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DOCUMENT ROUTING FORM

NAME OF DOCUMENT: FIRST ADDENDUM TO LICENSED TRAINING PROVIDER AGREEMENT BETWEEN AMERICAN NATIONAL RED CROSS AND CITY

Approved Comm. Mtg. on June 2, 2015 CAM#15-0616 ITEM: CM-4

Routing Origin: CAO Also attached: copy of CAM Original Documents

1) **City Attorney's Office: Approved as to Form: 3 Originals to City Manager**

DJ Williams-Persad 

CIP FUNDED YES NO
Capital Investment / Community Improvement Projects

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, 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, real.

2) **City Manager:** Please sign as indicated and forward 3 originals to City Clerk.

INSTRUCTIONS TO CLERK'S OFFICE

3) **City Clerk:** Forward three (3) originals to: Carolyn Bean

Original Route form to Glynis Burney

6/10



**American
Red Cross**

**FIRST ADDENDUM TO
LICENSED TRAINING PROVIDER AGREEMENT**

This **FIRST ADDENDUM TO LICENSED TRAINING PROVIDER AGREEMENT** (“Addendum”) is effective as of April __, 2015 (“Addendum Date”) by and between the American National Red Cross (“Red Cross”) and City of Fort Lauderdale (the “LTP”).

WHEREAS, Red Cross and LTP are parties to a Licensed Training Provider Agreement dated as of March 13, 2015 (the “Agreement”) (capitalized terms used in this Addendum and not otherwise defined herein shall have the meaning assigned to them in the Agreement);

WHEREAS, in addition to the courses LTP has historically been permitted to teach under the Agreement, LTP would now like to participate in a program in connection with the American Red Cross Aquatics Centennial celebration designed to promote awareness of and access to the American Red Cross Water Safety education and training in identified communities (“Aquatics Centennial Program”). The Aquatics Centennial Program is intended to teach people to swim in identified communities where drowning rate is above national average; motivate children and families to “come to the water” to become competent in the water and learn about water safety at a local facility; and create a sustainable ecosystem of water safety to help make communities safer.

WHEREAS, Red Cross and LTP desire to add the following terms to the Agreement in order facilitate LTP’s participation in the Aquatics Centennial Program and to memorialize each party’s rights and responsibilities in connection therewith;

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. In connection with the Aquatics Centennial Program, LTP agrees that it will:
 - a. Expand its existing Learn-to-Swim program (“LTS”) and Junior Lifeguarding offerings to reach additional program participants who are not otherwise receiving aquatics lessons (“Program Participants”);
 - b. Expand its existing Water Safety Instructor and Lifeguarding training to develop the infrastructure to offer the additional LTS and Junior Lifeguarding offerings;
 - c. Provide Program Participants opportunities to take LTS courses through at least Red Cross Learn-to-Swim Level 3;
 - d. Provide opportunities for parents of Program Participants to participate in Red Cross water safety and CPR/AED training courses;
 - e. Engage in promotional and media opportunities to inform the local community of the goals of the Aquatics Centennial Program, including the importance of swimming and water safety training; provided that LTP will obtain Red Cross’s prior consent to any promotional or media opportunities involving use of the Red Cross name or emblem pursuant to Section 6 of this Addendum;
 - f. Agree to participate in, and provide information in support of, a research study to evaluate the effectiveness of the Aquatics Centennial Program education and training;
 - g. Report the progress and results of the Aquatics Centennial Program education and training courses to the Red Cross in the manner and format reasonably requested by the Red Cross; and
 - h. Provide accurate and timely documentation of costs related to the expanded programming as a result of the Aquatics Centennial Program, including providing invoices if requested by the Red Cross.

