CITY OF CUPERTINO

No. _____
FY2022 - 2023

RECREATION SERVICES AGREEMENT

1. Parties. This contract is made by and between the City of Cupertino, a municipal corporation ("City"), and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS ("Contractor"), a Limited Liability Company for Gymnastics Classes and Programs and is effective on the last date signed below ("Effective Date").

2. Services. Contractor agrees to provide the Services included in the Scope of Work and in accordance with the Schedule of Performance attached in **Exhibit A.**

3. Term. This contract begins on the Effective Date and ends on 06/30/2023 ("Contract Time"), unless extended or terminated as provided herein. Time is of the essence and Contractor must have sufficient time, resources, and qualified staff to deliver the Services as required. Contractor must promptly notify City of any actual or potential delays to afford the Parties adequate opportunity to address or mitigate such delays. The City's appropriate department head or the City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City's purchasing policy.

4. Compensation. City will pay Contractor for satisfactory performance of the Services an amount that will be based upon actual costs but that will be capped so as not to exceed $75,000.00 ("Contract Price"), based upon the Scope of Services, budget, performance schedule, and rates included in **Exhibit A**. The maximum compensation includes all costs, expenses, and reimbursements and will remain in place even if Contractor's actual costs exceed the capped amount. Contractor must submit invoices and the information required in Exhibit A in order to receive payment. City will compensate Contractor within thirty (30) days after approval of written invoices.

Invoices are subject to review and audit by City during regular business hours upon 24 hours' notice. Contractor must maintain complete and accurate records of payrolls, expenditures, disbursements and other cost items charged to City or establishing the basis for an invoice, for a minimum of four (4) years from the date of the final payment.

5. Independent Contractor.

5.1 Contractor is an independent Contractor and not an employee, partner, or joint venture of City. Contractor is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. No civil service status or other right of employment will be acquired by virtue of Contractor's performance of the Services. Contractor is not entitled to City's health benefits, worker's compensation or any other benefit. Contractor must have the skills

and qualifications to perform the Services in a competent and professional manner. Contractor will supply all tools, materials, and equipment required to perform the Services under this Contract. Contractor is responsible for obtaining permits and licenses required by law and must obtain a City business license, if required by the Cupertino Municipal Code.

5.2 Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor and any of its employees, agents, and subcontractors shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, fees, contributions, or charges applicable to Contractor's business including, but not limited to, federal and state income taxes. City shall have no obligation whatsoever to pay or withhold any taxes or benefits on behalf of Contractor. Should any court, arbitrator, or administrative authority, including but not limited to the California Public Employees Retirement System (PERS), the Internal Revenue Service or the State Employment Development Division, determine that Contractor, or any of its employees, agents, or subcontractors, is an employee for any purpose, then Contractor agrees to a reduction in amounts payable under this Agreement, or to promptly remit to City any payments due by the City as a result of such determination, so that the City's total expenses under this Agreement are not greater than they would have been had the determination not been made.

6. Proprietary/Confidential Information. To the extent Contractor may have access to private or confidential information owned or controlled by the City, Contractor agrees to treat it as confidential and use it solely to perform this Agreement. Contractor must exercise the same standard of care to protect City information as a reasonably prudent Contractor would use to protect its own proprietary data.

7. Ownership of Materials. To the extent Contractor prepares written material, drawings, or data in connection with this contract, City will have the property rights to those materials and all copyrights, if any, to such work product will, to the extent requested by City, constitute City property upon completion of the work to be performed hereunder or upon termination of this Agreement.

8. Records. Contractor must maintain complete, accurate, and detailed accounting records relating to its performance in accordance with generally accepted accounting principles and procedures. The records must include detailed information about Contractor's services, benchmarks, deliverables, and costs/fees, and must be made reasonably available to City. The records and supporting documents must be kept separate from other files and maintained for four (4) years from the date of City's final payment.

9. Assignment. This Contract is not assignable. Contractor may not substitute another or transfer any rights or obligations under this Contract without prior written approval of City. Only those persons whose names are included in **Exhibit A** may perform the Services.

10. Publicity and Signs. Any publicity generated by Contractor related to this contract or the Services during the Contract Time and for one (1) year thereafter must reference City contributions. The words "City of Cupertino" shall be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews, and newspaper articles. No signs may be posted, exhibited, or displayed on or about City property, except signage required by law or under this Agreement, without prior written approval from City.

11. Indemnification. To the fullest extent allowed by law and except for losses caused by the sole and active negligence or willful misconduct of City personnel, Contractor agrees to indemnify, defend, and hold harmless the City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers, and contractors (collectively, "Indemnitees"), through legal counsel acceptable to City, from and against any liability for damages, claims, actions, causes of action, demands, charges, losses, costs, and expenses (including attorney fees, legal costs, and expenses related to litigation, arbitrations, administrative, and regulatory proceedings), of every nature, arising out of or in any way related to Contractor's or Contractor's agents performance of this contract or the Services. This includes but is not limited to Liability resulting in personal injury, death, property damage, or economic losses. Contractor must pay any costs City may incur in enforcing this provision and must accept a tender of defense upon receiving notice from City. Contractor's payments may be deducted or offset to cover any money the City lost due to a claim or counterclaim arising out of this Contract. This Section 11 shall survive termination of the Agreement.

12. Insurance. Contractor shall comply with the insurance requirements in **Exhibit B.** City will not execute the Agreement until it has received and approved satisfactory certificates of insurance and endorsements evidencing the type, amount, and dates of coverage. Alternatively, City in its sole discretion, may purchase insurance and deduct the costs from payments to Contractor, or terminate the Agreement.

13. Compliance with Laws and Other City Requirements.

Requirements for all Contracts. This contract is subject to local, state and federal laws and regulations prohibiting discrimination, including Title VII of the Civil Rights Act of 1964, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, and other laws that pertain to fair employment and anti-discrimination practices. Contractor agrees to provide records and documentation to the City on request necessary to monitor compliance with this provision.

Contractor must comply with labor laws pertaining to prevailing wages, working hours, overtime, payroll records, and other requirements imposed by the Department of Industrial Relations. If Contractor does not have employees, it must sign the Affidavit of No Employees, attached as **Exhibit C**. Contractor is responsible for verifying employment eligibility of employees pursuant to the Immigration Reform and Control Act of 1986. Contractor must comply with conflict of interest laws and regulations applicable to this Agreement and avoid conflicts of interest. Contractor may be required to file a conflict of interest form for engaging in governmental decisions or serving in a staff

capacity, and is hereby advised to review the requirements of California Political Reform Act and the California Code of Regulations. Services may only be performed by persons who are not employed by City and who do not have a contractual relationship with City other than this contract. Contractor agrees to abide by City policies and administrative rules prohibiting gifts to City officials and employees.

