

AGREEMENT

THIS IS AN AGREEMENT, dated August 24, 2017, between:

CITY OF FORT LAUDERDALE, FLORIDA, a municipal corporation of the State of Florida, hereinafter referred to as "CITY",

and

NATIONAL COUNCIL OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF THE UNITED STATES OF AMERICA, a not for profit Illinois corporation, authorized to do business in the State of Florida, with offices located at 101 North Wacker Drive, Chicago, Illinois 60606 ("YMCA OF THE USA")

WHEREAS, both the City and the YMCA OF THE USA are desirous of entering into this Agreement which shall allow the YMCA OF THE USA to use portions of the CITY's Aquatic Complex, hereinafter referred to as "AQUATIC COMPLEX" for the purposes of conducting the National Diving Championship and the Masters National Short Course Swimming Championships; and

WHEREAS, the City Commission by motion at its meeting of October 3, 2017, authorized the execution of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set out below, the parties agree as follows:

1. RESPONSIBILITIES OF THE CITY

CITY SHALL:

- A. Provide YMCA OF THE USA the use of the following facilities at the AQUATIC COMPLEX for the term of this Agreement.

SEE ATTACHED EXHIBIT "A" PRACTICE SCHEDULE FOR SPECIFIC TIMES AND FACILITIES FOR 2018 EVENT.

The times and facility use shown on Exhibit "A" may be modified by the Aquatic Complex Manager, if necessary.

- B. Provide all staffing necessary to operate the portions of the AQUATIC COMPLEX specified in Section 1.A above. Staffing to include: aquatic complex operations and management personnel, information booth, public relations/media, certified lifeguards and certified medical attendant(s), trained in CPR, First Aid, and an

Automated External Defibrillator (A.E.D.) use. Additional staff may include: timers, automatic timing system operators as needed and mutually agreed upon in advance by YMCA OF THE USA and the City of Fort Lauderdale. The City of Fort Lauderdale will provide certified lifeguards certified in the use of an A.E.D., at the aquatic complex - during the meet, during warm-ups and throughout the actual meet.

- C. Provide parking for officials; 8 parking spaces will be reserved on competition days for officials. The parking lot will be open to the general public during the competition, standard parking rates of \$1.00/hour will apply.
- D. Assist the YMCA of the USA with providing refreshments throughout the event for officials, volunteers and committee members
- E. Assist in securing a printer and arranging for the printing of the meet heat sheet, as needed, and mutually agreed upon in advance by YMCA OF THE USA and the City of Fort Lauderdale. (YMCA OF THE USA will pay 100% of the cost of printing the heat sheet with pre-approval of costs by written estimate). The YMCA OF THE USA will create and compile the meet program at its sole expense.

## 2. RESPONSIBILITIES OF THE YMCA OF THE USA

YMCA OF THE USA SHALL:

- A. Provide personnel for event staffing in the form of a meet director, entry management and software operator, diving judges, automatic timing operators, officials, lane timers, announcers, runners, registration and awards personnel.
- B. Provide and distribute meet information, heat sheet, final result preparation and printing.
- C. Provide all awards, including individual medals and team awards.
- D. Create and compile the meet program at its sole expense.
- E. Provide any tenting desired by the YMCA OF THE USA for event participants, athletes and/or vendors at the sole expense of the YMCA OF THE USA.

3. FEE

The fee to be paid by YMCA OF THE USA to CITY for use of portions of the AQUATIC COMPLEX as detailed above shall be as follows:

2018: YMCA OF THE USA shall pay CITY \$ \$21,114 (See Schedule A) within 30 days following the conclusion of the 2018 event. CITY shall provide an invoice that may include additional costs incurred by CITY on behalf of YMCA OF THE USA. These additional costs may include, but are not limited to deposits required for the meet social/entertainment, printing costs for the meet program, meals for officials, security, donations to local clubs or organizations for timers, or any other costs associated with YMCA OF THE USA's fiscal responsibility to the meet.

