

AGREEMENT

This Partnership and Operational Support Agreement is made and entered into between the City of Clearwater, whose address is: Attn: Parks and Recreation Director, Post Office Box 4748, Clearwater, FL 33758-4748, hereinafter referred to as the City, and Boys and Girls Clubs of the Suncoast, Inc., whose address is: 2300 Tall Pines Drive, Suite 150, Largo, FL 33771, hereinafter referred to as the Agency.

WHEREAS, it has been determined to be highly desirable and socially responsible to provide activities to build and foster the confidence, educational, recreational and social skills and good habits in young people, adults and families; and

WHEREAS, the City desires to provide recreation programs and activities as a means to help young people, adults and families; and

WHEREAS, the City owns the Wood Valley Recreation Center Building, hereinafter referred to as the Facility, located at 2816 Park Trail Lane and

WHEREAS, the Agency has provided said programs and activities at the Facility for the past five (5) years and desires to continue offering recreational programs at the Facility; and

WHEREAS, the Agency desires to continue to partner with the City in providing recreational programs; and

NOW, THEREFORE, the parties agree as follows:

ARTICLE I. TERM

1) **Initial Term:** The term of this agreement shall be for a period of five (5) years commencing on the 1st day of December, 2007 ("Effective Date") and continuing through the 30th day of November, 2012 ("Termination Date") unless earlier terminated under the terms of this agreement.

2) **Options to Renew:** This agreement may be extended by mutual written agreement of the parties for three (3) additional periods of five (5) years, on the same terms and conditions as are set forth herein.

ARTICLE II. RESPONSIBILITIES OF THE AGENCY

1) **Services to be Provided:** One of the Agency's goals shall be to provide quality programs and services at the Facility.

a) **Programs:** Conduct educational, recreational, cultural and motivational programs at the Facility for the benefit of neighborhood and Clearwater area youth, adults, and families. Some of the core programs to be provided are as follows:

- i) Recreation programs
 - ii) Open center hours for free play
 - iii) Organized games, playtime and intramurals
 - iv) Child development activities
 - v) Facilitation and support of community meetings and activities
 - vi) Educational classes
 - vii) Facilitation and support for use of the Facility as a voting site
- b) **Assistance to the City:** Provide Agency personnel and volunteers to operate and supervise activities and special programs at the Facility and other recreation facilities including the basketball courts, tennis courts, playground and ballfields.
- c) **Supervision of Recreation Grounds:** Supply the necessary leadership and supervision for the conduct of participants utilizing the recreation grounds adjacent to the Youth Center.
- d) **Supervision of other Facilities:** Monitor and schedule the use of other City facilities at Wood Valley Park if needed.
- e) **City Use:** Allow the City access to a dedicated room to provide a teen program. The Agency may request use of this room from the City when not in use by the City.
- 2) **Area to be Served:** Services rendered through this agreement shall be provided within the corporate limits of the City as it now exists and as its boundaries may be changed during the term of this agreement. The primary target participant group shall reside in areas of the City within a two-mile radius of the Facility.
- 3) **Use of Wood Valley Recreation Center and Park:**
- a) **No Illegal Use.** The Agency promises and agrees that they will make or allow no unlawful, improper or offensive use of the premises. Further, the Agency understands and agrees that this provision specifically prohibits, among other acts, the sale, consumption or use of alcoholic beverages or controlled substances anywhere in, on or around the Facility and those adjacent areas used by the Agency.
 - b) **Rules for Use.** Rules and regulations governing the use of the Facility may be established by the Agency, **providing** they are not in conflict or inconsistent with the ordinances, policies or operating rules of the City or of this Agreement. Such rules and regulations developed by this Agency may provide for and allow user fees in accordance with City guidelines for such fees.
 - c) **Inspection by City.** The Agency understands and agrees that the Facility premises may be entered and inspected at any time by the City's officers, agents and employees. The City shall notify the Agency at least 48 hours prior to any inspections. The City may

enter upon the premises immediately in case of an emergency as determined by the City in its sole discretion.

- d) **General Adherence to Law/City Ordinances.** Notwithstanding any limitations implied by the provisions above, the Agency promises to observe all applicable law including City ordinances.
- e) **Signage.** The Agency may place an identification sign on the Facility or in the park, at its own expense, according to City codes, and upon written approval from the City.
- f) **Assignment/Sub-Lease.** The Agency may not assign or sub-lease any portion of the rights and responsibilities under this Agreement without the prior written consent of the City.

