

LEASE AGREEMENT

THIS LEASE is entered into this 13th day of April, 2009, between THE CITY OF NORTH PORT, a municipality in the State of Florida, located at 4970 City Hall Boulevard, North Port, Florida 34286-4100 ("Lessor"), and Charlotte County Family YMCA, Inc. whose address is 1777 Tamiami Trail, Port Charlotte, Florida 33948("Lessee").

THE PARTIES AGREE AS FOLLOWS:

1. Premises. Lessor agrees to lease the following property ("Premises") to Lessee, further described in Exhibit A, attached hereto and incorporated herein.
2. Term. The first term of this lease shall be for five (5) years. After the first term this lease shall be automatically renewable from year to year. This lease shall be terminable by either party for any reason upon ninety (90) days written notice.
3. Building. Lessor shall move Lessee's building, at Lessor's cost to the Premises. Lessee shall be solely responsible for the all maintenance and landscaping of the building. The portable metal building, approximately 32 feet by 52 feet shall be placed on the property as described so as to meet all applicable building codes.
4. Use of Premises.
 - A. Use by Lessee. The Lessee shall not occupy or use the Premises, nor will it permit the same to be occupied or used, for any business or other purpose other than for child care services or other YMCA programs.
 - B. Use by Lessor. Lessor may use the Premises and Building placed on the Premises after 6 p.m. on weekdays or during weekends for scouting activities or City of North Port activities or functions as scheduled with the Lessee. Lessor shall be responsible for cleaning up any part of the Premises or building it uses.
 - C. No Rentals. Neither party may rent the Premises or building thereon to any third party.
 - D. Approval. All buildings to be constructed on the Premises must comply with all City ordinances and regulations.
 - E. Fixtures. Any buildings constructed by the Lessee shall be the property of the Lessee and shall be removed by the Lessee upon termination of this Lease.
 - F. Landscaping. The Lessee shall submit a plan for landscaping to the City for approval. The approved landscaping shall be maintained by the Lessee.
3. Restoration of Premises upon Termination. Within thirty (30) days of termination or expiration of the Lease, Lessee shall restore the Premises to its original condition, except for normal wear and tear, and shall remove any buildings, concrete slabs or other fixtures constructed by the Lessee, unless otherwise agreed in writing by the parties. All additions, fixtures, or improvements that the Lessee does not remove will become the Lessor's property at the termination of this Lease. All additions, fixtures, or

improvements must be approved by Lessor prior to installation. The Lessee will remove all personal and other property that belongs to the Lessee under this Lease and will repair all damages to the Premises caused by that removal.

4. Condition of Premises. The Lessee accepts the Premises in the condition they are in on the date this Lease commences or the Lessor grants occupancy, whichever occurs first. The Lessee shall comply promptly with all statutes, ordinances, rules, orders, regulations, and requirements of the federal, state, and city government applicable to the premises for the correction, prevention, and abatement of nuisances or any other grievances connected with the Premises during the rental term. Compliance under this paragraph is at the Lessee's own expense.
5. Utilities. The Lessee agrees to pay all charges for gas, electricity or other illumination, heating, air conditioning, cable, internet, utilities, water, and sewer attributed to the Premises.
6. Maintenance. Lessee shall be responsible for maintaining the Premises and any structural and mechanical components of the improvements constructed or placed thereon. Lessee shall, throughout the term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain the interior of the premises, including all buildings and improvements of every kind that may be a part of the premises, and all appurtenances to the premises, including sidewalks adjacent to the premises, in good, sanitary, and neat order and condition. In no event is Lessor responsible for cleaning the Premises, unless otherwise stated herein. Except as specifically provided in this Lease, Lessee shall restore and rehabilitate any improvements of any kind that may be destroyed or damaged by fire, casualty, or any other cause whatsoever.
7. Signs. The Lessee may not place in the windows or on the exterior of the building any signs or signage without prior written consent of the Lessor. The Lessor will not unreasonably withhold approval.
8. Liability. All personal property placed or moved in the Premises shall be at the risk of the Lessee or other owner of the personal property. The Lessor shall not be liable for any damage to personal property, from any casualty or cause, including but not limited to, the bursting or leaking of water pipes, fire, flood, acts of God, any person's act of negligence, including the negligence of the Lessor, and its agents, employees or assigns, or tortious behavior of any person, regardless of whether that person is an occupant of the building.

