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NATURE OF SERVICE: RECREATION SERVICES - SUMMER YOUTH CAMPS 2004

AGREEMENT
BETWEEN CITY OF MILPITAS AND THE SKYHAWKS SPORTS PROGRAMS FOR KIDS
FOR SPECIALTY CAMP SERVICES SUMMER 2004

THIS AGREEMENT is made by and between the CITY OF MILPITAS, a municipal corporation of the State of California 455 East Calaveras Boulevard, Milpitas, California (hereinafter referred to as "CITY") and the SKYHAWKS PORTS PROGRAMS FOR KIDS (hereinafter referred to as "CONSULTANT") at Milpitas, California.

RECITALS

A. CITY requires certain professional services for Sports camps within and without the City for various activities.

B. CONSULTANT is qualified to perform these services and is willing to furnish them in accordance with the terms and conditions of this Agreement.

IN CONSIDERATION of the mutual covenants and conditions herein contained, the parties agrees as follows:

AGREEMENT

1. General

CITY engages CONSULTANT to perform Youth Camp services pursuant to the covenants and conditions of this Agreement, at the compensation herein stipulated, and CONSULTANT accepts the engagement upon these terms.

2. Term

This Agreement shall become effective June 28,2004, and shall terminate on August 6, 2004, unless otherwise terminated or extended pursuant to this Agreement.

3. Scope of CONSULTANT'S Duties and Services

The scope of CONSULTANT'S duties and services is set out in Exhibit A, which is attached and incorporated by reference. These duties and services shall be completed according to the time schedule contained in Exhibit A.

4. Payment by CITY: Time and Manner of Payment

CITY shall pay CONSULTANT for all services to be rendered by it and all materials to be furnished under this Agreement, the amount specifically set forth and in the manner specifically set forth on Exhibit B, which is attached and incorporated by reference. CONSULTANT agrees to accept this sum as full compensation for all services due under this Agreement. CITY'S representative shall be responsible for obtaining a purchase order from the CITY'S Finance Department to encumber the funds for Agreement.

5. Equal Employment Opportunity

CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, age, physical or mental disability, medical condition, marital status, or by illegal denial of family care leave.

6. Compliance with Laws

CONSULTANT shall comply with all current federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative body or tribunal in any manner affecting the performance of the Agreement.

7. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY.

8. Indemnity

To the fullest extent permitted by law, CONSULTANT agrees to indemnify, defend with counsel reasonably acceptable to CITY, and hold harmless CITY, its officers and employees from all costs, expenses, claims, suits, judgments, demands, causes of action, losses, liabilities or damages arising out of or in any way connected with the intentional or negligent act or omission of the CONSULTANT, CONSULTANT'S officers, employees, agents, contractors, subcontractors or any officer, agent or employee thereof, including without limitation those relating to injury or death of any person or damage to any property.

9. Insurance

a. General Liability

CONSULTANT agrees to maintain and pay for a general liability policy naming CITY, its officers, and employees as additional insured's and insuring them against liability or financial loss resulting from injuries occurring to persons or property in or about or in connection with the work to be performed under this Agreement. Each policy of insurance shall provide primary coverage on an occurrence basis in a company satisfactory to CITY in the following minimal amounts: personal injury, $1,000,000 for each person and $1,000,000 per occurrence, property damage, $500,000 per occurrence. Each policy shall provide that it shall not be canceled or reduced in coverage without 30 days prior written notice to CITY. The general liability policy shall provide (a) if CITY, its officers or employees have other insurance against loss covered by said policy, said other insurance shall be excess insurance only, and (b) that CITY, its officers and employees are not precluded from claim under said policy against other insured parties.

b. Worker's Compensation

CONSULTANT agrees to comply with all State requirements relating to Worker's Compensation Insurance and to provide the same for its employees.

c. CONSULTANT shall file Certificates and Endorsements of Insurance with CITY in a form satisfactory to CITY ATTORNEY upon execution of this Agreement, evidencing said coverage and the requirements of this paragraph. The Certificates and Endorsement shall contain a reference to the date and title of this Agreement.

All of the insurance companies providing insurance for CONTRACTOR shall have an A.M. Best & Co. rating of A: VIII or above. The Certificates and Endorsements shall be mailed to:

City Clerk
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

10. CITY Representative

Dale Flunoy shall represent CITY in all matters pertaining to the services and materials to be rendered and provided under this Agreement; all requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

11. CONSULTANT Representative

Johan Kerkhove shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

12. Notices

Unless otherwise provided herein, all notices required hereunder shall be given by United States registered and certified mail, or other form of mail which offers proof of mailing, postage prepaid and addressed to the party at the address below.

CITY: City Manager
455 E. Calaveras Blvd.
Milpitas, CA 95035

CONSULTANT Skyhawks Sports Programs For Kids
12020 N. Mill Road
Spokane, WA 99218

13. Assignment

Neither party shall assign nor sublet any portion of this Agreement without the written consent of the other party.

14. Applicable Laws and Attorneys' Fees

This Agreement shall be interpreted and enforced pursuant to California law. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in Santa Clara County, California. Should a party for breach of this Agreement bring any legal action or to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be affixed by the court.

15. Termination

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall also have the right to terminate this Agreement for any reason upon written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed through the date of receipt of notification from CITY to terminate, unless otherwise stated on Exhibit B.

16. Entire Agreement: Amendment

This writing constitutes the entire Agreement between the parties. No modification shall be effective unless the modification is in writing and signed by all parties to this Agreement.

17. Miscellaneous

All covenants herein shall be conditions. Time shall be of the essence. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. The singular number shall include the plural, and the masculine gender shall include the feminine gender and neuter gender whenever the context of this Agreement permits. This Agreement shall be deemed to have been drafted equally by both parties.

CITY OF MILPITAS

Dated: _____

BY: _____
CITY MANAGER
Thomas J. Wilson

ATTEST:

BY: _____
CITY CLERK

APPROVED AS TO FORM

BY: _____
CITY ATTORNEY

SKYHAWKS SPORTS PROGRAMS FOR KIDS

BY: _____
SKYHAWKS REPRESENTATIVE
Johan Kerkhove

Exhibit A: Scope of Service
Exhibit B: Compensation Manner and Amount

EXHIBIT A
(SCOPE OF CONSULTANT'S DUTIES AND SERVICES)

Mini-Hawk	Sports Center	$98/$108	06/28-07/02	9am-12pm	12/32	4y
Mighty Hawk Basketball	Sports Center	$79/$89	07/06-07/09	9am-12pm	12/60	5y
Volleyball Camp	Sports Center	$98/$108	07/12-07/16	9am-12pm	12/40	9y
Flag Football	Sports Center	$98/$108	07/12-07/16	9am-12pm	12/42	7y
Beginning Golf	Sports Center	*$118/$128	07/19-07/23	9am-12pm	12/24	5y
Basketball Camp	Sports Center	$117/$127	07/19-07/23	9am-3pm	12/60	7y
Basketball Camp	Sports Center	$117/$127	07/26-07/30	9am-3pm	12/40	7y
Mini-Hawk	Sports Center	$98/$108	08/02-08/06	9am-12pm	12/32	4y

EXHIBIT B
(COMPENSATION MANNER AND AMOUNT)

The Skyhawks Sports Programs for Kids will provide youth sports camps for the City of Milpitas. These programs include Mini-Hawk Camp, Basketball, Volleyball, Golf, and Flag Football. The programs begin June 28, 2004 and end on August 6, 2004. The City of Milpitas will be charged 80% of the class revenues and the City of Milpitas will receive 20% of all class revenues. Compensation under this agreement shall not exceed $20,000.00