4) Maintenance of the Premises by the Agency.

- a) **Custodial Maintenance.** The Agency shall maintain the Facility and adjacent areas used by the Agency in a clean and orderly condition, in accordance with standards implemented by the City for similar City facilities.
- b) **Repair of Damage.** The Agency understands and agrees that it is responsible for and will cause to be repaired at the Agency's expense damage to the premises other than normal wear and tear.

- 5) **Payment for all operating expenses:** The Agency is responsible to pay all operating expenses associated with the Facility including but not limited to electric, water, sewer, custodial, sanitation and building maintenance, other than capital maintenance as provided for under Article III, Section 2(b) of this Agreement.

- 6) **Payment of Fees and Taxes.** The Agency shall obtain all required licenses at its own expense and shall pay all required taxes necessary to the Agency's operation at the Facility.

7) Scheduled Reports of Agency Activities:

- a) The Agency shall furnish the City Parks and Recreation Department with an annual report of activities conducted under the provisions of this agreement within sixty days of the end of the Agency's fiscal year. Each report is to identify the number of clients served, the type of activities, programs offered and costs of such services.
- b) The Agency agrees to submit progress reports and other information in such format and at such times as may be prescribed by the City, and to cooperate in site visits and other on-site monitoring (including, but not limited to, access to sites, staff, fiscal and client records, and logs and the provision of related information).

8) Creation, Use, and Maintenance of Financial Records:

- a) **Creation of Records:** Agency shall create and maintain financial and accounting records, books, documents, policies, practices, procedures and any information necessary to reflect fully the financial activities of the Agency. Such records shall be available and accessible at all times for inspection, review, or audit by authorized City representatives, and shall be made available and disclosed in accordance with Chapter 119, Florida Statutes or other applicable law.
 - b) **Use of Records:** Agency shall produce such reports and analyses that may be required by the City to document the proper and prudent stewardship and use of the facilities.
 - c) **Maintenance of Records:** All records created hereby are to be retained and maintained for a period not less than five (5) years or otherwise required by applicable law.
- 9) **Non-discrimination:** Notwithstanding any other provisions of this agreement during the term of this agreement, the Agency for itself, agents and representatives, as part of the consideration for this agreement, does covenant and agree that:
- a) **Nondiscrimination:** Agency agrees that no person shall, on the grounds of race, sex, handicap, national origin, religion, marital status or political belief, be excluded from participation in, denied the benefit(s) of, or be otherwise discriminated against as an employee, volunteer, or client of the provider, except that programs may designate services for specific client groups as defined in the application. Agency agrees to maintain reasonable access to handicapped persons as required by law.
 - b) **Inclusion in Subcontracts:** The Agency agrees to include the requirement to adhere to Title VI and Title VII of the Civil Rights Act of 1964 in all approved sub-contracts.
 - c) **Breach of Nondiscrimination Covenants:** In the event of conclusive evidence of a breach of any of the above non-discrimination covenants, the City shall have the right to terminate this agreement immediately.
- 10) **Publicizing of City Support:** Agency agrees to utilize every reasonable opportunity to publicize the support received from City. Agency further agrees to supply City up to three copies of any publication developed in connection with implementation of programs addressed by this Agreement. Such publications will state that the program is supported by City.
- 11) **Liability and Indemnification:** The Agency shall act as an independent contractor and agrees to assume all risks of providing the program activities and services herein agreed and all liability therefore, and shall defend, indemnify, and hold harmless the City, its officers, agents, and employees from and against any and all claims of loss, liability, and damages of whatever nature, to persons and property, including, without limiting the generality of the foregoing, death of any person and loss of the use of any property, except claims arising from the negligence or willful misconduct of the City or City's agents or employees. This includes, but is not limited to matters arising out of or claimed to have been caused by or in any manner related to the Agency's activities or those of any approved or unapproved invitee,

contractor, subcontractor, or other person approved, authorized, or permitted by the Agency in or about its premises whether or not based on negligence. Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity to which City is entitled or the extent of any limitation of liability to pursuant to § 768.28, Florida Statutes. Furthermore, this provision is not intended to nor shall be interpreted as limiting or in any way affecting any defense City may have under § 768.28, Florida Statutes or the as the consent to be sued by third parties.