The Lessor shall not be liable for any personal injury or death that the Lessee or any other person may sustain that results from the carelessness, negligence, tortious behavior or improper conduct of any person, including the Lessor and agents or employees of the Lessor.
9. Damages and Repairs. On the Lessor's demand, the Lessee shall pay for all damages to appliances, electrical lights, fixtures, equipment, or appurtenances on the Premises or in the building that are caused by the act or neglect of the Lessee or any persons in the Lessee's employ or control.
10. Inspection. The Lessee shall permit a duly authorized representative of the Lessor to enter and inspect and/or to make or recommend such repairs to the said premises as the

Lessor may reasonably desire at all reasonable times, or to remove signs, fixtures, alterations, or additions that do not conform to this Lease.

11. Insurance. The Lessee shall maintain the following insurance coverage:
- (a) Comprehensive general public liability insurance on the Premises with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000 general aggregate per policy year protecting the Lessor as owner, and further agrees to annually, or on written request, supply the Lessor with a certificate of insurance showing said coverage to be in full force and effect and naming the Lessee as an additional insured. Lessee's liability insurance policy shall be the primary coverage on the Premises.
 - (b) If Lessee is required by law to obtain worker's compensation coverage, proof of insurance in the statutorily required amounts must be provided.

All certificates of insurance shall be provided to the City Clerk's Office of the City of North Port, together with a copy of this contract. The Lessee shall deliver to the Lessor proof of the fully paid policies within ten days of the Lessor's request. From time to time, the Lessee shall procure and pay for renewals of this insurance before it expires. The Lessee shall deliver to the Lessor the renewal policy at least ten days before the existing policy expires. All policies must be issued by companies of recognized responsibility licensed to do business in Florida and must contain a provision that prohibits cancellation unless the Lessor is given at least ten days' prior written notice of cancellation by the insurance company. The Lessor reserves the right to review, alter and amend the insurance requirements as needed on a yearly basis.

12. Destruction of Building. In the event that the building placed on the Premises is destroyed or damaged to the extent of being unfit for the intended use, the Lessee may either rebuild or repair the building, or terminate the lease, at Lessee's sole option. In the event of termination, Lessee shall have no further liability to Lessor.
13. Force Majeure. The Lessor shall not be liable or responsible to the Lessee by reason of the failure or inability of the Lessor to take any action it is required to take or to comply with the requirements imposed hereby due to a force majeure. The term "force majeure" shall mean acts of god, strikes, lock-outs, or other industrial disturbance; acts of public enemies, war, blockades, riots, acts of armed forces, militia or public authority, epidemics; breakdown of or damage to machinery, pumps or pipe lines; landslides, earthquakes, fires, storms, floods, or washouts; arrests, title disputes, or other litigation; governmental restraints of any nature whether federal, state, county, municipal or otherwise, civil or military; or by any other causes, whether or not of the same kind as enumerated herein, not within the sole control of the Lessor and which by exercise of due diligence the Lessor is unable to overcome.
14. No Liens. The Lessee shall not subject the Lessor's interest or estate to any liability under any mechanics' or other lien law. No provisions of this Lease may be construed as to imply that the Lessor has consented to the Lessee incurring such a lien. If any mechanics' lien, lis pendens, or other lien is filed against the Premises or the building for

any work, labor, services, or materials that a lienor claims to have performed or furnished for the Lessee or any person holding through or under the Lessee, the Lessee must cause that lien to be canceled and discharged of record within twenty days after the Lessor gives notice to the Lessee. If such a lien is filed, the Lessor may satisfy the lien after giving notice to the Lessee as provided in this paragraph and without limiting the Lessor's rights or remedies under this Lease. The Lessee shall promptly reimburse the Lessor for any amounts expended to satisfy the lien and for any expenses incurred in connection with that satisfaction. The Lessee has no right of setoff against the Lessor. The Lessee's failure to cancel and discharge of record any lien under this paragraph is a default by the Lessee under the provisions of this lease.

