



INFORMATIONAL MEMORANDUM

TO: Community Development and Neighborhoods

FROM: Brandon Miles, Business Relations Manager

CC: Mayor Ekberg

DATE: March 4, 2019

SUBJECT: 2019 Agreement with Starfire Sports for Lodging Tax Funding

ISSUE

Authorize the Mayor to sign an agreement with Starfire Sports for 2019 lodging tax funding. Total reimbursement under the agreement will not exceed \$44,500.

BACKGROUND

On February 14, 2019 the City Council approved a lodging tax funding request from Starfire Sports in the amount of \$44,500¹. The funds are intended to support Starfire's tournament schedule and help the City with its branding and marketing goals. City policy requires the City Council to approve any contract over \$40,000 before the Mayor can execute the Agreement.

As a reminder, the funds for this agreement will come from the City's lodging tax program. Lodging tax funds are collected at area hotels and under Washington State law can only be used for tourism promotion activities.

RECOMMENDATION

Authorize the Mayor to enter into the Agreement with Starfire Sports in the amount \$44,500. Staff suggests the Agreement be placed on the March 18 consent agenda.

ATTACHMENTS

- Draft Agreement with Starfire Sports.

¹ The City's Lodging Tax Advisory Committee reviewed the funding request at its January 22, 2019 meeting and recommended that funding be provided.



City of Tukwila

6200 Southcenter Boulevard, Tukwila WA 98188

Contract Number:

CONTRACT FOR LODGING TAX FUNDING

This Agreement is entered into by and between the City of Tukwila, Washington, a non-charter optional municipal code city hereinafter referred to as "the City," and Starfire Sports, hereinafter referred to as "the Contractor," whose principal office is located at 14800 Starfire Wy; Tukwila, WA 98188.

WHEREAS, the City imposes a special excise tax under Chapter 82.08 Revised Code of Washington (RCW), known as the "lodging tax," on furnishing of lodging in hotels, motels and similar business enterprises, as authorized under Chapter 67.28 RCW; and

WHEREAS, the City is authorized to use the lodging tax revenue for tourism promotion, as defined by Chapter 67.28 RCW; and

WHEREAS, Contractor is able to help promote the City to both overnight and day visitors, driving business to Tukwila restaurants, hotels, retailers, and entertainment establishments; and

WHEREAS, on January 22, 2019 the City's Lodging Tax Advisory Committee considered and approved Contractor's request to obtain lodging tax revenue for tourism promotion; and

WHEREAS, the City concurs with the Lodging Tax Advisory Committee's recommendation to provide lodging tax revenue to Contractor for tourism promotion; and

WHEREAS, it is appropriate for the City to compensate the Contractor for the costs of promoting tourism (both day and overnight) in the City; and

IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

- 1. Scope and Schedule of Services to be Performed by Contractor.** Contractor shall perform those services described on Exhibit A attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, Contractor shall at all times comply with all Federal, State, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. Contractor shall request and obtain prior written approval from the City if the scope or schedule is to be modified in any way.
- 2. Compensation and Method of Payment.** The City shall pay Contractor for services rendered according to the rate and method set forth on Exhibit B attached hereto and incorporated herein by this reference. The total amount to be paid shall not exceed \$44,500.
- 3. Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing March 1, 2019, and ending March 30, 2020, unless sooner terminated under the provisions hereinafter specified.
- 4. Independent Contractor.** Contractor and City agree that Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither

Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Contractor, or any employee of the Contractor.

5. **Indemnification.** Contractor shall defend, indemnify and hold the City, its officers, agents, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Contractor and the City, its officers, officials, employees, and volunteers, Contractor's liability hereunder shall be only to the extent of Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor'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.