YMCA OF THE USA shall retain all entry fees associated with the meet, any additional meet social revenues, all revenue from the sale of YMCA OF THE USA merchandise, and any marketing revenue secured by YMCA OF THE USA.

The YMCA OF THE USA will be charged \$8.00 per athlete for swimmers and divers that utilize the facilities for practice in advance of the event.

Failure by YMCA OF THE USA to pay fees due to CITY in accordance with this Section shall permit CITY to charge statutory interest for such late payment.

YMCA OF THE USA shall retain all entry fees associated with the meet, any additional meet social revenues, all revenue from the sale of YMCA OF THE USA of the USA merchandise, and any marketing revenue secured by YMCA OF THE USA of the USA.

4. TERM

This Agreement shall commence on 12:01 a.m. on April 18, 2018 and terminate at 12:01 a.m. on April 23 2018 during the dates and times as more specifically set forth on Schedule A.

With reasonable cause, either party may terminate the Agreement effective immediately upon presentation of written notice of termination for cause. Reasonable cause shall include: material violation of this Agreement and any act exposing the other party to liability to others for personal injury or property damage.

Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party.

5. AMENDMENTS

Changes which are mutually agreed upon by the CITY and YMCA OF THE USA shall be incorporated in written amendments to this Agreement signed by all parties with the same favorability herewith.

6. INDEMNIFICATION

YMCA OF THE USA agrees to defend, indemnify and hold harmless CITY, as well as its employees and agents, against any and all damage of any nature whatsoever including but not limited to death or injury, property damage, claims, suits, actions, judgments, attorney fees and court costs arising out of, attributable to or in any way connected with, the acts, omissions, negligence, willful or intentional misconduct of YMCA OF THE USA, its subcontractors, employees and agents in connection with activities arising out of or related to this Agreement.

This indemnification shall survive termination or expiration of this Agreement and shall not be limited by any insurance required under this Agreement.

Both the Coach/Team Representative Release Form and Liability Release portions of the Official YMCA OF THE USA National Diving and YMCA OF THE USA Masters National Swimming Meet Entry Forms will include the City of Fort Lauderdale along with YMCA OF THE USA and the YMCA OF THE USA National Swimming & Diving Advisory Committee as those released from any and all claims by coaches, teams and participants as a result of their participation in the event. It is agreed that all participants competing in the event must first sign and complete both the Coach/Team Representative Release Form and Liability Release Forms that include the City of Fort Lauderdale prior to participating in the event.

7. INSURANCE

The following insurance coverage shall be provided to City by YMCA OF THE USA, meet sponsors and any vendors at the competition. Additional insurance may be required by the CITY if the vendor /sponsor are involved in any activity that is out of the ordinary or increases the City's exposure.

*Commercial General Liability Insurance*

- General Aggregate \$2,000,000.
- Combined Single Limit Bodily Injury/Property Damage \$1,000,000.
- Covering premises-operations, products-completed operations, independent contractors and contractual liability.

- Coverage for hazards commonly referred to as “explosion, collapse, and underground”

#### Auto Liability Bodily Injury

- Bodily Injury \$250,000 each person.
- Bodily Injury \$500,000 each occurrence.
- Property Damage \$100,000 each occurrence.
- OR a Combined Single Limit of \$1,000,000.
- Covering all owned, hired, and non-owned automobile equipment.

#### Workers Compensation: Statutory Limits

- Worker's Compensation – Statutory 440
- Employers Liability - \$500,000
- Any firm operating/performing work on site at the Fort Lauderdale Aquatic Complex, must provide Worker's Compensation insurance. Exceptions, and exemptions can only be made if they are in accordance with Florida Statute.

The insurer affording coverage must be licensed in the State of Florida, and the coverage must remain in force at all times during the contract period.

The City of Fort Lauderdale shall be named as an additional insured.

Furthermore, any costs associated with adding the City of Fort Lauderdale as an “ADDITIONAL INSURED” are to be solely at the expense of the entity required to name the above-mentioned as “ADDITIONAL INSURED.”