Additional Requirements for Services Provided to Minors. Contractor and its employees who provide services under this Agreement must comply with these additional requirements:

A. Undergo fingerprints and a criminal background and verify all employees providing services under this contract have met this requirement.
B. Complete a Tuberculosis screening test as required by law and as set forth in **Exhibit D**.
C. Comply with the Mandatory Reporting under California Penal Code 11164-11174.3 and with the protocols, reporting, and training required under California Health and Safety Code Section 124235, AB 2007, and other laws pertaining to concussion evaluation, removal from play, and return to play protocols. (Refer to Center for Disease Control & Prevention, https://www.cdc.gov/headsup/index.html).
D. Submit required forms and acknowledgments included in **Exhibit D**, and ensure its each participant is provided with a concussion information sheet, signs and returns the forms to the City as required by Health and Safety Code Section 124235.
Require coaches and administrators to successfully complete the concussion and head injury education at least once either online or in person, before supervising a participant. Contractor shall offer training, educational materials, or both to each Contractor administrator on a yearly basis. (Training resources are available at the Center for Disease Control & Prevention (link cited above).
E. If providing instruction, Contractor must acknowledge and comply with all requirements set forth in the Parks & Recreation Services Instructor Manual.

This contract requires services for children.

14. Coordination of Services. The Parties designate the following persons as Services Coordinators with the responsibility to oversee the delivery of Services in accordance with the terms of this Agreement. Contractor's designation and any substitution are subject to City approval.

For City:	For Contractor:
Name: Karen Levy	Name: John Aquirre
Position: Recreation Coordinator	Position: Owner
Contact: karenl@cupertino.org	Contact: john@bayaerials.com

15. Abandonment. City may abandon or postpone the Activity or Program and will notify Contractor as soon as possible. Contractor will be paid for satisfactory Services rendered through the date of abandonment upon submission of final invoices approved by City.

16. Termination. City may terminate this contract for cause or without cause at any time and will notify Contractor as soon as possible. Contractor will be paid for satisfactory services rendered through the date of termination upon submission of final invoices approved by City.

17. Governing Law, Venue, and Dispute Resolution. This contract is governed by the laws of the State of California. Any legal actions or proceedings filed against City in connection with this contract must comply with the government claims filing requirements and must be filed with the Superior Court for the County of Santa Clara, State of California. At City's request, Contractor is required to continue to provide Services pending resolution of any dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

18. Attorney Fees. If City is required to pursue litigation, arbitration or other administrative or regulatory proceeding to enforce its rights or the terms of this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs. This Section 18 survives this Agreement.

19. Third Party Beneficiaries. There are no third party beneficiaries under this Contract.

20. Waiver. Neither acceptance of Services nor payment thereof constitutes a waiver of any contract provision. City waiver of a breach shall not constitute waiver of another term, provision, covenant, or condition, or a subsequent breach, whether the same or a different character.

21. Entire Agreement. This Agreement and all referenced Exhibits are hereby attached and incorporated into the Agreement by this reference and represent the full and complete understanding as to those matters contained herein, and supersede any other contract or understanding, either oral or written, between the Parties. This Agreement may not be modified or amended except in writing signed by both Parties. If there is any inconsistency between any term, clause, or provision of the main contract and any term, clause, or provision of the attachments or exhibits thereto, the terms of the main contract shall prevail and be controlling.

22. Inserted Provisions. Each provision or clause required by law or this contract is deemed to be included and will be inferred herein. Either party may request an amendment to cure any mistaken insertion or omission of a required provision.

23. Headings. The headings are for convenience only and are not a part of the contract or intended to affect, limit, or amplify the terms or provisions of this Agreement.

24. Severability/Partial Invalidity. If any contract term or provision, or their application to a particular situation, is found by the court to be void, invalid, illegal, or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other contract terms and provisions and their application to specific situations will remain in full force and effect.

25. Survival. All provisions which by their nature must continue after the Agreement ends, including without limitation Indemnification, Insurance, Ownership of Materials, Records, Governing Law, and Attorney Fees, will survive the expiration or termination of this Agreement.

26. Notices. All notices and instruments pertaining to material provisions of this contract or significant disputes which are required by law or under this contract to be in writing must be sent to the persons listed below. The notices will be deemed effective on the date of personal delivery or the

date confirmed by a reputable overnight delivery service, on the fifth (5th) calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission.

To City of Cupertino: Office of the City Manager 10300 Torre Ave., Cupertino, CA 95014 Cc: Representative/Coordinator: Karen Levy Email: karenl@cupertino.org	To Contractor: RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS 4883 Davenport Place, Fremont, CA 94538 Cc: Representative/Coordinator: John Aquirre Email: john@bayaerials.com

27. Execution. The person executing this contract on behalf of Contractor represents and warrants that Contractor has full right, power, and authority to execute this contract and to carry out all actions and services required. This contract constitutes a legally binding obligation of Contractor, and may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have caused this contract to be executed.

CITY OF CUPERTINO
A Municipal Corporation

By Rachelle Sander

Name Rachelle Sander

Title Assistant Director of Parks and Recreation

Date Jan 10, 2022

CONTRACTOR

By

Name john aguirre

Title Manager Member

Date Jan 10, 2022

Tax I.D. No.: Refer to W9

APPROVED AS TO FORM:

Christopher D. Jensen

CHRISTOPHER D. JENSEN
Cupertino City Attorney

ATTEST:

Kristen Squarcia

KIRSTEN SQUARCIA
City Clerk

Date Jan 10, 2022

EXHIBIT A
SCOPE OF WORK, PERFORMANCE AND PAYMENT SCHEDULES

The CONTRACTOR will provide Gymnastics Classes and Programs in, but not limited to, the following:

Sweet Peas Gymnastics Levels 1-5, Girls Gymnastics Beginner and Advanced Beginner, Lil Ninjas 3-5, Cupertino Ninjas

Location and Time of CONTRACTOR Services:

Refer to the City's Publications for agreed upon dates, times, and locations of a class, camp, activity, program, or service ("class"). The City, at its sole discretion, may change the agreed dates, times and locations of a class, or may cancel a class.

Compensation for CONTRACTOR Services:

Contractor shall be compensated for services performed pursuant to this Agreement.

For a class taught in person, 60% of resident fees.

City and Contractor may mutually agree for Contractor to teach a class online rather than in person, provided that City and Contractor reach agreement for compensation for that online class. Compensation for that online class shall be specified in writing in a separate side agreement before online instruction for a class begins.

The total compensation to the Contractor shall not exceed $75,000.00.

Eligible Participant Minimum and Maximums for CONTRACTOR Services:

Minimum: 4
Maximum: 10

If less than the required minimum number of participants enroll in and pay for a particular class as identified in the schedule before the class is scheduled to start, the City may cancel the particular class and/or terminate this Agreement without additional notice or payment to Contractor.

