

SHARED USE AGREEMENT

THIS SHARED USE AGREEMENT has been entered into on the date on which the last signature appears, by and between Young Men's Christian Association of the Greater Twin Cities, a nonprofit corporation organized and existing under the laws of the State of Minnesota (the "YMCA") and INDEPENDENT SCHOOL DISTRICT NO. 831 (FOREST LAKE AREA SCHOOLS), an independent school district organized and operating under the laws of the State of Minnesota (the "District").

WHEREAS, the YMCA is planning to construct a YMCA facility (the "Facility") to be located south of Forest Lake Road and north of Headwaters Parkway in Washington County, Forest Lake, MN;

WHEREAS, the District wishes to induce the YMCA to include in the Facility a larger 8-lane swimming pool, a dance studio, additional locker rooms, a concession area and a separate entrance and circulation areas (collectively, the "Shared Spaces"), so that the District may utilize the Shared Spaces for practices for its dance team and swim and diving teams, as well as swim and diving meets for its girls', boys' swim and diving teams and synchronized swim team, under the terms and conditions specified herein;

WHEREAS, the YMCA is willing to include the Shared Spaces in the Facility subject to certain terms and conditions hereafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed by the parties hereto, as follows:

1. **Use of Shared Spaces by District Students.** The District shall have the right to use approximately 13,000 Square feet of the Shared Spaces for its student athletes and physical education students, to the extent provided below. The YMCA shall own, maintain and operate both the Shared Spaces and the remainder of the Facility consistent with the requirements set forth herein.
2. **Dance Studio.** The Dance Studio component of the Shared Spaces shall be approximately 3,000 square feet in size (inclusive of 120 square feet of storage space) with mirrors along one wall. The students participating in the District's dance team program shall have access to the Dance Studio and the appropriate locker rooms and equipment necessary to allow their appropriate and intended use of the Dance Studio component of the Shared Spaces, to the extent provided below.
3. **Lap Pool.** The pool available for physical education and swim team use shall be known as the "Lap Pool", and shall be twenty-five (25) yards long with eight (8) lanes. This agreement also anticipates a diving well ("Diving Well"), pending final approval of its inclusion by the

School Board and designed in such a way as not to interfere with use of the Lap Pool for practices, meets, or YMCA member or public use.

- a. Both the Lap Pool and Diving Well (if applicable) shall be outfitted for standard Minnesota State High School League (“MSHSL”) competition. Both the YMCA and the District shall participate in clarifying and approving the final sizes, depths and other design specifications for both the Lap Pool and the Diving Well to avoid later changes.
 - b. If in the future, MSHSL requirements or specifications for aquatic sports and activities changes, the District shall be responsible for the cost of upgrading or retrofitting the Lap Pool and Diving Well to maintain compliance, if in the District’s sole discretion, it desires such upgrading and/or retrofitting. The YMCA may upgrade or retrofit the Lap Pool and Diving Well, at the YMCA’s sole discretion, if it desires upgrading and/or retrofitting.
 - c. Prior to the start of construction on the Facility, including the Shared Spaces, the YMCA shall consult with the District on a process and means for establishing and maintaining required or appropriate water temperatures, air temperatures, air quality, and other factors contributing to both swimmer and spectator safety and comfort in the Lap Pool area.
 - d. District physical education students and student athletes shall have access to the pool area and the appropriate locker rooms and other common areas and equipment necessary to allow their appropriate and intended use of the aquatic components of the Shared Spaces, to the extent provided below.
4. **Use of Shared Spaces for Swimming Instruction.** The District shall have the right to use the aquatic components of the Shared Spaces for physical education swimming instruction and programming for its students as set forth herein.
- a. **Swimming Instruction Times & Scheduling.** The District shall be allowed access to the Facility for swimming instruction for one agreed upon grade level of up to 600 students annually. During swimming instruction, the YMCA and District agree to create a schedule in a ratio of students to instructors not to exceed 12:1 with not more than 48 students to be allowed to simultaneously participate in the program at any one time. Each student will receive 480 minutes of instruction. The District shall provide appropriate supervision during transport to and from the Facility and during instructional time. The district will provide transportation to and from the Facility. The YMCA shall use a curriculum designed to teach basic water safety and water locomotion skills. This program will take place in up to four (4) lanes of the Lap Pool and may include use of the Diving Well as needed. Specific schedules will be developed by May 31st in advance of the upcoming school year and may be limited to certain hours based on YMCA aquatics programming. The parties may deviate from this developed schedule if unanimously agreed to in writing by the District’s representative as designated by the Superintendent and the YMCA’s representative as designated

