and publication advertising associated with Belmont Events.
  - d. Belmont shall receive all revenue from game day advertising and other promotional media of every nature, including team logos, signage and printed materials from third parties.
- 14. Scoreboards.** Belmont shall, at Belmont's expense, install, maintain, repair, and replace as necessary, one or more electronic scoreboards acceptable to the Parties and in accordance with the construction plans and specifications. Belmont shall have the exclusive right to sell and retain the revenues from advertising on the scoreboard(s). Belmont shall operate the scoreboard(s) for all Belmont Events. Metro shall operate the scoreboard(s) during Community Events. Belmont and Metro shall use trained scoreboard operators. During normal business hours and at mutually agreeable times, Belmont shall provide training, at no cost to Metro, to the person(s) using and operating the scoreboard(s) on behalf of Metro. If Belmont is not in default under this Agreement on the termination or expiration of this Agreement, Belmont may remove the scoreboard(s) furnished by Belmont if this can be accomplished without any material damage or injury to the Improvements, or if Belmont agrees to promptly repair any damage or injury to the Improvements caused by the removal of the scoreboard.
- 15. Lights and Noise.** Belmont shall use high quality outdoor lighting technology that will minimize light pollution and spillage onto adjacent properties. All nighttime Belmont Events will begin in time to be completed and the lights turned off by 10:30 P.M. In rare instances in which Belmont Event goes into overtime, extra innings, etc., lights may remain on until Belmont Event is complete. Belmont and Metro will comply with all applicable laws pertaining to limits of sound amplification during all of their activities on the Property. In addition, all sound amplification on the Property shall be turned off at 10:00 P.M. All outdoor lighting shall be approved by Metro and constructed and oriented in a way as to minimize its impact on the adjacent properties.
- 16. Security.** Belmont agrees to provide, at Belmont's expense, such security personnel and traffic control both on and near the Property and inside the Sports Fields during

Belmont Events as is customary for such events and as necessary to reasonably maintain order and protect the Improvements and the safety of players, officials, and spectators. Should Belmont fail to provide security personnel that are in Metro's reasonable judgment adequate to meet the security needs of Belmont Events, Metro shall have the right but not the obligation to supplement Belmont's security personnel at Belmont's sole expense. Metro shall be responsible for security for all Community Events. To ensure the safety of pedestrians and minimize traffic and parking concerns, Belmont will make all improvements required by the August 1, 2007 traffic study and the addendum to the traffic study presented on August 14, 2007. In addition, periodic traffic monitoring will occur during the 07-08 academic year, paid for by Belmont and any additional recommendations will be implemented by Belmont if required by Metro. Ongoing traffic and parking monitoring may be required by the Parks board resulting from the annual monitoring report. If such monitoring is required, consultants will be paid by Belmont.

**17. Repairs, Maintenance and Utilities.**

- a. At all times during the term of this Agreement, and at its sole cost and expense, Belmont shall repair damage to Improvements caused by weather, vandalism, ordinary wear and tear, or malfunction of structures and equipment. Notwithstanding the foregoing, in the event of damage occurring during or in connection with a Community Event sponsored by a party other than Metro, Metro shall remit any damage or repair funds obtained from the third party to Belmont for the purpose of reimbursing Belmont for the cost and expense of repairing such damage and, to the extent Metro does not obtain such funds, shall permit Belmont to seek recovery from the third party for such funds as a third party beneficiary of Metro's right to seek such recovery.
- b. Belmont shall bear the cost of all utilities ("Utilities"), including without limitation, water, electricity and natural gas, consumed in connection with use or maintenance of the Improvements except those Utilities consumed during Community Events. The parties shall jointly read the meters measuring consumption of Utilities before and after Community Events for purposes of compliance with this paragraph.
- c. Otherwise, each party shall be responsible for maintenance, cleaning and upkeep necessary to keep the Improvements in good order, repair and condition fully suitable for Belmont Events and Community Events. Such maintenance, cleaning and upkeep shall include but not be limited to provision of janitorial and housekeeping services and supplies necessary to keep and maintain the Improvements in a clean, sanitary and safe condition. Belmont shall have such obligation during its respective sports' competitive seasons. Metro shall have such obligation outside Belmont's respective sports' competitive seasons. In its sole discretion, Belmont has the right to assume these obligations prior to its respective sports' competitive seasons in order to insure that Improvements will meet NCAA Requirements when the seasons begin, but shall not without Metro's written permission displace ongoing Community Events. Nothing

herein shall be construed to require Metro to maintain the Improvements to any higher standard than applies to any other Metro facility.

