



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 11/21/2024

File ID: TMP-4812

Department: Fire and Rescue

Subject:

Type of Action: Approval/Action

Agreement between the City of Huntsville and the Healthcare Authority of the City of Huntsville, owner and operator of HH Sports Center, for the Facilitation of Training Services.

Resolution No.

Finance Information:

Account Number: 1000-42-42100-515050-00000000

City Cost Amount: NTE \$6,000 per year

Total Cost: NTE \$6,000 per year

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location: (list below) NA

Address: NA

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments: NA

RESOLUTION NO. 24- _____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor is hereby authorized to enter into an Agreement, by and between the City of Huntsville, a municipal corporation in the State of Alabama, and the Healthcare Authority of the City of Huntsville, owner and operator of HH Sports Center, which said Agreement is attached hereto and identified as “Agreement between the City of Huntsville and the Healthcare Authority of the City of Huntsville, owner and operator of HH Sports Center.” for the facilitation of training services consisting of nine (9) pages and the date of November 21, 2024, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 21st day of November 2024

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 21st day of November 2024

Mayor of the City of Huntsville,
Alabama

AGREEMENT BETWEEN THE CITY OF HUNTSVILLE AND THE HEALTHCARE AUTHORITY OF
THE CITY OF HUNTSVILLE, OWNER AND OPERATOR OF HH SPORTS CENTER, FOR THE
FACILITATION OF TRAINING SERVICES

STATE OF ALABAMA)
)
COUNTY OF MADISON)

This Agreement is made by and between the City of Huntsville, Alabama, a municipal corporation (hereinafter referred to as “City”) and the Healthcare Authority of the City of Huntsville, owner and operator of the HH Sports Center (hereinafter referred to as “Contractor”) for the facilitation of Physical Fitness Training Services for Huntsville Fire & Rescue “HFR” Firefighter Cadets (hereinafter “HFR Firefighter Cadets”). This Agreement shall be effective on the date it is executed by the last party to execute it (“Effective Date”).

RECITALS

WHEREAS, the City of Huntsville has a need for HFR Firefighter Cadets to receive physical fitness training instruction (hereinafter “PT”) during the Cadet Academy; and

WHEREAS, the Contractor has personnel with the necessary qualification to facilitate and deliver PT;

WITNESSETH

NOW THEREFORE, in consideration of the mutual promises and covenants, herein contained, the parties hereby agree as follows, to wit:

1.0 SCOPE OF WORK
SUMMARY

The Contractor will facilitate and deliver a specialized PT program to HFR Firefighter Cadets in accordance with Exhibit A, attached to and incorporated hereto by reference.

OBJECTIVES

HFR Firefighter Cadets must maintain their physically abilities to perform job related activities while they complete the Cadet Academy.

EQUIPMENT REQUIREMENTS

The City will provide equipment and facilities to conduct the PT.

SCHEDULE

The City conducts approximately two Firefighter Cadet Academies each year. The PT will be delivered at the beginning of each Firefighter Cadet Academy for a period of 12-weeks, Monday through Friday for one hour beginning at 0700.

2.0 CONTRACT TERM:

The initial PT session shall commence on January 13, 2024, beginning at 0700 Monday through Friday for one hour, and continue for approximately 12 weeks. Additional PT sessions for subsequent Firefighter Cadet Academies will be coordinated on an as-needed basis with notification provided to the Contractor a minimum of 6 weeks in advance with the final PT session beginning no later than January 13, 2027.

President of the City Council
of the City of Huntsville, Alabama
Date: _____

3.0 PAYMENT SCHEDULE:

In consideration of the services rendered hereunder, the City shall pay the Contractor for the work performed pursuant to Exhibit B Fee Schedule for Services, attached hereto and incorporated herein. The Contractor shall submit monthly invoices to the City with payment terms of net 30 days from the date of receipt of an invoice following the completion of the monthly PT.

