

TEMECULA COMMUNITY SERVICES DISTRICT NON-EXCLUSIVE EVENT SERVICE PROVIDER AGREEMENT

THIS AGREEMENT is made and entered into as of **May 14, 2024**, by and between Temecula Community Services District, a community services district (hereinafter referred to as "City"), and **M & J Paul Enterprises, Inc. dba Jolly Jumps**, a **Corporation**, (hereinafter referred to as "Provider"). In consideration of the promises and mutual agreements herein contained, the parties hereto agree as follows:

1. TERM

This Agreement shall commence on **July 1, 2024**, and shall remain and continue in effect until such tasks described herein are completed, but in no event later than **August 1, 2029**, unless sooner terminated pursuant to the provisions of this Agreement

2. SERVICES

Provider shall perform the services and tasks described and set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein as though set forth in full.

Vendor recognizes and agrees that this Agreement is for the purpose of establishing a contractual relationship between the City and the Vendor for the non-exclusive procurement of services outlined on Exhibit A, attached hereto and incorporated herein as though set forth in full. The Vendor understands this Agreement is non-exclusive and the City reserves the right to purchase similar services from other Vendors.

3. PERFORMANCE

Provider shall at all times faithfully and competently exercise the ordinary skill and competence of members of their profession. Provider shall employ generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Provider hereunder in meeting its obligations under this Agreement.

No pyrotechnics or special effects of any kind shall be allowed as any part of the services for the City by the Provider, its employees, agents, group members, fellow Providers or any third party without the prior written consent of the Director of Community Services or authorized designee.

4. LOCATION AND RELIABILITY OF PERFORMANCE

The date, time, and location of Provider's event services shall be determined at the time of City's request for "Request for Event Services." All event services shall be provided within City limits. Time and reliability are of the essence in this Agreement.

5. EQUIPMENT

Provider shall provide its own equipment that it requires for the Event, unless other arrangements are made in writing with the City before the Event. The City reserves the right to inspect all equipment and/or materials being used for any Event.

6. PAYMENT

a. The City agrees to pay the Provider an amount that shall not exceed the payment amount for conducting Events, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. This amount shall not exceed **One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) for the total term of this agreement** unless additional payment is approved as provided in this Agreement. The City shall withhold from this sum appropriate taxes if so directed by the California Franchise Tax Board. The not to exceed payment amount listed herein is an estimated expenditure and this Agreement does not guarantee Vendor this amount in purchases.

b. Provider shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Director of Community Services. Provider shall be compensated for any additional services in the amounts and in the manner as agreed to by Director of Community Services and Provider at the time City's written authorization is given to Provider for the performance of said services.

7. USE OF COPYRIGHTED MATERIAL

The Provider shall be fully responsible for paying any legally required royalties or fees for the use by the Provider of copyrighted material and shall comply at all times with all applicable copyright laws.

8. NON-ASSIGNABILITY

It is understood that this is a personal services agreement between the City and Provider, and that Provider is required to personally provide the required Event. Neither this Agreement nor any rights, title, interest, duties or obligations under this Agreement may be assigned, transferred, conveyed or otherwise disposed of by Provider without the prior written consent of the City.

9. INDEPENDENT CONTRACTOR

The Provider is and shall at all times remain as to the City a wholly independent contractor. Neither the City nor any of its officers, employees, or agents, shall have control over the conduct of the Provider or any of the officers, employees, or agents of the Provider, except as herein set forth. Personnel providing the Event Services under this Agreement with or on behalf of the Provider shall at all times be under the Provider exclusive direction and control. Provider shall not at any time or in any manner represent that it or any of its employees, agents, group members, or fellow Providers are in any manner officers, employees, or agents of the City. Provider shall not incur or have the power to incur any debt, obligation, or liability whatsoever against the City or bind the City in any manner.

10. INDEMNIFICATION

Provider agree(s) to defend, indemnify, protect, and hold harmless, the City of Temecula, Temecula Community Services District, and/or Successor Agency of the Temecula Redevelopment Agency, and its officers, officials, employees, agents and volunteers, from and against any and all claims, demands, losses, defense costs or expenses, actions, liability or damages of any kind and nature which the City of Temecula, Temecula Community Services

District, and/or Successor Agency of the Temecula Redevelopment Agency, its officers, agents, employees, and volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Provider's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency.

