

**INDEPENDENT CONTRACTOR AGREEMENT
BETWEEN
THE CITY OF LITCHFIELD PARK
AND
TENNIS PROFESSIONAL AMANDA SCHELL**

This Independent Contractor Agreement (this “Agreement”) is entered into this 20th day of September 2023, by and between the City of Litchfield Park, an Arizona municipal corporation (“City”) and Amanda Schell, an Arizona sole proprietor (“Contractor”). The City and Contractor are the only parties to this Agreement, and they may hereinafter be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

A. The City has determined that its tennis program can best be provided by selecting and hiring a tennis professional as an independent contractor to instruct tennis lessons offered at the Litchfield Park Recreation Center.

B. The City and Contractor desire to enter into a written agreement setting forth the Parties’ duties and obligations to one another.

AGREEMENT

NOW, THEREFORE, in consideration of the forgoing introduction and recitals, which are incorporated herein by this reference, the following mutual covenants between the parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

1. SCOPE OF WORK: Contractor shall provide services meeting the criteria set forth in the Scope of Work, attached hereto as Exhibit A and incorporated herein by this reference (the “Services”).
2. TERM: This Agreement shall be effective as of September 20, 2023 (“Effective Date”) and shall remain in full force and effect for a term of one (1) year (“Initial Term”) and shall automatically renew for two (2) additional one (1) year terms (each a “Renewal Term”) upon the one (1) year anniversary date of the Effective Date and each successive yearly anniversary date thereafter. By allowing this Agreement to renew for any Renewal Term, Contractor shall be deemed to affirmatively assert that (A) the City is not currently in default, nor has it been in default at any time prior to the Renewal Term, under any of the terms or conditions of this agreement, and (B) any and all claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived. This Agreement shall terminate, without the need for any further action by the Parties on September 19, 2026, unless terminated sooner as set forth in this Agreement.

3. **COMPENSATION:** City shall pay Contractor an amount equal to eighty (80) percent of the net revenue from the registration fees collected for group tennis lessons provided by Contractor. Contractor shall be paid monthly at the conclusion of each month's tennis lessons. Monthly net revenue reports shall be generated by City Staff and provided to Contractor to confirm the net revenue. Contractor shall then provide an invoice to the City for payment.
4. **PRIVATE TENNIS LESSONS:** Contractor may arrange to teach private tennis lessons when tennis courts are available. Private tennis lessons must be scheduled through the Litchfield Park Recreation Center office. Fees for private tennis lessons are determined by and paid directly to Contractor. Contractor agrees to pay the City an amount equal to fifteen (15) percent of the fees collected for private lessons. Contractor shall make these payments at the conclusion of each week to the Litchfield Park Recreation Center office. Monthly net revenue reports shall be generated by Contractor and provided to City Staff along with each such payment, to confirm the fees collected.
5. **TENNIS TOURNAMENTS:** Contractor may arrange to hold tennis tournaments for tennis students at the Litchfield Park Recreation Center. Tennis tournaments must be scheduled in advance through the Community and Recreation Services Director or her designee. Contractor agrees to pay the City an hourly rate of \$10.00 per court to rent the tennis courts for her tournaments. Payment shall be made in full prior to the start of each tournament.
6. **INSURANCE:** During the term hereof, Contractor shall keep, in full force and effect, a policy of general liability insurance satisfactory to the City in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the general aggregate. Upon commencement of this Agreement, a certificate of insurance shall be provided to City naming City as an additional insured and shall contain a clause that the insurance company will not cancel or materially change the insurance without giving City 30 days prior written notice and a waiver of subrogation against City. The policy shall contain an endorsement that the policy is primary and noncontributory and contain a waiver of subrogation. Contractor's failure to maintain such insurance policy shall be grounds for City's immediate termination of this Agreement. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Contractor. Failure to demand evidence of compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.
7. **INSPECTION; RECORDKEEPING:** Contractor shall keep an accurate record of the Services provided under this Agreement. Within ten (10) business days of receipt

of a written request from City, Contractor agrees to open for inspection and to make available all financial records relating to the performance of the Services.

8. **NON-COMPLIANCE; TERMINATION:** If either Party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting Party, such Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. Upon termination, Contractor shall be entitled to a pro rata refund of any advance fees paid under the terms of this Agreement.
9. **CONFLICT OF INTEREST:** This Agreement is subject to termination or cancelation pursuant to A.R.S. § 38-511.
10. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the City and each council member, officer, employee, or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from, and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys' fees, court costs, and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes, or omissions, in connection with the work or services of Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.
11. **INDEPENDENT CONTRACTOR:** Contractor agrees it is an independent contractor and not an agent or employee of the City, for all purposes including the Federal Insurance Contributions Act, the Income Tax Act, the Arizona Workman's Compensation Act, the Arizona Economic Security Act, and any and all other applicable federal or state statutes, rules, or regulations. Contractor shall supervise and direct the performance of this Agreement, using its best skill and attention. The Contractor shall retain sole and absolute discretion and judgement in the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The City does not have the authority to supervise or control the actual work of Contractor, its employees (if any), or its subcontractors (if any). Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of Sections 1 through 6. The Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. The City and Contractor do not intend to, nor will they combine business operations under this Agreement.