4.0 PLACE OF PERFORMANCE:

The Scope of Work will be performed at the HFR Training Center located at 5365 Triana Blvd SW, Huntsville, AL 35805. In the event Contractor is required to travel outside of Madison County, Alabama, to perform services, the City shall reimburse the Contractor, in accordance with Contractor's then-existing reimbursement policies for reasonable travel expenses incurred by Contractor in the performance of the Services. Prior to any such travel, the Contractor shall provide a travel cost estimate to the City.

5.0 CONTRACTOR RESPONSIBLE FOR HIS OWN INJURIES

The Contractor shall be responsible for any injuries incurred to their personnel during the performance of the Work of this Agreement and release and holds harmless the City of Huntsville, its officers, employees and elected officials from liability for any such injuries.

6.0 PERFORMANCE OF SERVICES

Subject to the guidelines established in Section 1 hereof, Contractor shall have complete discretion in the methods and techniques used in rendering services to the City, provided that no means or methods used by the Contractor to provide the Services shall be in violation of any applicable statute or regulation.

6.1 In performing Services hereunder, Contractor represents and warrants that all Services will be performed in a professional manner and with the same skill, diligence and care that a prudent health care professional would exercise in performing like services and that Contractor will ensure that all of its personnel performing Services hereunder are qualified to provide such services and are fully licensed and in good standing with their governing body

6.2 Contractor shall take all reasonable precautions to ensure that it does not disclose to any third party any information that the City identifies as confidential about its business and employees, unless Contractor first obtains the City's consent. In addition, Contractor agrees to collect, use and disclose personal information in accordance with applicable law. "Personal Information" means any information Contractor requires to perform the services that (a) are personal in nature, (b) relates to an identified or identifiable natural person and (c) could reasonably be expected to determine the identity of that person.

6.3 Scheduling of Services. Contractor shall provide the Services during times as agreed between the parties, with such adjustments as Contractor and the City shall agree from time to time.

6.4 Removal of Contractor's Employees. The City may request that Contractor remove, or cause to be removed, any of its employee(s) from the City's premises for any reason, to the extent such reason does not violate applicable law, and Contractor shall immediately comply.

6.5 Compliance with City Policies. The Contractor's employees and agents shall comply with all City policies while on City premises. The City shall provide Contractor's employees and agents with adequate orientation to introduce the Contractor's employees and agents assigned the City and to explain City policies, rules and regulations.

7.0 INSURANCE:

During the term of this Agreement and so long thereafter as Contractor may have any obligation to the City under this Agreement, Contractor shall, at its own cost and expense, procure and maintain in full force and effect insurance with sound and reputable insurance companies of the type and in such amounts as adequate for all risks in accordance with sound and prudent business practices including, without limitation (i) workers' compensation and employer's liability in minimum amounts required by law, (ii) commercial general liability in the amount of \$1,000,000.00 per occurrence, combined single limit bodily injury/property damage, and \$3,000,000.00 in the aggregate, (iii) automobile liability in the amount of \$1,000,000, combined single limit, and (iv) for professional errors and omissions liability insurance from claims arising out of the performance or non-performance of the Services or arising from any error or omission of Contractor with limits of \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate.

8.0 COMPLIANCE WITH APPLICABLE LAW AND THIRD-PARTY RIGHTS.

Contractor agrees to comply with all applicable Federal, State and local laws, statutes, executive orders, rules, regulations and ordinances in its performance of this Agreement and conduct of its business, including, without limitation, the provision of the Services. Contractor shall establish appropriate procedures and controls so that using any alien who is not legally eligible for such employment under United States immigration laws will not perform services under this Agreement. Contractor acknowledges and agrees that it shall be responsible for complying with the Immigration Reform and Control Act with respect to its employees.

9.0 COMPLIANCE WITH CITY POLICIES.

Contractor's employees and agents shall comply with all City policies while on City premises. City shall provide Contractor's employees and agents with adequate orientation to introduce Contractor's employees and agents assigned to City and to explain City policies, rules and regulations.

