

ORDINANCE 6-2023

AN ORDINANCE OF THE BOROUGH OF CLAYTON AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE BOROUGH OF CLAYTON AND THE GLOUCESTER COUNTY YMCA

WHEREAS, the Borough of Clayton is a municipal corporation of the State of New Jersey; and

WHEREAS, the Gloucester County YMCA is a non-profit organization incorporated under the laws of the State of New Jersey; and

WHEREAS, the Borough of Clayton is in agreement to allow The Gloucester County YMCA to lease the use of the Township's existing recreation center located on Borough owned property at 720 Washington Avenue, Clayton, New Jersey; and

WHEREAS, the parties have agreed to enter into a Lease Agreement for said purpose.

NOW, THEREFORE BE IT ORDAINED by the Township Committee of the Borough of Clayton, County of Gloucester and State of New Jersey as follows:

1. The Borough Council does hereby approve and authorize the execution of a Lease Agreement between the Borough of Clayton and The Gloucester County YMCA to lease the use of the Borough's existing recreation center located on Township owned property at 720 Washington Avenue, Clayton, New Jersey.
2. The Mayor and/or Borough Administrator be and is hereby authorized to execute said Lease Agreement on behalf of the Borough of Clayton.

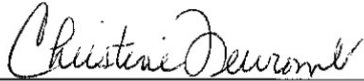
BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon formal approval by the Clayton Borough Council and publication as required by law.

BOROUGH OF CLAYTON



THOMAS BIANCO, Mayor

Attest:



CHRISTINE NEWCOMB, Borough Clerk

NOTICE OF INTRODUCTION

ORDINANCE 6-2023

**AN ORDINANCE OF THE BOROUGH OF CLAYTON AUTHORIZING THE
EXECUTION OF A LEASE AGREEMENT BETWEEN THE BOROUGH OF
CLAYTON AND THE GLOUCESTER COUNTY YMCA**

TAKE NOTE that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on February 23, 2023 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 6:30 p.m. on March 9, 2023, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

BY ORDER of the Mayor and Council of the Borough of Clayton.

Christine Newcomb
Borough Clerk

NOTICE OF ADOPTION

ORDINANCE 6-2023

**AN ORDINANCE OF THE BOROUGH OF CLAYTON AUTHORIZING THE
EXECUTION OF A LEASE AGREEMENT BETWEEN THE BOROUGH OF
CLAYTON AND THE GLOUCESTER COUNTY YMCA**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on March 9, 2023.

Christine Newcomb
Borough Clerk

**LEASE AGREEMENT BETWEEN THE BOROUGH OF CLAYTON AND THE
GLOUCESTER COUNTY YMCA**

THIS LEASE AGREEMENT dated this 9th day of March, 2023 between the Borough of Clayton (hereinafter referred to as "Borough/Landlord") with a mailing address of 125 N. Delsea Drive, Clayton, New Jersey 08312 and the Gloucester County YMCA (hereinafter referred to as "YMCA/Tenant") with a mailing address of 235 E. Red Bank Avenue, Woodbury, New Jersey 08096 hereinafter referred to as the "Parties" and the Parties agreeing as follows:

BACKGROUND

WHEREAS, the Borough/Landlord is a municipal corporation of the State of New Jersey; and

WHEREAS, the YMCA/Tenant is a non-profit organization incorporated under the laws of the State of New Jersey; and

WHEREAS, the Borough/Landlord owns property known as the Recreation Center located at 720 Washington Ave, Clayton, New Jersey (Block 206/Lot 10) located in Clayton, New Jersey ("Property"); and

WHEREAS, the YMCA/Tenant desires to enter into a Lease Agreement with the Borough for use of the Recreation Center located on the "Property" by the YMCA/Tenant for a Summer Day Camp Program.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND THE MUTUAL COVENANTS AND REPRESENTATIONS CONTAINED HEREIN, AND INTENDING TO BE LEGALLY BOUND, THE PARTIES HERETO HEREBY MUTUALLY AGREE AS FOLLOWS:

1. LEASED PREMISES.

- a. The Borough/Landlord hereby leases unto the YMCA/Tenant and YMCA/Tenant hereby leases from the Borough/Landlord the Recreation Center located on the "Property" for the use by the YMCA/Tenant as a Summer Day Camp for participants between the ages of 5-12 years old. The YMCA will have use of the gym, front two (2) meeting rooms and parking lot.
- b. YMCA shall not have use of the kitchen.

2. TERM

- a. The term of this Agreement (“Term”) shall be for the period from June 26, 2023 through September 1, 2023.

3. BASIC RENT.

YMCA/Tenant shall pay no rent for use of the Recreation Center but shall pay to the Borough the sum of \$25 dollars per participant/per week for each participant who is a resident of Clayton Borough and/or \$35 dollars per participant/per week for each participant who is a non-resident of Clayton Borough.