15. Assignment. The Lessee may not assign this Lease, nor sublet, license, or grant any concession for the use of the Premises, to another person without obtaining the Lessor's prior written consent.
16. No Consent to Suit. The provisions, terms and conditions of this Lease shall not be construed as the consent of the City of North Port to be sued because of said leasehold.
17. Default. If the Lessee defaults in the performance of any covenant or condition of this Lease, the Lessor may give the Lessee notice of that default. If the Lessee fails to cure a default ten days after notice is given, the Lessor may terminate this Lease. If the default is of such a nature that it cannot be completely cured within ten days, the Lessor may terminate this Lease only if the Lessee fails to proceed with reasonable diligence and in good faith to cure the default. On the date specified in the notice, the term of this Lease will end, and the Lessee will quit and surrender the Premises to the Lessor, except that the Lessee will remain liable as provided under this Lease. On termination of the Lease, the Lessor may reenter the Premises without notice and by force or otherwise to dispossess the Lessee, any legal representative of the Lessee, or any other occupant of the Premises. The Lessor may retake possession through summary proceedings or otherwise, and the Lessor will then hold the Premises as if this Lease had not been made. The Lessee waives the requirement that the Lessor serve any notice of intention to reenter or to institute legal proceedings for repossessing the Premises.
18. Insolvency. If the Lessee becomes insolvent or if bankruptcy proceedings are begun by or against the Lessee before the end of the Lease term, the Lessor may immediately cancel this Lease as if the Lessee had defaulted. Without affecting the Lessor's rights under this Lease, the Lessor may accept rent from a receiver, trustee, or other judicial officer who holds the property in a fiduciary capacity. No receiver, trustee, or other judicial officer is entitled to receive any right, title, or interest in or to the Premises under this paragraph.
19. Lessor's Remedies. The Lessor's remedies contained in this Lease are in addition to the rights of the Lessor under Florida statutes governing nonresidential Lessor-Lessee relationships and to all other remedies available at law or in equity to the Lessor.
20. Binding Effect. This Lease binds the heirs, legal representatives, assigns, or successors of the Lessee and the Lessor.
21. Time is of the Essence. Time is of the essence in this Lease, and this paragraph applies to all terms and conditions of this Lease.

22. Notice. The Lessee shall deliver all notices under this Lease to the Lessor by certified mail at the following address:

City Manager
City of North Port
4970 City Hall Boulevard
North Port, FL 34286-4100

The Lessor shall deliver all notices under this Lease to the Lessee at the following address:

Charlotte County Family YMCA, Inc.
1777 Tamiami Trail
Port Charlotte, Florida 33948

From time to time, either party may designate in writing another person or entity and another address for receipt of such items. Any notice under this Lease is deemed to be given at the time it is received as set forth in this paragraph, or if not accepted, at the time it is mailed.

23. Cumulative Rights. The Lessor's rights under this Lease are cumulative, and the Lessor's failure to exercise promptly any rights given under this Lease does not operate to forfeit any of these rights.

24. Indemnity. The Lessee shall be fully liable for the actions of its directors, officers, members, partners, or subcontractors, and the employees and agents of each of them, and shall fully indemnify and hold harmless Lessor, its commissioners, officers, employees, agents, volunteers and assigns from claims, suits, actions, damages, and costs of every type and description, including attorneys' fees (at both trial and appellate levels), arising from or relating to personal injury or death, and damage to real property, or tangible personal property, caused in whole or in part by the Lessee, its officers, directors, members, partners, or subcontractors, and employees or agents of any of them; provided, however, that the Lessee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Lessor.

The Lessee shall fully indemnify and hold harmless the Lessor, its commissioners, officers, employees, agents, volunteers and assigns from any claims, suits, actions, damages, and costs of every type and description, including attorneys' fees (at both trial and appellate level), arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right made by third parties for any alleged violations by Lessee, its agents, employees or assigns.

In the event of a claim, the Lessor shall promptly notify the Lessee in writing by prepaid certified mail (return receipt requested), or by delivery through any nationally recognized courier service (such as Federal Express or UPS) which provides evidence of delivery, at the notice address provided in Section 23.

Such notification may also be provided by fax transmission to the following fax number:

941-429-7135 Attention: North Port Risk Management.

The Lessor shall provide all available information and assistance that the Lessee may reasonably require regarding any claim.

The Lessor may, in addition to other remedies available to it at law or equity, and upon written notice to the Lessee, retain such monies from amounts due the Lessee as may be deemed by the Lessor to be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it. The Lessor may set off any liability or other obligation of the Lessee or its affiliates to the Lessor against any payments due the Lessee under any contract with the Lessor.

This agreement for indemnification shall continue in force for five (5) years from the date of termination of the Lease.

25. Severable. The provisions of this Lease are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable by a court of competent jurisdiction, in whole or in part, the remaining provisions, and any partially unenforceable provisions to the extent enforceable, shall nevertheless be binding and enforceable.
26. Waiver. The Lessor's or Lessee's express or implied consent, approval, or waiver with regard to any breach of any covenant, agreement, or obligation under this Lease is considered to cover only that particular breach. It will not be construed to apply to any other breach, whether of the same or of any other covenant, agreement, or obligation under this Lease, unless the waiver or consent is written, so states, and is signed by the party making it.
27. Governing Law; Venue; Construction. This Lease is governed by, and will be construed in accordance with the laws of the State of Florida. If any Lease provision, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Lease, or the application of that provision, will not be affected. Rather, this Lease is to be enforced to the extent permitted by law. The table of contents, captions, headings, and titles of this Lease are solely for convenience of reference and are not to affect its interpretation. Each covenant, agreement, obligation, or other provision of this Lease is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Lease unless otherwise expressly provided. All terms and words used in this Lease, regardless of the number or gender in which they are used, are deemed to include any other number and any other gender as the context requires.
28. Entire Agreement; Modification. This Lease constitutes the entire agreement between Lessor and Lessee. Any modification of or additions to the terms of this Lease must be in writing and executed by Lessor and Lessee in order to be effective.