- 18. Event of Default.** It shall constitute an Event of Default under this Agreement if either party shall fail to observe or perform one or more of the provisions of this Agreement or any representation set forth in this Agreement, and such failure or misrepresentation shall continue for a period of thirty (30) calendar days after written notice by a party to the defaulting party specifying such failure (unless such failure or misrepresentation requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such thirty-day period, in which case no Event of Default shall be deemed to exist as long as the defaulting party shall have commenced curing the same within such thirty-day period and shall diligently prosecute the same to completion).
- 19. Termination of Agreement in Event of Default.** If an Event of Default shall occur, the non-defaulting party at any time thereafter, at its option, may give written notice to defaulting party stating that this Agreement shall expire and terminate on the date specified in such notice, which date shall be not less than thirty (30) calendar days after the giving of such notice with respect to any Event of Default. Thereafter, if the default is uncured, this Agreement and all rights of the defaulting party under this Agreement shall expire and terminate on the date specified in the notice as if that date were the date definitely fixed in this Agreement for the expiration of the Term; provided that upon any such termination by Belmont in connection with a default by Metro, the Termination Payment contemplated in Section 4 above shall be paid to Belmont in accordance with its terms. Metro shall not be liable to pay a Termination Payment if this Agreement is terminated by Metro in connection with a default by Belmont.

**19.a. Annual Monitoring**

Metro Parks shall prepare an annual contract monitoring report to provide to the Parks Board, the Parks committee of the Metro Council and provide to the District Council members from District 17, 18, and 19 by August 1<sup>st</sup> of each year of the contract. The monitoring report shall provide information on the (1) construction and upgrades to the park;

(2) park usage by scheduled parties; schools, Easley Center, and community; (3)

maintenance expenditures and activities by Belmont and Metro to the park;

(4) lease payments and their usage by school PTOs and Metro Parks;

(5) Belmont community scholarship awards;

(6) parking and traffic usage, including monitoring data during the academic school year and during Belmont and other activities by scheduled users;

(7) security efforts expended by Belmont during activities and crime data and incident report summaries of the park;

(8) utility payments by Belmont and Metro ;

(9) use of minority and women-owned businesses in the initial construction of park upgrades;

(10) general compliance with terms of lease by both parties, not outlined in the

items 1-8 of this subsection. Metro Parks shall consult with the Belmont Neighborhood Advisory Committee and District Councilmembers from Districts 17, 18, and 19, or any future district numbers or boundaries that encompass these same districts adjacent to Belmont and Rose Park to obtain community feedback on the park arrangement and include such comments or recommendations in the annual report. The purpose of the annual report is to:

- Provide an ongoing monitoring of the contractual arrangement with Metro and Belmont;
- Ensure that if issues arise related to park usage that they can be adjusted during the 40 years of the contract based on objective data;
- Provide elected officials and the community information on the arrangement.

- 20. Alternate Remedies.** In the event of any Event of Default or threatened breach of any of the provisions of this Agreement, the non-breaching party shall be entitled to enjoin such Event of Default or threatened breach and shall have the right to invoke any rights and remedies allowed at law or in equity (including specific performance) or by statute or otherwise.
- 21. Rights and Remedies are Cumulative.** Each right and remedy of Metro and Belmont provided for in this Agreement shall be cumulative and not exclusive and shall be in addition to every other right or remedy provided for in this Agreement or now or hereafter existing at law or in equity (including specific performance) or by statute or otherwise. The exercise or beginning of the exercise by Metro or Belmont of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Metro or Belmont of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise.
- 22. Alterations and Improvements.** Following Completion Date, Belmont may make repairs to Improvements that restore Improvements to original redeveloped condition or to meet NCAA Requirements without prior approval of Metro. Any other alteration or improvement valued at more than \$5,000 is subject to the prior written approval of Metro. Improvement in seating to the baseball field is limited to no more than 750 seats. If seats beyond 750 are desired Belmont must obtain approval from the Metro Board of Zoning Appeals and Metro Parks Board.
- 23. Insurance.** During the entire Term of this Agreement, Belmont shall provide and keep in force a policy of insurance covering builders risk and property damage at the full replacement value of the Improvements. Metro shall be named as an additional insured on the policy, which shall be issued by a corporation licensed to do business in Tennessee, financially sound and generally recognized, selected by Belmont and with the approval of Metro, not to be unreasonably withheld. Further, Belmont shall, throughout the Term of the Agreement maintain policies of insurance, naming Metro as an additional insured, for general liability, premises and operations liability, and automobile liability, each providing coverage for both bodily injury and property damage with a limit not less than \$2,000,000 per person.

