Forty Fort Pool Management Agreement (Draft)

Oct 23, 2026 · @Jeremy

Municipal Pool Management Agreement

This Agreement is made effective as of [EFFECTIVE DATE] by and between Forty Fort Borough (the "Borough"), and The Greater Wyoming Valley Area YMCA (the "YMCA"). The Borough and YMCA may be referred to jointly as the "Parties," and each separately may be referred to as a "Party."

Recitals

WHEREAS, the Borough owns and operates the Forty Fort Borough Municipal Pool, including the pool, pool house and surrounding grounds (collectively, the "Pool"), and desires the YMCA to manage and operate the Pool during the summer operating season for the benefit of Borough residents and the community in general; and

WHEREAS, the YMCA is a nonprofit, tax-exempt organization [under Section 501(c)(3) of the Internal Revenue Code] whose charitable mission includes providing safe, accessible recreation and aquatics programming to the community; and

WHEREAS, the YMCA is experienced and qualified, and hereby agrees to provide such services upon the terms and conditions contained herein.

NOW, THEREFORE, the Borough and the YMCA, for and in consideration of the mutual promises, agreements, and covenants hereinafter contained, do hereby mutually covenant, agree, and promise as follows:

1. Responsibilities of the YMCA

The YMCA agrees to perform and/or provide, in a safe and professional manner, the total management and operation of the Pool during each summer operating season, from opening day through closing day as mutually agreed upon by the Parties each year (the "Season"). The tasks, whether described informally or in an Addendum hereto, are collectively described as the "Services."

The YMCA shall control the day-to-day manner in which the work is to be performed, under its policies and/or procedures, as well as applicable local, state and federal law. The YMCA is responsible for completion of the work accepted.

The YMCA will be responsible for all hiring and human resources matters for the lifeguards and other staff of the Pool.

The YMCA will be responsible for the daily maintenance and upkeep of the Pool and Pool House.

The YMCA will be responsible for setting the fees and hours of operation of the Pool during the Season. Fees shall include a resident rate for Borough residents and a separate non-resident rate. [Any Borough review of rates or resident discount to be discussed by the Parties.]

YMCA staff will perform, at a minimum, the water testing required by the Pennsylvania Department of Health and the Pennsylvania Department of Agriculture, including readings at opening and closing each day the Pool is in operation. YMCA staff will record all readings in the Pool's water quality log and promptly notify the Borough of any reading outside required limits.

Prior to providing any work under this Agreement, the YMCA will ensure all employees and any subcontractors obtain an appropriate criminal background check with the Pennsylvania State Police and a Child Abuse Clearance with the Pennsylvania Department of Human Services. If an employee or subcontractor has resided outside the Commonwealth of Pennsylvania during the prior ten-year period, they are required to complete an FBI Criminal Background Check. The YMCA will ensure these clearances remain current, will retain them on file, and will make them available to the Borough upon request.

Because the Pool serves individuals under the age of 18 ("Minors"), employees of the YMCA working at the Pool are "mandated reporters" under Pennsylvania law. As such, the YMCA will provide appropriate training to its employees and subcontractors and agrees to comply with all provisions of Pennsylvania's Mandated Reporting Laws, including 23 Pa. C.S.A. §6303, §6311, and §6313 et seq.

Any concerns related to safety or security raised by or known to YMCA staff or subcontractors will be brought to the attention of the Borough Manager [or other designated Borough official] in a timely manner.

The YMCA shall not discriminate against any patron, employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental or physical handicap.

At the end of each season during the term of this Agreement, the YMCA will provide the Borough with a profit and loss analysis associated with the operation of the Pool, to determine whether the Agreement should be extended and under what new terms and conditions.

2. Responsibilities of the Borough

The Borough will be responsible for the payment of all utility bills incurred by the Pool.

The Borough will be responsible for the purchase of all chemicals needed for the Pool.

The Borough will be responsible for all major maintenance and repairs to the Pool.