12) **Insurance.** The Agency shall procure at its expense and maintain during the term of this Agreement insurance as shown below:

- a) A Comprehensive General Liability policy with minimum coverage limits of \$500,000, covering claims for injuries to persons or damage to property which may arise from or in connection with use of the Facility premises by the Agency including all activities occurring thereon.
- b) A Business Automobile Liability Policy with minimum coverage limits of \$500,000, covering claims for injuries to persons or damage to property that arise from or in connection with use of a motor vehicle owned by the Agency.
- c) Except for worker's compensation, each insurance policy issued as a requirement of this Agreement shall name the City of Clearwater as an additional named insured. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents or volunteers.
- d) The Agency shall furnish the City with Certificate(s) of Insurance with all endorsements affecting coverage required by this section. These forms shall be received and approved by the Park and Recreation Director before execution of this Agreement by authorized City officials.
- e) **Worker's Compensation:** The Agency shall provide worker's compensation insurance for all their employees in an amount at least equal to the statutory limits of coverage according to applicable State and Federal laws. In addition, the policy shall include employer's liability coverage with a limit of \$500,000 per occurrence.

ARTICLE III. RESPONSIBILITIES OF THE CITY

1. **Grant of Funds.** No funds will be provided by the City under the terms of this agreement.
2. **Grant of In-Kind Services:**
 - a) The City agrees to provide lawn, landscape and ballfield maintenance for all areas in the park and around the Facility.

- b) The City will provide maintenance for all major capital components of the building including air conditioners, roof, painting, plumbing, electrical, etc.
- c) The City agrees to maintain playground equipment and other outside facilities i.e. basketball court, tennis courts and ballfield.
- d) The City agrees to clean, maintain and staff the dedicated room to be used for a teen program. If for some reason funding cannot be secured by the City for staffing this program the dedicated space will be turned over to Agency to use for their programming purposes.
- e) The City will not provide any other additional in kind services, supplies, labor or equipment whether on loan or for consumption to the Agency.
- f) The City will allow the Agency to use existing furnishings on site i.e. game tables, chairs, tables and desks. The Agency will be responsible for maintenance and replacement of items if needed.

ARTICLE IV. DISCLAIMER OF WARRANTIES

This agreement constitutes the entire agreement of the parties on the subject hereof and may not be changed, modified, or discharged except by written Amendment duly executed by both parties. No representations or warranties by either party shall be binding unless expressed herein or in a duly executed Amendment hereof.

ARTICLE V. TERMINATION

1. **For Cause:** Failure to adhere to any of the provisions of this agreement as determined by the City in its sole discretion shall constitute cause for termination. Such termination shall be effective with 30 days written notice without any further obligation by City.
2. **For Municipal Purpose:** The City may terminate this agreement should the Facility be needed for any municipal purpose, by giving 90 days written notice. Such termination shall be effective immediately following the ninety (90) days.

ARTICLE VI. NOTICE

Any notice required or permitted to be given by the provisions of this agreement shall be conclusively deemed to have been received by a party hereto on the date it is hand-delivered to such party at the address indicated below (or at such other address as such party shall specify to the other party in writing), or if sent by registered or certified mail (postage prepaid), on the fifth (5th) business day after the day on which such notice is mailed and properly addressed.

1. If to City, addressed to Parks and Recreation Director, P.O Box 4748, Clearwater, FL 33758

2. If to Agency, addressed to Boys and Girls Clubs of the Suncoast, Inc., Executive Director,
2300 Tall Pines Drive, Suite 150, Largo, FL 33771.

ARTICLE VII. EFFECTIVE DATE

The effective date of this agreement shall be as of the first day of December, 2007.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 18th day of
March, 2008 (2)

Countersigned:

CITY OF CLEARWATER, FLORIDA

Frank V. Hibbard

Frank V. Hibbard
Mayor

By:

William B. Horne II

William B. Horne, II
City Manager

Approved as to form:

Laura Lipowski

Laura Lipowski
Assistant City Attorney

Attest:

Cynthia E. Goudeau

Cynthia E. Goudeau
City Clerk

BOYS AND GIRLS CLUBS
OF THE SUNCOAST, INC.

By:

Carol R. Laverock, Jr.

Printed Name: CAROL R. LAVEROCK, JR.
Executive Director

