

NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN
THE CITY OF NORTH MIAMI AND
NORTH MIAMI YOUTH FOOTBALL/CHEERLEADING, INC.

THIS AGREEMENT is made this 22 day of Nov., 2017 between the **City of North Miami, Florida**, a Florida municipal corporation, with a principal address of 776 N.E. 125th Street, North Miami, Florida 33161 (“City”) and the **North Miami Youth Football/Cheerleading, Inc.**, a Florida not-for-profit corporation, with a principal address of 1250 N.W. 135 Street, North Miami, Florida 33167 (“Optimist Club”); (collectively, the “Parties”).

The undersigned Parties agree as follows:

1. City grants to the Optimist Club a non-exclusive license to use the City’s concession stand area on the first floor of the Claude Pepper Park (“Park”) multi-purpose building, located at 1255 N.W. 135th Street, North Miami, FL, and consisting of approximately two hundred and thirty-eight (238) square feet of floor space, and approximately twenty-five (25) square feet of floor space of the adjacent storage room accessible from within the concession stand (not including the restrooms, electrical room, and maintenance storage room) (“License Area”).

2. This License Agreement shall supersede and replace any license agreement(s) previously entered into by the Parties.

3. The term of the license shall be for a period of six (6) months commencing as of the 1st day of July, 2017 and expiring on the 31st day of December, 2017.

4. The Optimist Club recognizes, prior to July 1, 2017 and preceding the 2017 football season, the Optimist Club is required to submit to the Director of Parks and Recreation (“Director”) the following items:

- (i) The Optimist Club General Liability Insurance Coverage with the City named as additional insured;
- (ii) A current, updated Financial Statement with supporting documentation;
- (iii) Any and all licenses or permits required to serve food and beverages from the concession stand at the License Area;
- (iv) A check for a six (6) month license fee in the amount of One Dollar (\$1.00).
- (v) The Optimist Club shall provide a list of all individuals who have keys to the concession stand and storage areas and ensure that Park employees have a 24-hour contact list in case of building emergencies; and

5. The Optimist Club shall not in any manner assign, or transfer, or otherwise encumber its interests under this Agreement.

6. The Optimist Club accepts the License Area in an "as is" condition, with any and all defects, latent and patent, if any, existing as of the date of execution of this Agreement, and agrees, at the Optimist Club's sole cost and expense, to maintain said area in the same or better condition, order and repair as existing at the commencement of this license. The Optimist Club must return the concession stand in the same or better condition at the termination of this Agreement.

7. The Optimist Club shall operate and maintain the concession stand in a proper manner so as to not allow such area to become a nuisance, annoyance, inconvenience nor to become a detriment to the public's health, welfare and safety.

8. There shall be no frying of food permitted under this License Agreement, including in the concession area. No cooking shall be allowed after 8:00 p.m. and the concession stand shall close by 8:30 p.m.

9. Except as provided in paragraphs 7 and 8 above, the Optimist Club will have the use of the concession stand for the purpose of selling food and non-alcoholic beverages to raise funds to support its football program limited to when the games are ongoing. The sale of alcoholic beverages is strictly prohibited.

10. The Optimist Club shall be responsible for operating the concession stand in compliance with the State of Florida and Miami-Dade County Public Health Department, meeting the requirements for the sale of food and beverage to the public.

11. The Optimist Club must post prices for food and beverage in full view of the public.

12. Food and beverages must be dispensed in paper or plastic containers or wrappers. The Optimist Club shall be responsible for the collection of all litter and debris resulting from the concession operation and placement of such litter and debris in the appropriate receptacles. This includes any litter in an area within a fifty (50) foot radius of the concession stand, including along the sidelines and bleachers.

13. The Optimist Club shall staff the concession stand with responsible adults.

14. The City reserves the right to require that the concession stand be open by the Optimist Club for any special events and programs held at the Park. In the event there is no planned event being held by the Optimist Club, the City shall have the sole discretion as to which

entity shall have the right to operate said concession stand.