4. USE OF PREMISES/PARTICIPANTS.

- a. YMCA/Tenant shall have the rights to use and occupy the Recreation Center for the purpose of operating a Summer Day Camp between the hours of 7:00am to 6:00pm Monday through Friday during the term of the Lease. YMCA/Tenant shall not use or permit the use of the Recreation Center for any other purpose.
- b. Number of Participants. Anticipated to be between 45-60 campers, with 1-10 camper to staff ratio. YMCA/Tenant recognizes that the facility’s maximum occupancy is 360 including campers and staff and agrees not to allow more than this number of individuals in the building at one time.
- c. All camp counselors shall be 18 years of age or older.
- d. Senior Director of Youth Development overseeing the program shall be 21 years old or older.
- e. Camp Director overseeing the camp shall be 21 years old or older.

YMCA OBLIGATIONS

- 1. Equipment. YMCA to provide all recreational equipment needed for games and activities at the Recreation Center.
- 2. YMCA shall supply all paper products and janitorial supplies used for the camp.
- 3. YMCA will be responsible for the daily/weekly cleaning of the Recreation Center.
- 4. YMCA shall not permit street shoes be worn by campers in the Recreation Center.
- 5. YMCA/Tenant shall use “Best Practice” in protecting camp participants. YMCA/Tenant camp activities are required to abide by the laws of the State of New Jersey and shall follow the Borough’s Policy of the Borough of Clayton on the

Protection and Safe Treatment of Minors (Exhibit 'A'), but may use alternate safety training through Expert Online Training.

6. YMCA will follow all ACA (American Camp Association) and Praesidium guidelines for sexual abuse in all of their programs.
7. YMCA/Tenant shall be responsible for obtaining any and all necessary permits/approvals/inspections required by State/County/Federal governmental bodies for operation of a Summer Day Camp and provide verification of same to Borough/Landlord.

INSURANCE REQUIREMENTS

1. YMCA to provide at its own cost and expense proof of the following insurance to the **Borough of Clayton**

Commercial General Liability insurance for no less than \$1,000,000 per occurrence and \$2,000,000 Aggregate for Bodily Injury, Personal and Advertising Injury and Property Damage. Coverage shall include a \$1,000,000 Sexual Abuse, Injury or Molestation limit of insurance. Coverage shall include "Damage to Rented Premises" with limits of \$500,000 per occurrence.

- a) Coverage to be primary and non-contributory.
- b) Borough of Clayton shall be named as an "Additional Insured".
- c) The Description of Operations section of the certificate must include the following additional insured wording: *"The Borough of Clayton, its elected and appointed officials, its agents, employees, volunteers or others working on behalf of the Borough of Clayton are named additional insured on the General Liability policy"*. **A copy of the additional insured endorsement shall be provided with the certificate of insurance.**

d) Coverage required under the Agreement shall not be canceled or non-renewed without 30 days prior written notice from User to Municipality, except where cancellation is for non-payment of premium, then 10 days prior notice shall be given.

e) Certificate must show evidence that the General Liability Policy will respond to injuries sustained by participants, and/or show a Certificate of Insurance evidencing a Participant's Medical Policy.

Workers' Compensation (If Applicable) insurance or its equivalent with statutory benefits as required by any State or Federal law, with **Employer's Liability** insurance minimum limits of: \$1,000,000 each accident for bodily injury by accident; \$1,000,000 each employee for bodily injury by disease; and \$1,000,000 policy limit for bodily injury by disease

The insurance companies for the above coverages must be licensed by the State of New Jersey and acceptable to the **Borough of Clayton**. The **YMCA** shall take no action to cancel or materially change any of the insurance required under the is agreement without the Borough's prior approval. The maintenance of the insurance under this section shall not relieve the **YMCA** of any liability greater than the limits or scope of the applicable insurance coverage. Failure by the **YMCA** to supply such written evidence of required insurance and to maintain same for the

duration of this agreement shall result in default of the agreement and YMCA shall be prohibited from using said FACILITY(IES).

COVID 19: YMCA verifies and asserts that all activities conducted at the FACILITY (IES) shall be in full compliance with the CDC Guidelines, DOH Guidelines and the State of New Jersey Governor’s Executive Orders applicable to youth recreation programs.

Addressing the Protection and Safe Treatment of Minors YMCA verifies and asserts that all activities conducted at the FACILITY (IES),shall be in full compliance Under New Jersey law (N.J.S.A. 9:6-8.21) and the Borough of Clayton’s Protecting Children Policy applicable to youth recreation programs which can be reviewed as attached (Exhibit A).

