

AMENDMENT NO. 1

TO SWIMMING FACILITIES LICENSE AGREEMENT

THIS AMENDMENT TO SWIMMING FACILITIES LICENSE AGREEMENT (“Amendment”) by and between the CITY OF CARSON, a California municipal corporation (“City” or “Licensee”) and **ABILITYFIRST**, a California nonprofit corporation (“Licensor”) is effective as of the 1st day of January, 2020.

RECITALS

A. City and Licensor entered into that certain “AbilityFirst Swimming Facilities License Agreement” dated May 1, 2019 (“Agreement”), whereby Licensor granted City a license to use its swimming facilities (including pool and changing facilities) located at 3770 E. Willow Street, Long Beach CA 90815, on a weekly basis, to facilitate water exercise classes for stroke survivors from the City’s Joseph B. Jr. and Mary Anne O’Neal Stroke Center (“Classes”), in exchange for a license fee of \$100 per hour of facility use, for the term of May 1, 2019 to December 31, 2019.

B. Section 3 (“License Renewal”) of the Agreement provides that the Agreement is “renewable on the same terms and conditions set forth herein every program year, which is from January 1 to December 31, upon execution of an agreement providing for same by both parties....”

C. Pursuant to Section 3 of the Agreement, City and Licensor now desire to renew the Agreement on the same terms and conditions for the 2020 program year by extend the term of the Agreement to December 31, 2020, thereby authorizing City to continue using the facilities at the same hourly license fee rate for the 2020 program year.

D. Notwithstanding the foregoing, the City generally only uses the facilities from April to October of each year, which is the season during which the Classes are conducted.

E. The City incurred \$2,900 in total expenses for the licensed use under the Agreement during the 2019 program year, and has budgeted \$2,500 for this purpose for the 2020 program year (for an anticipated 25 weekly one-hour visits from April through October). City and Licensor understand that notwithstanding this Amendment, City is not authorized incur expenses above \$2,500 for the 2020 program year under the Agreement without further City Council budgetary approval.

F. City and Licensor hereby ratify and affirm, through this Amendment, the approval of the Agreement and the uninterrupted and continuous term of the Agreement commencing May 1, 2019 and continuing through the term hereof.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~).

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A. Section 1, "License to Use the Premises," is hereby amended to read in its entirety as follows:

"1. License to Use the Premises: Licenser grants Licensee an exclusive license to use Licenser's swimming facilities, consisting of the Pool and Changing Facilities located at 3770 E. Willow Street, Long Beach CA 90815 (the "Premises"), for 1-hour sessions from 2:00-3:00 p.m. on Wednesdays *during the months of April through November (except as otherwise agreed to in writing between the Licenser's representative and Licensee's contract officer)* throughout the Term of this Agreement."

B. Section 2, "Term," is hereby amended to read in its entirety as follows:

"2. Term: This Agreement shall continue in full force and effect from May 1, 2019 to December 31, **2020** ~~2019~~ (the 'Term')."

C. A new Section 26 ("Contract Representatives") is hereby added to the Agreement, to read in its entirety as follows:

"26. Contract Representatives.

(a) Licensee's Contract Officer: Dani Cook, Human Services Supervisor, or such other person as may be designated by Licensee's City Manager, is hereby designated as being the representative of Licensee authorized to act on its behalf with respect to this Agreement.

(b) Licenser's Representative: Joe Weber, Aquatics Supervisor, is hereby designated as being the representative of Licenser authorized to act on its behalf with respect to this Agreement."

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Licenser each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Licenser represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

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City represents and warrants to Licensor that, as of the date of this Amendment, Licensor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year set forth below, with express intent that this Amendment be effective as of January 1, 2020.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

Date: _____, 2020

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[BRJ]

LICENSOR:

ABILITYFIRST, a nonprofit corporation

By: _____
Name: Lori Gangemi
Title: President & Chief Executive Officer

By: _____
Name: Sonhui Robitotta
Title: Chief Financial Officer
Address: 100 East Green Street
Pasadena, CA 91106

Date: _____, 2020

Two corporate officer signatures are required for Licensor, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. LICENSOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO LICENSOR'S BUSINESS ENTITY.

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