15. The City and Recreation employees, on-duty and off-duty, shall not work the concession stand.

16. All concession supplies must be delivered to the concession stand between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, or during other times as approved by the City's Recreation Specialist. It is the responsibility of the Optimist Club to have a representative present to meet vendor deliveries. Under no circumstances is Park staff to open the building for vendors.

17. The City shall provide sufficient electrical power and water for use and operation of the concession stand within the safe operation limits of existing plumbing and electrical systems.

18. One copy of all keys used by the Optimist Club for the concession stand and License Areas must be provided to the City's Parks and Recreation Department. The Optimist Club shall be liable for any loss or damage to property resulting from the Optimist Club's loss or misplacement of keys. Any necessary restoration of security resulting from the loss of City keys by the Optimist Club shall be accomplished by the City with any costs to be paid by the Optimist Club.

19. The City's Recreation Specialist oversees the operation of the Park and has the sole authority and responsibility over the Optimist Club, including referees, to call or cancel games. The Recreation Specialist makes this decision considering a variety of factors involving the total operation of the Park and employees. Lights shall be turned off no later than 9:00 p.m.

20. Schedules for the league shall be due and submitted by the Optimist Club seven (7) days prior to opening ceremonies to the Recreation Specialist at the Park. Any schedule changes must be submitted to the Recreation Specialist at least forty-eight (48) hours in advance. The Optimist Club shall not schedule field use when the Parks and Recreation Department's programs are in progress.

21. The Optimist Club shall submit a league roster by (include deadline). The rosters must contain (at minimum) the following information: the participant's name and age; the parent or guardians name; their address; resident or non-resident; and their contact telephone numbers.

22. The City shall not assume any liability for crowd control. Control of coaches, referees and players shall be the primary responsibility of the Optimist Club.

23. The Optimist Club shall instruct coaches and referees to report any and all accidents and/or incidents to the City's Recreation Specialist or Park staff on duty.

24. The Optimist Club shall assume responsibility of ensuring that Sections 1 through 3 of Resolution No. 2001-63 be carried out for all board members, coaches and parents.

Section 1. That all youth sports coaches and administrators who utilize the City of North Miami facilities become a trained certified member of the National Alliance of Youth Sports and that the City of North Miami Parks and Recreation Department will implement and administer the National Standards for Youth Sports for all sports programs using city facilities.

Section 2. That the City of North Miami Parks and Recreation Staff certified clinicians serve as instructors for the youth sports coaches and administrators, who are to become certified members of the National Youth Sports Coaches Association and National Youth Sports Administrators Association, and that the City of North Miami implement the Parents Association of Youth Sports for all organizations using city facilities to motivate youth league parents to create the ultimate youth sports entertainment.

Section 3. That all City of North Miami Parks and Recreation staff and all administrators and coaches or organizations using city facilities be subject to background investigations.

25. All coaches, referees, league officials and board members must complete a Level II Background investigation as required by Section 397.451, Florida Statutes. **(BACKGROUND CHECKS OF SERVICE PROVIDER PERSONNEL)**

26. The Optimist Club agrees to submit an annual certified financial statement, bank statements on a monthly basis, and copy of its board meetings minutes no later than three (3) days following each meeting. A financial report of the receipts derived from the operation of the concession stand will be submitted at the close of the football season. Fourteen (14) days prior to the Commencement Date of the playing season, the Optimist Club is also required to provide the numbers and demographics of children and/or adults served, number of volunteers and an electronic listing of all participants identifying by name, address, phone numbers, zip code and emergency contact information. The Optimist Club shall be responsible for providing the City with an updated list of participants on October 1, 2017

27. The Optimist Club shall direct all of its communication, requests and reports to the Director of Parks and Recreation or designee.

28. The Optimist Club shall offer a youth tackle football program and cheerleading program from August through December. All games and practices shall be scheduled with the City based on the current hours of operation:

- Monday through Friday – 5:00 p.m. to 9:00 p.m.
- Saturday – 8:00 a.m. to 9:00 p.m.
- Sunday and Holidays – 8:00 a.m. to sunset

Any other requested Property uses (i.e., camps, fund-raising activities, tournaments) shall be submitted for approval to the Parks and Recreation Director or designee in writing at least twenty (20) days prior to the date of the event.