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

See attached list of employees.

Performance of CONTRACTOR Services:

Class Cancellation
Contractor will only receive compensation for a class that is performed. If performance of a class is cancelled by the City or Contractor before instruction begins, Contactor will not receive compensation for the class. If the City or Contractor cancels performance of certain meetings of a class, Contractor will only receive compensation for those meetings of the class that are performed.

In the case Contractor unilaterally cancels performance of a class without City approval, City reserves the right to immediately and without notice cancel the remainder of classes offered and or performed by Contractor.

COVID-19 Health Order Compliance
Contractor acknowledges that its duty to comply with Laws, as stated in Section 13 of the Agreement, includes compliance by Contractor with any restrictions on travel or social distancing or other requirements set forth in any health order issued by any local, state, or federal authority, and any other local, state, or federal laws or policies that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws"). Contractor shall comply with all applicable Health Laws when preforming work under this Agreement. If this Agreement specifies work that cannot be performed in compliance with the Health Laws, Contractor shall refrain from conducting the work and immediately inform the City. Contractor shall likewise comply with any City protocols designed to help prevent the spread of COVID-19. Contractor acknowledges that the need to comply with the Health Laws may result in the City canceling performance of any class or meetings of a class referenced in this Agreement.

Registration, Enrollment, and Supervision
The Contractor shall follow all guidelines pertaining to registration procedures as listed in the quarterly recreation schedule. Participants may not take part in the program unless they are listed on the class roster or can show proof of enrollment. All participants and volunteers need to complete the City's Waiver of Liability form prior to taking part in the program. If applicable, contractors who are responsible for supervising minors must remain with the class until a parent of legal guardian has arrived and all minors are released to them.

Injury of a Class Participant
In the event of an injury occurring to a participant, the Contractor will notify the City within 1 hour and complete an Incident Report in the form approved by the City. The Incident Report must be submitted to the City within 24 hours of the injury occurring.

Exhibit B
Insurance Requirements for Recreation Contracts

As required by the Agreement, Contractor shall procure prior to commencement of Services and maintain the following insurance for the duration of the Agreement against claims arising from or in connection with Contractor, its agents, representatives, employees or subcontractors Services under this Agreement.

Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including property damage, bodily injury and personal & advertising injury with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, it must apply separately to this project/location (CG 25 03 or 25 04) or be twice the required occurrence limit.

    a. It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.

    b. Additional Insured coverage under Consultant's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO Form CG 20 01 (04/13).

    c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.

2. **Automobile Liability**: ISO CA 0001 covering Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than $1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation**: As required by the State of California, with Statutory and Employer's Liability Insurance limits of no less than $1,000,000 per accident for bodily injury or disease.

4. **Sexual Abuse/Molestation**: Insurance or the equivalent as required for activities/services involving minors, (i.e., after school activities, recreational programs, athletics, study/training events and transportation of minors). Coverage may be included under General Liability or be obtained in a separate policy, such as Educators Legal Liability (ELL) policy, with a limit of no less than $1,000,000 per occurrence. If a general aggregate limit applies, it must apply separately to this contract or be twice the required occurrence limit.

Insurance coverage required may be satisfied by a combination of Primary and Excess/Umbrella insurance.

OTHER INSURANCE PROVISIONS
The aforementioned insurance shall be endorsed and have all the following conditions and provisions:

Additional Insured Status
The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers ("Additional Insureds") are to be covered as additional insureds on Consultant's CGL and automobile liability policies. General Liability coverage can be provided in the form of an endorsement to Consultant's

insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or both CG 20 10 and CG 20 37 forms, if later editions are used).

Primary Coverage
Coverage afforded to City/Additional Insureds shall be primary insurance. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute to it.

Notice of Cancellation
Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation
Consultant waives any right to subrogation against City/Additional Insureds for recovery of damages to the extent said losses are covered by the insurance policies required herein. Specifically, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Consultant, its employees, agents and subconsultants. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions
Any deductible or self-insured retention must be declared to and approved by the City. At City's option, either: the insurer must reduce or eliminate the deductible or self-insured retentions as respects the City/Additional Insureds; or Consultant must show proof of ability to pay losses and costs related investigations, claim administration and defense expenses. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the insured or the City.

Acceptability of Insurers
Insurers must be licensed to do business in California with an A.M. Best Rating of A-VII, or better.

Verification of Coverage
Consultant must furnish acceptable insurance certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements prior to commencement of the Contract. City retains the right to demand verification of compliance at any time during the Contract term.

Subconsultants
Consultant shall require and verify that all subconsultants maintain insurance that meet the requirements of this Contract, including naming the City as an additional insured on subconsultant's insurance policies.

Higher Insurance Limits
If Consultant maintains broader coverage and/or higher limits than the minimums shown above, City shall be entitled to coverage for the higher insurance limits maintained by Consultant.

Adequacy of Coverage
City reserves the right to modify these insurance requirements/coverage based on the nature of the risk, prior experience, insurer or other special circumstances, with not less than ninety (90) days prior written notice.

1223215.2

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/13/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: E Sports	
Foy Insurance - Amerikids 64 Portsmouth Ave PO Box 1030 Exeter NH 03833-1030	PHONE (A/C, No, Ext): (603) 772-4781	FAX (A/C, No): (603) 772-3246
	E-MAIL ADDRESS: Sports@foyinsurance.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Vantapro Specialty Ins Co	44768
INSURER B: Vantapro Specialty Ins Co	44768
INSURER C: National Union Insurance Co	19445
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Red Line Gymnastics LLC, DBA: Bay Aerials Gymnastics
4883 Davenport Place
Fremont CA 94538

COVERAGES **CERTIFICATE NUMBER:** MASTER GL 2021-2022 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [x] OCCUR GL-00008-00 GEN'L AGGREGATE LIMIT APPLIES PER: [x] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			AK-1050-14-GL	12/9/2021	12/9/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG SEXUAL ABUSE LIABILITY	$ 1,000,000 $ 300,000 $ 5000 $ 1,000,000 $ 3,000,000 $ 1,000,000 $ 1,000,000
B	AUTOMOBILE LIABILITY [x] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS			AK-1050-14-GL	12/9/2021	12/9/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
B	Sports Accident			AK-1050-14-SP	12/9/2021	12/9/2022		50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(***) Any Person or Organization including Certificate Holder is additional insured if written signed contract to such exists prior to loss subject to form indicated above in General Liability section. Certificate Holder: City of Cupertino, Its City Council, Boards and Commissions, Officers, Officials, Employees, Agents, Servants, Volunteers and Consultants - 10300 Torre Ave Cupertino, CA 95014

CERTIFICATE HOLDER

City of Cupertino
10300 Torre Ave
Cupertino, CA 95014

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Michael Foy/ESYD

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s):
City of Cupertino, Its City Council, Board and Commissions, Officers, Officials, Employees, Agents, Servants, Volunteers and Consultants 10300 Torre Ave Cupertino, CA 95014

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or ommissions of those acting on your behalf:

1. In the performance of your ongoing operations or
2. In connection with your premises owned by or rented to you

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law and;
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

1. Required by the contract or agreement or;
2. Available under the applicable Limits of Insurance shown in Declarations;

whichever is less.

