

**AMENDMENT TO AGREEMENT 12-033 BETWEEN
THE CITY OF CUPERTINO AND LIFETIME TENNIS
INC., DBA LIFETIME ACTIVITIES INC. FOR
INSTRUCTION AND SUPERVISION OF CAMPS,
CLASSES, LESSONS, RETAIL SERVICE, AND COURT
MAINTENANCE.**

This Amendment to Agreement 12-033 between the City of Cupertino and Lifetime Tennis Inc., DBA Lifetime Activities Inc., for reference dated July 1, 2018, is by and between the CITY OF CUPERTINO, a municipal corporation (hereinafter "City") and Lifetime Tennis Inc., DBA Lifetime Activities Inc., a California Corporation ("Consultant") whose address is 1901 South Bascom Ave. Suite 1225, Campbell, Ca. 95008 and is made with reference to the following:

RECITALS:

A. On March 20, 2012, an agreement was entered into by and between City and Consultant (hereinafter "Agreement") for tennis lessons, retail service, and court maintenance. The agreement will expire on 6/30/2018.

B. Beginning December, 2016, Consultant expanded its activities to include instruction in racquet or paddle sports including badminton, table tennis, pickleball, and other such sports at the Cupertino Sports Center, as acceptable to City. As authorized in advance in writing, Contractor may provide instruction in other activities such as basketball, volleyball, cricket, chess, or other sport or recreational activities. Contractor to pay the City \$3 per square foot for use of two office spaces, totaling 220 square feet. Contractor registered a fictitious business name "Lifetime Activities", and began doing business as its dba "Lifetime Activities." Correspondence and payments to Contractor thereafter have used the "Lifetime Activities" dba. Compensation for all non-racquet sports (including but not limited to pickleball, basketball, volleyball, cricket, and chess) shall pay TENNIS PRO based on the following financial terms:

- City to retain 35% of each fee charged.
- Contractor to retain 65% of each fee charged.
- City retains \$5 administration fee for each transaction received from the public.

C. City and Consultant desire to modify the Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. COMPENSATION

Paragraph 4 of the Agreement is modified to read as follows:

For the full performance of the services described herein by Lifetime Tennis Inc., DBA Lifetime Activities Inc., City shall pay Lifetime Tennis Inc., DBA Lifetime Activities Inc. based on the following schedule:

Financial Terms: Contractor shall be compensated for services performed pursuant to this Agreement. Compensation shall consist of the following: 100% of class fees. The total compensation to the Contractor shall not exceed \$10,800,000. For the privilege of utilizing the retail and office space, as well as various tennis courts and rooms as designated in the Program Resource Allocation (Exhibit C), Lifetime Tennis Inc., DBA

Lifetime Activities Inc. shall remit \$335,000 in annual rent to the City or 16% of the total annual revenue generated by Lifetime Tennis Inc., DBA Lifetime Activities Inc. for their programs offered at the Cupertino Sports Center and Memorial Park courts in a given fiscal year, whichever is greater. There shall be a \$5,000 per year rent escalator. Payments to be made by the City in 8 seasonal payments during the fiscal year. Rent to be deducted in 8 equal amounts when City processes each of the 8 seasonal payments made to Lifetime Tennis Inc., DBA Lifetime Activities Inc.

2. TERM: EARLY TERMINATION

Paragraph 6 of the Agreement is modified to read as follows:

Exercising the option to extend and amend the original agreement, the services to be performed hereunder shall commence on July 1, 2018, and shall continue, unless earlier terminated pursuant to this agreement until June 30, 2024, when this contract shall be automatically terminated. Either party may terminate this agreement at an earlier time than above specified by giving one (1) year written notice to the other party.

3. The following Exhibits to the Agreement, are amended and replaced to read as shown in the attachments to this Amendment:

a. Exhibit A, Exhibit B, Exhibit C, and Exhibit D

4. Except as expressly modified herein, all other terms and covenants set forth in the Agreement shall remain the same and shall be in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed.

CONSULTANT

By Laura Hill

Title CEO

CITY OF CUPERTINO

By [Signature]

Title _____

RECOMMENDED FOR APPROVAL

By [Signature]

Title DIRECTOR

APPROVED AS TO FORM

[Signature]

City Attorney

ATTEST:

[Signature] 8-15-18

City Clerk

EXPENDITURE DISTRIBUTION

PO #2018-155	570 63 621 700 702
Original Contract:	\$7,600,000
Amendment:	\$10,800,000
Total:	\$18,400,000

EXHIBIT A
SCOPE OF WORK, PERFORMANCE AND PAYMENT SCHEDULES

The CONTRACTOR will provide INSTRUCTION AND SUPERVISION in, but not limited to, the following:

TENNIS, BADMINTON, TABLE TENNIS, BASKETBALL, VOLLEYBALL, PICKLEBALL AND CHESS.

