

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2010, by and between SEDGWICK COUNTY, KANSAS, ("County") and The Young Men's Christian Association of Wichita, Kansas, Inc. ("Promoter").

WITNESSETH:

WHEREAS, the Promoter has requested controlled access to certain portions of County roadways for the purpose of sponsoring a Triathlon on Sunday, September 19, 2010;

WHEREAS, County finds that such request serves the public purpose of supporting a community event open to all citizens; and

WHEREAS, the parties hereto desire to document the understanding that has been reached between them for the provision of such controlled access to County roadways.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree to be bound by this Agreement as follows:

SECTION 1. USE GRANTED. County does hereby grant to Promoter controlled access to the following roadways controlled and maintained by County for the purpose of hosting a Triathlon on Sunday, September 19, 2010 from 7:00 a.m. to 10:00 a.m. as necessary for the triathlon activities:

- a. 21st St. North between 215th St. West and 135th St. West;
- b. 215th St. West between 21st St. North and 29th St. North;
- c. 29th St. North between 215th St. West and 167th St. West;
- d. 167th St. West between 29th St. North and 21st St. North;
- e. 135th St. West between 29th St. North and 21st St. North.

Said triathlon route is also set forth on the map which is attached hereto and incorporated herein as Exhibit A.

Promoter agrees to coordinate with the Sedgwick County Sheriff's Office with regard to traffic control upon County roadways used for such purpose.

SECTION 2. DAMAGES/INDEMNIFICATION. Subject to the limitations of the Kansas Tort Claims Act, Promoter agrees to indemnify and hold harmless County, its agents, servants, employees or invitees, from and against any and all claims of every kind or character (including, but not limited to, attorneys' fees) for injuries to persons and/or property damage arising out of or in connection with the use and occupancy of said land, and not caused by County negligence.

SECTION 3. NOTICE OF CLAIM. Each party shall give the other party notice of any claim made or litigation instituted, which directly or indirectly contingently or otherwise in any way affects or might affect them or either of them. Promoter shall have the right to compromise and participate in the defense of the same to the extent of its own interests.

SECTION 4. INSURANCE. Promoter shall carry and maintain general liability insurance against damage caused by its members, agents, servants, employees, guests, invitees and participants in the event throughout the term of this agreement in the amount of not less than \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Promoter shall provide a Certificate of Insurance naming "Board of County Commissioners of Sedgwick County, Kansas, and its officers, employees and agents" as additional insureds and shall submit such certificate to the Sedgwick County Counselor's Office for approval not later than ten (10) days prior to the date of use authorized by this agreement. Said Certificate shall also contain a clause granting a minimum of ten (10) calendar days prior notice to County before any material change or cancellation of insurance is effective. Failure to maintain insurance in the minimum amount specified above and/or failure to provide a certificate evidencing such coverage will be considered a material breach of this agreement.

SECTION 5. RESTORATION OF PREMISES. Promoter shall be responsible for the removal of all equipment, trash, debris, or other material of any kind or nature whatsoever that is discarded on County roadways by any of its members, agents, servants, employees, guests, invitees, and participants.

SECTION 6. DISCRIMINATION PROHIBITED. Promoter will not on the grounds of race, color, sex, religion, physical handicap, national origin or ancestry discriminate or permit discrimination against any person or group of persons in any manner prohibited by law.

SECTION 7. NOTICE. For purposes of this agreement, written notice shall be sent to:

Promoter: Dennis Schoenebeck, General Executive
The Young Men's Christian Association of Wichita, Kansas, Inc.
3330 N. Woodlawn
Wichita, KS 67220

County: Sedgwick County Counselor
525 N. Main, Suite 359
Wichita, KS 67203

SECTION 8. CANCELLATION. This agreement may be canceled and terminated at any time by mutual agreement, or by either party upon giving thirty (30) days notice of the cancellation to the other party.

SECTION 9. MODIFICATION. This agreement may be modified, changed, or amended only as may be mutually agreed in writing between County and Promoter.

SECTION 10. AUTHORITY TO CONTRACT. The parties each represent to the other that they have the right, power, legal capacity, and authority to enter into, and perform their respective obligations under this agreement, and no approvals or consents of any persons other than the parties hereto are necessary in connection with it. The execution and delivery of this agreement by the parties have been duly authorized by their respective boards of directors or commissioners.

SECTION 11. ASSIGNMENT. It is understood and agreed that Promoter shall not sell, assign or transfer any of its rights or privileges granted hereunder without the prior written consent of County.

SECTION 12. TERMINATION. In addition to the provisions outlined in paragraph 13 below, this Agreement may be terminated in whole or in part by either party without cause, upon thirty (30) days written notice, stating the effective date of the termination. A partial termination shall also be specified in writing by the terminating party and shall not be effective unless and until the other party has given its written assent thereto.

SECTION 13. DEFAULT. In the event that Promoter shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Promoter shall violate any of the terms, covenants, conditions or stipulations of this Agreement or any appendices, exhibits or amendments hereto, if any, County shall thereupon have the right, at its option, to declare the existence of an event of default and terminate this Agreement by promptly giving written notice to Promoter, specifying the reasons for the termination and the effective date thereof.

Notwithstanding the above, Promoter shall not be relieved of liability to County by virtue of any breach of this Agreement by Promoter.

SECTION 14. WAIVER OF BREACH. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach by any party.

SECTION 15. BINDING EFFECT. The terms, provisions, covenants and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective successors in interest, legal representatives, heirs, executors and administrators, except as otherwise herein expressly provided.

SECTION 16. INVALIDITY OF PART. The invalidity, unenforceability, or illegality of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

SECTION 17. COMPLIANCE WITH LAWS AND REGULATIONS. Promoter shall comply with all applicable federal, state and local laws and regulations in fulfilling this Agreement, regardless of whether those laws and regulations are referenced herein.

SECTION 18. CONTROLLING LAW. This Agreement and the terms thereof shall be construed according to the laws of the State of Kansas.

SECTION 19. ENTIRE AGREEMENT. It is understood that this agreement supersedes and cancels any and all prior existing arrangements between the parties hereto and their predecessors concerning the uses provided for herein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement by signature of their duly authorized officers the day and year first above written.

Commissioners present and voting were:

DAVID M. UNRUH	_____
TIM R. NORTON	_____
KARL PETERJOHN	_____
KELLY PARKS	_____
GWEN WELSHIMER	_____

Dated this _____ day of _____, 2010.

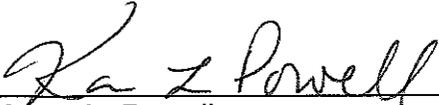
BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

KARL PETERJOHN, Chairman
Commissioner, Third District

APPROVED AS TO FORM:



Karen L. Powell
Assistant County Counselor

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF WICHITA, INC.



DENNIS SCHOENBECK
General Executive