

FACILITIES MANAGEMENT AGREEMENT

This Agreement is between the Charlotte County Family Young Men's Christian Association, Incorporated, a not-for-profit corporation recognized by the State of Florida, hereinafter referred to as the "YMCA" the City of North Port, Florida, a political subdivision of the State of Florida, herein after referred to as "NORTH PORT", and Sarasota County, Florida, a political subdivision of the State of Florida, herein after referred to as "COUNTY".

WITNESSETH:

WHEREAS, the YMCA, COUNTY and NORTH PORT ("Parties") are mutually interested and concerned with providing and making available recreation programs, activities and facilities for the use and benefit of the citizens of the City of North Port, Florida ("NORTH PORT") area; and

WHEREAS, the COUNTY has, since September 7, 1993, managed and operated recreational programs in North Port; and

WHEREAS, the COUNTY and NORTH PORT have entered into an Interlocal Agreement (Contract No. 2006-346) regarding parks and recreation service; and

WHEREAS, the Parties feel it is mutually beneficial and in the best interests of the North Port citizens for the YMCA to continue management and operations of the North Port Pool, ("Pool") located at 5925 Greenwood Avenue, North Port, Florida; and

WHEREAS, the YMCA is desirous and capable of managing the Pool.

NOW, THEREFORE, the YMCA, COUNTY and NORTH PORT do mutually covenant and agree as follows:

1. Responsibilities – North Port Pool (to include restrooms, pump house, pool):
 - A. The YMCA shall operate and manage the Pool in order to offer exercise and recreational activities to the public.
 - B. The YMCA shall provide supervision of the Pool by qualified and adequate staff, including lifeguards.
 - C. The YMCA shall collect and retain all membership and usage fees as published.
 - D. The YMCA shall honor all existing user groups, including current schedules, fees, priorities, and space allotments, information which shall be provided to the YMCA by the COUNTY.
 - E. The YMCA shall maintain the Pool, pool pumps, filters, heaters and all associated equipment and furnishings.

- F. NORTH PORT shall be responsible for capital improvement repairs and replacements over \$5,000.
- G. The YMCA shall abide by and adhere to all City, County and State Ordinances, rules and regulations, promulgated by the COUNTY and NORTH PORT, for the safety, appearance, care, cleanliness, and use of the Pool and the preservation of good order therein.
- H. The YMCA shall be responsible for all chemical treatments and shall provide all necessary chemicals.
- I. The YMCA shall maintain, per Section 7, minimum insurance requirements relative to commercial general liability on the Pool, naming the COUNTY and NORTH PORT as additional insured.
- J. The YMCA shall provide and train all necessary personnel and associated personnel.
- K. The YMCA shall be responsible for all associated utility bills, including trash pick up, recycling, water and sewer.
- L. The YMCA shall be responsible for all routine housekeeping and maintenance supplies, including replacement pool filters.
- M. The COUNTY, YMCA and NORTH PORT shall equally split costs associated with the repair/replacement of the pool deck and associated plumbing at an amount not to exceed \$30,000 for each party. NORTH PORT shall pay for the pool deck and associated plumbing costs in full upon completion and the COUNTY and YMCA will reimburse NORTH PORT within sixty (60) days of receipt. The COUNTY shall not be responsible for any future capital improvements at the Pool.
- N. The YMCA shall convey to NORTH PORT any improvements to the Pool upon termination of this Agreement.

2. Compensation

The COUNTY shall provide the YMCA with an amount of \$150,000 annually, paid on a monthly basis, to defray operational costs of the Pool. If the Agreement is terminated before the end of a given month, the YMCA shall be eligible for the monthly fee on a pro-rated basis.

The COUNTY's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Board of County Commissioners.

3. Term

The COUNTY and NORTH PORT shall permit the YMCA to manage the Pool as defined above for a period of five (5) years beginning October 1, 2010 and ending September 30, 2015. This agreement shall automatically renew for an additional five (5) years unless terminated as defined in Section 5.

4. Termination

The COUNTY and the YMCA reserve the right to terminate this Agreement at any time with one hundred eighty (180) days written notice to all parties.