by the YMCA CEO. YMCA shall retain access to (four) 4 lanes during all physical education-water safety times.

5. **Use of Shared Spaces for Swim Teams.** The District shall have the right to use the aquatic components of the Shared Spaces for practice time and for home swim and/or diving meets for its girls' swim team, boys' swim team, and synchronized swim team as set forth below.

a. **Practice Times and Scheduling.** Practices will be held in the Lap Pool and Diving Well. During each swim season, the dates of which are determined by MSHSL, each team during its respective competition season shall be allotted one hundred fifty (150) consecutive minutes daily in six (6) lanes of the Lap Pool for weekday practices. The team availability for practice will be from 3:00 to 5:30 p.m. on weekdays. The District teams shall also be allotted during their respective competition seasons one hundred twenty (120) consecutive minutes in four (4) lanes of the Lap Pool for Saturday practices, from 7:00 a.m. to 9:00 a.m. Specific practice schedules, including practices taking place before the first day of school and falling on weekdays during which school is not in session, may deviate from this schedule if agreed to in writing by the District's representative as designated by the Superintendent and the YMCA's representative as designated by the YMCA CEO. YMCA shall retain for other uses access to two (2) lanes during all weekday practice times and four (4) lanes during all Saturday practice times.

The District shall also have the right to use up to two (2) lanes of the Lap Pool from 5:00 a.m. to 7:00 a.m. on weekdays two (2) days per week, with the lanes within the pool area being determined at the discretion of the YMCA, during those portions of the District's boys' and girls' swim team seasons and synchronized swim season when the team is holding practices twice daily.

b. **Swim Meets and Scheduling.** Swim meets will be held in the Lap Pool. During each girls', boys' and synchronized swim season, the respective team may have no more than eight (8) home meets. Meets shall be scheduled six (6) months prior to the start of each season and may only be scheduled on one single chosen day of the week for the duration of each season in a given academic year. The meet schedule must be negotiated and agreed to by the District's representative as designated by the District's Superintendent and the YMCA's representative as designated by the YMCA CEO. During a swim meet, the team shall have exclusive use of the Lap Pool from 3:00 p.m. until 9:30 p.m.

Swim meets in the Shared Spaces must begin no later than 6 p.m. The pool areas of the Shared Spaces must be cleared of all District staff, students, and spectators by 9:30 p.m. The Facility closes at 10 p.m. and all District staff, students, and spectators must vacate the Facility, including the Shared Spaces on or before that time.

Swim meets may include no more than four (4) teams, one of which is the home team, unless the parties agree to hold conference, section, or invitational meets involving

more than four (4) teams. Locker rooms provided in the Shared Spaces must be sufficient for all teams participating in a given meet. YMCA locker rooms located elsewhere in the Facility may not be used at any time for District purposes.

- c. **Swim Team Decorations, Displays, and Markings.** All decorations and displays, such as flags, banners, record boards, and items displaying information about the swim team or the high school, will be subject to approval of the YMCA. The aquatic component of the Shared Spaces may be designed and decorated as the home facility for the District swim teams. The area around the Lap Pool will use District colors as highlights, display the competitive logo prominently, and backstroke flags and lane-lines will be provided in team colors. U.S.A., YMCA, and District identity flags will be flown. Prominent space will be reserved for a future team records display. Other YMCA colors and markings may also be used. Space will be provided for conference and state championship banners. The Lap Pool will be known and marked prominently as the “Home of the Forest Lake Area High School Rangers”.