This Endorsement shall not increase the applicable Limist of Insurance shown on the Declarations.

 © Insurance Services Office, Inc 2012

Technology Insurance Company, Inc.

A Stock Insurance Company

WORKERS COMPENSATION
AND EMPLOYERS LIABILITY
INSURANCE POLICY

WC 99 00 01 E
1 of 5
INFORMATION PAGE

Ncci Code: 39071

1. Insured:

Red Line Gymnastics, LLC
4883 Davenport Pl
Fremont, CA 94538

Other workplaces not shown above:
None

Producer:

AmTrust North America, Inc.
c/o PCF Insurance Services of the West, LLC
1233 Alpine Road
Walnut Creek, CA 94596

Policy Number: TWC3989886

__Individual __Partnership
__Corporation or X LLC
Federal Tax ID: 270089044
Risk Id:
Renewal of: TWC3893824

2. The policy period is from 7/1/2021 to 7/1/2022 12:01 a.m. at the insured's mailing address.

3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here: California

B. Employers Liability Insurance: Part Two of the policy applies to work in each state listed in item 3.A. The limits of our liability under Part Two are:

State	Bodily Injury by Accident	Bodily Injury by Disease	Bodily Injury by Disease
	$1,000,000 each accident	$1,000,000 policy limit	$1,000,000 each employee

C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here:
All states except ND, OH, WA, WY and State(s) Designated in Item 3A.

D. This policy includes these endorsements and schedules: See Extension of Information Page

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.

See Extension of Information Page

TOTAL ESTIMATED ANNUAL PREMIUM	**4,524**
STATE ASSESSMENT	**179**
TOTAL ESTIMATED COST	**4,703**
Minimum Premium	500
Deposit Premium	635

Issue Date: 5/27/2021

Countersigned by: _____
Authorized Representative

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 5% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
The City of Cupertino 10300 Torre Avenue Cupertino CA 95014	Per written contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective	7/1/2021	Policy No.	TWC3989886	Endorsement No.	1
Insured	Red Line Gymnastics, LLC			Premium $	4,720
Insurance Company	Technology Insurance Company, Inc.				

Countersigned by _____

EXHIBIT D
Contractor's Mandated Reporter Declaration

The undersigned does hereby certify that:

1. I am a representative of RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS; that I am familiar with the facts herein and am authorized and qualified to execute this declaration.

2. I declare that RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS has complied with fingerprinting and criminal background investigation requirements with respect to all Contractor's employees who may have contact with minors in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in California Penal Code Section 11105.3.

3. I declare that each coach and administrator shall be required to successfully complete concussion and head injury education at least once, either online or in person, before supervising a participant, as required by California Health and Safety Code Section 124235, et seq.

4. On a yearly basis, all participants shall be required to sign and return a concussion and head injury information sheet in compliance with California Health and Safety Code Section 124235, which may be in the form attached as D-1.

5. That a complete and accurate list of Contractor's employees, who may come in contact with minors during the course and scope of the Agreement, are included below.

6. All of the below mentioned employees have tested negative for TB, or X-ray results for TB, and have current documentation on file with Contractor.

7. All of the below mentioned employees have received training and understand their responsibilities under the Mandated Reporter laws of this state and are willing and able to comply.

List of all Contractor Employees working for the City (if no Employees, identify "self"):

See attached list of employees.

8. The Contractor will notify the City of Cupertino in writing of any new employees and will be added to the above list prior to beginning work at the City of Cupertino.

I declare under penalty of perjury that the foregoing is true and correct.

CONTRACTOR

By _____

Name john aguirre

Title Manager Member

Date Jan 10, 2022

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

Gloria Santos Moreno	Jessica Montes	Harrison Yee	Tiffany Nguyen

Red Line Gymnastics LLC DBA Bay Aerials Gymnastics Contract FY 2022-2023

Final Audit Report 2022-01-11

Created:	2022-01-10
By:	Kevin Khuu (KevinK@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAdahbpcosH-uro3EgyBysvJYlPnN2v9Kn

"Red Line Gymnastics LLC DBA Bay Aerials Gymnastics Contract FY 2022-2023" History

Document created by Kevin Khuu (KevinK@cupertino.org)
2022-01-10 - 10:47:55 PM GMT- IP address: 73.202.165.202

Document emailed to Araceli Alejandre (aracelia@cupertino.org) for approval
2022-01-10 - 10:50:37 PM GMT

Document approved by Araceli Alejandre (aracelia@cupertino.org)
Approval Date: 2022-01-10 - 10:55:20 PM GMT - Time Source: server- IP address: 73.170.27.253

Document emailed to john aguirre (john@bayaerials.com) for signature
2022-01-10 - 10:55:22 PM GMT

Email viewed by john aguirre (john@bayaerials.com)
2022-01-10 - 11:10:24 PM GMT- IP address: 172.226.36.32

Document e-signed by john aguirre (john@bayaerials.com)
Signature Date: 2022-01-10 - 11:12:01 PM GMT - Time Source: server- IP address: 107.116.89.88

Document emailed to Christopher D. Jensen (christopherj@cupertino.org) for signature
2022-01-10 - 11:12:03 PM GMT

Email viewed by Christopher D. Jensen (christopherj@cupertino.org)
2022-01-10 - 11:19:20 PM GMT- IP address: 104.47.73.254

Document e-signed by Christopher D. Jensen (christopherj@cupertino.org)
Signature Date: 2022-01-10 - 11:19:39 PM GMT - Time Source: server- IP address: 136.24.42.212

Document emailed to Rachelle Sander (rachelles@cupertino.org) for signature
2022-01-10 - 11:19:42 PM GMT

CUPERTINO
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Email viewed by Rachelle Sander (rachelles@cupertino.org)

2022-01-10 - 11:23:21 PM GMT- IP address: 104.47.73.126

Document e-signed by Rachelle Sander (rachelles@cupertino.org)

Signature Date: 2022-01-11 - 0:40:59 AM GMT - Time Source: server- IP address: 73.158.59.6

Document emailed to Kirsten Squarcia (kirstens@cupertino.org) for signature

2022-01-11 - 0:41:01 AM GMT

Email viewed by Kirsten Squarcia (kirstens@cupertino.org)

2022-01-11 - 0:41:15 AM GMT- IP address: 172.226.4.30

Document e-signed by Kirsten Squarcia (kirstens@cupertino.org)

Signature Date: 2022-01-11 - 0:41:30 AM GMT - Time Source: server- IP address: 162.245.20.145

Agreement completed.

