

LICENSE AGREEMENT FOR USE OF SCHOOL PROPERTY

THIS AGREEMENT made this 7th day of June 2018 between the School Board of Clay County, Florida, a body politic of the State of Florida (the "Board"), and YMCA of Florida's First Coast, Inc., a corporation not for profit organized and existing under the laws of the State of Florida (the "YMCA").

RECITALS:

- (I) The YMCA has submitted to the Boards the Proposal (the "Proposal") for the implementation of an after-school enrichment program to be administered in Clay County Elementary Schools, for children attending those schools in grades Pre-Kindergarten through grade six (the "Program").

- (II) Following public hearing as required under Chapter 235, Florida Statutes (1983), the Board has approved the Proposal subject only to the execution and delivery by the parties of a definitive agreement incorporating the terms of the Proposal and to the assurance by the YMCA of the existence of adequate insurance protection to the Board against liability for death or personal injury to participants in the Program.

ACCORDINGLY the parties agree, each with the other as follows:

1. Grant of License: The Board grants, conveys and licenses to the YMCA for the term hereafter described, the use of the School Facilities hereinafter defined located upon the grounds of the following elementary schools maintained and operated by the Board (the "Program Sites"):
 - i. Argyle Elementary School (licensed capacity 105)
 - ii. Charles E Bennett Elementary School (licensed capacity 75)
 - iii. Clay Hill Elementary School (licensed capacity 50)
 - iv. Coppergate Elementary School (licensed capacity 75)
 - v. Discovery Oaks Elementary School (licensed capacity TBA)
 - vi. Doctor's Inlet Elementary School (licensed capacity 80)
 - vii. Fleming Island Elementary School (licensed capacity 100)
 - viii. Grove Park Elementary School (licensed capacity 75)
 - ix. J. L. Wilkinson Elementary School (licensed capacity 45)
 - x. Keystone Heights Elementary School (licensed capacity 45)
 - xi. Lake Asbury Elementary School (licensed capacity 95)
 - xii. Lakeside Elementary School (licensed capacity 75)
 - xiii. McRae Elementary School (licensed capacity 35)
 - xiv. Middleburg Elementary School (licensed capacity 55)
 - xv. Montclair Elementary School (licensed capacity 50)
 - xvi. Oakleaf Village Elementary School (licensed capacity 125)
 - xvii. Orange Park Elementary School (licensed capacity 75)

- xviii. Paterson Elementary School (licensed capacity 100)
- xix. Plantation Oaks Elementary School (licensed capacity 152)
- xx. Ridgeview Elementary School (licensed capacity 75)
- xxi. Rideout Elementary School (licensed capacity 100)
- xxii. S. B. Jennings Elementary School (licensed capacity 50)
- xxiii. Shadowlawn Elementary School (licensed capacity 75)
- xxiv. Swimming Pen Creek Elementary School (licensed capacity 125)
- xxv. Thunderbolt Elementary School (licensed capacity 100)
- xxvi. Tynes Elementary School (licensed capacity 75)
- xxvii. W.E.Cherry Elementary School (licensed capacity 50)
- xxviii. Any other new Elementary School(s) which opens during the course of the Agreement will be at the discretion of the Principal to operate their own Program or choose to have the YMCA as their provider.

The Facilities shall be used by the YMCA only for the operation of the Program and only as provided in this Agreement.

2. School Facilities: The Board shall designate, or shall direct the Director of Elementary Education and the principal of each affected school to designate at each Program Site the following areas to be used by the YMCA for administration of the Program (the "School Facilities"):

- i. An indoor area, preferably a cafetorium, with utilities and restroom facilities adequate for use by not less than the licensed capacity of children for that site, and associated YMCA staff;
- ii. An outdoor playground area suitable for use by not less than the licensed capacity of children for that site, as associated YCMA staff;
- iii. One telephone for emergency use only; and
- iv. Such other facilities as are required to meet minimum public health requirements or licensing requirements imposed by the Department of Health and Rehabilitative Services or any other government agency having jurisdiction in the premises.