The City requires an original certificate to be mailed to the following address:

City of Fort Lauderdale  
Fort Lauderdale Aquatic Complex  
501 Seabreeze Boulevard  
Fort Lauderdale, FL 33316

\*All certificates of insurance are subject to approval by the City of Fort Lauderdale Risk Manager

Additionally, all YMCA OF THE USA's meet sponsors and vendors that will be participating in the Meet on-site at the Fort Lauderdale Aquatic Complex will need to adhere to the insurance requirements/liability limits listed directly above.

YMCA OF THE USA shall be responsible for securing the proper insurance documentation outlined above from meet sponsors and vendors that will be participating in the Meet no later than thirty (30) days prior to the start of the

meet. The updated, correct certificate of insurance needs to be an original copy, not an electronic copy such as sent via email, or fax. The original, updated, correct copy should be delivered to the Fort Lauderdale Aquatic Complex, ATTN: Laura Voet, 501 Seabreeze Boulevard, Fort Lauderdale, Florida 33316.

The insurance certificate shall be valid during the term of this Agreement and any extensions.

8. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Florida, with venue for the purposes of litigation or administrative proceedings lying in Broward County, Florida.

9. EXTENT OF AGREEMENT

This Agreement represents the entire and integrated Agreement between CITY and YMCA OF THE USA, and supersedes all prior negotiations, representations or agreements, either written or oral.

10. NOTICE

Whenever any party desires to give notice unto any other party, it must be given by written notice sent by registered U.S. Mail, with return receipt requested, addressed to the party for whom it is intended at the place designated below and the place so designated shall remain such until changed by written notice in compliance with the provisions of this Section:

CITY  
City of Fort Lauderdale  
ATTN: Aquatic Complex Manager  
501 Seabreeze Boulevard  
Fort Lauderdale, Florida 33316

YMCA OF THE USA  
ATTN:

\_\_\_\_\_  
\_\_\_\_\_

11. SEVERABILITY

If any provision of this Agreement or the application of any provision to any party of circumstance shall be prohibited by or invalid under applicable law, the provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of the Agreement or their application to other parties or circumstances.

12. WAIVER

The CITY's waiver of any breach of any term or condition, or covenant of this Agreement shall not constitute the waiver of any other breach of the same or any other term, condition, or covenant of this Agreement.

13. ASSIGNMENT OR MODIFICATION

It is understood and agreed by the parties that this Agreement may not be assigned, transferred or sublet in whole or in part by YMCA OF THE USA.

14. SECURITIES

YMCA OF THE USA acknowledges and agrees that CITY assumes no responsibility whatsoever for any property, materials, or equipment of YMCA OF THE USA, and that security and protection of any such item from the theft, vandalism, the elements, acts of God, or any other cause are strictly the responsibility of YMCA OF THE USA.

15. COMPLIANCE WITH LAWS

YMCA OF THE USA shall at all times comply with all federal, state, and local laws, rules, regulations and ordinances of CITY and any other governmental agency having jurisdiction, including but not limited to, those relating to noise, building, zoning, gambling, fire protection, liquor regulations and laws of operation. YMCA OF THE USA shall further take all precautions and use extreme care to conduct its operations in a safe and prudent manner with respect to its agents, employees and visitors.

16. HEADINGS

Headings herein are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

17. DAMAGES TO FACILITY–REIMBURSEMENT

YMCA OF THE USA shall not allow any injury, defacement, change, alteration or damage to the facility during its use of the facility by YMCA OF THE USA, an agent of YMCA OF THE USA or patron of YMCA OF THE USA. YMCA OF THE USA assumes all responsibility for the acts, omission to act and conduct of all persons admitted to the facility by consent of YMCA OF THE USA or with the consent of any persons acting for or on behalf of the YMCA OF THE USA.

YMCA OF THE USA shall reimburse CITY for all expenses incurred by CITY that CITY incurs for the restoration of the facility to its condition at the commencement of this Agreement.