- 6. **Use of the Shared Spaces for Dance Teams.** The District shall have the right to use the Shared Spaces for practice time and other planned events for the District’s dance team, as provided below.

- a. **Practice Times and Scheduling.** Practices will be held in the Dance Studio. During each dance season, the dates of which are determined by the MSHSL and the duration of which is estimated to be approximately seven (7) months, typically beginning in August and concluding in February, the District’s dance team shall be allotted one hundred fifty (150) consecutive minutes of time in the Dance Studio for weekday practices. The team will practice from 3:00 to 5:30 p.m. on weekdays. Specific practice schedules, including practices taking place before the first day of school and falling on weekdays during which school is not in session, may deviate from this schedule if agreed to in writing by the District’s representative as designated by the District’s Superintendent and the YMCA’s representative as designated by the YMCA CEO.

- 7. **Furniture, Fixtures and Equipment:** During the course of design and construction of the Facility, including the Shared Spaces, the District and the YMCA shall communicate and agree on what Furniture, Fixtures, and Equipment shall be the responsibility of which party, subject to the following provisions.

- a. The electrical requirements for a timing system and scoreboard will be provided by the YMCA; however, the timing system and accompanying scoreboard will be provided by the District.
- b. The District shall provide any and all equipment required or necessary to conduct practices or meets, including, but not limited to:
 - i. Lane markers;
 - ii. Starter horns;
 - iii. Timing devices;

- iv. Chairs;
 - v. Kick boards;
 - vi. Pull buoys;
 - vii. Backstroke flags;
 - viii. Diving scorecards;
 - ix. Lap counters;
 - x. And other necessary equipment.
- c. The District shall provide the following fixtures which shall remain affixed as installed in the Facility in the event of termination of this Agreement:
- i. Starting blocks;
 - ii. Diving boards and platforms (as applicable);
 - iii. Spectator seating (capacity of approximately 300).
- d. The YMCA will provide as part of the construction of the Shared Spaces the following:
- i. Heating, ventilating and air conditioning equipment—including fans immediately above to assure comfort of spectators;
 - ii. Mirrors in dance studios
- e. The District is responsible for replacing any equipment which is lost, stolen or damaged during a designated School District function, which may include practices, meets, or other such events.
- f. The District and the YMCA will agree to acceptable lifecycle schedules and replacement plans for items above for which the parties are respectively responsible.
- g. The YMCA may purchase its own equipment similar to the District's for its own aquatics programs. The District and the YMCA shall agree on appropriate storage and procedures to avoid the comingling of such equipment.

8. Facility and Shared Spaces Rules and Regulations. The YMCA, in consultation with the District, shall have the responsibility for drafting rules and regulations for the use of the Shared Spaces and Facility by students of the District. These rules and regulations shall be posted in appropriate places throughout the Facility, including the Shared Spaces. The YMCA shall have the power to enforce these rules and regulations, and in the event of an emergency, YMCA personnel may unilaterally direct all people within the Facility, including the Shared Spaces, according to YMCA protocol. However if any of the Shared Spaces is being used for District educational, curricular or extracurricular programs, the District shall have the primary responsibility for enforcing and agrees to enforce the rules and regulations for the Shared Spaces and Facility and agrees to educate those participating in or observing the programs of the importance and necessity of complying with the rules and regulations.

9. **Scheduling.** The YMCA and the District shall meet no less than semiannually, with an initial meeting not later than March 15, 2016 and with meetings prior to March 15 in each subsequent year, and upon the request of either party, to establish schedules for use of the Shared Spaces for swim team practices and meets, and for dance team practices. Final schedules shall be established no later than each May 31 preceding each impending school year. One consideration for scheduling for the teams will be to accommodate the District's needs in scheduling meets. The parties recognize that the meet schedules are determined in part by conference and MSHSL rules and dictates. In the event of a meet cancellation, the YMCA shall use its best efforts to accommodate rescheduling of the meet to meet the needs of the District, the conference, and the MSHSL. The District understands and agrees that its use of the Shared Spaces or Facility shall be conducted along with YMCA activities and programs.
10. **Access by Swim Teams and Dance Team.** The respective District teams shall have access to the Lap Pool and Diving Well or Dance Studio, respectively; a team office and storage room for swim teams ("Team Offices"); and the appropriate locker rooms and other common areas necessary to allow their appropriate and intended use of the Shared Spaces. Storage space will be included in the dance studio. District staff and students will not be provided with keys or other means of accessing the Shared Spaces or the Facility outside of normal YMCA operating hours.