3. Term of Agreement: The license for use of the School Facilities granted under this agreement to the YMCA by the Board shall be effective as of July 1, 2018 and shall continue in full force and effect until June 30, 2020. At the option of the YMCA this agreement may be extended for three additional one year terms upon written notice delivered to the Board no later than June 10th of each year in which the YMCA states its intention to exercise this option. In the event the Board gives notice in writing to the YMCA no later than June 1st of its decision to cancel the YMCA's extension option, then no extension of this agreement shall be granted.

4. Hours of Operation: The Program shall be administered by the YMCA at each Program Site within the following hours:

- i. From dismissal of class until 6:00 PM on all regular school days;
- ii. From 6:15 AM until school starting time on all regular school days at any or all of the approved Program Sites where enrollment shall justify operating a morning program;
- iii. If there is a pre-emption of the program on school days, when feasible an alternate location shall be provided, with two (2) days advance notice.
- iv. From 6:15 AM until 6:30 PM on student holidays as follows:
 - Labor Day
 - Veteran's Day
 - The Week of Thanksgiving except for Thanksgiving Day
 - Christmas/New Years/Winter Break
 - Martin Luther King Day
 - Presidents' Day
 - Spring Break
 - Teacher Planning/In-service Days

This segment of the Program shall be offered at Program Sites designated in advance as centers or camps. Dates shall be published each year.

Notwithstanding the foregoing, the YMCA may maintain staff on the premises of each Program Site until 7:00 PM each day to supervise children who have not yet been picked up by a parent, guardian, or other authorized person.

5. Deliverables: The YMCA and the School Board will jointly work in sharing data. Outcomes of the Program will be shared to monitor the impact on:

- i. Compare the attendance rate for students enrolled in the YMCA vs the average attendance rate for the schools offering the program overall.
- ii. Compare the number of discipline referrals for students enrolled in the YMCA vs the average number of discipline referrals for the schools offering the program overall.
- iii. Compare the number of out of school suspensions for students enrolled in the YMCA vs the total number of suspensions for the school offering the program overall.
- iv. Compare the Achieve 3000 Lexile growth for the students enrolled in the YMCA vs the average lexile growth for the schools offering the program overall.
- v. Compare Math and Reading proficient for the students enrolled in the YMCA vs the average proficiency for the schools offering the program overall.

Data will be shared between the School Board of Clay County Director of Academic Services and the YMCA Afterschool Experience Executive using the "Data and Device Agreement."

6. Insurance:

- i. The YMCA shall, prior to the effective date of this agreement, provide to the Board a certificate of insurance reflecting that existing insurance coverage maintained by the YMCA for liability for death or personal injury in an aggregate amount of not less than \$1,000,000 per occurrence is extended to cover each Program Site, and showing the YMCA as the primary insured and the Board as an additional insured, all in a form reasonably satisfactory to the Board. Should the use of facilities by the YMCA result in increase of the rate of insurance currently maintained by the Board to insure itself against liability or responsibility for death or personal injury over the rate which would otherwise be in effect, then, in such event, the Board shall give notice of such increase to the YMCA and the YMCA shall thereupon promptly either (I) pay such increase in premium as the same comes due; or (II) provide such additional or substitute insurance coverage as may be required to eliminate the increase in said premium.
- ii. Motor vehicle liability shall be required within the limits of at least \$100,000/claimant, \$300,000/occurrence for both property and bodily injury.

7. Independent Contractor: It is understood and agreed between the parties that the YMCA is an independent contractor and that all persons employed by the YMCA in connection with the operation of the Program shall be subject to the exclusive supervision, control and direction of the YMCA, provided only the the overall operation of the Program shall be set forth in the Proposal. The YMCA shall select and compensate its own necessary workmen's compensation insurance and shall abide by all governmental regulations and laws concerning employment, and shall obtain all necessary licenses and permits required by law to administer the Program.

- i. Staffing – Each facility shall be staffed by appropriately trained personnel meeting the requirements of the Florida Department of Children and Families.
- ii. Homework – Homework assistance shall be provided according to the needs of participating students.