12. **ASSIGNMENT PROHIBITED:** No right or interest in this Agreement shall be assigned by a Party to this Agreement without prior, written permission of the other Party. For purposes of this Paragraph 12, only the City Manager or his designee may provide written permission on behalf of the City.
13. **NO DISCRIMINATION:** Neither Party nor its employees or agents will discriminate on the basis of race, religion, handicap, gender, or national origin in providing the Services.
14. **IMMIGRATION LAW COMPLIANCE WARRANTY:** To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). The Parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by either Party under the terms of this Agreement. The Parties each retain the legal right to randomly inspect the papers and records of the other Party and the other Party's subcontractors who work under this Agreement to ensure that the other Party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party.
15. **NOTICES:** All notices required under this Agreement shall be in writing and shall be deemed to have been duly given if sent by first class mail or personal delivery to:

City: City Manager
City of Litchfield Park
214 W. Wigwam Blvd.
Litchfield Park, Arizona 85340

Contractor: Amanda Schell
Certified Tennis Instructor
10425 W. Roanoke Ave.
Avondale, Arizona 85392

16. **ATTORNEY'S FEES:** In the event suit is brought by either Party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, or to collect money damages for breach hereof, the prevailing party shall be entitled to recover from the other party, reasonable attorney's fees, and reasonable cost and expenses determined by a court sitting with a jury.

17. **GOVERNING LAW; VENUE:** This Agreement shall be governed by and construed or enforced in accordance with the laws of the State of Arizona and suit pertaining to this Agreement may only be brought in courts in Maricopa County, Arizona.
18. **SOLE AGREEMENT:** This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement.
19. **ISRAEL:** To the extent A.R.S. § 35-393 through § 35-393.03 are applicable, the Parties hereby certify that they are not currently engaged in and agree for the duration of this Agreement to not engage in, a “boycott” of goods or services from Israel, as that term is defined in A.R.S. § 35-393.
20. **NON-EXCLUSIVE CONTRACT:** This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to enter similar agreements with other parties at its own discretion.
21. **FORCED LABOR OF ETHNIC UYGHURS:** To the extent applicable under A.R.S. § 35-394, Contractor warrants and certifies that it does not currently, and agrees for the duration of this Agreement that it will not use the forced labor, any goods or services produced by the forced labor, or any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. If Contractor becomes aware that it is not in compliance with this paragraph, Contractor shall notify City of the noncompliance within five business days of becoming aware of it. If Contractor fails to provide a written certification that the Contractor has remedied the noncompliance within 180 days after that, this Agreement shall terminate unless the termination date of this Agreement occurs before the end of the remedy, in which case this Agreement terminates on the termination date.
22. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first herein written.

CONTRACTOR

By _____
Signature

Name _____
Print

Title _____
Print

CITY OF LITCHFIELD PARK

By _____
Thomas L. Schoaf, Mayor

ATTEST:

Terri Roth, MMC, City Clerk

APPROVED AS TO FORM:

Gust Rosenfeld, PLC, City Attorney
By: Joseph D. Estes

**EXHIBIT A
TO
INDEPENDENT CONTRACTOR AGREEMENT
BETWEEN
THE CITY OF LITCHFIELD PARK
AND
TENNIS PROFESSIONAL AMANDA SCHELL**

[SCOPE OF WORK]

The Contractor agrees to the following services and duties as the City of Litchfield Park's Tennis Instructor:

1. Provide instruction in the fundamentals of tennis to players of various ages and skill levels.
2. Before the start of each lesson, inspect the tennis courts and equipment to make sure they are in a safe and usable condition. If Contractor becomes aware of any dangerous condition, Contractor shall immediately notify the City or immediately correct the dangerous condition or cease operations so as not to endanger persons or property in the vicinity of the tennis courts or equipment.
3. Supervise all tennis lessons and tournaments and oversee the safety of participants while acknowledging the overriding right of City to expel from municipal property any person conducting themselves in violation of City facility rules, regulations, or ordinances.
4. Maintain attendance logs for each group lesson and promptly communicate any absences, accidents, injuries, conflicts, or concerns about tennis program participants to the Community and Recreation Services Director or her designee.
5. Provide assistance, expertise, and technical advice about the sport of tennis to the Recreation Center Staff when needed.
6. Maintain a valid Modern Tennis Methodology (MTM) coaching certification; keep a copy on file with the City.
7. Submit written proof annually of successful background screenings for Contractor and any employee, subcontractor, or volunteer personnel working on Contractor's behalf. Background screenings must include, but are not limited to, checks for criminal history and sex offenses.

8. Perform all tasks reasonably necessary to accomplish the work and objectives provided for under this Agreement.
9. Contractor shall not employ, subcontract, or otherwise outsource, the performance of services provided under this Agreement without the prior written consent of the Community and Recreation Services Director or her designee.