2022-01-11 - 0:41:30 AM GMT

FIRST AMENDMENT TO AGREEMENT 22-005 BETWEEN THE CITY OF CUPERTINO AND RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS FOR GYMNASTICS CLASSES AND PROGRAMS

This First Amendment to Agreement 22-005 between the City of Cupertino and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS, a Limited Liability Company ("Contractor") whose address is 4883 Davenport Place, Fremont, CA 94538, and is made with reference to the following:

RECITALS:

A. On January 10, 2022, Agreement 22-005 ("Agreement") was entered into by and between City and Contractor for Gymnastics Classes and Programs.

B. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. Paragraph 4 of the Agreement is modified to read as follows:
   City will pay Contractor for satisfactory performance of the Services an amount that will be based upon actual costs but that will be capped so as not to exceed $107,000.00 ("Contract Price"), based upon the Scope of Services, budget, performance schedule, and rates included in Exhibit A-1. The maximum compensation includes all costs, expenses, and reimbursements and will remain in place even if Contractor's actual costs exceed the capped amount. Contractor must submit invoices and the information requirement in Exhibit A-1 in order to receive payment. City will compensate Contractor within thirty (30) days after approval of written invoices.

   Invoices are subject to review and audit by City during regular business hours upon 24 hours' notice. Contractor must maintain complete and accurate records of payrolls, expenditures, and disbursements and other cost items charged to City or establishing the basis for an invoice, for a minimum of four (4) years from the date of the final payment.

2. Exhibit A of the Agreement is replaced with a new Exhibit A-1 attached hereto.

3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CITY OF CUPERTINO

By Rachelle Sander

Title Assistant Director of Parks and Recreation

Date May 16, 2022

RED LINE GYMNASTICS LLC,
DBA: BAY AERIALS GYMNASTICS

By john aguirre

Title Manager Member

Date May 9, 2022

APPROVED AS TO FORM

Christopher D. Jensen

City Attorney

ATTEST:

Kirsten Squarcia 5/16/22

City Clerk

Date Kirsten Squarcia 5/16/22

EXPENDITURE DISTRIBUTION

Item	PO Number	Amount
Base Amount	2022-348	75,000.00
Amendment 1	2022-348	32,000.00
-	-	107,000.00

1429656.1

EXHIBIT A-1
SCOPE OF WORK, PERFORMANCE AND PAYMENT SCHEDULES

The CONTRACTOR will provide Gymnastics Classes and Programs in, but not limited to, the following:

Sweet Peas Gymnastics Levels 1-5, Girls Gymnastics Beginner and Advanced Beginner, Lil Ninjas 3-5, Cupertino Ninjas

Location and Time of CONTRACTOR Services:

Refer to the City's Publications for agreed upon dates, times, and locations of a class, camp, activity, program, or service ("class"). The City, at its sole discretion, may change the agreed dates, times and locations of a class, or may cancel a class.

Compensation for CONTRACTOR Services:

Contractor shall be compensated for services performed pursuant to this Agreement.

For a class taught in person, 60% of resident fees.

City and Contractor may mutually agree for Contractor to teach a class online rather than in person, provided that City and Contractor reach agreement for compensation for that online class. Compensation for that online class shall be specified in writing in a separate side agreement before online instruction for a class begins.

The total compensation to the Contractor shall not exceed $107,000.00.

Eligible Participant Minimum and Maximums for CONTRACTOR Services:

Minimum: 4
Maximum: 10

If less than the required minimum number of participants enroll in and pay for a particular class as identified in the schedule before the class is scheduled to start, the City may cancel the particular class and/or terminate this Agreement without additional notice or payment to Contractor.

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

See attached list of employees.

Performance of CONTRACTOR Services:

Class Cancellation
Contractor will only receive compensation for a class that is performed. If performance of a class is cancelled by the City or Contractor before instruction begins, Contactor will not receive compensation for the class. If the City or Contractor cancels performance of certain meetings of a class, Contractor will only receive compensation for those meetings of the class that are performed.

In the case Contractor unilaterally cancels performance of a class without City approval, City reserves the right to immediately and without notice cancel the remainder of classes offered and or performed by Contractor.

COVID-19 Health Order Compliance
Contractor acknowledges that its duty to comply with Laws, as stated in Section 13 of the Agreement, includes compliance by Contractor with any restrictions on travel or social distancing or other requirements set forth in any health order issued by any local, state, or federal authority, and any other local, state, or federal laws or policies that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws"). Contractor shall comply with all applicable Health Laws when preforming work under this Agreement. If this Agreement specifies work that cannot be performed in compliance with the Health Laws, Contractor shall refrain from conducting the work and immediately inform the City. Contractor shall likewise comply with any City protocols designed to help prevent the spread of COVID-19. Contractor acknowledges that the need to comply with the Health Laws may result in the City canceling performance of any class or meetings of a class referenced in this Agreement.

Registration, Enrollment, and Supervision
The Contractor shall follow all guidelines pertaining to registration procedures as listed in the quarterly recreation schedule. Participants may not take part in the program unless they are listed on the class roster or can show proof of enrollment. All participants and volunteers need to complete the City's Waiver of Liability form prior to taking part in the program. If applicable, contractors who are responsible for supervising minors must remain with the class until a parent of legal guardian has arrived and all minors are released to them.

Injury of a Class Participant
In the event of an injury occurring to a participant, the Contractor will notify the City within 1 hour and complete an Incident Report in the form approved by the City. The Incident Report must be submitted to the City within 24 hours of the injury occurring.

Gymnastics Classes and Programs

Final Audit Report 2022-05-16

Created:	2022-05-09
By:	City of Cupertino (webmaster@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_aEJHDetN2cvpiO8TgPKFwBCI-yrSRqi

"Gymnastics Classes and Programs" History

Document created by City of Cupertino (webmaster@cupertino.org)
2022-05-09 - 11:33:12 PM GMT- IP address: 35.229.54.2

Document emailed to Araceli Alejandre (aracelia@cupertino.org) for approval
2022-05-09 - 11:35:39 PM GMT

Document approved by Araceli Alejandre (aracelia@cupertino.org)
Approval Date: 2022-05-09 - 11:41:02 PM GMT - Time Source: server- IP address: 73.170.27.253

Document emailed to john aguirre (john@bayaerials.com) for signature
2022-05-09 - 11:41:04 PM GMT

Email viewed by john aguirre (john@bayaerials.com)
2022-05-09 - 11:43:38 PM GMT- IP address: 69.147.91.62

Document e-signed by john aguirre (john@bayaerials.com)
Signature Date: 2022-05-09 - 11:47:04 PM GMT - Time Source: server- IP address: 24.4.202.20