8. Fingerprinting: In accordance with the Jessica Lunsford Act all YMCA employees, agents and volunteers who enter upon school grounds while students are present shall, at no cost to the School Board, submit to and pass a Level II fingerprinting and background check as required by F.S. 1012.465, 467 or 468 and obtain and display a School Board issued clearance badge prior to entry upon school grounds while students are present. For information on when and how to obtain fingerprinting and to learn more about this law refer to the School Boards web site and click onto Jessica Lunsford Act.

9. Damage to Program Sites: The YMCA shall be responsible for damages to property or injuries to persons, which arise from or are incidental to the use and operation of the Program Sites by the YMCA. The YMCA shall at all times exercise due care in the

protection of school facilities and school property located therein against damage or destruction by the Program participants or employees or agents of the YMCA. The YMCA shall commit no waste upon the Program Sites and shall leave the School Facilities in good condition each day, suitable for their intended use, subject only to normal wear and tear. School sites should be suitable for Program's intended use at the close of the school day.

10. Usage Fee: In consideration for the license granted hereunder, the YMCA shall pay to the Board a usage fee of \$40 per day, per Program Site during the term of this agreement. This usage fee is subject to review and increase by the Board annually. Any increase in fees determined by the Board to be necessary must be agreed upon by both parties in writing and shall take effect as set forth in said written agreement.
11. Termination: If a party to this contract fails to perform according to its obligation hereunder ("the non-performing party"), the party claiming non-performance ("the claiming party") shall send the non-performing party written notice by certified mail, specifying the manner of non-performance. This notice shall provide that the non-performing party shall have thirty (30) days from the receipt of the notice to cure or correct the items of non-performance. If these items have not been corrected or cured within this thirty (30) day period, the claiming party may then terminate this Agreement by sending the non-performing party a thirty (30) day written notice of termination. Either party may terminate this agreement without cause and without penalty by providing the other party ninety (90) days written notice of termination.
12. Modification: Any modifications to this Agreement shall be in writing and executed by the parties as follows:
 - i. To increase the number of Program participants at a particular School Facility to not more than 152; and
 - ii. To add additional Program Sites at other schools within the district supervised by the Board, so long as additional usage fees in the amount of \$40.00 per day per site are paid and so long as all other conditions and terms of this agreement are fully satisfied with respect to such additional Program Sites.
13. School Incentives:
 - i. The YMCA will provide a one-time \$500.00 stipend to each school under contract for the Principal to use at their discretion.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed and their respective seals affixed effective the day and year first above written.

YMCA of Florida's First Coast, Inc.

By: _____

School Board of Clay County, Florida

By: _____

Chairman of the Board

"ADDENDUM A"
TO
TO CONTRACT WITH THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA

Notwithstanding any contractual language to the contrary, the terms and conditions of this "Addendum A" shall govern and prevail over any conflicting or inconsistent terms and conditions in the underlying contract to which this "Addendum A" is attached and/or otherwise incorporated. All references herein made to the School Board of Clay County, Florida ("Board") shall be interpreted to include the School Board of Clay County, Florida, Clay County District Schools ("District"), and all Board officers and employees.

1. INDEMNIFICATION

In addition to any other statutory or common law obligation to indemnify and defend the Board, Contractor/Vendor shall indemnify, defend, and hold harmless the Board, its officers, and employees from and against any claim, loss, damage, penalty, or liability arising from any negligent act, omission, misfeasance, malfeasance, or intentionally wrongful conduct of Contractor/Vendor, its employees, and/or agents relating to the performance of duties contemplated by or arising from the underlying contract. Such obligations of the Contractor/Vendor include the duty to defend the Board and its officers and employees from and against any claim, complaint, payment, penalty, or other liability arising from the negligent act, omission, misfeasance, malfeasance, or intentionally wrongful conduct of Contractor/Vendor, its employees, and/or its agents. These obligations shall survive termination of the underlying contract.

