



CITY OF BISBEE

PROFESSIONAL SERVICES AGREEMENT SWIMMING LESSONS 2019

THIS AGREEMENT is made and entered into this 4th day of June, 2019 by and between the CITY OF BISBEE, hereinafter referred to as the "City", and L.E.A.P. Institute, an Arizona nonprofit corporation, hereinafter referred to as the "Contractor".

I. SCOPE OF SERVICES

Subject to the terms and conditions set forth in this agreement, Contractor shall provide swimming lessons at the City pool as more specifically described in Exhibit "A" Scope of Services.

II. COMPENSATION AND METHOD OF PAYMENT

In consideration for the performance of the services described in Attachment "A" the City will compensate the Contractor, and the Contractor agrees to accept as complete and full payment for the performance of all required services, the full amount of all revenues received through the offering of Red Cross certified swimming lessons.

III. DURATION

This Contract shall remain in effect for a period beginning on June 9, 2019 and ending on August 7, 2019.

IV. TERMINATION

A. The City may cancel this Agreement without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the City is or becomes, at any time while the Agreement or any extension of the Agreement is in effect any employee of, or Consultant to any other party to this Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective when written notice from the City is received by the parties to this Agreement, unless the notice specifies a later time.

B. This Agreement may also be terminated at any time by mutual written consent.

C. The City reserves the right to cancel the whole or any part of this Agreement

due to failure of the Contractor to carry out any term, promise or condition of the Agreement. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act any of the following, in the opinion of the City:

1. Contractor provides personnel who do not meet the requirements of the Agreement;
2. Contractor fails to adequately perform the stipulations, conditions, or services/specifications required in the Agreement;
3. Contractor attempts to impose on the City personnel, materials, products, or workmanship that is not of an acceptable quality;
4. Contractor fails to furnish the required service and/or product within the time stipulated in the Agreement;
5. Contractor fails to make progress in the performance of the requirements of the Agreement and/or gives the City a positive indication that contractor will not or cannot perform to the requirements of the Agreement.

V. ENFORCEMENT, LAWS AND ORDINANCES

This agreement shall be enforced under the laws of the State of Arizona. Contractor must comply with all applicable federal, state, and local laws, ordinances, and regulations. Contractor shall ensure payment of all taxes, licenses, permits, and other expenses of any nature associated with the provision of services herein. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor.

VI. INDEPENDENT CONTRACTOR

It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint ventures, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

The Contractor is advised that taxes or social security payments shall not be withheld from a City payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

VII. MODIFICATIONS

This Agreement may only be modified by a written amendment signed by the City and the Contractor.

VIII. WAIVER

The failure of either party of this Agreement to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver thereof, or of any future breach or subsequent wrongful conduct.

IX. INDEMNIFICATION

To the fullest extent permitted by law, Contractor agrees to indemnify, and hold harmless the City of Bisbee, a body politic and corporate of the State of Arizona, its board members, officers, employees, agents and other officials from all claims, damages, losses, and expenses, including but not limited to attorney's fees, reasonable court costs, or other alternative dispute resolution costs arising out of, resulting from, or otherwise but for the performance or furnishing of work or services under this Agreement, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, death, or personal injury, or property damage, including the loss of use or diminution in value resulting therefrom; but only to the extent caused in whole or in part by the actual or alleged negligent acts, errors, or omissions of Contractor, or anyone for whose acts Contractor may be liable. The City of Bisbee reserves the right, but not the obligation, to participate in defense without relieving Contractor of any obligation hereunder.

The amount and type of insurance required shall not in any way be construed as limiting the scope of the indemnification set forth above.

X. INSURANCE

1. For the term of this Agreement, Contractor shall procure and maintain insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, or employees.
2. The Insurance Requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. Contractor in no way warrants that the minimum limits contained herein are sufficient to protect the City from liabilities that arise out of the performance of the work under this Agreement by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

2.1 Minimum Scope and Limits of Insurance

LESSEE shall provide coverage with limits of liability not less than those stated below.

2.2 Commercial General Liability (CGL) – Occurrence Form Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the City as an additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor. Commercial General Liability Additional Insured Endorsements shall be as broad as CG2010 1185.

Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

2.3 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Contractor shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

2.4 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Agreement.

2.5 Notice of Cancellation
Applicable to all insurance policies required within the Insurance Requirements of this Agreement shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the City.

2.6 Verification of Coverage
Contractor shall furnish the City with certificates of insurance (valid ACORD form or equivalent) evidencing that Contractor has the insurance as required by this Agreement. An authorized representative of the insurer shall sign the certificates.

2.7 All such certificates of insurance and policy endorsements must be received by the City before commencement of this Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

XI. LEGAL ARIZONA WORKERS ACT COMPLIANCE

Contractor hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The Contractor shall further ensure that each sub-contractor who performs any work for the Contractor under this Agreement likewise complies with the State and Federal Immigration Laws.

This Agreement represents the entire agreement between the CITY and the CONTRACTOR relating to this requirement and shall prevail over any and all previous verbal and written agreements.

CONTRACTOR:



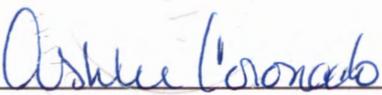
Patric Bradshaw, President Date
L.E.A.P. Institute

APPROVED BY:



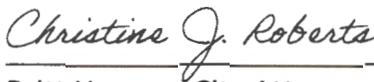
Anna Cline, Mayor Pro Tempore, Date

ATTEST:

 6-6-19

Ashlee Coronado, City Clerk Date

APPROVED AS TO FORM:

 for June 4, 2019

Britt Hanson, City Attorney Date

EXHIBIT "A"

Scope of Services

1. The Contractor promises and agrees to perform the work and to provide the services of providing Red Cross certified swimming lessons during the 2019 swimming pool season. This work shall be provided in a good and competent manner, and to the satisfaction of the City, or its designees, and in compliance with applicable laws and regulations. This work shall also be performed in a manner that is consistent with the Standard Terms and Conditions, City of Bisbee Contract," which terms are fully incorporated into this Contract by reference, and with the " Special Terms and Conditions" which are attached to this Contract. In the event of any conflict between the respective terms and conditions of this Contract for Services.
2. The Contractor agrees to provide all of the services necessary for Red Cross certified swimming lessons at the City to include hiring, training and paying all certified swim instructors during the period from June 9th, 2019 through August 7, 2019. All of the services required by this Contract shall be provided in a complete and acceptable form, as such work is customarily provided according to professional standards applicable to completion of this type of service work. The City shall provide the pool facilities use of kick boards.