Team Offices shall be controlled for air temperature and humidity, and will have lockable cabinets designated Boys, Girls, Synchro, and YMCA. The office will be shared with any YMCA swim team. LAN and Wi-fi routers and other technology necessary to support the timing systems shall be housed in the climate controlled areas within the Team Office. The District and YMCA will agree on appropriate security access and locking devices.

All District coaching staff and team members will be provided with a Shared Spaces access card at the beginning of each season by the YMCA and must present it to YMCA staff upon entering the Facility. The District team coaches will also provide the YMCA with team rosters by the end of the first week of the season, including information allowable under the District's data privacy policy. Modifications to rosters of coaches, athletes, volunteers or support staff for any reason shall be communicated by the District to the YMCA immediately. The YMCA reserves the right to refuse access to the Facility to any person attempting to enter without an appropriate access card.

During swim meets, the YMCA will arrange or provide access to the Shared Spaces to District staff, students, and spectators without requiring an access card.

The District teams shall not have access to any other areas of the Facility for any purpose, including athletic conditioning or training, or group activities, except by prior arrangement with the YMCA, and such activities are subject to additional fees, as determined by the YMCA.

Teams may store additional equipment in the Team Offices at their own risk. The YMCA is not responsible for the upkeep or maintenance of equipment not owned by the YMCA.

11. **Name of Aquatic Center.** The entire aquatic center at the Facility will be named “Forest Lake Area Schools YMCA Aquatic Center” and the Facility will be known on official communications and letterhead as Forest Lake Area YMCA and Forest Lake Area Schools YMCA Aquatic Center.
12. **Marketing Collaboration.** The District agrees to provide marketing access to its students for YMCA programs. The YMCA agrees to provide marketing access to its members for school district programs. The District’s Superintendent, or designee, and the YMCA’s CEO, or designee, shall meet annually to plan and implement this marketing collaboration.
13. **Term.** The term of this Agreement (the “Term”) shall commence on the later of August 1, 2016 or the date on which the Shared Spaces are substantially complete and available for use by the District pursuant to this Agreement, and shall continue through June 30, 2046. Notwithstanding the foregoing, the District may terminate this Agreement, in whole but not in part, as of June 30 of any year during the Term, by notice to the YMCA given not later than March 31 preceding the effective date of such termination, if and only if the Board of the District duly adopts a resolution that the District shall cease sponsoring interscholastic boys’ swim teams, boys’ diving teams, girls’ swim teams, girls’ diving teams, and synchronized swimming teams. If the District so elects to terminate this Agreement, all rights and obligations of the parties under this Agreement shall cease to accrue as of the effective date of such termination, each party promptly shall pay to the other any amounts owed to the other that accrued prior to the effective date of such termination, and the District shall remove from the Facility all District property not later than the effective date of such termination.

This Agreement shall not constitute a general obligation of the District, and the full faith and credit of the District are not pledged to the payment of moneys or the performance by the District of its obligations hereunder. The funds shall be paid, and the other obligations of the District shall be met solely from the amounts appropriated by the School Board for such purpose in the District’s annual budget and shall constitute a current expense of the District for the District’s fiscal year then in effect. Nothing in this Agreement shall be deemed to obligate the District to budget or appropriate monies or to pay funds due following the end of its then-current fiscal year. This Agreement shall not constitute an indebtedness of the District within the meaning of the Constitution or the laws of the State of Minnesota.

Notwithstanding anything to the contrary in this Agreement, either the District or the YMCA may elect to terminate this Agreement, as of June 30 of any calendar year during the Term, by providing to the other party not less than twelve months’ prior written notice of such election.