1. Duties of Lifetime Tennis Inc., DBA Lifetime Activities Inc.

- a) Class and camp instruction for all City-sponsored groups as determined by the CITY. Class size and court usage shall be established and approved by the CITY. All instruction shall be provided at a quality consistent with the standards found at other facilities in the area which are open to the public.
- b) Will provide all necessary and appropriate equipment for the purpose of teaching high quality programs, including, but not limited to, tennis balls, ball machines, nets, and table tennis tables. This equipment shall be stored at the Cupertino Sports Center in space provided by Lifetime Tennis Inc., DBA Lifetime Activities Inc.
- c) Will respond to all public complaints no later than two (2) days after the complaint was registered. Both complaints and responses will be documented and forwarded to the CITY no later than the first of each month.

2. Optional Services

- a) The CITY shall have the sole right to establish the use of all tennis courts at the Sports Center and Lifetime Tennis Inc., DBA Lifetime Activities Inc.'s right to give private lessons on any court is subject to the CITY's right to priority usage for the CITY sponsored events.
- b) Utilize courts #5 and #6 at Memorial Park for the sole purpose of teaching tennis lessons (Exception: Lifetime Tennis Inc., DBA Lifetime Activities Inc. is prohibited from using said courts on Tuesdays from 8:00 a.m. to Noon).

3. Collection of Fees and Charges

- a) All fees and charges for classes, camps, and private lessons provided by Lifetime Tennis Inc., DBA Lifetime Activities Inc. shall be collected from the public by the CITY. The fees and charges for all classes, lessons, and camps for both city-sponsored and private pupils will be established solely by the City pursuant to its normal procedure for establishing such fees and charges.
- b) During the term of this Agreement, Lifetime Tennis Inc., DBA Lifetime Activities Inc. is granted the exclusive privilege of providing tennis instruction at the Cupertino Sports Center other than that which is provided by CITY employees in connection with City-sponsored programs.

4. Retail Service

- a) The Retail Service to commence on July 1, 2018, and continue through June 30, 2024.
- b) The Retail Service that Lifetime Tennis Inc., DBA Lifetime Activities Inc. will be offering at the Cupertino Sports Center will consist of the following:
 - Racquet restringing for tennis and racquetball racquets.
 - Grip- build-up service

- Various accessories for tennis racquets (grips, vibration dampers, etc.)
 - Tennis racquet demo program and tennis racquet sales
 - Table tennis paddles
 - Pre-packaged food and beverages.
- c) The Retail Service will be located in the existing pro shop space located next to the lobby of the Cupertino Sports Center.
- d) Hours of Operation
- Monday-Saturday 8:00 a.m. – 9:30 p.m.
 - Sunday 8:00 a.m. – 8:00 p.m.
- Any changes to the hours of operation must be authorized by the City representative.
- e) Monthly Financial Statements – No later than fifteen (15) days after the end of each month Lifetime Tennis Inc., DBA Activities Inc. shall submit to the City of Cupertino a written statement for the preceding month showing the gross revenue and expenses for the Retail Service.
- f) Court Maintenance - Lifetime Tennis Inc., DBA Lifetime Activities Inc. is to provide at its own expense, weekly maintenance services for all 18 tennis courts at the Cupertino Sports Center. This service is to include biweekly court washing and alternating biweekly court blowing/sweeping. In addition, Lifetime Tennis Inc., DBA Lifetime Activities Inc. will provide all necessary materials to provide these maintenance services. Materials include, but are not limited to, court washing wands, industrial grade hoses, hose carrier cart, portable air blower, and toolkit.

5. Term and Early Termination

- a) The services to be performed hereunder shall commence on July 1, 2018, and shall continue, unless earlier terminated pursuant to this agreement until June 30, 2024, when this contract shall be automatically terminated. Either party may terminate this agreement at an earlier time than above specified by giving one (1) year written notice to the other party.

6. Termination for Breach

- a) Notwithstanding the provisions of section 5 above, should either party be in default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may, at its option, immediately terminate this Agreement by giving written notification to either party.

7. Facility Closure

- a) The City reserves the right to close the facility for maintenance, for five consecutive week days, once per fiscal year, commencing in the fiscal year 2019/2020. The City will consider programming schedules and high traffic times of the facility when scheduling the closure.

Location and Time of CONTRACTOR Services:

Refer to the Recreation Schedule dated SUMMER, 2018, THROUGH SPRING, 2024, and the Resource Utilization Document for agreed upon dates, times, and class locations. The City, at its sole discretion, may change the agreed terms.

Compensation for CONTRACTOR Services:

Compensation shall consist of the following: 100% of class fees. The total compensation to the Contractor shall not exceed \$10,800,000. For the privilege of utilizing the 570 sq. feet of retail and office space, as well as various tennis courts and rooms as designated in the Program Resource Allocation (Exhibit C), Lifetime Tennis Inc., DBA Lifetime Activities Inc. shall remit \$335,000 in annual rent to the

City with a \$5,000 per year rent escalator, or 16% of the total annual revenue generated by Lifetime Tennis Inc., DBA Lifetime Activities Inc. for their programs offered at the Cupertino Sports Center in a given fiscal year, whichever is greater. Payments to be made by the City in 8 seasonal payments during the fiscal year. Rent to be deducted in 8 equal amounts when City processes each of the 8 seasonal payments made to Lifetime Tennis Inc., DBA Lifetime Activities Inc.