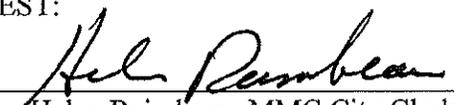
IN WITNESS WHEREOF, the parties have duly executed this Lease on the date above written.

CITY OF NORTH PORT

By: 

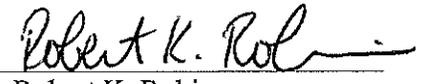
Commission Chair

ATTEST:

By: 

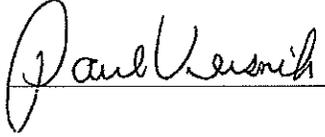
Helen Raimbeau, MMC City Clerk

Approved as to form and correctness:

By: 

Robert K. Robinson,
City Attorney

Charlotte County Family YMCA, INC.

By: 

ATTACHMENT "A"

"GRID"

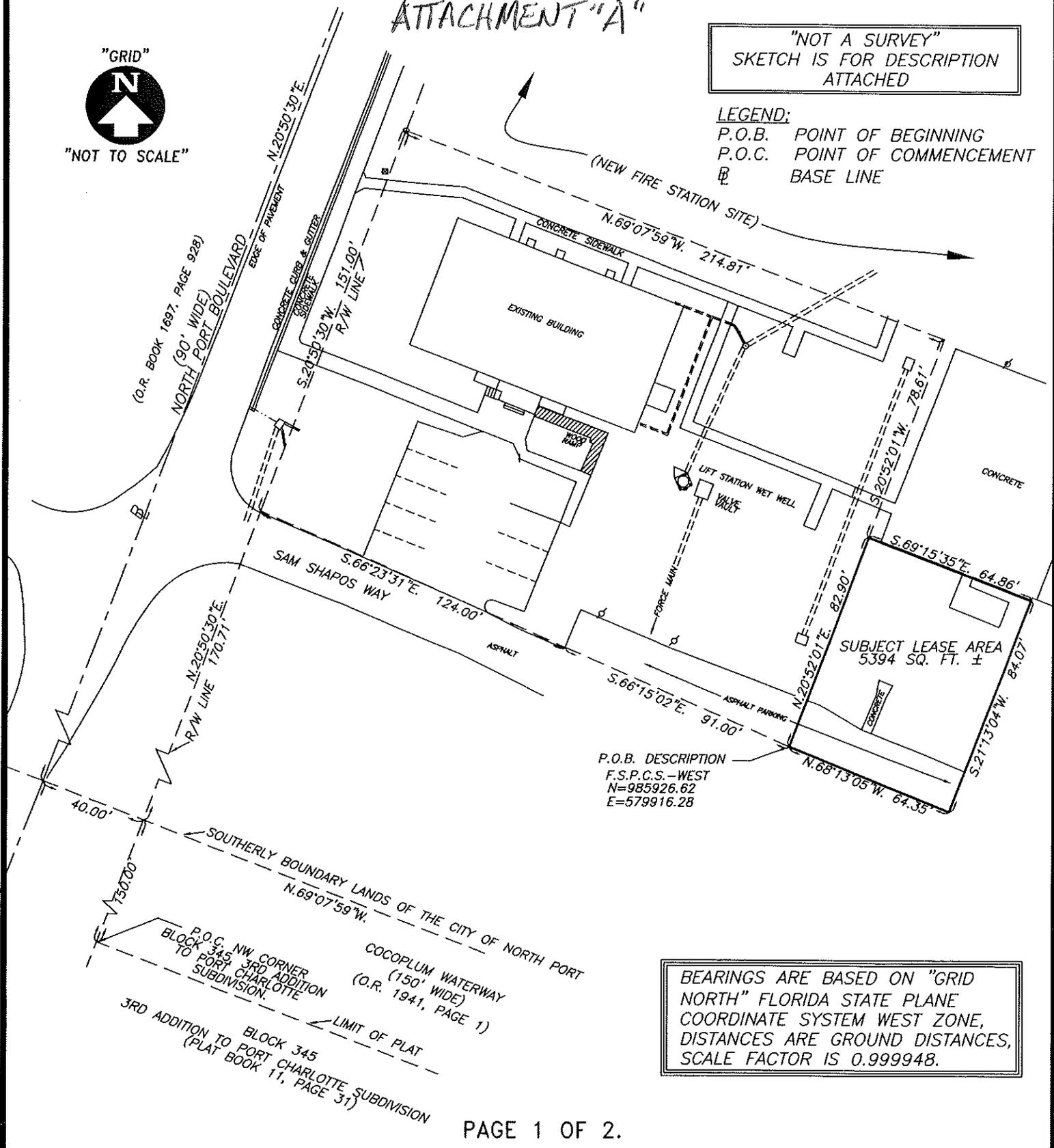


"NOT TO SCALE"

"NOT A SURVEY"
SKETCH IS FOR DESCRIPTION
ATTACHED

LEGEND:

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- B BASE LINE



P.O.B. DESCRIPTION
F.S.P.C.S. - WEST
N=985926.62
E=579916.28

BEARINGS ARE BASED ON "GRID NORTH" FLORIDA STATE PLANE COORDINATE SYSTEM WEST ZONE, DISTANCES ARE GROUND DISTANCES, SCALE FACTOR IS 0.999948.

REVISIONS:

FOR: CITY OF NORTH PORT, FLORIDA

SKETCH AND DESCRIPTION OF A PORTION OF SECTION 32, TOWNSHIP 39 SOUTH RANGE 21 EAST CITY OF NORTH PORT SARASOTA COUNTY, FLORIDA

Van Buskirk/Fish & Associates, Inc.
SURVEYORS · MAPPERS · DEVELOPMENT CONSULTANTS

VBF

12450 Unit C Tamiami Trail · North Port, FL 34287 · (941) 426-0681

DWN.: AKF	DATE: 3-4-2009
CHK'D.:	DATE:
FIELD BOOK:	PAGE:
PROJECT NO.:	09-0032

DESCRIPTION OF SUBJECT LEASE BOUNDARY AREA:

A PORTION OF SECTION 32, TOWNSHIP 39 SOUTH, RANGE 21 EAST, SARASOTA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF BLOCK 345, THIRD ADDITION TO PORT CHARLOTTE SUBDIVISION, PER PLAT THEREOF, RECORDED IN PLAT BOOK 11, PAGES 31 AND 31A THROUGH 31D, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE N.20°50'30"E., (GRID BEARING FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE), A DISTANCE