



# MONROE CITY COUNCIL

## Agenda Bill No. 19-029

<b>SUBJECT:</b>	<b>Authorize Mayor to Sign 2019 Skyhawks Sports Camps Agreement</b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
02/12/2019	Parks & Recreation	Mike Farrell	Mike Farrell	Consent Agenda #7

**Discussion:** 02/12/2019

**Attachments:** 1. Agreement for Services with Skyhawks Sports Academy, Inc. (reviewed and approved as to form by the City Attorney)

**REQUESTED ACTION:** Move to authorize the Mayor to sign the 2019 Agreement for Services with Skyhawks Sports Academy, Inc.; and expressly authorize further minor revisions to the extent deemed necessary or appropriate.

### DESCRIPTION/BACKGROUND

Skyhawks is one of the nation’s leading providers of quality youth sports camp programs. The youth sports camps complement existing youth sports programs in our community and serve youth from the ages of four through twelve; one of Monroe’s largest demographics. Entering the eleventh year of services for the City, the Skyhawks program has been a consistent success, serving hundreds youth and bringing in new revenue.

As a contracted service, Skyhawks will handle all registrations, collect fees, market the camps, staff and implement the programs, provide customer service, and seek to actively participate in various community events. The City of Monroe will provide park facilities for the camps, which furthers our goal of maximizing their use.

### FISCAL IMPACTS

The City of Monroe will receive compensation based on 2019 registration records, with the City receiving fifteen percent of total registration fees charged and collected. For 2018, this amount was over \$1,400.00.

### TIME CONSTRAINTS

Printing and other marketing will begin at the end of this month.

### ALTERNATIVES

Do not approve the contracted sports camp programs for the youth in our community.

**CITY OF MONROE  
AGREEMENT FOR SERVICES  
CONSULTANT: SKYHAWKS SPORTS ACADEMY, INC.**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Monroe, Washington, a municipal corporation, hereinafter referred to as the "City," and Skyhawks Sports Academy, Inc., hereinafter referred to as the "Consultant."

WHEREAS, the City desires to have certain services performed for its citizens; and

WHEREAS, the City has selected the Consultant to perform such services pursuant to certain terms and conditions;

NOW, THEREFORE, in consideration of the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. Scope of Services to be Performed by Consultant. The Consultant shall perform those services described in Exhibit "A" of this agreement. In performing such services, the Consultant shall comply with all federal, state, and local laws and regulations applicable to the performance of such services. The Consultant shall perform services diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation and Method of Payment. The Consultant shall submit payment to the City of Monroe, pursuant to Exhibit "A".

Consultant shall pay the City:

[Check applicable method of payment]

According to the rates set forth in Exhibit "A"

A sum not to exceed

Other (describe): \_\_\_\_\_

The Consultant shall complete and return to the City Exhibit "B," Taxpayer Identification Number, prior to or along with the first invoice submittal. The Consultant shall pay the City of Monroe for services rendered within ten days after the term of services is complete.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing upon execution and ending October 15, 2019, unless sooner terminated under the provisions of the Agreement. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.

4. Ownership and Use of Documents. Any records, files, documents, drawings, specifications, data or information, regardless of form or format, and all other materials produced by the Consultant in connection with the services provided to the City, shall be the property of the City whether the project for which they were created is executed or not.

5. Independent Contractor. The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. The Consultant will solely be responsible for its acts and for the acts of its agents, employees, subconsultants, or representatives during the performance of this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto.

6. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees (collectively "claims"), and specifically including without limitation claims for injury or death of any person, or for the loss or damage to property, arising out of or resulting from the acts, errors or omissions of the Consultant and/or the use of the City's property and/or facilities, in performance of this Agreement, except for injuries and damage caused by the sole negligence of the City. It is further specifically and expressly understood that the indemnification provided herein constitutes Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

7. Insurance.

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work or the use of the City's property and/or facilities hereunder by the Consultant, its agents, representatives, or employees.

#### Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. The policy shall be endorsed to provide contractual liability coverage.
2. General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, athletic participants, operations, products-completed operations, independent contractors, personal injury, contractual and advertising injury. The City shall be named as an additional insured under the Consultant's General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or an endorsement providing at least as broad coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

### Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate. General Liability insurance shall include coverage for athletic participant liability with limits of not less than \$1,000,000.

### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

### Verification of Coverage

Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

### No Limitation

Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or equity.

### 8. Record Keeping and Reporting; Disclosure.

A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all

direct and indirect revenue of any nature incurred and services performed pursuant to this Agreement. The Consultant shall report sales tax due according to state guidelines of Code #3112 and will code tax revenue to the City of Monroe. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds incurred by the Contractor to the performance of this Agreement.

B. The foregoing records shall be maintained for a period of seven years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.

C. Consultant shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Consultant. Upon request, the Consultant will provide the City with reproducible copies of any such records. The Consultant may reasonably charge the City for such copies requested at actual cost.

D. Separate from and additional to the foregoing, the Consultant shall fully cooperate with and assist the City with respect to any request for public records received by the City and related to any public records generated, produced, created and/or possessed by the Consultant and related to the services performed under this Agreement. Upon written demand by the City, the Consultant shall furnish the City with full and complete copies of any such records within five business days.

The Consultant's failure to timely provide such records upon demand shall be deemed a material breach of this Agreement. To the extent that the City incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the Consultant shall fully indemnify and hold harmless the City as set forth in Section 6.