2. INSURANCE

Unless otherwise specified in the underlying contract, Contractor/Vendor shall maintain throughout the term/duration of the contract (and any authorized renewal periods) the following insurance policies providing at least the minimum amounts shown:

1. General Liability Policy:
 \$1,000,000.00 per occurrence
 \$3,000,000.00 aggregate
2. Auto Liability Policy:
 \$1,000,000.00 combined single limit
 \$5,000,000.00 charter or common carrier
3. Worker's Compensation Policy:
 \$100,000

Note: To the extent that Contractor/Vendor is statutorily or otherwise legally exempt from Worker's Compensation insurance obligations, Contractor/Vendor must execute a Release and Hold Harmless Agreement in a form acceptable to the Board.

Each insurance policy shall be obtained from an insurance carrier rated as "A-" or better, under a policy approved for use in the State of Florida. Further, unless otherwise agreed to by the Board, such insurance policy shall contain evidence/endorsement for physical and sexual abuse and molestation coverage. Each Certificate of Insurance

("COI") shall name the School Board of Clay County, Florida, as an additional insured and the policy must unconditionally entitle the Board to thirty (30) days' notice of policy/coverage cancellation.

3. RESERVATION OF SOVEREIGN IMMUNITY

No provision or language in the underlying contract shall be construed or interpreted to increase the scope or dollar limit of the Board's liability beyond that which is set forth in section 768.28 of the Florida Statutes. Nor shall any such language be construed or interpreted to waive the Board's sovereign immunity from suit, or to require the Board to indemnify Contractor/Vendor or any other person, corporation or legal entity of any kind or nature whatsoever for injury or loss resulting from any acts or omissions other than those which arise from the actionable negligence of the Board. The Board expressly reserves all other protections and privileges related to its sovereign immunity.

4. GOVERNING LAW AND VENUE

The underlying contract and this "Addendum A" shall be governed by and construed in accordance with the laws of the State of Florida without regard to any choice of law provisions. Further, the Circuit Court for the Fourth Judicial Circuit in and for Clay County, Florida, shall have exclusive jurisdiction to enforce the terms of and adjudicate any disputes arising from the underlying contract and this "Addendum A."

5. LEVEL II BACKGROUND SCREENING

Contractor/Vendor represents and warrants to the Board that it is familiar with sections 1012.32, 1012.321, 1012.465, 1012.467, and 1012.468 of the Florida Statutes regarding background investigations. Contractor/Vendor agrees to comply with all requirements of the above-cited statutes and background screening(s) at its own expense, and shall provide the Board with proof of clearance/compliance upon request. Contractor/Vendor agrees that its duty to defend, hold harmless, and indemnify the Board extends to any liability, damages, penalties, and costs which result from its failure to comply with the requirements of this provision.

6. INDEPENDENT CONTRACTOR

The services and/or products provided by Contractor/Vendor pursuant to the underlying contract are rendered to the Board in the capacity of an independent contractor. Accordingly, Contractor/Vendor is not authorized to assume or create any obligations or responsibility (expressed or implied) on behalf of the Board. Nothing contained in the underlying contract shall be construed as creating an employer-employee or principal-agent relationship or a joint venture between Contractor/Vendor and the Board. In this regard, neither Contractor/Vendor nor its officers, employees, or agents shall be deemed to be employed by the Board for purposes of taxes or contributions levied by, under, or in accordance with any federal, state, or local laws with respect to employment or compensation for employment.

7. PUBLIC RECORDS

Contractor/Vendor is required to comply with the Florida Public Records Law, Chapter 119, Florida Statutes, in the performance duties imposed by the underlying contract. Accordingly, in addition to all other Public Records obligations, Contractor/Vendor shall:

- a. Keep, maintain, and produce upon request and within a reasonable period of time all data created or collected in the performance of its duties under the contract ("Contract Data") which come within the definition of a "public record" under Chapter 119.
- b. Provide to the Board, upon its request and free of charge, a copy of each record which Contractor/Vendor seeks to produce in response to a public records request.
- c. Ensure that Contract Data that are considered exempt under Chapter 119 are not disclosed except as authorized by law.
- d. Upon completion of its contractual obligations, transfer to the Board, at no cost to the Board, all Contract Data in the Contractor's/Vendor's possession or otherwise keep and maintain such data as required by law.