14. **Payment.** The District shall pay the YMCA for use of the Shared Spaces and all services to be provided by the YMCA hereunder, monthly in advance, according to the attached Exhibit B, with each fiscal year commencing on July 1 and ending on June 30 of the succeeding year. The District shall also be obligated to pay for lifeguarding services that are required while its students are in the Lap Pool area. No additional expenses of any nature for the operation or maintenance of the Shared Spaces are required, and the District shall not be obligated to pay utilities, taxes, or any additional expenses related to the operation of the Facility or Shared Spaces other than the payment as described differently above. The total annual amount due for the first fiscal year of this Agreement shall be \$544,337. Future annual amounts due shall be according to the attached schedule. The District's payments shall be payable in equal monthly installments.

It is understood and agreed by the parties that the revenue generated by ticket sales to high school swim meets, net after direct expenses incurred related to said revenue, shall be remitted to the District.

Payments shall begin when the Term commences, the first month that the YMCA is opened for public use. If the Facility is not available for the District's use on September 1, 2016, the annual amount due during the first fiscal year shall be adjusted on a pro-rated basis in accordance with the date the Term commences.

15. **Operations and Maintenance.** The YMCA shall own, operate and maintain the Facility, including the Shared Spaces, in a safe and proper manner and in conformance with all Minnesota laws and rules related to public pools. The YMCA shall be responsible for providing safe, clean and sanitary conditions in and about the Facility. The YMCA shall be responsible for all maintenance of the exterior and interior of the Facility, including, but not limited to, landscaping, parking lots, sidewalks, the roof, the Lap Pool, and the mechanical and electrical components of the Facility, the HVAC system, signs, lighting, and plumbing. The YMCA shall be responsible for any contracts for furnishing electricity, gas, fuel, water, telephones, computer service, window cleaning, snow and ice removal, lawn maintenance, trash or rubbish hauling or any other services the YMCA deems necessary or required to operate and maintain the Facility. The YMCA shall pay or cause to be paid all Facility financing indebtedness, real estate and property taxes, and other ownership and operational expenses for the Facility. The YMCA shall obtain insurance that may be necessary to insure the interests of the YMCA and the District in the operation and use of the Facility and shall maintain property insurance for the full replacement value of the Facility. All operation, maintenance, and repair of the Facility shall be at the expense of the YMCA, without further contribution from the District except (a) to the extent of its required annual payments pursuant to this Agreement, or (b) to the extent that repairs are necessary directly as a result of negligence or vandalism on the part of the District, its staff, students, visitors or guests. The YMCA shall require criminal history background checks for all employees employed by the YMCA to perform maintenance and operations services for the Facility. The YMCA shall be solely liable for the misconduct of, and the District shall have no obligation or responsibility for, any employees or independent contractors hired by the

YMCA to operate, maintain or repair the Facility. The YMCA and the District will discuss periodic or annual cycles necessary for drainage and cleaning of all aquatic components in the Facility, including the Lap Pool and Diving Well. The YMCA and the District agree that there may be times when the Lap Pool and/or Diving Well are not available when scheduled for reasons related to acts of God, mechanical failures, utility outages, and issues of safety related to proper water and indoor air quality.

16. Contingencies.

- a. **City Council Approval.** The YMCA's obligations under this Agreement are contingent upon the Forest Lake City Council's approval on February 23, 2015 of the necessary amendments to the Development Agreement between the City of Forest Lake and the YMCA to allow the expanded scope and use of the Facility for the purposes set forth in this Agreement.
- b. **MDE Approval.** The District's obligations under this Agreement are contingent upon pre-approval of the Minnesota Department of Education ("MDE") by March 2, 2015 for sufficient lease levy aid funding for the District in the District's sole discretion.
- c. **Effect.** If either contingency set forth above has not been satisfied, this Agreement may be terminated, at the option of the benefited party, by written notice to the other party given not later than March 6, 2015. Upon such termination, neither party will have any further rights or obligations regarding this Agreement. If a benefited party fails timely to provide such notice of termination, the condition to such party's obligations under this Section 16 conclusively shall be deemed to have been satisfied, or waived by that party.

