

**GRANT AGREEMENT BETWEEN MECKLENBURG COUNTY, NORTH CAROLINA
AND
THE TOWN OF HUNTERSVILLE, NORTH CAROLINA**

THIS GRANT AGREEMENT (“Agreement”) is made as of the 20th day of July, 2015 by and between MECKLENBURG COUNTY, NORTH CAROLINA (“County”) a political subdivision of the State of North Carolina, and TOWN OF HUNTERSVILLE, NORTH CAROLINA (“Town”) a North Carolina Municipal Corporation.

W I T N E S S E T H

WHEREAS, Town has constructed and operates a fitness and aquatics center known as Huntersville Family Fitness and Aquatics (“HFFA”) which is located on real property (the “Property”) leased from County pursuant to an amended Land Lease dated August 25, 1999, and most recently pursuant to a Third Amended and Restated Lease dated April 22, 2015 (the “Lease”). The facility located thereon is sometimes referred to as “Facility”; and

WHEREAS, the Facility has been operated and maintained on the Property by the Town since completion of construction in 2001 and includes full aquatic facilities including an indoor 50 meter competition pool with 10 meter dive tower and a 25 yard indoor warming pool; and

WHEREAS, the Facility is the only publically owned and operated aquatic facility located in the northern part of Mecklenburg County and immediately serving that area; and

WHEREAS, under the terms of the Lease, the Facility is designated as a joint venture facility between the County and the Town; and

WHEREAS, due to the age of the Facility, the heating and air conditioning equipment and systems for the Facility, particularly for the pools and pool areas, are in need of immediate replacement and repair; and

WHEREAS, County, recognizing that the Facility serves a substantial number of residents of Mecklenburg County and that it is a joint venture with the Town, has agreed to grant to Town funds for such repair and replacement as hereafter set forth.

AGREEMENT

THEREFORE, the Parties do hereby agree as follows:

1. County will give and grant to Town the sum of One Million, Five Hundred Seventy Five Thousand (\$1,575,000.00) Dollars (the "Grant") to be used solely for evaluation and planning of and the replacement of the current Dectron System providing the heating, air conditioning, and environmental controls for the Facility, to the extent that it may be accomplished with such available funds.
2. The scope of the work which may be funded by the Grant may include, but not necessarily be limited to, engineering services to evaluate the current system and the system options to be used in the Facility; engineering or design services to prepare or complete construction plans and specifications for any new installations or repairs, manage any required bidding process to identify the qualified bidders submitting bids for the installation of the work to be performed, identify, submit for review and obtain all necessary permits, and supervise and oversee all construction, installation and repair work; providing and installing all new and replaced equipment and systems and making such repairs to the existing systems as may be required.
3. In the event that the funds available under this Grant are insufficient to replace and/or repair the entire system, Town shall determine the priorities as to which areas of the Facility shall be replaced or repaired and in what order the work is to be accomplished, but recognizing that at the present time the pools, and especially the 50 meter pool, are the primary objectives. Town may provide additional funds to fully or partially complete the recommended work, but has no obligation to do so.
4. This Agreement shall be effective on the date of the last of the parties to sign this Agreement (the "Effective Date"). Town agrees that it shall have substantially begun the project no later than sixty (60) days after the Effective Date by contracting for design and engineering work and preparing for submission of required bids from proposed contractor/vendors, and shall have substantially completed the work on the project no later than nine (9) months after the Effective Date, except for circumstances beyond the control of Town.
5. Town shall be entirely responsible for the project, including but not limited to, contracting for design and engineering work, advertising and awarding bids for the work to be performed, entering into all contracts as owner, supervision of the work, assurance of compliance with all applicable regulations and obtaining all necessary permits. Town shall indemnify and hold County harmless from any claim, suit, loss, damages or expenses (including reasonable attorney's fees) resulting from Town's negligence or willful misconduct in its responsibilities hereunder.
6. Upon receipt from any contractor, consultant or vendor of an invoice for service, supplies or equipment under its contracts for the work, Town shall ascertain the validity of that invoice, shall certify to County that it has done so and shall submit such invoice to

County for payment to Town, whether or not Town has first paid such invoice. County agrees to thereafter pay to Town the amount of such invoice within ten (10) business days after receipt, unless there is a reasonable dispute as to its validity.

7. As provided in the Lease from County to Town, the Facility is a joint venture between the County and Town and Town shall operate the Facility for recreation purposes open to the general public according to the provisions of the Lease, which is incorporated herein, and to be used in accordance with the policies of the Town.
8. If Town should fail to use the Grant, or any portion thereof, for the purposes set forth in this Agreement without the express written consent of County, or should it otherwise default in its obligations under this Agreement, County shall give Town notice of such failure or default, and Town shall have a period of thirty (30) days to correct the default or justify its use of the Grant. If it fails to do so, Town shall return to County all Grant funds which were not expended for the purposes provided for in this Agreement or as otherwise consented to by County.
9. Any notices required to be given hereunder shall be given by written notice delivered by (a) hand delivery, (b) U.S. Postal Services, registered or certified mail, (c) recognized overnight delivery service such as Fed Ex or UPS, or (d) electronic delivery with acknowledgement of receipt, to the following address:

If to County: W. Lee Jones
 Park and Recreation Department
 5841 Brookshire Blvd
 Charlotte, NC 28216-2403

With copy to: Marvin Bethune, County Attorney
 Ruff, Bond, Cobb, Wade & Bethune, L.L.P.
 831 East Morehead Street, Suite 860
 Charlotte, NC 28202

If to Town: Town Manager
 Town of Huntersville
 101 Huntersville-Concord Road
 Post Office Box 664
 Huntersville, NC 28070

With copy to: Robert B. Blythe, Town Attorney
 Town of Huntersville
 105 Gilead Road, 3rd Floor
 Post Office Box 664
 Huntersville, NC 28070

10. During the term of this Agreement and for a period of two (2) years after expiration or termination, the County shall have the right to audit, either itself or through an independent auditor, all books, records, and facilities of the Town necessary to evaluate Town's compliance with the terms and conditions of this Agreement or the County's payment obligations. The County shall pay for its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs to the Town.

11. This Agreement shall be governed by the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Parties have executed this document as of the date of execution shown with their signature, by authority duly given.

MECKLENBURG COUNTY

ATTEST:

Janice S. Paige
Clerk to Board of County Commissioners

By: _____
Dena R. Diorio, County Manager

(SEAL)

Approved as to Form:

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Marvin A. Bethune, County Attorney

County Finance Officer

TOWN OF HUNTERSVILLE

ATTEST:

Janet Pierson, Town Clerk
(SEAL)

By: _____
Greg Ferguson, Town Manager

Approved as to Form:

Robert B. Blythe, Town Attorney