For purposes of this section, the term "public records" shall have the same meaning as defined by Chapter 42.17 RCW and Chapter 42.56 RCW, as said chapters have been construed by Washington courts.

The provisions of this section shall survive the expiration or termination of this Agreement.

9. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by the City during the performance of this Agreement.

10. Termination.

A. This City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven days prior written notice. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports or other materials prepared by the Consultant pursuant to this Agreement shall promptly be submitted to the City

B. In the event this Agreement is terminated or suspended, the City shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of termination.

C. This Agreement may be cancelled immediately if the Consultant's insurance coverage is canceled for any reason, or if the Consultant is unable to perform the services called for by this Agreement.

D. The City reserves the right to terminate this Agreement with not less than seven days written notice, or in the event that outstanding balances are not paid within sixty days.

E. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement.

11. Discrimination Prohibited. The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement, on the basis of race, color, religion, creed, sex, sexual orientation, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

12. Assignment and Subcontract. The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.

13. Conflict of Interest. The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

14. Confidentiality. All information regarding the City obtained by the Consultant in performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination.

15. Entire Agreement. This Agreement contains the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the parties. Either party may request changes to the Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

16. Notices.

Notices to the City of Monroe shall be sent to the following address:

City of Monroe  
806 W. Main Street  
Monroe, Washington 98272  
Phone number: (360) 794-7400

Notices to the Consultant shall be sent to the following address:

Skyhawks Sports Academy  
6311 E. Mt. Spokane Park Dr.  
Mead, WA 99021

17. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in Snohomish County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case and such fee, shall be included in the judgment.

18. Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

19. Background Check. The Consultant warrants and represents that Consultant and every employee, subcontractor and agent of Consultant performing work or otherwise using the City's premises under this Agreement shall have successfully passed a background check pursuant to RCW 43.43.830 -.845. For purposes of this section, "successfully passed" shall mean that the background check has not revealed any "crime against children or other persons" as defined by RCW 43.43.830.

IN WITNESS WHEREOF, the City and Concessionaire have executed this Agreement as of the date first above written.

CITY OF MONROE, WASHINGTON

CONSULTANT

\_\_\_\_\_  
Geoffrey Thomas, Mayor

\_\_\_\_\_  
\_\_\_\_\_  
(Printed Name/Title)

(SEAL)

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Elizabeth Adkisson, MMC, City Clerk

\_\_\_\_\_  
J. Zachary Lell, City Attorney

## **EXHIBIT A SCOPE OF SERVICES**

The City of Monroe will provide:

1. The information needed to schedule programs appropriately;
2. Assistance in reserving appropriate facilities to offer scheduled programs;
3. Access to City of Monroe bathroom facilities;
4. Assistance in gaining permission to distribute informational flyers.

Skyhawks Sports Academy, Inc. will provide:

1. Quality summer camp programs for children (see attached camp schedule);
2. On-line registration for participants on its website;
3. Compensation based on 2018 Skyhawks Camp registration records with the City receiving 15% of total registration fees charged and collected;
4. Access to school facilities (if needed) for bathroom and phone use;
5. Administrative coordination associated with the programs;
  - Promotions & Marketing
  - Registration
  - Phone calls
  - Confirmation
  - Program Implementation
  - Payroll
  - Concerns, and Questions
6. Promotional Media;
  - Program Guides directly mailed to available lists
  - Fliers –6,900 to be mailed/distributed to Monroe residents incl. postage
  - Camera ready Organizational Publication Insert
7. Certificate of liability insurance;
8. Employment opportunities for local high school students, college students and educators/coaches;
9. Immediate and full refund of fees to all registered participants of any and all cancelled programs.
10. A program that will not discriminate.



## 2019 City of Monroe Skyhawks Sports Camp Schedule

<u>Date</u>	<u>Sport</u>	<u>Location</u>	<u>Ages</u>	<u>Time</u>	<u>Fees</u>
7/1- 7/3	Basketball	Lake Tye Park	6-12	9-3pm	\$89
7/8- 7/12	Mini-Hawk*	Lake Tye Park	4-7	9-12	\$115
7/8- 7/12	Multi-Sport^	Lake Tye Park	6-12	9-3pm	\$145
7/15 – 7/19	Cheerleading	Lake Tye Park	5-10	9-12	\$115
7/15 – 7/19	Soccer	Lake Tye Park	6-12	9-3pm	\$145
7/22- 7/26	Mini-Hawk*	Lake Tye Park	4-7	9-12	\$115
7/22- 7/26	Multi-Sport^	Lake Tye Park	6-12	9-3pm	\$145
7/29 – 8/2	Cheerleading	Lake Tye Park	5-10	9-12	\$115
8/5- 8/9	Flag Football	Lake Tye Park	6-12	9-3pm	\$145
8/5 – 8/9	Tennis	Lake Tye Park	6-12	9-12	\$115

\*Soccer, Baseball, Basketball

^Soccer, Baseball, Flag Football

**EXHIBIT B**

CITY OF MONROE  
806 W. Main Street  
Monroe, WA 98272  
Phone: (360) 794-7400  
FAX: (360) 794-4007

**TAX IDENTIFICATION NUMBER**

In order for you to receive payment from the City of Monroe, you must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Service Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires the City to withhold twenty percent (20%) on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Monroe prior to or along with the submittal of the first billing invoice.

Please check the appropriate category:

- Corporation
- Partnership
- Government Consultant
  
- Individual/Proprietor
- Other (explain)

TIN No.: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature (Required)