BOROUGH OBLIGATIONS

1. Borough to provide the use of sufficient tables and chairs for YMCA to use for approximately 45-60 campers and staff.

JOINT OBLIGATIONS

1. The parties agree to be bound by the following covenants:
 - A. Compliance with Laws and Regulations. The Borough/Landlord and the YMCA/Tenant will, at its own cost and expense, promptly comply with all laws, rules and regulations and other governmental requirements which may be applicable to Borough/Landlord and the YMCA/Tenant for the use or manner of use of the Recreation Center. The Borough/Landlord and the YMCA/Tenant will also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Recreation Center.
 - B. Covenant Against Waste. The Borough/Landlord and the YMCA/Tenant covenant not to do or suffer or permit to exist any waste, damage or injury to the Recreation Center.
 - C. Subleasing. The Borough/Landlord has agreed to provide use of the Recreation Center for the YMCA/Tenant. The YMCA/Tenant shall not sublease any part of the Recreation Center.

INDEMNIFICATION

1. During the Term of this Lease Agreement, both Parties shall indemnify and shall hold harmless the other Party, the members of its governing body, and its officers, agents and employees harmless against, and shall pay any and all liability, loss,

cost, damage, claims, judgment or expense of any and all kinds or nature, which shall be imposed by law, which either Party, its governing body, or its officers, agents and employees may sustain or may be subject to or may be caused to incur by reason of any claim, suit or action brought by an officer, agent or employee of either Party which is based upon personal injury, death, or damage to property, whether real, personal or both, and which arises from either Party's involvement in this Lease Agreement.

2. Both Parties, at their own cost and expense, shall defend any and all such claims, suits and actions which may be brought or asserted by an officer, agent or employee of either Party against either Party, the members of its governing body, and its officers, agents and employees; provided, however, that this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance of its obligation to defend either Party or any other insured Party which may be named in such policy or insurance in connection with any claims, suits or actions which are covered by the terms of such policy.
3. Either Party shall give an authorized representative of the other Party prompt written notice of the filing of each such claim by any officer, agent or employee of the other Party.
4. YMCA/Tenant shall execute the attached Hold Harmless agreement marked as Exhibit "B".

MISCELLANEOUS

1. Entire Agreement. This Agreement sets forth all the promises, covenants, agreements, conditions and undertakings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and undertakings, inducements or conditions, express or implied, oral or written, between the Parties hereto.
2. Supplements. The Parties shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be required to correct any inconsistent or ambiguous term of the Agreement.
3. Non-Waiver. It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the Parties, or any of them, of any right which is not explicitly waived herein.
4. Amendments. This Agreement may not be amended or modified for any reason without the express prior written consent of the Parties hereto.

5. Severability. In the event that any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
6. Successors/Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.
7. Notices. Unless otherwise provided in writing, any notices to be given or to be served upon any Party hereto, in connection with this Agreement, must be in writing and may be delivered personally or be certified or registered mail and, if so mailed, shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise, shall be deemed to have been given when delivered to and received by the Party to whom it is addressed. Such notice shall be given to the Parties at their following respective addresses or at such other addresses as each Party may hereafter designate to the other Parties in writing:

If to BOROUGH OF CLAYTON:

Borough of Clayton
125 N. Delsea Drive
Clayton, New Jersey 08312

If to YMCA:


Gloucester County YMCA
235 E. Red Bank Avenue
Woodbury, New Jersey 08096

8. No Personal Liability. No covenant, condition or agreement contained in this Agreement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of the Parties, and neither the officers, agents or employees of the Parties nor any official executing this Agreement shall be liable personally on this Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Agreement.
9. Governing Law. The terms of this Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New Jersey applicable to agreements made and to be performed entirely within the State of New Jersey, including all matters of enforcement, validity and performance.

10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

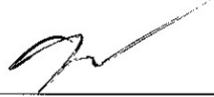
IN WITNESS WHEREOF, and intending to be legally bound, the Parties have caused this Agreement to be duly signed, sealed and executed by their respective proper officials as of the day and year first written above.

ATTEST:



Christine Newcomb, Borough Clerk

Borough of Clayton/Landlord

By: 

Thomas Bianco, Mayor

ATTEST:

Gloucester County YMCA

By: _____

**Hold Harmless Agreement
Between The YMCA and Borough of Clayton**

To the fullest extent permitted by law, Gloucester County YMCA
with a mailing address of 235 E. Red Bank Avenue, Woodbury, New Jersey 08096.
agrees to defend, pay on behalf of, indemnify, and hold harmless the Borough of Clayton, its
elected and appointed officials, its agents, employees and volunteers and others working on
behalf of the Borough of Clayton from and against any and all claims, demands, suits, or loss,
including all costs connected therewith, and for any damages which may be asserted, claimed or
recovered against or from the Borough of Clayton, its elected and appointed officials, its agents,
employees, volunteers or others working on behalf of the Borough of Clayton, by reason of
personal injury, including bodily injury or death and/or property damage, including the loss of
use thereof, which arises out of or is in any way connected or associated with this contract and
any manner relating to the Summer Day Camp Program associated with said Lease Agreement.

Gloucester County YMCA

Signed by: _____

Print Name

Title: _____

Date: _____