29. The Optimist Club shall not produce any publications or announcements pertaining to the football or cheerleading program without receiving approval from the Parks and Recreation Director or designee. The City of North Miami's name or trademark logo shall not be used for any advertisements to promote Optimist Programs other than football or cheerleading.

30. The Director or designee will review and approve Optimist Club Board meeting decisions and has the sole authority to veto or overturn any decisions made by the Optimist Board if he/she does not believe it is in the City's best interest.

31. The City shall grant usage of all football equipment to include helmets, shoulder pads, thigh pads, etc. The Optimist Club agrees to return all equipment and premises to the City upon termination of this Agreement and within thirty (30) days of a written request from the City. The Optimist Program is responsible for certifying and bringing up to code equipment to meet safety standards, and provide such documentation to the Parks and Recreation Director.

32. The Optimist Club shall make no changes, alterations, or improvements to the electrical service, plumbing systems, mechanical equipment, floors, walls, ceiling, counters or doors in the concession stand, storage areas or other areas used by the Optimist Club without prior written approval of the City.

33. The City shall make repairs to the electrical service, plumbing system, mechanical equipment, flooring and painting of walls and ceilings when necessary, as determined by City. It is requested that the Optimist Club gives reasonable advance notice when requesting routine maintenance items to be done by City staff.

34. No additional electrical equipment may be added which would increase the total electrical service load at the facilities, without City approval.

35. The Optimist Club shall request routine maintenance through the on-site Recreation Specialist who will prepare the appropriate work order requests and contact the Parks Division. Daytime emergencies should be called in to the Superintendent of Recreation.; maintenance of electronic scoreboards and other pieces of equipment purchased by the Optimist Club shall be the sole cost and responsibility of the Optimist Club.

36. Nothing in this License Agreement shall impair any existing utility easement nor impair the right of access to any existing or necessary utility lines, and such rights are specifically preserved to the City. Further, the City reserves the right to grant other non-exclusive easements, licenses and rights-of-way to others, over, under, through, across or on the License Area. Where approval or consent of City is required under this Agreement, such consent or approval shall be deemed to refer to City's consent or approval as licensor and such consent or approval shall be contractual in nature and shall not be in lieu of any required governmental approval of City. The City Manager or his designee shall act for City in matters relating to renewals, contractual approvals and notices regarding this Agreement.

37. Rights not specifically granted to the Optimist Club by this Agreement are reserved to the City.

38. The terms, conditions and covenants of this License Agreement shall inure to the benefit of and be binding upon the Parties and their successors and assigns.

39. All notices, demands, correspondence and communications between the City and the Optimist Club shall be deemed sufficiently given under the terms of this Agreement when dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

City: City of North Miami
12300 N.E. 8th Avenue
North Miami, Florida 33161
Attention: Director of Parks and Recreation

With a copy to: City of North Miami
776 N.E. 125th Street

North Miami, Florida 33161
Attention: City Attorney

City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161
Attention: City Manager

Optimist Club: North Miami Youth Football/Cheerleading, Inc
1250 N.W. 135 Street
North Miami, Florida 33167
Attention: Lawrence Jones

With a copy to: North Miami Youth Football/Cheerleading, Inc
1400 NW 135 Street
Miami, FL 33167
Attention: Donna Bibbins, Registered Agent

40. The City or Little League may terminate this Lease Agreement at any time, with or without cause, upon ninety (30) days written notice to the other Party. Upon termination of this License Agreement, the Optimist Club shall surrender the License Area to City in a good, clean and neat condition.

41. The Optimist Club agrees to defend, indemnify and hold the City harmless from any claim, demand, suit, loss, cost, expense or damage which may be asserted, claimed or recovered against or from City by reason of any damage to property or bodily injury, including death, sustained by any person whomsoever, and which claim, demand, suit, loss, cost, expense or damage arises out of or is incident to or in any way connected with the Optimist Club's performance of this Agreement, the condition of the License Area, the Optimist Club's acts or omissions, or the Optimist Club's operations hereunder. The Optimist Club recognizes the broad nature of the above indemnification and hold harmless clause, and voluntarily agrees in recognition of the valuable consideration provided by City under this License Agreement.