17. Indemnity and Insurance.

- a. **YMCA to District:** To the extent permitted by law, the YMCA shall indemnify and defend the District and its employees, agents and contractors, and save them harmless from and against all claims, losses or liabilities arising out of damage to property of, or injury to, any third parties or the District, including the District's employees, agents and contractors, occasioned by or caused in connection with the acts or omissions of the YMCA or the YMCA's employees, agents and contractors, and all costs, fees, and reasonable attorneys' fees, including in-house or staff attorneys' fees, incurred in connection therewith. The YMCA shall include the District as an additional insured on any policies of liability insurance carried by the YMCA relating to the Facility. Furthermore, all policies of liability insurance maintained by the YMCA shall contain a waiver of subrogation as to the District and shall be at limits no less than the liability limits of the District's liability insurance. The YMCA shall provide certificates of insurance to the District evidencing all insurance coverages required pursuant to this Agreement on an annual basis.

- b. **District to YMCA:** To the extent permitted by law, the District shall indemnify and defend the YMCA and its employees, agents and contractors, and save them harmless from and against all claims, losses or liabilities arising out of damage to property of, or injury to, any third parties or the YMCA, including YMCA employees, agents and contractors, occasioned by or caused in connection with the acts or omissions of the District or the District's employees, agents, students and contractors, and all costs, fees, and reasonable attorneys' fees, including in-house or staff attorneys' fees, incurred in connection with the District's use of the Shared Spaces. The District shall include the YMCA as an additional insured on any policies of liability insurance carried by the District relating to the Shared Spaces. The District shall provide certificates of insurance to the YMCA evidencing all insurance coverage required pursuant to this Agreement on an annual basis.
18. **Dispute Resolution Procedure:** All disputes arising between the parties involving the interpretation or application of the terms and conditions of this Agreement, including, but not limited to, any alleged breach and the rights and obligations of the parties, both monetary and non-monetary, shall be subject to the dispute resolution procedure set forth herein.
- a. **Informal Meeting:** The first stage of dispute resolution shall be an informal meeting between the YMCA's representative as designated by the YMCA CEO, and the Superintendent of schools for the District, or his or her designee.
- b. **Conference:** The second stage of dispute resolution shall be a conference. When a dispute has arisen between the parties and is not settled promptly in the normal course of business, the complaining party shall notify the other party of its complaint by means of a brief written statement. The statement shall describe with specificity the alleged wrong and shall set forth the complaining party's position. Within ten (10) calendar days of receipt of the complaining party's written statement, the parties shall meet. Each party may designate those person(s) who will meet as representatives on that party's behalf. The complaining party will present its position, claims, defenses, and other relevant information. Following the complaining party's presentation, the other party will present its position, claims, defenses, and other relevant information. Each party shall have up to one (1) hour to make its presentation. Immediately following the parties' presentations, the parties shall meet for the purpose of resolving the dispute.
- c. **Mediation:** The third stage of dispute resolution shall be mediation. If the parties have not resolved the dispute within thirty (30) days after receipt of the written complaint, each party may require the dispute be submitted for mediation. If the parties are unable to agree on a mediator within ten (10) days following a request for mediation, the parties shall request that the Mediation Center for Dispute Resolution, 1536 Hewitt Avenue, St. Paul, Minnesota, appoint a mediator. The parties agree to share equally all fees incurred in the mediation. The parties shall submit to mediation for a minimum of

eight (8) hours. The parties agree that the mediation proceedings are private and confidential. If, at the end of eight (8) hours of mediation, the parties have not resolved the dispute, the parties may agree to extend the hours of mediation.

- d. **Arbitration:** The fourth stage of dispute resolution shall be final and binding arbitration. If the parties are unable to resolve the dispute by means of mediation and the requisite minimum eight (8) hours of mediation have been fulfilled, either party may submit the dispute to binding arbitration. Arbitration proceedings shall be governed by the then-existing commercial arbitration rules of the American Arbitration Association (AAA) and shall be heard and decided by a single arbitrator.