10.0 AGREEMENT TO RETURN ALL PROPERTY AND INFORMATION.

Contractor agrees that, upon request by City or termination of Contractor's association with City, Contractor will promptly deliver to City all property belonging to City, made or compiled by Contractor or made available to Contractor during Contractor's performance of the Services, whether or not such documents contain Confidential Information and/or any proprietary information.

11.0 AGREEMENT NOT TO SOLICIT EMPLOYEES.

The City agrees that, during Contractor's association with the City, and for one (1) year after the termination of Contractor's association with the City, whether such termination is voluntary or involuntary, the City will not, directly or indirectly, or through any person or entity, hire or solicit for hire, any employee of Contractor or otherwise persuade or cause any employee to discontinue working for Contractor. Solicitations to the general public shall not constitute a violation of this Section 7.

12. CONTRACTOR PERFORMING AS AN INDEPENDENT CONTRACTOR:

In the performance of this work, it is understood between the parties that the Contractor shall be acting as independent contractor and not as employees of the City. The Contractor shall have no authority to obligate the City to any indebtedness or other obligation. Nothing contained in this Agreement shall be construed to create an exclusive relationship between the City and the Contractor.

13.0 NOTICES:

All notices to be delivered hereunder shall be delivered to the other party by placing the same in the United States Mail, First Class postage prepaid, by prepaid overnight service through Federal Express or United Parcel Services or by hand delivery, to the addressee, addressed as follows:

IF TO CONTRACTOR	The Healthcare Authority of the City of Huntsville Owner and Operator of HH Sports Center 3304 Westmill Drive Huntsville, AL 35805 c/o Tracy Daughtry, President & COO
WITH A COPY TO	HH Health System 101 Sivley Road Huntsville, AL 35801 c/o Kenneth Graves, Legal
IF THE CITY	Huntsville Fire and Rescue P O Box 308 Huntsville, AL 35804 c/o Chief Wesley Ogle

14.0 ENTIRE AGREEMENT:

The contract between the City and Contractor consists of this written Agreement and any documents or drawings furnished by the City and referenced herein. This written Agreement, including all attachments, constitutes the entire agreement between the City and Contractor with reference to the Scope of Work delineated within. Except to the extent specifically excluded herein, this Contract supersedes any bid or proposals documents and all prior written or oral communication, representation, and negotiations, if any, between the City and Contractor.

15.0 EFFECTIVE DATE OF CONTRACT:

This contract shall be effective on the date this Agreement is executed by the last party to execute it.

16.0 PRIVITY OF CONTRACT.

Nothing contained in this Contract shall create or be interpreted to create privity or any other contractual agreement between the City and person or entity other than the Contractor.

17.0 NO WAIVER CLAUSE:

The failure of either party to insist in one or more instances upon the performance of any term of this Contract is not a waiver of the party's right to future performance of such terms.

18.0 GOVERNING LAW.

This agreement shall be governed by the laws of the State of Alabama. Proper venue to enforce any section of this agreement shall be in the Circuit Court of Madison County, Alabama or the United States District Court for the Northern District of Alabama, Northeastern Division.

19.0 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

20.0 When a word, term or phrase is used in this Contract, it shall be interpreted or construed. First, as defined herein; second, if not defined, according to its generally accepted meaning in the Contractual industry; and third, if there is no generally accepted meaning in the Contractual industry, according to its common and customary usage.

