

## LICENSE AGREEMENT FOR USE OF SCHOOL PROPERTY

**THIS AGREEMENT** made this \_\_\_ day of July 2009 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., Bob Dye-Clay Family Branch, 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 Board the proposal (the "Proposal") for the implementation of an after-school, day care program to be administered in selected Clay County Elementary Schools, for children attending those schools in grades Kindergarten through Grade 6 (the "Program"). A summary of the Proposal is attached hereto as Exhibit "A" and made a part thereof.
- (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 hereby grants, conveys and licenses to the YMCA, for the term hereafter described, 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. Charles E. Bennett Elementary School (licensed capacity 45)
  - ii. Clay Hill Elementary School (licensed capacity 21)
  - iii. Doctor's Inlet Elementary School (licensed capacity 80)
  - iv. Fleming Island Elementary School (licensed capacity 100)
  - v. Grove Park Elementary School (licensed capacity 75)
  - vi. JL Wilkinson Elementary School (licensed capacity 45)
  - vii. Keystone Heights Elementary School (licensed capacity 75)
  - viii. Lake Asbury Elementary School (licensed capacity 95)
  - ix. Lakeside Elementary School (licensed capacity 90)
  - x. McRae Elementary School (licensed capacity 75)
  - xi. Middleburg Elementary School (licensed capacity 55)
  - xii. Montclair Elementary School (licensed capacity 75)
  - xiii. Orange Park Elementary School (licensed capacity 75)
  - xiv. RM Paterson Elementary School (licensed capacity 125)
  - xv. Rideout Elementary School (licensed capacity 100)
  - xvi. Ridgeview Elementary School (licensed capacity 75)

- xvii. S. Bryan Jennings Elementary School (licensed capacity 75)
- xviii. Swimming Pen Elementary School (licensed capacity 125)
- xix. Thunderbolt Elementary School (licensed capacity 125)
- xx. Tynes Elementary School (licensed capacity 75)
- xxi. W. E. Cherry Elementary School (licensed capacity 75)
- xxii. Argyle Elementary School (licensed capacity 105)
- xxiii. Shadowlawn Elementary School (licensed capacity 75)
- xxiv. Coppergate Elementary School (licensed capacity 75)
- xxv. Oakleaf Village Elementary School (licensed capacity 75)
- xxvi. Plantation Oaks Elementary School (licensed capacity 125)
- xxvii. Any other new Elementary School(s) which open during the course of the Agreement.

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, and associated YMCA 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, 2009 and shall continue in full force and effect until June 30, 2013. At the option of the YMCA this agreement may be extended for three additional one year terms upon written notice to the Board delivered no later than June 10<sup>th</sup> 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 1<sup>st</sup> of its decision to cancel 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; except at McRae Elementary school, which shall operate from dismissal of class until 6:30PM 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 will justify operating a morning program;
  - iii. If there is pre-emption of the program on school days, an alternate location must be provided, with two (2) days advance notice.
  - iv. From 6:15 AM until 6:00 PM on student holidays as follows:

Labor Day  
Veteran's Day  
Day before Thanksgiving  
Day after Thanksgiving  
Christmas/New Years/Winter Break  
Martin Luther King Day  
Presidents' Day  
Spring Break  
Teacher Planning/In-service Days

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

Notwithstanding the foregoing, the YMCA may maintain staff on the premises of each program site until 6:30 PM each day to supervise children who have not yet been picked up by a parent, guardian, or other authorized person.

5. 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 is extended to cover each Program Site, and showing the YMCA as the primary insured and the Board as an additional insured, all in form reasonably satisfactory to the Board. Should the use of the School 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 becomes 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 with limits of at least \$100,000/claimant, \$200,000/occurrence for both property and bodily injury.
6. 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 that 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 will be provided according to the needs of participating students.
7. 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 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.
8. Usage Fee: In consideration for the license granted hereunder, the YMCA shall pay to the Board a usage fee of \$40.00 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.
9. Termination: If a party to this contract fails to perform according to its obligations hereunder ("the non-performing party"), the party claiming

non-performance ("the claiming party") will send the non-performing party written notice by certified mail, specifying the manner of non-performance. This notice will provide that the non-performing party will have thirty (30) days from 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.

10. 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 125; 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.

***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**