

PROGRAM SERVICE AGREEMENT

THIS IS AN AGREEMENT, entered into on this _____ day of _____, 2013, between:

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

and

YOUNG MEN'S CHRISTIAN
ASSOCIATION OF BROWARD COUNTY,
FLORIDA, INC., a Florida non-
profit corporation,
hereinafter referred to as
"INSTRUCTOR."

WHEREAS, CITY desires to retain the services of an Instructor to conduct Senior Wellness Programs from a list of such programs as: Enhanced Fitness, Living Healthy, Matter of Balance, Zumba Gold and Strength Training for Men classes/workshops at City parks as determined by City's Parks and Recreation Department; and

WHEREAS, INSTRUCTOR represents to CITY that they have the necessary expertise and capability to act as an Instructor at City parks.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained and other good and valuable considerations, the receipt whereof is hereby acknowledged, the parties hereto do agree as follows:

1. SCOPE OF SERVICE

A. INSTRUCTOR shall conduct Senior Wellness Programs such as: Enhanced Fitness, Living Healthy, Matter of Balance, Zumba Gold and Strength Training for Men classes/workshops that are to be scheduled by the appropriate supervisor within CITY'S Parks and Recreation Department, (hereinafter referred to as "DEPARTMENT").

B. INSTRUCTOR is responsible for paying all applicable local, state and federal taxes, and to acquire and pay for all necessary permits, licenses, and certifications.

C. The INSTRUCTOR shall conduct Senior Wellness Programs such as: Enhanced Fitness, Living Healthy, Matter of Balance, Zumba Gold and Strength Training for Men classes at Osswald Park (2220 NW 21st Ave Fort Lauderdale, FL 33311) and/or Holiday Park (1150 G. Harold Martin Drive Fort Lauderdale, FL 33304).

D. INSTRUCTOR's services shall be performed during the following days and hours: Monday, Tuesday, Wednesday, Thursday, and/or Friday from 9:00am - 12:00pm (when the space is available)

E. INSTRUCTOR is required to notify the DEPARTMENT immediately upon the cancellation of any scheduled class which INSTRUCTOR is scheduled to teach.

F. The quality of the instruction performed by INSTRUCTOR must be acceptable to the appropriate supervisor in DEPARTMENT and such determination shall be final.

G. CITY reserves the right to cancel or reschedule any of INSTRUCTOR's classes, in the case of scheduling conflicts or other emergencies, as determined by the DEPARTMENT. The CITY will contact the INSTRUCTOR prior to cancelling/rescheduling any INSTRUCTOR classes.

2. GENERAL CONSIDERATIONS

A. COMPENSATION - INSTRUCTOR shall be compensated via participant fees and shall set and retain 100% of all such fees. INSTRUCTOR will be responsible the collection of all participant fees.

B. TERM - The term of this Agreement is for a time period beginning in November 6, 2013 and ending December 15, 2014 and based on participant attendance and program success. CITY or INSTRUCTOR may cancel this Agreement with or without cause upon thirty (30) days written notice to the other party.

C. LIMITATION OF AUTHORITY - Except upon express permission of the City Commission of CITY, INSTRUCTOR may

not incur any obligations on behalf of or in the name of the City of Fort Lauderdale.

D. CHANGES - CITY may request changes in the scope of services to be performed by INSTRUCTOR. Changes which are mutually agreed upon by and between CITY and INSTRUCTOR shall be incorporated in written amendments to this Agreement.

E. ASSIGNABILITY - INSTRUCTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same, whether by assignment or novation, without the prior written approval of CITY. This Agreement contains all the understandings and agreements between the parties and no modification or amendment shall be effective unless embodied, in writing, executed by both parties.

F. INDEPENDENT CONTRACTOR - INSTRUCTOR at all times during the performance of this Agreement shall be considered an independent contractor and not a CITY employee and shall receive no benefits or pay from CITY other than as enumerated in this Agreement.

G. BACKGROUND CHECK - INSTRUCTOR shall be responsible for any and all fees associated with any necessary background check.

3. NOTICE - Whenever either party desires to give a minimum of 30 day notice unto the other, it shall be given by written notice, sent certified by U.S. Mail, return receipt requested, addressed to the party to whom it is intended, at the places last specified, and the places for giving notice shall remain such until they are changed by written notice in compliance with this subsection. For the present, the parties designate the following as respective places for giving notice, to wit:

FOR CITY:

City of Fort Lauderdale
Parks and Recreation Director
1350 West Broward Boulevard
Fort Lauderdale, Florida 33316

WITH A COPY:

City of Fort Lauderdale
City Attorney's Office
100 North Andrews Avenue

Fort Lauderdale, Florida 33302

FOR INSTRUCTOR:

YMCA of Broward County
President / CEO
900 SE 3rd Ave
Ft. Lauderdale, Florida 33316

4. INDEMNIFICATION

INSTRUCTOR agrees to indemnify, defend, save and hold the City, its officers, employees, agents fully harmless from and against any and all liabilities, claims, suits, actions, demands, losses, judgments or fines of every kind and nature, including all costs, expenses, attorney's fees, arising from, related to, or caused by INSTRUCTOR's use of, or occupancy of, or providing of services, or acts or omissions made during the term of this Agreement, including, but not limited to bodily injury, death and property damage. INSTRUCTOR shall be liable for all costs incurred by the City of Fort Lauderdale in and about any such claim, suit, action, demand or loss for investigation of same. This indemnification shall not be limited by any insurance required under this Agreement. This indemnification shall survive the expiration or termination of this Agreement.

5. INSURANCE

INSTRUCTOR shall purchase and maintain, at no cost to CITY, Comprehensive General Liability Insurance with a minimum combined single limits, in the amount of \$1,000,000.00 that is approved by the City's Risk Manager, covering all claims arising directly or indirectly out of the services outlined by this Agreement which insurance shall include the CITY as an additional named insured. INSTRUCTOR acknowledges that as an independent contractor, Workers' Compensation Insurance not required, but may be purchased by INSTRUCTOR, at no cost to CITY, for his own benefit. All said insurance policies shall be endorsed to provide CITY with thirty (30) days prior Notice of Cancellation and/or restriction. INSTRUCTOR shall file all required Certificates of Insurance with CITY'S Risk Manager for approval prior to commencement of services under this Agreement.

6. GOVERNING LAW

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

7. ENTIRE AGREEMENT

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

8. SEVERABILITY

If any provision of this Agreement or the application of any provision to any party or 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.

9. WAIVER

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

10. COMPLIANCE WITH LAWS

In the performance of the services contemplated under this Agreement, INSTRUCTOR shall comply with applicable regulatory requirements including federal, state and local laws, rules, regulations, ordinances, orders, codes, criteria and standards.

INSTRUCTOR agrees to comply with public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the INSTRUCTOR upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGE FOLLOWS]

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

WITNESSES:

CITY OF FORT LAUDERDALE

By

Mayor

By

City Manager

(CORPORATE SEAL)

ATTEST:

City Clerk

Approved as to form:

Assistant City Attorney

WITNESSES:

INSTRUCTOR

Witness type/print name]

By _____
Print Name: _____
Title: _____

Witness type/print name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me
this ____ day of _____, 2013, by _____,
as _____ of _____ on behalf of the
corporation. He/She is personally known to me or has
produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed, Printed
or Stamped

My Commission Expires:

Commission Number