- 21.0** The words “include,” “includes,” or “including,” as used in this Contract, shall be deemed to be followed by the phrase, “without limitation.”
- 16.0** The specification herein of any act, failure, refusal, omission, event, occurrence, or condition as constituting a material breach of this Contract shall not imply that any other, non- specified act, failure, refusal, omission, event, occurrence, or condition shall be deemed not to constitute a material breach of this Contract.
- 17.0** Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.
- 18.0** Time limitations contained herein, or provided for hereby, are of the essence of this Agreement.
- 19.0** Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
- 20.0** In consideration of the signing of this Agreement, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, sex, disability or national origin with reference to the subject matter of this contract, no matter how remote. This nondiscrimination provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Agreement.
- 21.0** The Parties agree that any form of electronic signature, including but not limited to signatures via facsimile, scanning, or electronic mail, may substitute for the original signature and shall have the same legal effect as the original signature.
- 22. TERMINATION.**
This agreement shall terminate: (i) 60 days following written notice by Contractor of the City; or (ii) by either party immediately upon written notice of breach by the other party of any representation, warranty, or covenant contained in this agreement. Upon termination, the Contractor shall only be entitled to receive the remuneration earned as of the date of termination.
- 23. SEVERABILITY.**
If any provisions of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect. If any provisions are held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.
- 24. ADVERTISING.**
Without the City’s prior written consent, Contractor shall not use or permit use of the words “City of Huntsville”, or any similar word or trademark of the City or its related departments in the description or marketing of services or goods by Contractor, its affiliates or their respective directors, officers, shareholders, employees or agents, nor shall Contractor advertise or publish that Contractor has contracted to furnish services, goods or materials pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

The Healthcare Authority of the City of Huntsville
Owner & Operator of HH Sports Center

Attest:

By: _____
Tracy Doughty

CITY OF HUNTSVILLE
a municipal corporation in the State of Alabama

By: _____
Tommy Battle

Its: Mayor

Attest:

Shaundrika Edwards

Its: City Clerk

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Shaundrika Edwards, whose names as Mayor and City Clerk of The City of Huntsville, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the document, they, in their capacity as such officers, executed the same with full authority for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the _____ day of _____, 2024.

Notary Public: _____
My Commission Expires: _____

STATE OF _____)
COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tracy Doughty, whose name as President and COO of the Healthcare Authority of the City of Huntsville, Owner & Operator of HH Sports Center, an individual, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, in his/her capacity as such officer, executed the same with full authority for and as the act of said entity on the day the same bears day.

GIVEN under my hand and official seal this the _____ day of _____, 2024.

Notary Public: _____
My Commission Expires: _____

EXHIBIT A

A. **Standards.** On-site Sports/Athletic Performance Training designed to help athletes reach their full potential. Focusing on plyometric, speed & agility, conditioning/cardiovascular, and strength training. The on-site coach will provide customized programs tailored to each athlete based on the sport, position and goals. Strength and Conditioning Coach will have a BS and/or Master's Degree in Exercise Science or Kinesiology.

B. **Schedule.** On-site services will be rendered by the Sports/Performance Coach; in accordance with the contract schedule.

C. **Requirements.** On-site services are provided by personnel who:

- Have graduated from an accredited University
- Have knowledge of workplace hazards.
- Have necessary and appropriate training, credentials, and skills to carry out their responsibilities.
- Have appropriate access to a physician with expertise and credentials in occupational medicine, primary care, treatment of musculoskeletal conditions.
- Participate in continuing education in their area of expertise.
- Have knowledge of City operating policies/procedures.
- Have the following additional skills/abilities/knowledge:
 - I. CSCS Certification or other national approved certification
 - II. CPR/AED Certified

D. Scope of Work.

- Assist in the Physical Training of the Firefighter Cadets to achieve their desired performance goals. Design a program to improve fitness levels for the purpose of improving their ability to perform a given task as a Firefighter. This includes corrective and restorative exercise, strength training, conditioning and cardiovascular training.

EXHIBIT B

FEE SCHEDULE FOR SERVICES

- 5 Sessions per week (20 Sessions per month), Days and Hours may vary.~
- Payable monthly at \$60/session

** Includes earnings, federal/state taxes, Medicare, employee benefits, retirement, liability coverages, and professional oversight.*