For purposes of this Agreement:

- **Daily maintenance** means routine, recurring upkeep, such as cleaning the pool deck, pool house and restrooms; skimming and vacuuming the pool; emptying skimmer baskets; trash removal; and minor items like replacing light bulbs and restocking supplies.
- **Major maintenance** means the repair or replacement of the pool structure, pumps, filters, plumbing, electrical systems, chemical feed equipment, fencing or buildings, and any single repair costing more than $[AMOUNT].

The Borough will be responsible for lawn maintenance surrounding the Pool.

The Borough will be responsible for major emergency callouts required for the Pool. [The scope of emergency callouts covered by the Borough is to be further determined by the Parties.]

The Borough, through its Certified Pool Operator, will oversee water chemistry at the Pool, including responding to any reading outside required limits reported by YMCA staff. All chemical adjustments to the Pool shall be made only by a Certified Pool Operator or a certified pesticide applicator. YMCA staff shall not make chemical adjustments to the Pool unless the YMCA has a Certified Pool Operator or certified pesticide applicator on staff who has been approved in writing by the Borough.

The Borough will be responsible for opening the Pool and preparing it for operation prior to the start of each Season, and for closing and winterizing the Pool following the end of each Season.

The Borough shall obtain and maintain, throughout the term of this Agreement, the Pennsylvania public bathing place permit for the Pool, a Certified Pool Operator (CPO) certification, and a pesticide applicator license, and will be responsible for any activities at the Pool that require those credentials.

The Borough will make the Pool, Pool House and surrounding grounds accessible to YMCA staff and patrons during the operating season and on other days as mutually agreed upon between the Parties.

3. Nature of Agreement and Consideration

This Agreement is a management agreement for the operation of the Pool. It does not create a lease, tenancy, or any other interest in real property, and the Borough retains ownership and control of the Pool at all times.

In recognition of the YMCA's management and operation of the Pool as a community service, the Borough shall not charge the YMCA rent or any other fee for use of the Pool.

All revenue generated at the Pool during the Season, including membership and admission fees, swim lessons and other programs, private rentals and concessions, shall be retained by the YMCA and applied toward the costs of operating the Pool, including staffing, training, supplies and programming, in furtherance of the YMCA's charitable mission. The season-end profit and loss analysis described in Section 1 will give both Parties a shared view of the Pool's finances.

4. Term

The term of this Agreement shall be for a minimum of three (3) years commencing on the Effective Date, unless this Agreement is otherwise terminated as provided herein. The Borough shall provide the YMCA at minimum sixty (60) days' notice of its intent to renew prior to the end of this term.

5. Staffing

The Services contemplated hereunder are personal in nature and shall be performed only by employees of the YMCA who maintain valid credentials, lifeguard certifications or licensing as determined by the YMCA and in compliance with local, state and federal law.

6. Status: Independent Contractor

The YMCA staff shall not be employees of the Borough for any purpose. Under no circumstances shall the Borough be responsible to the YMCA or any other entity for the payment of city, state or federal taxes, income tax withholding, workers' compensation insurance, unemployment insurance, or any other form of remuneration, which the YMCA agrees are its sole and separate responsibility.

7. Insurance and Indemnification

Mutual Indemnification. Each Party agrees to defend, indemnify, and hold harmless the other Party, its officers, officials, employees, and agents, to the fullest extent permitted by law, from and against any and all losses, costs, damages, expenses and liabilities (including reasonable attorneys' fees and costs of defense and/or settlement) to the extent caused by the negligent acts, errors or omissions, or willful misconduct of the indemnifying Party, its officers, employees, or agents, in carrying out its responsibilities under this Agreement. Nothing in this Agreement shall be construed as a waiver of any immunity or limitation of liability available to the Borough under Pennsylvania law, including the Political Subdivision Tort Claims Act, 42 Pa. C.S. §8541 et seq.

YMCA Insurance. For the duration of this Agreement, the YMCA shall maintain, at its own expense:

- Commercial general liability insurance with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate;
- Professional liability insurance with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate;
- Abuse and molestation coverage with limits of not less than $[AMOUNT]; and
- Workers' compensation insurance as required by Pennsylvania law for all YMCA employees.