NORTH PORT shall reserve the right to terminate this Agreement for just cause as deemed necessary with thirty (30) day written notice.

YMCA shall reserve the right to terminate this Agreement with thirty (30) days written notice to COUNTY and NORTH PORT if annual compensation is not appropriated or is reduced by the Board of County Commissioners.

5. Inspections

Quarterly site inspections shall be conducted jointly by appropriate YMCA, COUNTY and NORTH PORT staff to insure accordance with the terms of this agreement.

6. Reporting requirements

On or before February 1st of each year, the YMCA shall furnish an annual report from the previous fiscal year to the COUNTY's and NORTH PORT's administrative agent. Said Annual Report shall include, at a minimum, a financial Statement, showing separate annual memberships, revenue and expense reports to operate the Pool. The Pool report shall include an activity report which includes classes, open swim, lap swim and outside group usage. Such report described above shall be for the calendar year (January 1st - December 30th).

All copies of Health Department inspection notices shall be provided to the COUNTY and NORTH PORT within thirty (30) days of receipt.

7. Insurance

The YMCA shall abide by the insurance requirements as indicated in Exhibit A, Insurance Requirements, attached hereto and incorporated herein. The COUNTY AND NORTH PORT are self-insured for all liability claims and related expenses pursuant to the provisions of Florida Statue section 768.28. The COUNTY and NORTH PORT will be protected under the provisions of Florida Statute section 768.28.

8. Indemnification

The YMCA shall pay on behalf of or indemnify and hold harmless the Sarasota County Government and North Port from and against any and all claims, actions, damages, fees, fines, penalties, defense costs (including attorneys' fees and court

costs, whether such fees and costs are incurred in negotiations, collection of attorneys fees or at the trial level or on appeal), suits or liabilities which may arise out of an actual or alleged negligent act, error, omission, or any default of the YMCA (or YMCA'S Officers, Employees, Agents, Volunteers and Sub-contractors, if any) performance or failure to perform under the terms of this contract. This indemnification and hold harmless agreement shall survive the termination or expiration of this agreement.

9. Notices

For the YMCA:

Charlotte County Family YMCA, Inc.
Administrative Agent: Paul Versnik, President/CEO
Address: 1777 Tamiami Trail
Suite 407
Port Charlotte, FL. 33948
Telephone: (941) 629-0909

For the COUNTY:

Sarasota County Parks and Recreation
Administrative Agent: General Manager
Address: 1660 Ringling Blvd, 5th Floor
Sarasota, FL. 34236
Telephone: (941) 861-5483

For NORTH PORT:

Department of General Services
Administrative Agent: Director
Address: 4970 City Hall Blvd
North Port, FL 34286
Telephone: (941) 429-7002

END OF AGREEMENT, SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, this Agreement providing for the operation of the North Port Pool, has been executed in duplicate, by respective parties hereto.

CHARLOTTE COUNTY FAMILY YOUNG
MEN'S CHRISTIAN ASSOCIATION,
INCORPORATED

WITNESS:

Paul Vernal

By: *[Signature]*

Chair

Date: 9/8/10

ATTEST:

KAREN E. RUSHING, Clerk of the
Circuit Court and Ex-Officio Clerk
of the Board of County Commissioners
of Sarasota County, Florida

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: *[Signature]*

Deputy Clerk

By: *[Signature]*

Chair, Joseph Barbetta

Date: 9/14/10

Approved as to Form and Correctness:

By: *[Signature]*

County Attorney TRW

ATTEST:

HELEN RAIMBEAU, MMC., City Clerk
City of North Port, Florida

CITY OF NORTH PORT, FLORIDA

By: *[Signature]*

Chair, David J. Garofalo, Sr.

Date: September 27, 2010

Approved as to Form and Correctness:

By: *[Signature]*

City Attorney, Robert K. Robinson

EXHIBIT A – INSURANCE REQUIREMENTS

Before performing any contract work, YMCA shall procure and maintain, during the life of the contract, unless otherwise specified, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the COUNTY AND NORTH PORT and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best Company rating of no less than "A- Excellent: FSC VII." No changes are to be made to these specifications without prior written specific approval by COUNTY and NORTH PORT Risk Management.