Eligible Participant Minimum and Maximums for CONTRACTOR Services:

Minimum: 2 - 4
Maximum: 99

If less than the required minimum number of participants enroll in and pay for a particular class as identified in the schedule before the class is scheduled to start, the City may cancel the particular class and/or terminate this Agreement without additional notice or payment to Contractor.

NICANOR ACEVEDO JASMINE CALVERT SEAN CHEN MAX DANG

List of all Contractor Employees working for the City of Cupertino (if no Employees, identify "self"):

SON DUONG EIUS SAMER ^{KARTHIK}GURUVAYURAPPAN KEVIN HA JOHN VEST
ANDREW HSU TANAY KABIRAJ ALI KHADEM DANIEL KIM DANA GILL
WOOTAR KIM DON LE JASON LEMI ETHAN LEVINE RYAN LOKE SOPHIE LEOPOLD
CYRIL MACASERO DANIEL MIKENKO SHOBBY PARIS MATTHEW PERUSA
ARCHANA BATHI MIRITA SHANKER JENNIFER SHER SOVAN SIM
CHYUNNA SITES ATIQA SUJEJA ROBERT TILL GRACE TRIEU
RAYMOND UVEHARA ^{EDUARDO}VILLA GOMEZ KARINA WANG STANISLAV YANAKIEV

Performance of CONTRACTOR Services:

KEVIN ZHOU JUAN GARCIA

In the case Contractor unilaterally cancels performance of a class, camp, activity or service without City approval, City reserves the right to immediately and without notice cancel the remainder of programs/services offered and or performed by Contractor.

The Contractor shall follow all guidelines pertaining to registration procedures as listed in the quarterly recreation schedule. Participants may not take part in the program unless they are listed on the class roster or can show proof of enrollment. All participants and volunteers need to complete the City's Waiver of Liability form prior to taking part in the program. If applicable, contractors who are responsible for supervising minors must remain with the class until a parent of legal guardian has arrived and all minors are released to them.

In the event of an injury occurring to a participant, the Contractor will notify the City within 1 hour and complete an Incident Report in the form approved by the City. The Incident Report must be submitted to the City within 24 hours of the injury occurring.

Exhibit B
Insurance Requirements for Recreation Contracts

As required by Section 12 of the Agreement, Contractor shall procure and maintain the following insurance for the duration of the contract against claims arising from or in connection with Contractor, its agents, representatives, employees or subcontractors Services under this Agreement.

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

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, it must apply separately to this project/location (CG 25 03 or 25 04) or be twice the required occurrence limit.
2. **Automobile Liability:** ISO CA 0001 covering Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
 - Required if automobile is used to perform work under this contract.*
 - Otherwise, proof of Contractor’s personal auto insurance with limits required by state law suffices. Contractor shall not transport or use its personal vehicle to transport participants or perform work under this contract.*
3. **Workers’ Compensation:** As required by the State of California, with Statutory and Employer’s Liability Insurance limits of no less than \$1,000,000 per accident for bodily injury or disease.
 - Required if Contractor has employees.*
 - If no employees, Contractor must sign Affidavit of No Employees.*
4. **Sexual Abuse/Molestation:** Insurance or the equivalent as required for activities/services involving minors, (i.e., after school activities, recreational programs, athletics, study/training events and transportation of minors). Coverage may be included under General Liability or be obtained in a separate policy, such as Educators Legal Liability (ELL) policy, with a limit of no less than \$1,000,000 per occurrence. If a general aggregate limit applies, it must apply separately to this contract or be twice the required occurrence limit.
 - Required if Contract involves services to children.*

Insurance coverage required may be satisfied by a combination of Primary and Excess/Umbrella insurance.

Self-Insured Retentions: Self-insured retentions must be approved by City. City may require Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language must provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

Acceptability of Insurers: Insurance must be issued by insurers acceptable to City and licensed to do business in the State of California, with an A.M. Best’s financial strength rating of “A” or better and a financial size rating of “VII” or better.

OTHER INSURANCE PROVISIONS: The CGL policy must contain, or be endorsed to contain, the following provisions:

1. The City, its City Council, boards and commissions, officers, officials, employees, agents, servants and volunteers are to be covered as additional insureds with respect to liability arising out of work or

operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations.

2. **Contractor's insurance shall be primary** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, agents, and volunteers.
3. The Insurance Company agrees to **waive all rights of subrogation** against the City, its elected or appointed officers, officials, agents, and employees for losses paid under the terms of any policy which arise from work performed by Contractor for City. This provision also applies to the Contractor's Workers' Compensation policy.
4. Each insurance policy required by this contract shall provide that coverage shall not be canceled, except with notice to the City.