OF 150.00 FEET TO THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF THE COCOPLUM WATERWAY (O.R. 1941, PAGE 1, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA) WITH THE EASTERLY LINE OF NORTH PORT BLVD. (O.R. 1697, PAGE 928, PUBLIC RECORDS OF SAID SARASOTA COUNTY, FLORIDA); THENCE CONTINUE N.20°50'30"E. ALONG SAID EASTERLY LINE OF NORTH PORT BLVD., A DISTANCE OF 170.71 FEET; THENCE S.66°23'31"E., A DISTANCE OF 124.00 FEET; THENCE S.66°15'02"E., A DISTANCE OF 91.00 FEET TO THE "POINT OF BEGINNING" AT FLORIDA STATE PLANE COORDINATES, WEST ZONE, N.= 985926.62 FEET AND E.= 579916.28 FEET; THENCE N.20°52'01"E., A DISTANCE OF 82.90 FEET; THENCE S.69°15'35"E., A DISTANCE OF 64.86 FEET; THENCE S.21°13'04"W., A DISTANCE OF 84.07 FEET; THENCE N.68°13'05"W., A DISTANCE OF 64.35 FEET TO THE POINT OF BEGINNING.

CERTIFICATE

I, hereby certify that this Sketch and the Description contained herein were prepared under my supervision in conformance with Chapter 61G17-6, F.A.C. pursuant to Section 472.027, F.S.

Van Buskirk / Fish & Associates, Inc., LB#3739

By: 
 Alan K. Fish, P.S.M.
 Registered Professional Surveyor & Mapper
 Florida Certificate No. 3941

Date Prepared: MARCH 4th, 2009

"Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper." Additions or deletions to Survey maps or reports by other than the signing party is prohibited; (Chapter 61G17-6.003, (2), (e), F.A.C.

PAGE 2 OF 2.

REVISIONS:

FOR: CITY OF NORTH PORT, FLORIDA

SKETCH AND DESCRIPTION OF A PORTION OF SECTION 32, TOWNSHIP 39 SOUTH RANGE 21 EAST CITY OF NORTH PORT SARASOTA COUNTY, FLORIDA

Van Buskirk/Fish & Associates, Inc.
SURVEYORS - MAPPERS -
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