6. **Insurance.** Contractor 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 hereunder by the Contractor, their agents, representatives, employees or subcontractors. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. **Minimum Scope of Insurance.** Contractor shall obtain insurance of the types and with the limits described below:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile liability insurance shall cover 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. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit. Commercial General Liability insurance shall be as least at broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

- B. **Other Insurance Provision.** The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
- C. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- D. **Verification of Coverage.** Contractor 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 Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
- E. **Subcontractors.** Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.
- F. **Notice of Cancellation.** The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.
- G. **Failure to Maintain Insurance.** Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

8. Record Keeping and Reporting.

- A. The Contractor shall maintain accounts and records, including personnel, property, financial and programmatic records which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City.

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 law during the performance of this Agreement.

10. Termination. This Agreement may at any time be terminated by the City giving to the Contractor thirty (30) days written notice of the City's intention to terminate the same. Failure to provide products on schedule may result in contract termination. If the Contractor's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately.

11. Discrimination Prohibited. Contractor, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.

- 12. **Assignment and Subcontract.** Contractor shall not assign or subcontract any portion of the services contemplated by this Agreement without the written consent of the City.
- 13. **Entire Agreement; Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.
- 14. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.
- 15. **Notices.** Notices to the City of Tukwila shall be sent to the following address:

City Clerk, City of Tukwila
 6200 Southcenter Blvd.
 Tukwila, Washington 98188

With a copy to:

Office of Economic Development
 City of Tukwila
 6200 Southcenter Blvd.
 Tukwila, WA 98188

Notices to the Contractor shall be sent to the address provided by the Contractor upon the signature line below.

- 16. **Applicable Law; Venue; Attorney's 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 properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

DATED this _____ day of _____, 20____.

CITY OF TUKWILA

CONTRACTOR

 Allan Ekberg, Mayor

By:_____

Printed Name and Title:_____

ATTEST/AUTHENTICATED:

Address:_____

 City Clerk, Christy O'Flaherty

APPROVED AS TO FORM:

Exhibit "A"

Scope of Services

General:

Contractor shall organize, promote and facilitate tournaments, leagues and events at Starfire Sports Complex with the goal of attracting over 10,000 overnight hotel/motel room nights and 1.3 million annual visitors (not unique visitors) in a collaborative working relationship with the City of Tukwila. The purpose of this agreement is for the tracking of hotel bookings, promotions and marketing.

1. As needed, contractor shall refer teams and event directors directly to Seattle Southside Regional Tourism Authority (SSRTA), a destination marketing organization for the City, for assistance with lodging, restaurants, attractions, transportation companies, etc. or directly to the City.
2. Contractor will encourage and, where possible, require other 3rd party organizers holding tournaments and events at Starfire to utilize Seattle Southside (Tukwila, SeaTac, and Des Moines) lodging businesses. Contractor will provide 3rd party organizers a one-page promotional flyer as an attachment (to be provided by the City) to its rental agreements.
3. Contractor shall provide a prominently placed City of Tukwila logo to the sponsor section of the landing page of www.starfiresports.com website.
4. Contractor will promote City of Tukwila attractions and activities through its marketing department, league information, and tournament relations via links in email signatures and information in event documents. Information may be regarding non-city activities. Attractions and events promoted by the City, with the contractor, cannot be in conflict with business interest of Starfire Sports.
5. Contractor and City shall work in conjunction to provide content in the regular e-newsletters from Starfire Sports about Tukwila attractions and activities. Attractions and events promoted by the City, with the contractor, cannot be in conflict with the business interests of Starfire Sports.
6. In all collateral, press releases, medias, etc. where a location is mentioned, contractor shall always identify the location of Starfire as being located in "Tukwila." Contractor shall encourage third parties operating at or hosting events at Starfire to also list the location as "Tukwila."
7. Provide a minimum of four social media post per month promoting activities, dining, shopping, and/or hotels in the City. Content to be provided by the City and approved by Contractor.
8. As deemed most appropriate by Contractor, use the #Tukwila or the name "Tukwila" in social media posts on Facebook, Twitter, Google+ and/or Instagram.
9. Contractor shall make available free meeting space, during regular operating hours by the Contractor, for the City, provided City events do not conflict with paid meeting reservations.
10. Contractor shall work with the City to promote events in the City, including but not limited to City sponsored events, events sponsored by third parties, and grand openings of businesses within

the City. Events promoted by the City, with the contractor, cannot be in conflict with the business interests of Starfire Sports.