Primary Coverage: The Additional Insured coverage under Contractor's policy shall be primary non-contributory and at least as broad as ISO CG 20 01 04 13 as respects the City and all the insureds/indemnitees. If the limits of insurance required are satisfied in part by **Umbrella/Excess Insurance**, the Umbrella/Excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a "primary and non-contributory" basis for the benefit of the Additional Insureds before City's own insurance is triggered.

Notice of Cancellation: Each insurance policy shall provide that coverage shall not be canceled or allowed to expire without written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums. Such notice must be sent to City via email or certified mail to the attention of the City Manager.

Waiver of Subrogation: Contractor grants City a waiver of any right to subrogation which any insurer of said Contractor may acquire against City by virtue of payment of any loss under such insurance. Contractor will obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Verification of Coverage: Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications, at any time. At a minimum Contractor must provide acceptable copies of the policy declarations and endorsement page verifying the required insurance coverages.

Homeowner's Insurance: Contractor's homeowner's liability insurance may provide coverage sufficient to meet these requirements. Contractor should provide these requirements to his or her agent to confirm and provide verification to City.

Special Events Coverage: Insurers may provide special events coverage for a reduced fee, or City may be able to offer this coverage. Contractor should contact the City Manager's Office for information or assistance.

Special Risks or Circumstances: City reserves the right to modify these requirements based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Program Resource Allocation (*September - May*)

Days	CSC Tennis (cts 14-18)*	CSC Tennis (cts 6,7, 9-12)**	M. Park Tennis (MP 5&6)	Sport Court	MPR	Racquetball	Conference Room
Mon-Thur	8am-10pm	3-6pm	8am-10pm	by request	4-6pm	by request	as available
Friday	8am-10pm	2-10pm	8am-10pm	by request	4-6pm,7-9pm	by request	as available
Saturday	8am-10pm	2-10pm	8am-10pm	12-3pm	1:30-9pm	by request	as available
Sunday	8am-8pm	2-8pm	8am-10pm	12-3pm	2:30-5pm	by request	as available

**Memorial Park courts 5 & 6 are not available Tues. 8-Noon.

City of Cupertino reserves the right to alter schedule to best meet the needs of the patrons and community.

School Break Activities Program Resource Allocation (*June-August & holidays*)

Days	CSC Tennis (cts 14-18)*	CSC Tennis (cts 6,7, 9-12)**	M. Park Tennis (MP 5&6)	Sport Court	MPR	Racquetball	Conference Room
Mon-Thur	8am-10pm	8am-6pm	8am-10pm	9am-4pm	1-6pm	by request	as available
Friday	8am-10pm	8am-10pm	8am-10pm	9am-4pm	1-6pm, 7-9pm	by request	as available
Saturday	8am-10pm	2-10pm	8am-10pm	12-3pm	1:30-9pm	by request	as available
Sunday	8am-8pm	2-8pm	8am-10pm	12-3pm	2:30-5pm	by request	as available

* Courts 6 & 7, M-Th Noon-6pm, Friday Noon - 10pm

**Memorial Park Courts 5 & 6 are not available Tuesday, 8-Noon

***Sport Court: CSC needs the sport court from 11:30-1, M-F

City of Cupertino reserves the right to alter schedule to best meet the needs of the patrons and community.

EXHIBIT D
Contractor's Mandated Reporter Declaration

The undersigned does hereby certify that:

1. I am a representative of LIFETIME TENNIS INC., DBA LIFETIME ACTIVITIES INC.; that I am familiar with the facts herein and am authorized and qualified to execute this declaration.
2. I declare that LIFETIME TENNIS INC., DBA LIFETIME ACTIVITIES INC., has complied with fingerprinting and criminal background investigation requirements with respect to all Contractor's employees who may have contact with minors in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in California Penal Code Section 11105.3.
3. I declare that each coach and administrator shall be required to successfully complete concussion and head injury education at least once, either online or in person, before supervising a participant, as required by California Health and Safety Code Section 124235, et seq.
4. On a yearly basis, all participants shall be required to sign and return a concussion and head injury information sheet in compliance with California Health and Safety Code Section 124235, which may be in the form attached as D-1.
5. That a complete and accurate list of Contractor's employees, who may come in contact with minors during the course and scope of the Agreement, are included below.
6. All of the below mentioned employees have tested negative for TB, or X-ray results for TB, and have current documentation on file with Contractor.
7. All of the below mentioned employees have received training and understand their responsibilities under the Mandated Reporter laws of this state and are willing and able to comply.