11. INSURANCE REQUIREMENTS

Provider shall procure and maintain for the duration of the Agreement insurance with an A.M. Best rating of A-:VII or better, against claims for injuries to persons, or damages to property, which may arise from or in connection with the performance of the services by the Provider, its agents, representative, or employees:

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

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Provider owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.

b. Minimum Limits of Insurance. Provider shall maintain limits no less than:

1) General Liability: One Million (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: One Million (\$1,000,000) per accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City of Temecula, the Temecula Community Services District, the Successor Agency of the Temecula Redevelopment Agency, their officers, officials, employees and volunteers are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Provider; products and completed operations of the Provider; premises owned, occupied or used by the Provider; or automobiles owned, leased, hired or borrowed by the Provider. The coverage shall contain no special limitations on the scope of protection afforded to the City of Temecula, Temecula Community Services District, Successor Agency of the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

2) For any claims related to this project, the Provider's insurance coverage shall be primary insurance as respects the City of Temecula, the Temecula Community

Services District, Successor Agency of the Temecula Redevelopment Agency, their officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City of Temecula, Temecula Community Services District, and/or Successor Agency of the Temecula Redevelopment Agency, its officers, officials, employees or volunteers shall be excess of the Provider's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Temecula, the Temecula Community Services District, and the Successor Agency of the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

4) The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state: should the policy be canceled before the expiration date the issuing insurer will endeavor to mail thirty (30) days' prior written notice to the City.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Provider shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Provider shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before the services commence. As an alternative to the City's forms, the Provider's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

12. TERMINATION OR SUSPENSION

This Agreement may be terminated or suspended and the Event or Events canceled at any time, with or without cause, at the sole and exclusive discretion of the Director of Community Services, without default or breach of this Agreement by the City.

13. LEGAL RESPONSIBILITIES

The Provider shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Provider shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Provider to comply with this section.

14. LICENSES

At all times during the term of this Agreement, Provider shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

15. GOVERNING LAW

The City and Provider understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

16. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

16. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Provider warrants and represents that he or she has the authority to execute this Agreement on behalf of the Provider and has the authority to bind Provider to the performance of its obligations hereunder. The Director of Community Services is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of services; (d) agreement termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

TEMECULA COMMUNITY SERVICES DISTRICT

M & J PAUL ENTERPRISES, INC. dba JOLLY JUMPS

By: _____
Zak Schwank, TCSD President

By: _____
Joy Paul, CEO

ATTEST:

By: _____
Randi Johl, Secretary

By: _____
Joshua Paul, CFO

APPROVED AS TO FORM:

By: _____
Peter M. Thorson, General Counsel

PROVIDER

M&J Paul Enterprises dba Jolly Jumps
Attn: Joy Paul

43153 Business Park Drive

Temecula, CA 92590

info@jollyjumps.net

City Purchasing Mgr. Initials and Date:
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EXHIBIT A

SCOPE OF SERVICES

Provider recognizes and agrees that this Agreement is for the purpose of establishing a contractual relationship between Temecula Community Services District and the Provider, for inflatables and similar type of event services for the City of Temecula for City events and programs. Event services shall include jolly jumps and similar type inflatables, carnival games, game booths, face painting, body art, water slides and obstacles courses. The procedure for requesting and assigning services is set forth as follows:

1. The Director of Community Services or his designee shall submit to Provider a written "Request for Event Services." The date, time, and location of Provider's performance shall be determined at the time of City's Request for Services. The Request for Event Services shall include a description of the services to be completed, the date requested or the time for completion of the services, and any other relevant information necessary to provide the services.

2. Within five (5) business days of the date of the Request for Services, Provider shall respond in writing to the Request for Services and advise the Director of Community Services whether it can perform the services and specify the cost of service in accordance with the rates set forth in Exhibit "B" to this Agreement.

3. Upon the Director of Community Services written acceptance of the Provider's response, the Provider shall proceed with the services on the date requested. The performance of the services shall be pursuant to the terms of this Agreement.

Services will include:

- **Jolly Jumps/Bounce Houses and similar type inflatables**
- **Carnival Games**
- **Game Booths**
- **Face Painting/ Body Art**
- **Water Slides**
- **Obstacle Courses**

EXHIBIT “B”

PAYMENT RATES AND SCHEDULE

Quotes shall be provided as requested by City staff for each service requested. Cost of services shall be as quoted, but in no event shall the total Agreement amount exceed \$150,000.00 as outlined in Section 6 of this Agreement. The not to exceed payment amount listed herein is an estimated expenditure and this Agreement does not guarantee Vendor this amount in purchases.