11. The City of Tukwila shall also be considered a tournament partner for 2019. As a tournament partner the City shall be receive the following benefits:

- a. City included as part of the Tournament /logo (e.g. The Starfire AstroTurf® Cup, Tukwila, WA).
- b. Visibility on www.starfiresports.com homepage, youth tournaments landing page, tournament event page, and drop-down navigation menu
- c. 300px by 300px placement on the tournament event page and tournament landing page of starfiresports.com
- d. 300px by 300px placement in all registration and announcement emails related to the tournaments
- e. (6) Banners displayed during each day of the tournaments; banners to be provided by City
- f. (1) 10' x 10' booth during each day of the sponsored tournaments
- g. (1) PA Announcement mention every 4 hours during each day of the tournaments
- h. (1) 8.5" x 11" promotional flyer in all sponsored tournament(s) coach's packets
- i. (1) 100px by 75px placement in two Starfire newsletters
- j. (1) Marketing email sent to all tournament participants
- k. (1) Rotating placement in the Starfire Media Center during the tournament season
- l. Mentions via Starfire's social media platforms
- m. Opportunities for City officials to participate in Tournament award presentations

Exhibit "B"

Compensation, Method of Payment, and Reporting

Compensation and Method of Payment

Contractor shall submit to the City a request for reimbursement for services and sponsorships rendered under this Agreement. The total compensation to the Contractor under this Agreement shall not exceed \$44,500.

Invoices and request for reimbursements shall be mailed to:

City of Tukwila
ATTN: Brandon Miles
6200 Southcenter Blvd
Tukwila, WA 98188

The following are the dates and amounts to be invoices to the City:

Invoice #	Date (no later than)	Amount
1	June 30, 2019	\$14,834
2	September 30, 2019	\$14,833
3	December 31, 2019	\$14,833

Should the Contractor choose to reduce or modify services outlined in Exhibit "A" of this Agreement, the City may choose to reduce the awarded funds. The amount reduced shall be at the sole discretion of the City.

Reporting Requirements

With each invoice, the Contractor shall provide the following to the City:

1. Estimate number of attendees for tournaments and events at Starfire.
2. Social Media Engagmene.t
3. Any other document the Contractor wants to provide to demonstrate success of the event and marketing activities.

In addition the items outlined above, the following information shall be submitted to the City no later than February 1, 2020. This information is required to be collected by Washington State law.

As a direct result of your proposed tourism-related service, provide an estimate of:	
a. Overall attendance at your proposed event/activity/facility?	
b. Number of people who traveled fewer than 50 miles for your event/activity?	
c. Number of people who traveled more than 50 miles?	
d. Of the people who traveled more than 50 miles, the number of people who traveled from another country or state?	
e. Of the people who traveled more than 50 miles, the number of people who stayed overnight in <u>Tukwila</u> ?	
f. Of the people who stayed overnight, the number of people who stayed in PAID accommodations (hotel/motel/bed-breakfast) in <u>Tukwila</u> ? (example: 25 paid rooms on Friday and 50 paid rooms on Saturday = 75 paid lodging room nights.)	
g. Number of paid lodging room nights resulting from your proposed event/activity/facility (example: 25 paid rooms on Friday and 50 paid rooms on Saturday = 75 paid lodging room nights)?	

Provide information on how the above actuals were determined.

Reports and Deliverables shall be submitted to:
 City of Tukwila
 ATTN: Brandon Miles
 6200 Southcenter Blvd.
 Tukwila, WA 98188