Document emailed to Christopher D. Jensen (christopherj@cupertino.org) for signature
2022-05-09 - 11:47:06 PM GMT

Email viewed by Christopher D. Jensen (christopherj@cupertino.org)
2022-05-09 - 11:47:51 PM GMT- IP address: 104.47.74.126

Document e-signed by Christopher D. Jensen (christopherj@cupertino.org)
Signature Date: 2022-05-09 - 11:48:11 PM GMT - Time Source: server- IP address: 136.24.42.212

Document emailed to Rachelle Sander (rachelles@cupertino.org) for signature
2022-05-09 - 11:48:13 PM GMT

Email viewed by Rachelle Sander (rachelles@cupertino.org)
2022-05-10 - 4:35:44 PM GMT- IP address: 104.28.116.132

Document e-signed by Rachelle Sander (rachelles@cupertino.org)

Signature Date: 2022-05-16 - 9:21:46 PM GMT - Time Source: server- IP address: 73.158.59.6

Document emailed to Kirsten Squarcia 5/16/22 (kirstens@cupertino.org) for signature

2022-05-16 - 9:21:49 PM GMT

Email viewed by Kirsten Squarcia 5/16/22 (kirstens@cupertino.org)

2022-05-16 - 9:36:54 PM GMT- IP address: 104.47.74.126

Document e-signed by Kirsten Squarcia 5/16/22 (kirstens@cupertino.org)

Signature Date: 2022-05-16 - 9:38:12 PM GMT - Time Source: server- IP address: 64.165.34.3

Agreement completed.

2022-05-16 - 9:38:12 PM GMT

CUPERTINO

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SECOND AMENDMENT TO AGREEMENT 22-005 BETWEEN THE CITY OF CUPERTINO AND RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS FOR GYMNASTICS CLASSES AND PROGRAMS

This Second Amendment to Agreement 22-005 between the City of Cupertino and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS, a Limited Liability Company ("Contractor") whose address is 4883 Davenport Place, Fremont, CA 94538, and is made with reference to the following:

RECITALS:

A. On January 10, 2022, Agreement 22-005 ("Agreement") was entered into by and between City and Contractor for Gymnastics Classes and Programs.

B. On May 16, 2022, City and Contractor agreed to the First Amendment for Gymnastics Classes and Programs.

C. The Agreement and First Amendment are collectively referred to as the "Agreement" unless otherwise indicated.

D. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. Paragraph 4 of the Agreement is modified to read as follows:
   City will pay Contractor for satisfactory performance of the Services an amount that will be based upon actual costs but that will be capped so as not to exceed $150,000.00 ("Contract Price"), based upon the Scope of Services, budget, performance schedule, and rates included in Exhibit A-2. The maximum compensation includes all costs, expenses, and reimbursements and will remain in place even if Contractor's actual costs exceed the capped amount. Contractor must submit invoices and the information requirement in Exhibit A-2 in order to receive payment. City will compensate Contractor within thirty (30) days after approval of written invoices.

   Invoices are subject to review and audit by City during regular business hours upon 24 hours' notice. Contractor must maintain complete and accurate records of payrolls, expenditures, and disbursements and other cost items charged to City or establishing the basis for an invoice, for a minimum of four (4) years from the date of the final payment.

2. Exhibit A-1 of the Agreement is replaced with a new Exhibit A-2 attached hereto.

3. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CITY OF CUPERTINO

By Rachelle Sandey

Title Director of Parks and Recreation

Date Mar 16, 2023

RED LINE GYMNASTICS LLC,
DBA: BAY AERIALS GYMNASTICS

By John Aguirre

Title Manager Member

Date Mar 16, 2023

APPROVED AS TO FORM

Christopher D. Jensen

City Attorney

ATTEST:

Kristen Aguancia

City Clerk

Date Mar 16, 2023

EXPENDITURE DISTRIBUTION

Item	PO Number	Amount
Base Amount	2022-348	75,000.00
Amendment 1	2022-348	32,000.00
Amendment 2	2023-80	43,000.00
-	-	150,000.00

1429656.1

EXHIBIT A-2
SCOPE OF WORK, PERFORMANCE AND PAYMENT SCHEDULES

The CONTRACTOR will provide Gymnastics Classes and Programs in, but not limited to, the following:

Sweet Peas Gymnastics Levels 1-5, Girls Gymnastics Beginner and Advanced Beginner, Lil Ninjas 3-5, Cupertino Ninjas

Location and Time of CONTRACTOR Services:

Refer to the City's Publications for agreed upon dates, times, and locations of a class, camp, activity, program, or service ("class"). The City, at its sole discretion, may change the agreed dates, times and locations of a class, or may cancel a class.

Compensation for CONTRACTOR Services:

Contractor shall be compensated for services performed pursuant to this Agreement.

For a class taught in person, 60% of resident fees.

City and Contractor may mutually agree for Contractor to teach a class online rather than in person, provided that City and Contractor reach agreement for compensation for that online class. Compensation for that online class shall be specified in writing in a separate side agreement before online instruction for a class begins.

The total compensation to the Contractor shall not exceed $150,000.00.

Eligible Participant Minimum and Maximums for CONTRACTOR Services:

Minimum: 4
Maximum: 10

If less than the required minimum number of participants enroll in and pay for a particular class as identified in the schedule before the class is scheduled to start, the City may cancel the particular class and/or terminate this Agreement without additional notice or payment to Contractor.

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

See attached list of employees.

Performance of CONTRACTOR Services:

Class Cancellation
Contractor will only receive compensation for a class that is performed. If performance of a class is cancelled by the City or Contractor before instruction begins, Contactor will not receive compensation for the class. If the City or Contractor cancels performance of certain meetings of a class, Contractor will only receive compensation for those meetings of the class that are performed.

In the case Contractor unilaterally cancels performance of a class without City approval, City reserves the right to immediately and without notice cancel the remainder of classes offered and or performed by Contractor.

COVID-19 Health Order Compliance
Contractor acknowledges that its duty to comply with Laws, as stated in Section 13 of the Agreement, includes compliance by Contractor with any restrictions on travel or social distancing or other requirements set forth in any health order issued by any local, state, or federal authority, and any other local, state, or federal laws or policies that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws"). Contractor shall comply with all applicable Health Laws when preforming work under this Agreement. If this Agreement specifies work that cannot be performed in compliance with the Health Laws, Contractor shall refrain from conducting the work and immediately inform the City. Contractor shall likewise comply with any City protocols designed to help prevent the spread of COVID-19. Contractor acknowledges that the need to comply with the Health Laws may result in the City canceling performance of any class or meetings of a class referenced in this Agreement.