42. The Optimist Club agrees to carry liability insurance coverage applicable to the above described property under the Optimist Club's General Comprehensive liability insurance, with an insurance company authorized to transact business in Florida, acceptable to City's Risk Management Department, with the policy showing the "City of North Miami, a Florida municipal

corporation and its officers and employees” as an additional insured, as evidenced by a Certificate of Insurance, a signed copy of which shall be transmitted to the City prior to the Optimist Club utilizing the License Area and throughout the term of this license. The amount of insurance coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit for property damage and bodily injury, including death, unless approved by the City. The insurance shall support the Optimist Club’s agreement of indemnity and shall so state on the certificate. Further, said Certificate of Insurance shall provide for thirty (30) days written notice to City prior to any material change or cancellation of coverage. The liability insurance must be acceptable to and approved by City’s Risk Management Department as to form and types of coverage. Compliance with the foregoing insurance requirements shall not relieve the Optimist Club of its liability under any other provision of this License Agreement.

43. Limitation of Liability. The City desires to enter into this Agreement only if in so doing the City can place a limit on the City’s liability for any cause of action arising out of the Agreement, so that its liability never exceed the agree sum of One Hundred Dollars (\$100.00). The Optimist Club expresses its willingness to enter into this Agreement with the Optimist Club’s recover from the City for any action or claim arising from this Agreement to be limited to One Hundred Dollars (\$100.00).

Accordingly, and notwithstanding any other term or condition of this Agreement, the Optimist Club agrees that the City shall not be liable to the Optimist Club for damages in an amount in excess of \$100.00, for any action or claim of the Optimist Club or any third party arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is any way intended to be a waiver of the limitation placed upon the City’s liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waiver sovereign immunity, and no claim or award against the City shall include attorney’s fees, investigative costs or pre-judgment interest.

44. Compliance with Jessica Lunsford Act. In accordance with the requirements of Sections 435.04 and 435.05, Florida Statutes (2013) as well as with the requirements of HB 1877, The Jessica Lunsford Act (2005), effective September 1, 2005, as amended, and to the extent required by applicable law, the Licensee agrees that all of its employees who provide or may provide program services under this License Agreement have completed all background

screening requirements as outlined in the above-referenced statutes. The Licensee agrees to bear any and all costs associated with acquiring the required background screenings.

44.1 Licensee agrees to provide the City with a list of all of its employees who completed background screening, as required by the above-referenced statutes and meet the statutory requirements contained therein. The Licensee agrees that it has an ongoing duty to maintain and update this list as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. The Licensee further agrees to notify the City immediately upon becoming aware that one of its employees, who was previously certified as completing the background check and meeting the statutory standards, is subsequently arrested or convicted of any disqualifying offense.

44.2 The Parties further agree that failure by the City to perform any of the duties described in this Section shall constitute a material breach of this License Agreement entitling the City to immediately pursue such remedies at law or in equity as to which the City may be entitled under the laws of the State of Florida.

45. In the event of any dispute arising under or related to this License Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this License Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

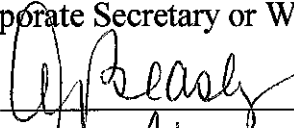
45.1 This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida and venue shall lie in Miami-Dade County, Florida.

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IN WITNESS WHEREOF, the Parties have executed this First Amendment by their respective proper officers duly authorized the day and year first written above.

ATTEST:

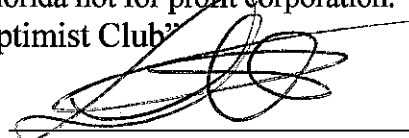
Corporate Secretary or Witness:

By: 

Print Name: Alisha Brasley

Date: 11-13-17

North Miami Youth Football/ Cheerleading, Inc.,
a Florida not for profit corporation.
"Optimist Club"

By: 


Print Name: LAURENCE JONES

Date: 11-13-17

ATTEST:

By: 

Michael A. Etienne, Esq.
City Clerk

By: 

Larry M. Spring, Jr., CPA
City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 

Jeff P. H. Cazeau, Esq.
City Attorney