18. NON-DISCRIMINATION

YMCA OF THE USA shall not in exercising any of the rights or privileges granted to YMCA OF THE USA herein on the grounds of race, color, sex, or national origin, discriminate or permit discrimination against any persons or group of persons in any manner.

YMCA OF THE USA shall comply with the applicable sections of Americans with Disabilities Act of 1990 (42 USC 126), which prohibits discrimination of handicapped individuals by denying them the right to participate in or benefit from the services provided pursuant to this Agreement. YMCA OF THE USA understands that YMCA OF THE USA is responsible for compliance with this Act. To the extent that any provisions of this Agreement are inconsistent with ADA, the requirements of the ADA shall control.

19. MISCELLANEOUS

CITY, through its authorized representatives, reserves the right to eject any person(s) from facility and upon exercise of this right; YMCA OF THE USA waives any right or claim for damages against CITY.

CITY reserves the right to remove from facility any of YMCA OF THE USA's effects or any effects of YMCA OF THE USA's agents or patrons remaining in the facility after the time periods of the specified use of the facility described herein. YMCA OF THE USA shall be responsible for any charges levied by CITY for the storage of these effects.

YMCA OF THE USA shall pay all reasonable attorneys' fees to CITY for collection of all or any part of the terms of this agreement.



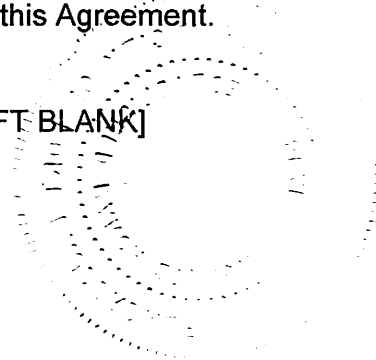
Pursuant to CITY Ordinance, Section 19-2, YMCA OF THE USA or YMCA OF THE USA's agents are prohibited from selling food of any kind, goods, wares or merchandise without first obtaining written approval by CITY Manager or by obtaining an award of an appropriate contract except that YMCA OF THE USA shall be permitted to secure one apparel vendor that will offer swimming and diving related merchandise throughout the event. YMCA OF THE USA shall also be permitted to sell their own merchandise, including all event-specific items, at a location to be negotiated by both the Aquatic Complex Manager and YMCA OF THE USA.

CITY shall provide a food concessionaire(s) that will offer a wide array of food items. YMCA OF THE USA shall pay the cost of any tenting and overnight security guard required for its apparel vendor. YMCA OF THE USA shall be responsible for ensuring its apparel vendor shall provide a certificate of insurance that meets all of the insurance requirements set forth by the City of Fort Lauderdale a minimum of 30 days prior to the start of the event.

20. NON-LIABILITY OF CITY

CITY shall not liable for any acts or omissions of YMCA OF THE USA for any conditions resulting from any provision under this Agreement or other activities of YMCA OF THE USA or agents of YMCA OF THE USA or patrons of YMCA OF THE USA. CITY shall not be liable for any damage or injury that may happen to YMCA OF THE USA, YMCA OF THE USA's agents, YMCA OF THE USA's patrons or property from any cause whatsoever, during this Agreement.

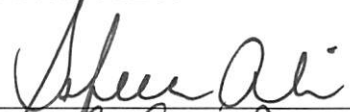
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[SIGNATURE PAGES FOLLOW]

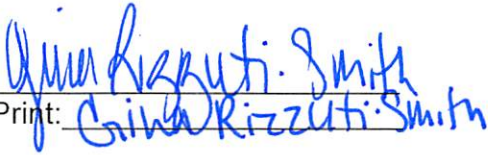


AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND  
NATIONAL COUNCIL OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF  
THE UNITED STATES OF AMERICA.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day  
and year first written above.