List of all Contractor Employees working for the City (if no Employees, identify "self"):

<u>NICANOR ACEVEDO</u>	<u>JASMINE CALVERT</u>	<u>SEAN CHEN</u>	<u>MAX DANG</u>	<u>SON DUONG</u>
<u>SAMER EID</u>	<u>KARTHIK GURUVAYURAPPAN</u>	<u>KEVIN HA</u>	<u>ANDREW HSU</u>	<u>TANAY KABIRAJ</u>
<u>ALI KHADEM</u>	<u>DANIEL KIM</u>	<u>WOOTAE KIM</u>	<u>DON LE</u>	<u>JASON LEMI</u>
<u>ETHAN LEVINE</u>	<u>RYAN LORE</u>	<u>CYRIL MACASERO</u>	<u>DANIEL MILENKO</u>	<u>SHOBBY PARK</u>
<u>MATTHEW PERUSA</u>	<u>ARLITANA RATHI</u>	<u>NIKHITA SHANKER</u>	<u>JENNIFER SIEM</u>	<u>SOVAN SIM</u>
<u>CYNNIA SITES</u>	<u>ATIQA SUJELA</u>	<u>ROBERT TILL</u>	<u>GRACE TRIEU</u>	<u>RAYMOND UYEHARA</u>
<u>EDUARDO WILLAGOMEZ</u>	<u>KARINA WANG</u>	<u>STANISLAV YANAIKIEU</u>	<u>KEVIN ZHUO</u>	<u>JUAN GARCIA</u>

8. The Contractor will notify the City of Cupertino in writing of any new employees and will be added to the above list prior to beginning work at the City of Cupertino. JOHN VEST

I declare under penalty of perjury that the foregoing is true and correct.
LIFETIME TENNIS INC., DBA LIFETIME ACTIVITIES INC.

SOPHIE LEOPOLD
DANA GILL

Dana Gill

By: DANA GILL
Title: FOUNDER AND CEO

Date: 4/20/2018

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

The City of Cupertino, its City Council, boards and commissions, officers, employees, agents, servants and volunteers
10300 Torre Ave
Cupertino, CA 95014

But only as required by contract with the named insured to provide primary insurance.

The insurance provided by this endorsement is primary. Other insurance afforded to the above named additional insured shall apply as excess of, and does not contribute with, the insurance provided by this endorsement.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:
City of Cupertino, its City Council, boards and commissions, officers, employees, agents, servants and volunteers, 10300 Torre Ave, Cupertino CA 95014
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us of Section IV- Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/6/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leavitt Pacific Insurance Brokers, Inc. License #0D79674 1330 S Bascom Ave San Jose CA 95128		CONTACT NAME: Sandy Brown PHONE (A/C, No, Ext): (408) 288-6262 FAX (A/C, No): (408) 298-7635 E-MAIL ADDRESS: sandy-brown@leavitt.com	
INSURED Lifetime Tennis, Inc. 5801 Valley Avenue Dana Gill Pleasanton CA 94566		INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Accident & Indemnity NAIC # 22357 INSURER B: Oak River Insurance Company NAIC # 34630 INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 18-19 Auto/WC **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		57UCVX5953	8/19/2018	8/19/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Underinsured motorist \$ INCLUDED
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A Y	LIWC910406	7/1/2018	7/1/2019	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Workers Compensation waiver of subrogation in favor of The City, its City Council, boards and commissions, officers, officials, employees, agents, servants and volunteers

CERTIFICATE HOLDER City of Cupertino 10300 Torre Ave Cupertino, CA 95014	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Fred Stafford/YVVALD

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
BLANKET BASIS**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be 2% of the total manual premium otherwise due on such remuneration. The minimum premium for this endorsement is \$350.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

BLANKET WAIVER

Person/Organization Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

Job Description	Waiver Premium
All CA Operations	1172.00

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 07/01/2018

Policy No. LIWC910406

Endorsement No.

Insured

Premium \$

Insurance Company Oak River Insurance Company



Countersigned by _____

**PROFESSIONAL SERVICES AGREEMENT
(Tennis Pro)**

THIS AGREEMENT, made and entered into this 20TH day of MARCH, 2012, by and between the CITY OF CUPERTINO, a municipal corporation of California, hereinafter referred to as "CITY", and LIFETIME TENNIS, INC., with offices at 1901 South Bascom Avenue #1225, Campbell, CA, hereinafter referred to as "TENNIS PRO". DANA K. GILL is President of LIFETIME TENNIS, INC.

WITNESSETH:

WHEREAS, CITY wishes to retain services in conjunction with providing tennis lessons to city-sponsored groups at the Cupertino Sports Center; and

WHEREAS, CITY wishes to engage TENNIS PRO to provide these services by reason of its qualifications and experience for performing such services, and TENNIS PRO has offered to provide the required services on the terms and in the manner set forth herein;

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. DEFINITIONS.

(a) The word "City" shall mean and include all the territory lying within the municipal boundaries of the City of Cupertino, California, as presently existing, plus all territory which may be added thereto during the term of this agreement by annexation or otherwise.

(b) The term "City Manager" shall mean the duly appointed City Manager of the City of Cupertino, California, or designated representative.

(c) The term "City Attorney" shall mean the duly appointed City Attorney of the City of Cupertino, California, or designated representative.

(d) The term "City Clerk" shall mean the duly appointed City Clerk of the City of Cupertino, California, or designated representative.

(e) The term "Personal Services" shall mean the providing of tennis instruction by Tennis Pro or his employees at the City's Sports Center and Memorial Park Tennis Courts #5 and #6.