All records transmitted to the Board must be provided in a format that is compatible with the Board's information technology systems. Any failure to comply with this provisions shall constitute a default and material breach of the underlying contract by the Contractor/Vendor, which may result in immediate termination by the Board without penalty to the Board.

IF THE CONTRACTOR/VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE UNDERLYING CONTRACT, CONTRACTOR/VENDOR SHALL CONTACT THE SCHOOL DISTRICT'S CUSTODIAN OF PUBLIC RECORDS AT 900 WALNUT STREET, GREEN COVE SPRINGS, FLORIDA 32043, OR AT 904-336-6500, OR AT: PRR@myoneclay.net

8. STUDENT RECORDS

Notwithstanding any provision to the contrary contained in the underlying contract, Contractor/Vendor, its officers, employees, and agents shall fully comply with the requirements of the Family Education Rights and Privacy Act, sections 1002.22 and 1002.221 of the Florida Statutes, and all applicable laws and regulations regarding the confidentiality of personally identifiable student information and records. Contractor/Vendor shall indemnify, defend, and hold harmless the Board, its officers, and employees for any violation of this covenant. This provision shall survive the termination of the underlying contract and shall be binding upon Contractor/Vendor until such time as any claim arising from a breach of this covenant is barred by any applicable statute of limitations. In the event of a breach of security as defined by section 501.171 of the Florida Statutes, Contractor/Vendor shall notify the Board immediately, but no later than ten (10) calendar days following such security breach. Additionally, Contractor/Vendor shall fully cooperate, at its own expense, with the Board and assist the Board with all remedial efforts, required notifications, and any other obligations arising from or related to such a security breach.

9. PAYMENT TERMS AND CONTINGENCIES

Unless otherwise required by law, the Board's payment obligations (if any) arising from the underlying contract are contingent upon an annual appropriation by the Board and the availability of funds to pay for the contracted goods and/or services provided. If such funds are not appropriated or made available for the underlying contract and results in its termination, such conditions/events shall not constitute a default by the Board.

Contractor/Vendor shall be paid in accordance with the Local Government Prompt Payment Act upon submission of invoices to the District after delivery and acceptance of the goods and/or services provided. Where required, an original invoice referencing a District purchase order number shall be submitted for payment to the District's Accounts Payable Department, 814 Walnut Street, Green Cove Springs, Florida 32043.

Contractor/Vendor agrees to the foregoing terms and conditions of this "Addendum A" as evidenced by the following signature of its authorized representative as of the date indicated below:

Signature: 

Printed Name: Eric K. Mann

Title: President & CEO

Date: 5-21-2018



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/29/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

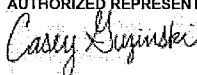
PRODUCER Harden and Associates 501 Riverside Avenue, Suite 1000 Jacksonville FL 32202	CONTACT NAME: Casey Guzinski PHONE (A/C, No, Ext): 904-354-3785 E-MAIL ADDRESS: cguzinski@hardeninsight.com	FAX (A/C, No): 904-634-1302
	INSURER(S) AFFORDING COVERAGE	
INSURED YMCAO-1 YMCA of Florida's First Coast 40 East Adams Street, Suite 210 Jacksonville FL 32202	INSURER A: Zenith Insurance Co NAIC # 13269	
	INSURER B: U.S. Fire	
	INSURER C:	
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES CERTIFICATE NUMBER: 1405710102 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	Y		506-893391-1	3/31/2018	3/31/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			506-893391-1	3/31/2018	3/31/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$1,000 Comprehensive \$ 1,000 Collision
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	2067450813	7/1/2017	7/1/2018	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Crime			506-893391-1	3/31/2018	3/31/2019	Employee Theft \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 The Certificate Holder shall be an additional insured in accordance with all the terms, conditions, and limitations of the policy and then only with respect to liability caused by the negligent acts or omissions of the Named Insured.

CERTIFICATE HOLDER Clay County School Board 900 Walnut Street Green Cove Springs FL 32043	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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