The Borough shall be named as an additional insured on the YMCA's general liability policy.

Borough Insurance. For the duration of this Agreement, the Borough shall maintain, at its own expense:

- Property insurance covering the Pool, Pool House and related structures and equipment;
- General liability insurance with limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate; and

- Workers' compensation insurance as required by Pennsylvania law for all Borough employees.

The YMCA shall be named as an additional insured on the Borough's general liability policy with respect to the Pool.

Certificates of Insurance. Each Party shall provide the other with a certificate of insurance evidencing the required coverage upon signing this Agreement, upon each renewal, and at any time upon request. Each Party shall give the other at least thirty (30) days' written notice before any required coverage is cancelled or materially reduced. [All limits to be confirmed with each Party's insurer.]

8. Warranty and Liability

The YMCA warrants that its services are performed to the standards and within the limits prescribed by the Borough and applicable law, and in a manner consistent with that level of care and skill ordinarily exercised by members of the same profession. The YMCA further warrants that it shall maintain all licenses, permits and certifications required by law to provide the services set forth herein, and to notify the Borough immediately of any incident or action taken by any authority that may negatively impact such credentials, whether or not such action actually results in a negative impact to the YMCA.

9. Amendment, Modification or Waiver

No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound and specifying the nature and extent of such amendment, modification or waiver. Nothing herein shall limit the remedies or rights of the Parties hereto pursuant to this Agreement.

10. Termination/Cancellation

Either Party may propose termination of this Agreement at any time by written notice to the other Party. If both Parties agree in writing to terminate, termination shall take effect ninety (90) days after the date of that written agreement, or on such other date as the Parties mutually agree. The Borough may terminate this Agreement immediately if, in its sole discretion, the Borough determines that the YMCA has materially breached this Agreement and the YMCA fails to cure such material breach within ten (10) days after delivery of written notice thereof.

In the event of termination by either Party, the YMCA agrees to return any and all keys, equipment, information and supplies received pursuant to this Agreement to the Borough within five (5) business days of such termination, if not before.

11. Assignability

The YMCA shall not assign any interest in this Agreement, and shall not transfer any interest in same (whether by assignment or novation) at any time.

12. Compliance with Local Laws and Regulations

The YMCA shall, at all times relevant hereto, comply with all applicable laws, ordinances or codes of the Federal, State, County and Borough Governments, and with all applicable professional standards and requirements.

13. Severability

Should any provision in any section of this Agreement be found to be illegal or otherwise unenforceable, all other provisions and sections of this Agreement shall remain in full force and effect.

14. Construction of Contract

This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, other than the conflicts of laws principles thereof. Jurisdiction and venue for any dispute hereunder shall be exclusively in the Court of Common Pleas of Luzerne County, Pennsylvania, and all parties shall use said forum in the event of litigation. The headings are used only as a matter of convenience and are not to be considered a part of this contract or to be used in determining the intent of the parties hereto.

15. Notice

Any notice by a Party hereto shall be deemed to have been duly delivered or given at the time of mailing by registered or certified mail, postage prepaid, in a United States Post Office addressed to the Parties at the addresses as follows:

If to the Borough: Forty Fort Borough, 1271 Wyoming Avenue, Kingston, PA 18704, Attention: [TITLE]

If to the YMCA: The Greater Wyoming Valley Area YMCA, 40 West Northampton Street, Wilkes-Barre, PA 18701, Attention: [TITLE]

16. Force Majeure

Neither Party shall be liable for failure to fulfill its obligations under this Agreement for delays due to causes beyond its reasonable control, including, but not limited to, acts of God, acts or omissions of the other Party, government acts or omissions, or man-made or natural disasters. The time for performance of any such obligation shall be extended for the time period lost by reason of the delay.

Signatures

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement as of the day and year first above written.

Forty Fort Borough

By: _____

Name/Title: _____

Attest/Witness: _____

The Greater Wyoming Valley Area YMCA

By: _____

Name/Title: _____

Attest/Witness: _____