2. COORDINATION OF SERVICES.

(a) City. The City Manager shall be the representative of the CITY for all purposes under this Agreement. The Director of Parks and Recreation is hereby designated as the SERVICE COORDINATOR for the City Manager, and shall supervise the progress and execution of this Agreement.

(b) Tennis Pro. The President of Lifetime Tennis, Inc., DANA K. GILL, shall have overall responsibility for all services provided under this Agreement.

3. DUTIES OF THE TENNIS PRO.

(a) Services to be Furnished. TENNIS PRO shall provide all specified services as set forth below:

(1) Tennis lessons for all City-sponsored groups as determined by the CITY. Class size and court usage shall be established and approved by the CITY.

(2) All lessons shall be provided at a quality consistent with the standards found in other tennis facilities in the area which are open to the public.

(3) During the winter and summer sessions, TENNIS PRO will distribute to each tennis pupil an evaluation form prepared by the CITY and designed for pupil to evaluate the level of instruction given, and will, at the conclusion of each session, return all completed evaluation forms to the CITY.

(4) Will provide all necessary and appropriate equipment for the purpose of teaching "high quality tennis lessons," including, but not limited to, tennis balls and ball machines. This equipment shall be stored at the Cupertino Sports Center in space provided by the TENNIS PRO.

(5) Will respond in writing to all public complaints no later than two (2) days after the complaint was registered. Both complaints and responses will be documented and forwarded to the CITY no later than the first of each month

(6) Will teach lessons based on the following minimum and maximum number of students:

	<u>Minimum</u>	<u>Maximum</u>
• Small Group Lessons	2	4
• Large Group Lessons	4	8
• Pee Wee Lessons	4	8

The minimum and maximum number of students may be modified by mutual agreement of the parties.

(b) Optional Services. TENNIS PRO may provide the following services:

(1) Private tennis lessons utilizing one court of the Cupertino Sports Center and any other court approved by the CITY, provided, however that the CITY shall have the sole right to establish the use of all tennis courts at the Sports Center and the TENNIS PRO's right to give private lessons on any court is subject to the CITY's right to priority usage for the CITY-sponsored activities.

(2) Utilize Courts #5 and #6 at Memorial Park for the sole purpose of teaching tennis classes (Exception: TENNIS PRO is prohibited from using said courts on Tuesdays from 8:00 a.m. to Noon).

(c) Laws to be Observed. TENNIS PRO and its employees shall obey all rules, regulations, and laws of the CITY or any other governmental agency and shall procure, at its sole cost, all permits and licenses required for the conduct of business at the Sports Center.

(d) Collection of Fees and Charges. All fees and charges for tennis instruction services provided by TENNIS PRO shall be collected from the public by the CITY.

4. COMPENSATION. For the full performance of the services described herein by TENNIS PRO, CITY shall pay TENNIS PRO based on the following schedule:

Financial Terms:

- City retains 20% of gross revenue up to \$1,000,000 from tennis lesson fees received from the public.
- City retains 5% of gross revenue \$1,000,000 and above from tennis lesson fees received from the public.
- City retains \$7 administration fee for each tennis lesson transaction received from the public in addition to the percentage of gross revenue.

(a) Payments for lessons given to City-sponsored groups shall be paid within thirty (30) days of the beginning of each class session.

(b) Payments for private lessons shall be paid within thirty (30) days of commencing instruction.

(c) The CITY shall provide TENNIS PRO a written monthly accounting of all monies received pursuant to this Agreement. Unless written objections to any particular accounting is received by CITY from TENNIS PRO within thirty (30) days of receipt, such accounting shall be deemed to be final.

(d) The fees and charges for all lessons both for city-sponsored and private pupils will be established solely by the CITY pursuant to its normal procedure for establishing such fees and charges.

(e) Exclusive Privilege. During the term of this Agreement, TENNIS PRO is granted the exclusive privilege of providing tennis instruction at the Cupertino Sports Center other than that which is provided by CITY employees in connection with City-

sponsored programs.

5. RETAIL SERVICE

(a) Length of Agreement. Retail Service to commence July 1, 2012, and continue through June 30, 2018. In addition, the CITY will have the option to extend this contract for an additional six-year (6) period through June 30, 2024.

(b) Rent Payment. TENNIS PRO will pay the City of Cupertino rent per month based on the following schedule:

TENNIS PRO will be charged \$12,000 per year for the privilege of utilizing a retail proshop service on site at Sports Center. CITY will deduct \$1,000 per month from the gross revenues due TENNIS PRO each month as payment of the \$12,000.

(c) Scope of Service. The "Retail Service" that TENNIS PRO will be offering at the Cupertino Sports Center will consist of the following:

- (1) Racquet restringing for tennis and racquetball racquets
- (2) Grip build-up service
- (3) Various accessories for tennis racquets (grips, vibration dampers, etc.)
- (4) Tennis racquet demo program and tennis racquet sales
- (5) Pre-packaged food and beverages

Any changes to the "Scope of Service" must be authorized by the City of Cupertino Recreation Supervisor.