2. Red Cross agrees that it will:
 - a. Assist in offsetting additional expenses for expanded programming as a result of LTP's participation in the Aquatics Centennial Program and fulfillment of its obligations to Program Participants described in Section 1. LTP's expenses that will be funded by the Red Cross for the first year of participation in the Aquatics Centennial Program are listed on Exhibit C attached to this Addendum. The Parties will meet on at least an annual basis to mutually determine and agree upon the scope and amount of Aquatics Centennial funding assistance, if any, to be provided by the Red Cross to LTP in subsequent years;
 - b. Provide training materials required to allow Program Participants to complete the Red Cross training contemplated under this Addendum;
 - c. Provide promotional materials to inform the local community of the Aquatics Centennial Program;
 - d. Provide requirements, processes and mechanisms to report the process and results of the Aquatics Centennial Program education and training courses; and
 - e. Provide tools, resources and staff training required to implement the research study intended to evaluate the effectiveness of the Aquatics Centennial education and training.
3. Term and Termination. Unless terminated consistent with this Section 3, the term of this Addendum shall begin on the Addendum Date and shall continue thereafter for thirty-six (36) months. Either party may terminate this Addendum without cause upon thirty (30) calendar days advance written notice to the other party. Either party may immediately terminate this Addendum upon the other party's breach of its obligations under this Addendum. Termination of this Addendum will not automatically terminate the Agreement, but in the event the Agreement is terminated by either party, this Addendum will automatically terminate.
4. Compliance, Representations and Warranties:
 - a. The Parties will comply with all applicable laws and regulations during performance under the Agreement. Neither Party will discriminate against any employee, applicant or Program Participant in connection with this Agreement because of any characteristic protected by applicable law or regulations.
 - b. LTP represents, warrants and certifies: (i) compliance with all U.S. economic sanctions, anti-terrorism laws and anti-money laundering laws, including but not limited to the USA PATRIOT Act, the laws administered by the United States Treasury Department's Office of Foreign Assets Control, Executive Order 13224, and any local laws that apply in the jurisdiction in which LTP is operating and (ii) no child, indentured or forced labor or unauthorized workers will be used in any aspect of the provision of the Red Cross Courses or Aquatics Centennial Program hereunder.
5. Conflict of Interest; Business Ethics. LTP represents that no employee, principal, or affiliate of LTP holds any office in, or is an employee of, or is a member of the board of directors of, Red Cross or any Chapter or unit of Red Cross, except as shall have been disclosed by notice to Red Cross and for which Red Cross has waived any potential conflict of interest by notice to LTP. During the course of pursuing contracts with Red Cross and while performing services in accordance with this Addendum, LTP agrees to maintain business ethics standards which are aimed at avoiding any real or apparent improprieties or conflict of interest which could be construed to have an adverse impact on the dealing with the Red Cross. LTP shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Red Cross's best interests. These obligations shall apply to the activities of LTP's employees, agents, and subcontractors in their dealings and relations with Red Cross' current and former employees and relatives.
6. Intellectual Property and Data Use.
 - a. Definitions:
 - i. "Aquatics Centennial Materials" will include everything used, or provided to LTP for use by Red Cross, in connection with the Aquatics Centennial Program, including without limitation, reports, creative and other materials, manuals, photographs and all other documents or materials.

- ii. “Intellectual Property” means (i) inventions, discoveries, techniques, processes, methods, formulae, ideas, technical data and specifications, testing methods, research and development activities, computer programs and designs (including improvements and enhancements thereto and regardless of patentability), (ii) trade secrets and know-how, (iii) copyrightable material, (iv) trademarks and service marks (v) data related to the Aquatics Centennial Program, and (vi) all other forms of intellectual property. Intellectual Property may take any form, including without limitation, written, oral, electronic, digital or other form.
 - iii. “LTP Marks” means LTP’s trademark and tradenames set forth on Exhibit A hereto and subject to any use guidelines contained in such Exhibit.
 - iv. “Red Cross Marks” means Red Cross’s trademark and tradenames set forth on Exhibit B hereto and subject to any use guidelines contained in such Exhibit.
- b. Aquatics Centennial Materials.
- i. Subject to the terms and conditions of this Addendum, LTP grants Red Cross a fully paid-up, royalty-free, non-transferable, non-exclusive right and license to use and display the LTP Marks in the United States solely on and in conjunction with the Aquatics Centennial Materials. Red Cross acknowledges that LTP is the sole owner of the LTP Marks and the goodwill associated therewith and that all rights not expressly granted herein remain the sole and exclusive property of LTP. LTP will not take any action inconsistent with LTP’s ownership rights and will cooperate with LTP in the protection thereof. Red Cross will use the LTP Marks in accordance with the guidelines set forth on Exhibit A.
 - ii. Subject to the terms and conditions of this Addendum, Red Cross grants LTP a fully paid-up, royalty-free, non-transferable, non-exclusive right and license to use and display the Red Cross Marks in the United States solely on and in conjunction with the Aquatics Centennial Materials produced by the Red Cross. Red Cross acknowledges that LTP is the sole owner of the LTP Marks and the goodwill associated therewith and that all rights not expressly granted herein remain the sole and exclusive property of LTP. LTP will not take any action inconsistent with LTP’s ownership rights and will cooperate with LTP in the protection thereof. Red Cross will use the LTP Marks in accordance with the guidelines set forth on Exhibit A.
 - iii. LTP acknowledges that all Aquatics Centennial Materials will be owned exclusively by the Red Cross. LTP will not use or allow the use of the Aquatics Centennial Materials for any purpose other than LTP’s performance under this Addendum without the prior written consent of the Red Cross. Immediately upon request, LTP will deliver to the Red Cross all Aquatics Centennial Materials.
 - iv. The foregoing license shall terminate upon termination or expiration of this Addendum and unless otherwise agreed or permitted by law, a party shall cease all use of the other party’s Intellectual Property licensed hereunder upon such termination or expiration.
 - v. Except as expressly provided in this Agreement, no party shall use the Intellectual Property (including, without limitation, trademarks or tradenames) of any other party in any public statements (including any promotional or media opportunities) or in any other manner whatsoever, without obtaining such other party’s prior written consent for each use.

c. Aquatics Centennial Data.

