

**AMENDMENT ONE TO THE RECREATION CENTER LICENSE
AGREEMENT AND OUTDOOR POOLS MANAGEMENT AGREEMENT**

This Amendment is made to that **RECREATION CENTER LICENSE AGREEMENT AND OUTDOOR POOLS MANAGEMENT AGREEMENT** previously executed by and between the CITY OF SCHERTZ, TEXAS ("City") and Young Men's Christian Association of Greater San Antonio, a Texas non-profit organization (the "YMCA").

It is mutually understood and agreed by and between the undersigned contracting parties to terminate the management of the Wendy Swan Pool, located at 4601 Cherry Tree Dr, Schertz, TX 78108 as allowed for in section 11(f) of the original agreement and amend that previously executed agreement such as follows to account for the management of the Pickrell Park Pool, located at 703 Oak St, Schertz, TX 78154:

Section 11. General Terms of Operation, Use and Maintenance of the Outdoor Pool(s)

- (a) Cost: The total maximum cost payable to the YMCA for the YMCA's management of the Pickrell Pool for each year of this Agreement shall be One Hundred Seven Thousand Nine Hundred Twenty Six and No/100 Dollars (\$107,926.00), which shall be paid in two (2) payments of Fifty three thousand nine hundred sixty three and No/100 Dollars (\$53,963.00) by Schertz to the YMCA on or before June 1 of each year and July 1 of each year of this Agreement, with a final payment of Fifty three thousand nine hundred sixty three and No/100 Dollars (\$53,963.00) paid on or before August 1 of each year of this Agreement.
- (b) Revenues from the Outdoor Pools: Schertz shall receive and retain all revenues from gate receipts, season pass receipts, and concession receipts. The YMCA shall receive and retain all revenues from YMCA programs, including swimming lessons and aquatic programs, and all receipts for the Outdoor Pools rentals and pool parties. YMCA will not charge swimming teams for reserved lanes for swim practice.
- (c) Scope of Work: The YMCA shall perform all work for the operational management of the Outdoor Pools as shown in Exhibit H, attached hereto and incorporated herein for all purposes.
- (d) Active Terms: The provisions of this Agreement with respect to the management of the Outdoor Pools shall be applicable for a three-month period of approximately May 24 through August 24 during each calendar year of this Agreement (each an "Active Term"). The precise Active Term for each calendar year will be provided by Schertz to the YMCA at least sixty (60) days prior to the beginning of each year's three-month Active Term.

- (e) YMCA Obligation and Rights: YMCA shall, at its expense, for each Active Term of this Agreement, obtain all permits, certifications, and licenses, and pay all related fees and taxes, necessary for the performance of its work and services under this Agreement, and will comply with all laws, ordinances, rules and regulations governing YMCA's performance of this Agreement, including all environmental laws and regulations, whether state or federal. Schertz will waive all fees for City-required permits, licenses, and inspections related to the Outdoor Pools. All work shall be done in strict conformity with this Agreement. YMCA shall have exclusive control of the day-to-day operations of the Outdoor Pools, subject to the right of Schertz to inspect the Outdoor Pools to ensure that YMCA is properly carrying out the terms of this Agreement. YMCA agrees that all of its employees shall be fully qualified and competent to do the work required under the terms of this Agreement. All minor detail of the work not specifically mentioned in this Agreement but obviously necessary for the proper completion of the work shall be considered as incident to and a part of the work for which payment is made to the YMCA under this Agreement. YMCA will not be entitled to any additional compensation therefor unless specifically stated otherwise in this Agreement
- (f) Termination of the Outdoor Pool(s) Management: Schertz may terminate the management of the Outdoor Pool(s) at will for no or any reason upon giving at least ninety (90) days advance written notice to YMCA. The parties to this Agreement understand and agree that it is in Schertz's reasonable discretion to terminate the provisions of this Agreement with respect to Outdoor Pool without penalty to Schertz or the YMCA. YMCA has no expectation and has received no guarantees that the provisions of this Agreement set forth in this **Section 11** with respect to Outdoor Pool will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of this termination option upon tender of the requisite notice at any time during the term of this Agreement. Upon termination, all equipment, furniture, fixtures, and supplies purchased, provided, owned, or brought into the Outdoor Pools by YMCA will remain the property of the YMCA and will be removed from the applicable Outdoor Pool(s) at the end of the ninety (90) day notice period. Upon termination, all equipment, furniture, fixtures, and supplies purchased, provided, owned, or brought into the applicable Outdoor Pool(s) by Schertz will remain the property of Schertz. All work and services under this Agreement and all payments hereunder for work and services after the date of termination shall be terminated in accordance with **Section 11(g)** upon termination of the provisions of this Agreement set forth in this **Section 11** with respect to the Outdoor Pool(s).
- (g) Payment: As full consideration for the services which the YMCA shall provide to Schertz with respect to the Outdoor Pool(s), the YMCA shall receive the total sum described in Section 11(a). Any sums due and payable hereunder which are not paid within ten (10) days of the due date shall bear interest at the rate as set by the State of Texas, from the date due until the date of payment. In the event the provisions of this Agreement set forth in this Section 11 with respect to the

Outdoor Pool(s) are terminated pursuant to Section II(f), the payments due to YMCA hereunder shall be prorated on a daily basis of Nine Hundred Ninety-Nine and 32/100 Dollars (\$999.32) for one Outdoor Pool, as applicable, and YMCA shall rebate to Schertz or Schertz shall pay the YMCA, as applicable, such amount as shall be necessary to reflect the pro rata portion of the total amount payable to YMCA under Section II(a) through the effective date of such termination.

All other requirements, terms, and conditions that are not hereby amended are to remain in full force and effect.

EXECUTED on this the _____ day of _____, 20__.

CITY:

CONTRACTOR:

By: _____
Name: Dr. Mark Browne
Title: City Manager

By: _____
Name: _____
Title: _____

ADDRESS FOR NOTICE:

CITY:

CONTRACTOR:

City of Schertz
Attn: Mark Browne, City Manager
1400 Schertz Parkway
Schertz, Texas 78154

Name
Address
City, State Zip
Number