(d) Court Maintenance Service. TENNIS PRO is to provide, at its own expense, weekly maintenance services for all 18 tennis courts at the Cupertino Sports Center. This service is to include biweekly court washing and alternating biweekly court blowing/sweeping. In addition, TENNIS PRO will provide all necessary materials to provide these maintenance services. Materials include, but are not limited to, court washing wands, industrial grade hoses, hose carrier cart, portable air blower, and toolkit.

(e) Hours of Operation.

Monday - Saturday 8:00 a.m. – 9:30 p.m.

Sunday 8:00 a.m. – 8:00 p.m.

Any changes to the hours of operation must be authorized by the City of Cupertino Recreation Supervisor.

(f) Monthly Financial Statements. No later than fifteen (15) days after the end of each month TENNIS PRO (Dana Gill) shall submit to the City of Cupertino a written statement for the preceding month showing the gross revenue and expenses for the "Retail Service".

(g) Location. The "Retail Service" will be located in the existing "primary"

office area in the lobby of the Cupertino Sports Center. This single office is currently being used by TENNIS PRO to conduct tennis lesson administration.

6. TERM: EARLY TERMINATION: OPTION TO EXTEND. The services to be performed hereunder shall commence on July 1, 2012, and shall continue until June 30, 2018, unless earlier terminated pursuant to this Agreement. Either party may terminate this Agreement at an earlier time than above specified by giving two (2) years written notice to the other party. In addition, the CITY will have the option to extend this Agreement for an additional six-year period through June 30, 2024, if CITY gives notice to TENNIS PRO of such extension no later than December 31, 2017.

7. TERMINATION FOR BREACH. Notwithstanding the provisions of section 6 above, should either party be in default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may, at its option, immediately terminate this Agreement by giving written notification to the other party.

8. TEMPORARY SUSPENSION. The City Manager shall have the authority to suspend this Agreement, wholly or in part, for such period as he deems necessary due to unfavorable conditions or to the failure on the part of the TENNIS PRO to perform any provision of this Agreement.

9. ASSIGNMENT; SUBCONTRACTORS; EMPLOYEES.

(a) Assignment. Both parties shall give their personal attention to the faithful performance of this Agreement and shall not assign, transfer, convey, or otherwise dispose of this Agreement or any right, title, or interest in or to the same or any part thereof without the prior written consent of the other party, and then only subject to such terms and conditions as the other party may require. A consent to one assignment shall not be deemed to be a consent to any subsequent assignment. Any assignment without such approval shall be void and, at the option of the other party, shall terminate this Agreement and any license or privilege granted herein. This Agreement and any interest herein shall not be assignable by operation of law without the prior written consent of the other party.

(b) Subcontractors; Employees. TENNIS PRO shall be responsible for employing or engaging all persons necessary to perform the services of TENNIS PRO hereunder. No subcontractor of TENNIS PRO will be recognized by CITY as such; rather, all subcontractors are deemed to be employees of TENNIS PRO, and it agrees to be responsible for their performance. TENNIS PRO shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of TENNIS PRO fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately from the work under this Agreement on demand of the CITY.

10. NOTICES. All notices hereunder shall be given in writing and mailed, postage

prepaid, by certified mail, addressed as follows:

TO CITY: City of Cupertino
Office of the City Clerk
10300 Torre Avenue
Cupertino, CA 95014

TO TENNIS PRO: Lifetime Tennis, Inc.
Attn: Dana K. Gill
1901 South Bascom Avenue #1225
Campbell, CA 95008

11. INTEREST OF TENNIS PRO. TENNIS PRO covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. TENNIS PRO further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed. TENNIS PRO certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of CITY. It is expressly agreed that, in the performance of the services hereunder, TENNIS PRO shall at all times be deemed an independent contractor and not an agent or employee of CITY.

12. INDEMNITY. TENNIS PRO hereby agrees to indemnify and save harmless CITY, its officers, agents, and employees of and from:

(a) Any and all claims and demands which may be made against CITY, its officers, agents, or employees by reason of any injury to or death of any person or damage suffered or sustained by any person or corporation caused by, or alleged to have been caused by, any act or omission, negligent or otherwise, of TENNIS PRO or any subcontractor under this agreement or of TENNIS PRO's or any subcontractor's employees or agents;

(b) Any and all damage to or destruction of the property of CITY, its officers, agents, or employees occupied or used by or in the care, custody, or control of TENNIS PRO, or in proximity to the site of TENNIS PRO's work, caused by any act or omission, negligent or otherwise, of CONTRACTOR or any subcontractor under this Agreement or of TENNIS PRO's or any subcontractor's employees or agents.

(c) Any and all claims and demands which may be made against CITY, its officers, agents, or employees by reason of any injury to or death of or damage suffered or sustained by any employee or agent of TENNIS PRO or any subcontractor under this agreement, however caused, excepting, however, any such claims and demands which are the result of the sole negligence or willful misconduct of CITY, its officers, agents, or employees;

(d) Any and all claims and demands which may be made against CITY, its officers, agents, or employees by reason of any infringement or alleged infringement of any patent rights or claims caused or alleged to have been caused by the use of any apparatus, appliance, or materials furnished by TENNIS PRO or any subcontractor

under this agreement; and

(e) Any and all penalties imposed or damages sought on account of the violation of any law or regulation or of any term or condition of any permit.