Registration, Enrollment, and Supervision
The Contractor shall follow all guidelines pertaining to registration procedures as listed in the quarterly recreation schedule. Participants may not take part in the program unless they are listed on the class roster or can show proof of enrollment. All participants and volunteers need to complete the City's Waiver of Liability form prior to taking part in the program. If applicable, contractors who are responsible for supervising minors must remain with the class until a parent of legal guardian has arrived and all minors are released to them.

Injury of a Class Participant
In the event of an injury occurring to a participant, the Contractor will notify the City within 1 hour and complete an Incident Report in the form approved by the City. The Incident Report must be submitted to the City within 24 hours of the injury occurring.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/5/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Sports Department	
Foy Insurance - Amerikids 64 Portsmouth Ave PO Box 1030 Exeter NH 03833-1030	PHONE (A/C, No, Ext): (603) 772-4781	FAX (A/C, No): (603) 772-3246
	E-MAIL ADDRESS: Sports@foyinsurance.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Vantapro Specialty Ins Co	44768
INSURED Red Line Gymnastics LLC, DBA: Bay Aerials Gymnastics 4883 Davenport Place Fremont CA 94538	INSURER B: National Union Insurance Co	19445
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** MASTER GL 2022-2023 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [x] OCCUR [ ] Additional Insured GEN'L AGGREGATE LIMIT APPLIES PER: [x] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	X		AK-1050-15-GL CG 20 26 04 13	12/9/2022	12/9/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Sexual Abuse and Molestation	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 3,000,000 $ 1,000,000 $ 1,000,000
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [x] HIRED AUTOS [x] NON-OWNED AUTOS			AK-1050-15-GL	12/9/2022	12/9/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $
B	Sports Accident			AK-1050-15-SP	12/9/2022	12/9/2023		50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(****) Gymnastics: Any Person or Organization including Certificate Holder is additional insured if written signed contract to such exists prior to loss subject to form indicated above in General Liability section.
Certificate Holder: City of Cupertino, Its City Council, Board and Commissions, Officers, Officials, Employees, Agents, Servants, Volunteers and Consultants - 10300 Torre Ave Cupertino, CA 95014

CERTIFICATE HOLDER

City of Cupertino
10300 Torre Ave
Cupertino, CA 95014

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Michael Foy/ECANDI

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POLICY NUMBER: AK-1050-15-GL

COMMERCIAL GENERAL LIABILITY

CG 20 26 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s):
City of Cupertino, Its City Council, Board and Commissions, Officers, Officials, Employees, Agents, Servants, Volunteers and Consultants 10300 Torre Ave Cupertino, CA 95014

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or ommissions of those acting on your behalf:

1. In the performance of your ongoing operations or
2. In connection with your premises owned by or rented to you

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law and;
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

1. Required by the contract or agreement or;
2. Available under the applicable Limits of Insurance shown in Declarations;

whichever is less.

This Endorsement shall not increase the applicable Limist of Insurance shown on the Declarations.

© Insurance Services Office, Inc 2012

Additional Named Insureds

Other Named Insureds

Bay Aerials Gymnastics	Doing Business As

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – BY WRITTEN CONTRACT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization with whom you have agreed to add as an additional insured by written contract but only with respect to liability arising out of your operations or premises owned by or rented to you.

REDLINE-02 EVEGA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/1/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Eduardo Vega	
RL Milsner Insurance Brokerage 1233 Alpine Road Walnut Creek, CA 94596	PHONE (A/C, No, Ext): (925) 932-0424	FAX (A/C, No): (925) 932-2317
	E-MAIL ADDRESS: eduardo@rlmilsner.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Technology Insurance Company	42376
INSURED Red Line Gymnastics, LLC John 4883 Davenport Place, #C Fremont, CA 94538	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N / A		TWC4118953	7/1/2022	7/1/2023	X PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N ☐ (Mandatory in NH)						E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of Insurance- Waiver of subrogation applies to the above Workers compensation policy.

CERTIFICATE HOLDER

The City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 5% of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
The City of Cupertino 10300 Torre Avenue Cupertino CA 95014	Per written contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective	7/1/2022	Policy No.	TWC4118953	Endorsement No.	0
Insured	Red Line Gymnastics, LLC			Premium $	4,852
Insurance Company	Technology Insurance Company, Inc.				

Countersigned by _____

Gymnastics Classes and Programs

Final Audit Report 2023-03-16

Created:	2023-03-16
By:	City of Cupertino (webmaster@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAYhCMchBV5qGHmW-KMvm96AL9pNKBKVti

"Gymnastics Classes and Programs" History

Document created by City of Cupertino (webmaster@cupertino.org)
2023-03-16 - 2:55:35 PM GMT- IP address: 35.229.54.2

Document emailed to Araceli Alejandre (aracelia@cupertino.org) for approval
2023-03-16 - 2:57:55 PM GMT

Document approved by Araceli Alejandre (aracelia@cupertino.org)
Approval Date: 2023-03-16 - 3:02:55 PM GMT - Time Source: server- IP address: 73.170.27.253

Document emailed to john@bayaerials.com for signature
2023-03-16 - 3:02:56 PM GMT

Email viewed by john@bayaerials.com
2023-03-16 - 7:15:50 PM GMT- IP address: 69.147.90.148

Signer john@bayaerials.com entered name at signing as John Aguirre
2023-03-16 - 7:17:27 PM GMT- IP address: 12.23.20.158

Document e-signed by John Aguirre (john@bayaerials.com)
Signature Date: 2023-03-16 - 7:17:29 PM GMT - Time Source: server- IP address: 12.23.20.158

Document emailed to christopherj@cupertino.org for signature
2023-03-16 - 7:17:30 PM GMT

Email viewed by christopherj@cupertino.org
2023-03-16 - 7:18:49 PM GMT- IP address: 104.47.73.126

Signer christopherj@cupertino.org entered name at signing as Christopher D. Jensen
2023-03-16 - 7:19:03 PM GMT- IP address: 64.165.34.3

Document e-signed by Christopher D. Jensen (christopherj@cupertino.org)
Signature Date: 2023-03-16 - 7:19:05 PM GMT - Time Source: server- IP address: 64.165.34.3

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Document emailed to Rachelle Sander (rachelles@cupertino.org) for signature

2023-03-16 - 7:19:07 PM GMT

Email viewed by Rachelle Sander (rachelles@cupertino.org)

2023-03-16 - 7:21:31 PM GMT- IP address: 104.47.73.254

Document e-signed by Rachelle Sander (rachelles@cupertino.org)

Signature Date: 2023-03-16 - 7:22:03 PM GMT - Time Source: server- IP address: 64.165.34.3

Document emailed to Kirsten Squarcia (kirstens@cupertino.org) for signature

2023-03-16 - 7:22:05 PM GMT

Email viewed by Kirsten Squarcia (kirstens@cupertino.org)

2023-03-16 - 7:44:43 PM GMT- IP address: 104.47.74.126

Document e-signed by Kirsten Squarcia (kirstens@cupertino.org)

Signature Date: 2023-03-16 - 7:44:51 PM GMT - Time Source: server- IP address: 67.188.176.248

Agreement completed.