1. **WORKERS' COMPENSATION:** YMCA will provide Workers' Compensation insurance on behalf of all employees who are to provide a service under this contract, as required by the laws of the state where the contractor is domiciled. YMCA must provide evidence of Workers' Compensation insurance which meets the requirements of Florida Statutes, Chapter 440, AND Employer's Liability with limits of not less than \$100,000 per employee per accident, \$500,000 disease aggregate, and \$100,000 per employee per disease. If applicable, coverage for the Jones Act and Longshore Harbor Workers Exposures must also be included. ****NOTE**** Contractors who are exempt from Florida's Workers' Compensation law must provide proof of such exemption issued by the Florida Department of Financial Services, Bureau of Workers' Compensation and qualify for the County waiver.

In the event the YMCA has "leased" employees, the YMCA or the employee leasing company must provide evidence of a Workers' Compensation policy for all personnel on the worksite. All documentation must be provided to Sarasota County Risk Management, 1660 Ringling Blvd., 3rd Floor, Sarasota, FL 34236 and North Port Risk Management, 4970 City Hall Boulevard, North Port, FL 34286.

2. **COMMERCIAL GENERAL LIABILITY:** Including but not limited to bodily injury, property damage, contractual, products and completed operations, watercraft, if under twenty-six (26) feet and Ocean Marine if over, and personal injury with limits of not less than \$1,000,000 each occurrence, covering all work performed under this contract.
3. **BUSINESS AUTOMOBILE LIABILITY:** YMCA agrees to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 each accident covering all work performed under this contract.

YMCA further agrees coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event YMCA does not own automobiles, YMCA agrees to maintain coverage for Hired & Non-Owned

Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. If private passenger automobiles are used in the business, they must be commercially insured.

If the YMCA is shipping a product via common carrier, the contractor shall be responsible for any loss or damage sustained in delivery/transit.

4. **UMBRELLA LIABILITY:** With limits of not less than \$2,000,000 each occurrence covering all work performed under this contract.

POLICY FORM

1. Unless specific approval is given, all policies required by this contract with the exception of Professional Liability and Workers Compensation are to be written on an occurrence basis. Commercial General Liability policies shall name Sarasota County and North Port as additional insureds as their interest may appear under this contract.
2. Insurance requirements itemized in this contract and required of the YMCA shall be provided on behalf of all sub-contractors to cover their operations performed under this contract. The YMCA shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to sub-contractors.
3. Each insurance policy required by this contract shall:
 - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability
 - b. Not be suspended, voided or canceled by either party except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to Sarasota County and North Port Risk Management.
4. The COUNTY shall retain the right to review, at any time, coverage, form, and amount of insurance.
5. The procuring of required policies of insurance shall not be construed to limit YMCA'S liability nor to fulfill the indemnification provisions and requirements of this contract.
6. The YMCA shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this contract and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject.

7. Claims Made Policies will be accepted for Professional Liability, Workers' Compensation and Hazardous Materials, and such other risks as are authorized by COUNTY Risk Management. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two years. If provided as an option, the YMCA agrees to purchase the extended reporting period on cancellation or termination unless a new policy is effected with a retroactive date, including at least the last policy year.
8. Certificates of Insurance evidencing Claims Made or Occurrence Form Coverage and conditions to this Contract are to be furnished to Sarasota County Risk Management, 1660 Ringling Boulevard, 3rd Floor, Sarasota, FL 34236, and North Port Risk Management, 4970 City Hall Boulevard, North Port, FL 34286, prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract, when applicable. All insurance certificates shall be received by Sarasota County and North Port Risk Management before the YMCA will be allowed to commence or continue work.
9. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Contract, shall be provided to the YMCA'S/ SUB-YMCA'S/CONSULTANT'S insurance company and Sarasota County and North Port Risk Management as soon as practicable after notice to the insured.