TENNIS PRO, at its own cost, expense, and risk, shall defend any and all suits, actions, or other legal proceedings that may be brought or instituted by third persons against CITY, its officers, agents, or employees on any of the above claims or demands of such third persons, or to enforce any of the above penalties, and pay and satisfy any judgment or decree that may be rendered against CITY, its officers, agents, or employees in any such suit, action, or other legal proceedings.

13. WORKERS' COMPENSATION. TENNIS PRO certifies that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with such provisions before commencing the performance of the work of this Agreement.

14. FINGERPRINTING/TB TEST. In the event that the TENNIS PRO has employees who will assist in the performance of this Agreement, TENNIS PRO shall, for those instructing person 18 years and younger, conduct fingerprint clearance and current T.B. test for every employee providing those services. Copies of these clearances and current T.B. tests shall be provided to the City upon request.

15. INSURANCE. City of Cupertino's Minimum Insurance Requirements
On or before the commencement of the terms of this Agreement, Contractor shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with the coverage limits below in 15A. Such certificates, which do not limit Contractor's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days advance written notice to the City of Cupertino by certified mail, 'Attention: City Manager.' It is agreed that Contractor shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. COVERAGE

Contractor shall maintain the following insurance coverage:

(1) Workers' Compensation:

Statutory coverage as required by the State of California

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury: \$1,000,000 each occurrence

\$2,000,000 aggregate – all other

Property Damage: \$500,000 each occurrence

\$1,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amount of

\$2,000,000 will be considered equivalent to the required minimum limits shown above.

(3) Automotive:

Comprehensive automobile liability coverage in the following minimum limits:

Bodily injury: \$500,000 each occurrence

Property Damage: \$500,000 each occurrence

or

Combined Single Limit: \$1,000,000 each occurrence

Certificates of such insurance, preferably on the forms provided by CITY, shall be filed with CITY concurrently with the execution of this agreement or, with CITY's approval, within ten (10) days thereafter. Said certificates shall be subject to the approval of the City Attorney and shall contain an endorsement stating that said insurance is primary coverage and will not be cancelled or altered by the insurer except after filing with the City Clerk thirty (30) days' written notice of such cancellation or alteration, and that the City of Cupertino is named as an additional insured. Current certificates of such insurance shall be kept on file at all times during the term of this agreement with the City Clerk.

16. AGREEMENT BINDING. The terms, covenants, and conditions of this agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

17. WAIVERS. The waiver by either party of any breach or violation of any term, covenant, or condition of this agreement or any provision, ordinance, or law shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, or law or of any subsequent breach or violation of the same or of any other term, covenant, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money that may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this agreement or of any applicable law or ordinance.

18. COSTS AND ATTORNEYS FEES. The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

19. NONDISCRIMINATION. No discrimination shall be made in the employment of persons under this Agreement because of the race, color, national origin, ancestry, religion or sex of such person. If the value of this Agreement is, or may be, Five Thousand Dollars (\$5,000) or more, TENNIS PRO agrees to meet all requirements of the Cupertino Municipal Code pertaining to nondiscrimination in employment and to complete and submit the "Compliance Report--Nondiscrimination Provisions of City of Cupertino Contracts" on the form furnished by CITY.

If TENNIS PRO is found in violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the performance of this Agreement, it shall thereby be found in material breach of this Agreement. Thereupon, CITY shall have the power to cancel or suspend this Agreement, in whole or in part.


If TENNIS PRO is found in violation of the nondiscrimination provisions of this Agreement, TENNIS PRO shall be found in material breach of this Agreement. Thereupon, CITY shall have the power to cancel or suspend this Agreement, in whole or in part.

20. AGREEMENT CONTAINS ALL UNDERSTANDINGS. This document represents the entire and integrated Agreement between CITY and TENNIS PRO and supersedes all prior negotiations, representations, or Agreements, either written or oral. This document may be amended only by written instrument, signed by both CITY and TENNIS PRO. All provisions of this Agreement are expressly made conditions. This Agreement shall be governed by the laws of the State of California.

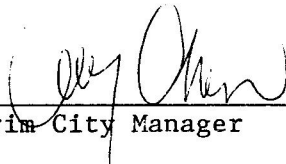
IN WITNESS WHEREOF, CITY and TENNIS PRO have executed this agreement the day and year first above written.

ATTEST

CITY OF CUPERTINO




City Clerk




Interim City Manager

APPROVED AS TO FORM:



City Attorney



Dana K. Gill
President, Lifetime Tennis, Inc.
1901 South Bascom Avenue #1225
Campbell, CA 95008

(408) 781-4249 or (408) 777-3169
Telephone

77-0475700
Social Security or
Tax I.D. number