24. **Indemnity.** Belmont shall protect, indemnify and hold harmless Metro and its directors, employees, agents, and representatives from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, and will defend such parties in any suit, including appeals, for personal injury to, or death of, any person, loss or damage to property or violation of any law, ordinance, statute or rule, arising out of the negligence or fault of Belmont or any of its officers, members, employees, agents, students or representatives in connection with its obligations, rights or performance under this Agreement or failure to comply with any applicable law, statute, ordinance, rule or regulation, including, without limitation, the Americans with Disabilities Act.
25. **Casualty Loss.** If the Improvements shall be partially or totally damaged or destroyed by fire or other casualty, Belmont, at Belmont's expense, shall repair the damage out of the proceeds of insurance provided pursuant to Section 23.
26. **Condemnation.** If all or any portion of the Improvements are taken by right of eminent domain and taking renders the Improvements unfit or unusable for Belmont Events, then this Agreement shall terminate and expire on the date of such taking. In addition, Belmont shall share in pro rata portion of any award granted with respect to such taking or shall have the independent right to make a claim. For purposes of this section, the "date of taking" means the date title to the Improvement or the material portion taken is permanently vested in the governmental entity.
27. **Assignment and Delegation.** Neither party may assign its rights or delegate its obligations under the Agreement in whole or in part without the prior written consent of the other. Any such sale, assignment or conveyance shall be subject to this license and other rights of Belmont provided in this Agreement
28. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and the permitted successors and assigns of the parties. The covenants and restrictions in this Agreement shall constitute covenants which run with the land and, without action or instrument, shall be binding upon successor owner(s) of the Property and or Improvements.
29. **Cooperative Efforts.** This Agreement shall be liberally construed in order to promote a harmonious relationship among the Parties with regard to the construction, occupancy and use of the Improvements. Belmont accepts the relationship of trust and confidence established between Metro and Belmont by this Agreement. Belmont covenants with Metro to furnish its best skill and judgment and to fully and effectively cooperate with Metro to accomplish the purposes and objectives of this Agreement. If a problem arises that this Agreement does not directly or indirectly address, Metro and Belmont agree to work with one another to determine a mutually satisfactory solution. Metro and Belmont agree to meet from time to time during the Term upon written request of either party to review the provisions of this Agreement.

- 30. Relationship of Parties.** Nothing in this Agreement is intended or shall be interpreted to create a joint venture or partnership between Metro and Belmont or make Metro the partner of Belmont or constitute either the agent of the other, or make either party in any way responsible for the debts, losses, duties, obligations, responsibilities or liabilities of the other party. Without limiting the generality of the foregoing, Metro and Belmont agree that in respect to use and occupancy of the Property by Belmont, the operation of concessions, and all other activities and services of Belmont pursuant to this Agreement, Belmont shall be acting as a lessee and independent contractor on Metro's behalf. Belmont agrees that it will not represent to anyone that its relationship to Metro under this Agreement is other than as a lessee and independent contractor.

30 a. In order to establish more relationship with the community and Belmont University, during the length of this contract Belmont will provide annually 8 full tuition scholarships and 2 half tuition scholarships to members of the community that meet at least the minimum academic and financial need requirements of Belmont University. Council members from the 17<sup>th</sup> and 19<sup>th</sup> district or any future district numbers or boundaries that encompass these same districts adjacent to Belmont and Rose Park will each appoint three members to the existing Belmont Advisory Committee. This committee will establish the boundaries for the scholarship recipients.

- 31. Notices.** All notices and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by Federal Express (or by courier service); or (b) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses, and addressed to the attention of the person designated below (or to such other address or person as a party to this Agreement may designate by notice to the other parties):

Belmont University  
Attention: President  
1900 Belmont Blvd.  
Nashville, TN 37212

*With a copy to:*

Vice President  
Office of Administration and University Counsel  
1900 Belmont Blvd.  
Nashville, TN 37212

Director, Metropolitan Department of Parks and Recreation  
Centennial Park Office  
Park Plaza at Oman Street  
Nashville, TN 37201

Director, Metropolitan Department of Law  
108 Metropolitan Courthouse  
Nashville, TN 37201

32. **No Waiver.** Neither any failure nor any delay by any party in exercising any right, power or privilege under this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of the same.
33. **Choice of Law.** The Agreement shall be construed and enforced in accordance with the laws of the State of Tennessee. Any action arising from this Agreement shall be brought in the Circuit or Chancery Courts of Davidson County, Tennessee.
34. **Captions.** The captions appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of any sections.
35. **Integration; Amendment.** This Agreement is fully integrated and sets forth all of the understandings of the parties. The Agreement shall not be modified or amended except by an instrument in writing signed by the parties hereto.
36. **Grant of Easements.** Metro shall grant for the benefit of Belmont and the community such utility easements and temporary construction easements as reasonably necessary to construct and utilize the Improvements or for any subsequent alterations or capital improvements approved by Metro.
37. **Defined Terms.** Capitalized terms used but undefined herein shall have the meaning given to such terms on Exhibit B.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**METROPOLITAN DEPARTMENT OF  
PARKS AND RECREATION**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved:

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Director, Department of Finance

Approved:

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Director of Public Property

Approved as to form and legality:

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Metropolitan Attorney

**BELMONT UNIVERSITY**

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Dr. Robert C. Fisher  
President  
Date: \_\_\_\_\_

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Steven T. Lasley  
Vice President of Finance and Operations  
Date: \_\_\_\_\_

**EXHIBIT A**

**PROPERTY DESCRIPTION**

**[see attached]**

## **EXHIBIT B**

### **DEFINITIONS**

“Belmont Contemplated Use” means all uses of the Property and Improvements by Belmont contemplated by or reasonably inferable from this Agreement (but subject to the limitations described in the Agreement), including, without limitation, the construction, maintenance, repair and alteration of the Improvements and Sports Fields, the Belmont Events, attendance by fans and students, ticket sales, concessions and sub-concessions, sponsorships, advertising, and signage, scoreboard usage, lighting and sound amplification, and security.

“NCAA Requirements” means all rules, regulations, policies and the like of the National Collegiate Athletic Association that govern, apply or are otherwise applicable to Belmont athletics, all as may change from time to time.