- i. With respect to any data collected in connection with the Aquatics Centennial Program (including data regarding program offerings, LTP participants, course participants and community preparedness), as well as any other research projects or assessments undertaken by the Red Cross related to the Aquatics Centennial Program, LTP hereby acknowledges and agrees that it shall not have any rights in Intellectual Property or data generated therein, nor shall it have any publication rights related to such Intellectual Property or data without the express consent of the owner of such Intellectual Property and/or data.
 - ii. With respect to any evaluation efforts permitted by the Red Cross in connection with the Aquatics Centennial, the evaluator will work with an institutional review board (IRB) to ensure that the research conducted on human subjects are scientific and ethical. Data will be maintained in accordance with the IRB consent, if any.
- d. LTP will execute, if and when requested, patent, copyright or similar applications and assignments to the Red Cross and any other documents deemed necessary by the Red Cross to vest ownership of Intellectual Property in the Red Cross. In the event Red Cross is unable for any reason whatsoever to secure LTP's signature to any document required to apply for or execute any patent, copyright or other applications with respect to Intellectual Property, LTP hereby irrevocably appoints the Red Cross and its authorized officers and agents as LTP's agents and attorneys-in-fact to execute and file any such application and to do all other acts to further the prosecution and issuance of patents, copyrights or other rights with respect to Intellectual Property with the same legal force and effect as if executed by Contractor.

7. Miscellaneous.

- a. The Agreement is incorporated herein by reference and, except to the extent modified by this Addendum, the Agreement remains in full force and effect.
- b. The parties specifically agree and acknowledge that the Agreement shall continue to govern all aspects of LTP's conduct of American Red Cross Courses, including any Courses offered in connection with the Aquatics Centennial.
- c. The parties are independent principals in all relationships and actions under and contemplated by this Agreement. This Agreement does not create a partnership or joint venture, and no party has the authority to bind the other party.
- d. In the event of any conflict between the terms of this Amendment and the terms of the Agreement, the terms of the Agreement shall control.
- e. This Agreement is binding upon and inures to the benefit of the parties hereto and their successors and assigns. Notwithstanding the foregoing, neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party.
- f. If any provision of this Agreement is held to be invalid, illegal or unenforceable, then, to the extent that such invalidity, illegality or unenforceability shall not deprive any party hereto of any material benefit intended to be provided hereby, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or remaining provisions of this Agreement, and such provision shall be deemed to be severed from this Agreement.

[Signature Page Follows]

The parties, acting through their duly authorized officers, have executed this First Addendum to Licensed Training Provider Agreement, which shall come into force as of the Addendum Date.

CITY OF FORT LAUDERDALE

THE AMERICAN NATIONAL RED CROSS

Signature: _____



Signature: _____

Name: Lee R. Feldman

Name: _____

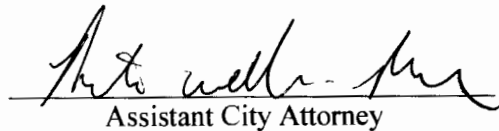
Title: City Manager

Title: _____

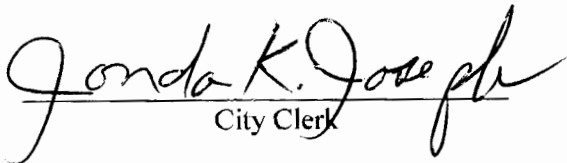
Date: **JUNE 8, 2015**

Date: _____

Approved as to form:


Assistant City Attorney

Attest:


City Clerk

**EXHIBIT A
LTP MARKS**

CITY OF FORT LAUDERDALE PARKS AND RECREATION

**EXHIBIT B
RED CROSS MARKS**



To download camera-ready marks, complete the web form at redcross.org/brand.
List Connie Harvey as the Red Cross contact.

EXHIBIT C
CITY OF FORT LAUDERDALE PARKS AND RECREATION
JANUARY 2015 - DECEMBER 2015
LTP EXPENSES FUNDED BY RED CROSS

Course/Program	Number	Fees
Water Safety Instructor course	Up to 6	AP fees - \$35 each = \$210
Lifeguarding course	Up to 6	AP fees - \$35 each = \$210
Junior Lifeguarding course	Up to 10	AP fees - \$10 = \$100
Pediatric CPR/AED	Up to 25	AP fees - \$19 = \$475
Parent water safety education/ General Water Safety (estimated 100)	Unlimited	AP fees - 0 = 0
2015 LTS Facility Fees - 76 - 500 participants • Lauderdale Manors Pool	Up to 1	LTS Facility Fees = \$300
Per Student Scholarship Fees for Teen and adult classes: • Adult Swim - Learning the Basics	Up to 75	\$35 per student scholarship fee (student pays \$5) = Up to \$2,625
Per Student Scholarship fees classes for P&R camp participants: • Preschool Aquatics • Learn to Swim Levels 1 - 3	Up to 250	\$22 per student scholarship fee = Up to \$5,500

Notes:

- Printed participant materials for each of the training courses will also be funded by the Red Cross.
- Six facilities will participate in the program, five of which are camp sites.
- Teen and Adult classes are sessions of 8 45-minute lessons. P&R camp classes are 8 30-minute lessons.

Total Scholarship fees to be paid by the Red Cross for 2015 = \$8,125