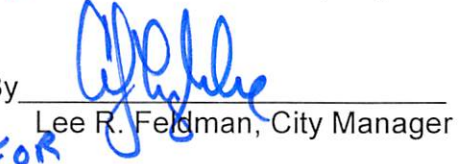
WITNESSES:

  
Print: Saleem Ali

  
Print: Gina Rizzuti Smith


CITY OF FORT LAUDERDALE


By   
John P. "Jack" Seiler, Mayor

By   
Lee R. Feldman, City Manager  
FOR

(CORPORATE SEAL)



ATTEST:   
City Clerk

Approved as to form:  
  
Assistant City Attorney

AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND THE NATIONAL COUNCIL OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF THE UNITED STATES OF AMERICA.

NATIONAL COUNCIL OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF THE UNITED STATES OF AMERICA

Print: \_\_\_\_\_

By Nancy L. Owens

Name: \_\_\_\_\_

Title: CFO

Print: \_\_\_\_\_

ATTEST:

Nancy Owens

(CORPORATE SEAL)

STATE OF \_\_\_\_\_:  
COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me this August 24, 2017, 2017, by Nancy L. Owens as CFO, of NATIONAL COUNCIL OF YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF THE UNITED STATES OF AMERICA, authorized to do business in the State of Florida, on behalf of the corporation. They are personally known to me or have produced \_\_\_\_\_ as identification.

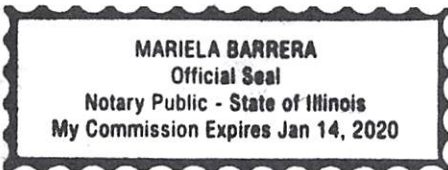
(SEAL)

[Signature]  
Notary Public, State of Florida ~~State of Illinois~~  
(Signature of Notary taking Acknowledgment)

Mariela Barrera  
Name of Notary Typed, Printed Or Stamped

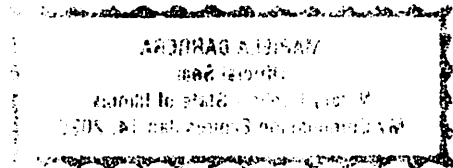
My Commission Expires:

Jan. 14, 2020  
Commission Number



**EXHIBIT "A"**  
**FACILITIES, DATES, TIMES AND PAYMENT**

**SEE ATTACHMENT**





COMMISSION AGENDA ITEM  
AGREEMENT DOCUMENT ROUTING FORM

IL 10/18/17 (C) (G)

Today's Date: 10/10/2017

DOCUMENT TITLE: Agreement with YMCA for the 2018 YMCA National Diving Championship and YMCA Masters National Short Course Swimming Championships.

COMM. MTG. DATE: 10/3/2017 CAM #: 17-1081 ITEM #: CM-10 CAM attached:  YES  NO

Routing Origin: CAO Router Name/Ext: A. Sperling/5001 Action Summary attached:  YES  NO

CIP FUNDED:  YES  NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) City Attorney's Office: Documents to be signed/routed?  YES  NO # of originals attached: 1

Is attached Granicus document Final?  YES  NO Approved as to Form:  YES  NO

Date to CCO: 10-12-17 Kimberly Mosley (KSM)  
Attorney's Name Initials

2) City Clerk's Office: # of originals: 1 Routed to: Gina Ri/CMO/X5013 Date: 10/12/17

3) City Manager's Office: CMO LOG #: Oct-64 Document received from: 10/13/17

Assigned to: L. FELDMAN  S. HAWTHORNE  C. LAGERBLOOM

APPROVED FOR LEE FELDMAN'S SIGNATURE  N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE (Initial/Date) C. LAGERBLOOM  
(Initial/Date)  PENDING APPROVAL (See comments below)

Comments/Questions: \_\_\_\_\_

Forward 1 originals to  Mayor  CCO Date: 10/13/17 1 orig to CCO: 10/18/17

4) City Clerk's Office: Retains 1 original and forwards 1 copy to: Carolyn Bean/Parks and Rec/5348

Original Route form to Astrid Sperling