2023-03-16 - 7:44:51 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.

THIRD AMENDMENT TO AGREEMENT 22-005 BETWEEN THE CITY OF CUPERTINO AND RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS FOR GYMNASTICS CLASSES AND PROGRAMS

This Third Amendment to Agreement 22-005 between the City of Cupertino and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and RED LINE GYMNASTICS LLC, DBA: BAY AERIALS GYMNASTICS, a Limited Liability Company ("Contractor") whose address is 4883 Davenport Place, Fremont, CA 94538, and is made with reference to the following:

RECITALS:

A. On January 10, 2022, Agreement 22-005 ("Agreement") was entered into by and between City and Contractor for Gymnastics Classes and Programs.

B. On May 16, 2022, City and Contractor agreed to the First Amendment for Gymnastics Classes and Programs.

C. On March 16, 2023, City and Contractor agreed to the Second Amendment for Gymnastics Classes and Programs.

D. The Agreement, First Amendment, and Second Amendment are collectively referred to as the "Agreement" unless otherwise indicated.

E. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. Paragraph 3 of the Agreement is modified to read as follows:
   Term. This contract begins on the Effective Date and ends on 08/31/2023 ("Contract Time"), unless extended or terminated as provided herein. Time is of the essence and Contractor must have sufficient time, resources, and qualified staff to deliver the Services as required. Contractor must promptly notify City of any actual or potential delays to afford the Parties adequate opportunity to address or mitigate such delays. The City's appropriate department head or the City Manager may extend the Contract Time through a written amendment to this Agreement, provided such extension does not include additional contract funds. Extensions requiring additional contract funds are subject to the City's purchasing policy.
2. Paragraph 4 of the Agreement is modified to read as follows:
   Compensation. City will pay Contractor for satisfactory performance of the Services an amount that will be based upon actual costs but that will be capped so as not to exceed $174,000.00 ("Contract Price"), based upon the Scope of Services, budget, performance schedule, and rates included in Exhibit A-3. The maximum compensation includes all costs, expenses, and reimbursements and will remain in place even if Contractor's actual costs exceed the capped amount. Contractor must submit invoices and the information requirement in Exhibit A-3 in order to receive payment. City will compensate Contractor within thirty (30) days after approval of written invoices. Invoices are subject to review and audit by City during regular business

hours upon 24 hours' notice. Contractor must maintain complete and accurate records of payrolls, expenditures, and disbursements and other cost items charged to City or establishing the basis for an invoice, for a minimum of four (4) years from the date of the final payment.

3. Exhibit A-2 of the Agreement is replaced with a new Exhibit A-3 attached hereto.
4. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CITY OF CUPERTINO

By Rachelle Sandoy

Title Director of Parks and Recreation

Date Jun 15, 2023

RED LINE GYMNASTICS LLC,

DBA: BAY AERIALS GYMNASTICS

By

Title Manager Member

Date Jun 14, 2023

APPROVED AS TO FORM

Christopher D. Jensen

City Attorney

ATTEST:

Kristen Squarcia

City Clerk

Date Jun 15, 2023

EXPENDITURE DISTRIBUTION

Item	PO Number	Amount
Base Amount	2022-348	75,000.00
Amendment 1	2022-348	32,000.00
Amendment 2	2023-80	43,000.00
Amendment 3		24,000.00
-	-	174,000.00

EXHIBIT A-3
SCOPE OF WORK, PERFORMANCE AND PAYMENT SCHEDULES

The CONTRACTOR will provide Gymnastics Classes and Programs in, but not limited to, the following:

Sweet Peas Gymnastics Levels 1-5, Girls Gymnastics Beginner and Advanced Beginner, Lil Ninjas 3-5, Cupertino Ninjas

Location and Time of CONTRACTOR Services:

Refer to the City's Publications for agreed upon dates, times, and locations of a class, camp, activity, program, or service ("class"). The City, at its sole discretion, may change the agreed dates, times and locations of a class, or may cancel a class.

Compensation for CONTRACTOR Services:

Contractor shall be compensated for services performed pursuant to this Agreement.

For a class taught in person, 60% of resident fees.

City and Contractor may mutually agree for Contractor to teach a class online rather than in person, provided that City and Contractor reach agreement for compensation for that online class. Compensation for that online class shall be specified in writing in a separate side agreement before online instruction for a class begins.

The total compensation to the Contractor shall not exceed $174,000.00.

Eligible Participant Minimum and Maximums for CONTRACTOR Services:

Minimum: 4
Maximum: 10

If less than the required minimum number of participants enroll in and pay for a particular class as identified in the schedule before the class is scheduled to start, the City may cancel the particular class and/or terminate this Agreement without additional notice or payment to Contractor.

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

See attached list of employees.

Performance of CONTRACTOR Services:

Class Cancellation
Contractor will only receive compensation for a class that is performed. If performance of a class is cancelled by the City or Contractor before instruction begins, Contactor will not receive compensation for the class. If the City or Contractor cancels performance of certain meetings of a class, Contractor will only receive compensation for those meetings of the class that are performed.

In the case Contractor unilaterally cancels performance of a class without City approval, City reserves the right to immediately and without notice cancel the remainder of classes offered and or performed by Contractor.

COVID-19 Health Order Compliance
Contractor acknowledges that its duty to comply with Laws, as stated in Section 13 of the Agreement, includes compliance by Contractor with any restrictions on travel or social distancing or other requirements set forth in any health order issued by any local, state, or federal authority, and any other local, state, or federal laws or policies that have been or may be enacted in response to the COVID-19 pandemic (collectively, "Health Laws"). Contractor shall comply with all applicable Health Laws when preforming work under this Agreement. If this Agreement specifies work that cannot be performed in compliance with the Health Laws, Contractor shall refrain from conducting the work and immediately inform the City. Contractor shall likewise comply with any City protocols designed to help prevent the spread of COVID-19. Contractor acknowledges that the need to comply with the Health Laws may result in the City canceling performance of any class or meetings of a class referenced in this Agreement.

Registration, Enrollment, and Supervision
The Contractor shall follow all guidelines pertaining to registration procedures as listed in the quarterly recreation schedule. Participants may not take part in the program unless they are listed on the class roster or can show proof of enrollment. All participants and volunteers need to complete the City's Waiver of Liability form prior to taking part in the program. If applicable, contractors who are responsible for supervising minors must remain with the class until a parent of legal guardian has arrived and all minors are released to them.

Injury of a Class Participant
In the event of an injury occurring to a participant, the Contractor will notify the City within 1 hour and complete an Incident Report in the form approved by the City. The Incident Report must be submitted to the City within 24 hours of the injury occurring.