The parties agree to bear equal responsibility for the fees of AAA, including the fees of the arbitrator. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. In the event that arbitration services are not available from AAA, either party may request that an arbitrator be appointed by the Second Judicial District Court.

- e. **Compliance:** The parties deem the dispute resolution procedure as set forth herein to be an integral and essential part of this Agreement. A party's failure to comply in all respects with the procedure shall be a substantial breach of this Agreement. The arbitrator shall be authorized to assess costs and attorney's fees against a party that has failed to comply with the procedure in all respects, and, may as a condition precedent to arbitration, require the parties to comply with the conference and mediation stages.

19. **Amendments, Changes, Modification.** This Agreement may not be amended, changed, modified, or altered without the prior written consent of the District and the YMCA.

20. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the District and the YMCA and their respective successors and permitted assigns.

21. **Notices.** Any notice, request, consent or approval, required or permitted to be given hereunder, shall be in writing and shall be deemed effective (a) on the date delivered, if hand delivered, (b) on the date mailed by registered or certified U.S. Mail, return receipt requested, with adequate postage affixed, if mailed by registered or certified mail, or (c) on the date when sent, charges pre-paid, if delivered by commercial overnight delivery service or U.S. Express Mail, as evidenced by service receipt or Express Mail postmark. Notice shall be addressed to the addresses stated below or to such other address or addressee as may from time to time be designated by either party by notice similarly given.

Address of the YMCA: The YMCA in Forest Lake
Attn: Chief Operating Officer
YMCA of the Greater Twin Cities
2125 East Hennepin Avenue

Minneapolis, MN 55413

Address of District: Independent School District No. 831
6100 N. 210th Street
Forest Lake, MN 55025
Attn: Superintendent Linda Madsen

22. **Severability.** In the event that any provision of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.
23. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same Agreement.
24. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define or describe the scope or intent of any provisions or sections of this Agreement.
25. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
26. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all agreements, representations, warranties, statements, promises, and understandings, whether oral or written, with respect to subject matter hereof. No party will be bound by or charged with any oral or written agreements, representations, warranties, statements, promises or understandings not specifically set forth in this Agreement.
27. **Laws.** The District, at its sole expense, shall comply with all laws, orders and regulations of federal, state and municipal authorities and any other governmental entity having jurisdiction over the Facility relating to the District's use of the Facility.
28. **Assignment.** The District shall use the Shared Spaces only for the purposes set forth herein, and shall not assign this Agreement or any of its rights pursuant to this Agreement without the prior written consent of the YMCA, which the YMCA may withhold, condition or grant in its sole and absolute discretion.
29. **Alterations.** No alterations, additions or improvement to the Shared Spaces, including without limitation any signage, shall be made by the District without the prior written consent of the YMCA. Any alteration, addition or improvement made by the District after such consent shall be given shall become property of the YMCA upon the expiration or sooner termination of this Agreement, unless the YMCA requires said alteration, addition or improvement to be removed, in which event the District shall remove said alteration,

addition or improvement and repair all damage to the Facility caused by such removal.

- 30. Casualty.** In the event the Facility shall be destroyed or so damaged or injured by fire or other casualty during the term of this Agreement whereby the same shall be rendered untenable, then the YMCA shall have the right to repair the Facility within twelve (12) months after the casualty. If the Facility is not rendered tenantable within said time, either party may, at its option, cancel this Agreement by notice to the other, and in the event of such cancellation the amounts payable pursuant to this Agreement shall be paid only to the date of such fire or other casualty. If the Facility is taken by any public authority under the power of eminent domain, the District's obligation to pay amounts hereunder shall terminate as of the date possession is taken by such public authority, and the YMCA shall be entitled to all compensation for such taking.
- 31. Default.** If there shall be a default in the performance of any covenant, agreement, condition, rule or regulation hereby contained or hereafter established on the part of either party for more than twenty (20) days after written notice of such default by the other party, or such longer period as is necessary to cure such default provided the defaulting party commences to cure such default within said twenty (20) days and diligently proceeds to cure said default, all of the defaulting party's rights pursuant to this Agreement shall thereupon terminate, and in the case of the District being the defaulting party, the YMCA shall have the right to remove from the Facility any and all District property at the District's expense, in addition to all other rights and remedies allowed by law.
- 32. Remedies.** If the District shall be in default hereunder, the YMCA may also, after giving notice to the District and granting the District the opportunity to cure the default, cure such default on behalf of the District, in which event the District shall reimburse the YMCA for all sums paid to effect such cure, together with interest at the rate of four percent (4%) per annum (not to exceed the highest rate permitted by applicable law) and reasonable attorney's fees. In order to collect such reimbursement, the YMCA shall have all remedies available under this Agreement for a default in the payment of money.
- 33. Waiver.** No failure by the YMCA to insist upon the strict performance of any term or condition of this Agreement, or to exercise any right or remedy available on a breach thereof, and no acceptance of full or partial payment during the continuance of any such breach, shall constitute a waiver of any such breach of any such term or condition. No term or condition of this Agreement required to be performed by the District, and no breach thereof, shall be waived, altered or modified, except by written instrument executed by the YMCA.

No failure by the District to insist upon the strict performance of any term or condition of this Agreement, or to exercise any right or remedy available on a breach thereof, and no full or partial payment during the continuance of any such breach, shall constitute a waiver of any such breach of any such term or condition. No term or condition of this Agreement

required to be performed by the YMCA, and no breach thereof, shall be waived, altered or modified, except by written instrument executed by the District.

34. Brokers. The District represents that it has not dealt with any broker in connection with this Agreement.

35. Rights of City. The rights granted to the District pursuant to this Agreement are subject and subordinate to the rights of the City of Forest Lake, Minnesota pursuant to the Development Agreement described in Section 16.a above, as it may be amended from time to time; provided, however, that no such amendment entered into after the date of this Agreement shall limit the rights granted to the District under this Agreement unless the District consents to such amendment in writing.

WHEREFORE, the parties hereto have executed this Agreement on the respective dates set forth below.

INDEPENDENT SCHOOL DISTRICT NO. 831
(FOREST LAKE AREA SCHOOLS)

Young Men’s Christian Association of the
the Greater Twin Cities

By: _____

By: _____

Its: Chair _____

Its: _____

By: _____

By: _____

Its: Clerk _____

Its: _____

Dated: _____

Dated: _____

EXHIBIT B

Annual Payments (Due in equal monthly installments)

Year #	Fiscal Year	Annual Payment
1	2016 - 2017	\$ 544,337
2	2017 - 2018	\$ 549,286
3	2018 - 2019	\$ 554,407
4	2019 - 2020	\$ 559,708
5	2020 - 2021	\$ 565,195
6	2021 - 2022	\$ 570,873
7	2022 - 2023	\$ 576,750
8	2023 - 2024	\$ 582,833
9	2024 - 2025	\$ 589,129
10	2025 - 2026	\$ 595,646
11	2026 - 2027	\$ 602,390
12	2027 - 2028	\$ 609,370
13	2028 - 2029	\$ 616,595
14	2029 - 2030	\$ 624,072
15	2030 - 2031	\$ 631,812
16	2031 - 2032	\$ 236,871
17	2032 - 2033	\$ 245,161
18	2033 - 2034	\$ 253,742
19	2034 - 2035	\$ 262,623
20	2035 - 2036	\$ 271,815
21	2036 - 2037	\$ 281,328
22	2037 - 2038	\$ 291,175
23	2038 - 2039	\$ 301,366
24	2039 - 2040	\$ 311,914
25	2040 - 2041	\$ 322,831
26	2041 - 2042	\$ 334,130
27	2042 - 2043	\$ 345,824
28	2043 - 2044	\$ 357,928
29	2044 - 2045	\$ 370,456
30	2045 - 2046	\$ 383,422