

6758

PROFESSIONAL SERVICES AGREEMENT
City of Calabasas / Top Seed Tennis Academy, Inc.

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Calabasas, a California municipal corporation ("City"), and Top Seed Tennis Academy, Inc., an independent contractor ("Contractor").

2. RECITALS

- 2.1 City has determined that it requires the following services from the Contractor: operate and manage the tennis programs and services offered at the Calabasas Tennis & Swim Center ("CTSC") along with hiring, training and supervising the front desk and maintenance personnel at CTSC located at 23400 Park Sorrento, Calabasas, California 91302.
- 2.2 Contractor represents and it has been determined that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Contractor agree as follows:

3. DEFINITIONS

- 3.1 "Scope of Services": Such professional services as are set forth in Exhibit A and incorporated herein by this reference.
- 3.2 "Commencement Date": August 11, 2016.
- 3.3 "Expiration Date": June 30, 2021.

4. TERM

The parties hereby acknowledge and agree that Contractor has exercised its option to renew the Agreement for an additional seven (7) year term, thereby extending the term until 11:59 p.m. on the Expiration Date unless extended by written agreement of the parties or terminated earlier in accordance with Section 17 ("Termination") below.

5. CONTRACTOR'S SERVICES

- 5.1 Contractor shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. This Agreement shall not be construed as granting the Contractor any property interest

Initials: (City) JB (Contractor) SM

in the CTSC, including, but not limited to, a license, lease or concession.

- 5.2 Contractor shall perform all work to the highest professional standards of Contractor's profession and in a manner reasonably satisfactory to City. Contractor shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*).
- 5.3 Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. **Steve McAvoy** shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without City's prior written consent.

6. **COMPENSATION**

- 6.1 In consideration of the services to be provided by Contractor under this agreement, Contractor shall receive fifty percent (50%) of the difference between the "Gross Revenues" (defined as revenue for tennis membership, daily court use, tennis lessons, social events, leagues, tennis camps and other tennis related programs) and the "522 Expenditures" (defined in Exhibit A, Section 5). The difference between the Gross Revenues and the 522 Expenditures is defined for purposes of this Agreement as "Net Revenues" from the tennis program. Net Revenues shall be calculated on a monthly basis, but shall be paid on an annual basis with a monthly draw to Contractor against the Net Revenue.
- 6.2 Contractor shall receive a draw of fifteen thousand dollars (\$15,000) per month from the 522 Joint Account. Such sums are to be credited against Top Seed's 522 Expenditures. The combined draw for the fiscal year will total one hundred and eighty thousand dollars (\$180,000). If that sum is more than Contractor's Net Revenues, Contractor will be required to reimburse City the difference. If that sum is less than Contractor's Net Revenues for the fiscal year, the City will pay Contractor the balance within 90 days of year end.
- 6.3 Capital Improvement Fund. From their respective shares of Net Revenues, Contractor and City shall contribute ten percent (10%) of Net Revenues to a Capital Improvement Fund established and maintained by City, which provides funds to undertake capital repairs and/or facility improvements that are mutually agreed upon for the tennis program at the Center. In the event that Net Revenues

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exceed sixty thousand dollars (\$60,000) during any quarter, the parties agree that their respective contributions to the Capital Improvement Fund shall be increased to twelve percent (12%) of their respective shares of Net Revenues for such quarter.

- 6.4 All fees charged by Contractor for tennis programs shall be subject to review by Center's Recreation Services Manager and City Council to ensure that the fee structure is benchmarked against industry standards and fair market value for goods and services.

7. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products" herein) developed by Contractor in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

8. RELATIONSHIP OF PARTIES

Contractor is, and shall at all times remain as to City, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.

9. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

Initials: (City) J (Contractor) SH

10. INDEMNIFICATION

- 10.1 The parties agree that City, its officers, agents, employees and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the City with the fullest protection possible under the law. Contractor acknowledges that City would not enter into this Agreement in the absence of Contractor's commitment to indemnify and protect City as set forth herein.
- 10.2 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Contractor or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.
- 10.3 City shall have the right to offset against the amount of any compensation due Contractor under this Agreement any amount due City from Contractor as a result of Contractor's failure to pay City promptly any indemnification arising under this Section 10 and related to Contractor's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 10.4 The obligations of Contractor under this Section 10 will not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.
- 10.5 Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required herein, Contractor agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Contractor's

Initials: (City) JA (Contractor) SM

subcontractors or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

- 10.6 City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

11. INSURANCE

- 11.1 During the term of this Agreement, Contractor shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Contractor's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

11.1.1 Comprehensive General Liability Insurance with coverage limits of not less than Two Million Dollars (\$2,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent contractors, personal injury, underground hazard, and explosion and collapse hazard where applicable.

11.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.

11.1.3 Sexual abuse insurance coverage for sexual abuse, molestation, harassment, negligent hiring, training, supervision, retention, and failure to warn. With minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident and include the naming of the city, its officers & employees as additional insureds.

11.1.4 Worker's Compensation insurance as required by the laws of the State of California, including but not limited to California Labor Code Section 1860 and 1861 as follows:

Contractor shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of Contractor's employees employed at the site of improvement, and, if any work is sublet,

Initials: (City)



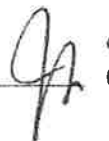
(Contractor)



Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by Contractor. Contractor and any of Contractor's subcontractors shall be required to provide City with a written statement acknowledging its obligation to secure payment of Worker's Compensation Insurance as required by Labor Code Section 1861; to wit: "I am aware of the provisions of Section 3700 of the Labor Code 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 I will comply with such provisions before commencing the performance of the work of this contract." If any class of employees engaged in work under this contract at the site of the Project is not protected under any Worker's Compensation law, Contractor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Contractor shall indemnify and hold harmless City for any damage resulting from failure of either Contractor or any subcontractor to take out or maintain such insurance.

- 11.2 Contractor shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.
- 11.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- 11.4 Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.
- 11.5 At all times during the term of this Agreement, Contractor shall maintain on file with City's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City and its officers, employees, agents and volunteers as additional insureds. Contractor shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).
- 11.6 Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.
- 11.7 The General Liability Policy required by this Agreement shall contain an

Initials: (City)



(Contractor)



endorsement naming City and its officers, employees, agents and volunteers as additional insureds. The General Liability Policy required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Contractor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

- 11.8 The insurance provided by Contractor shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.
- 11.9 All insurance coverage provided pursuant to this Agreement shall not prohibit Contractor, and Contractor's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.
- 11.10 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.
- 11.11 Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

12. MUTUAL COOPERATION

- 12.1 City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Contractor's services under this Agreement.
- 12.2 City shall make the tennis courts, tennis patio and tennis common grounds, community rooms, tennis patio and pro's office at the CTSC available to Contractor for the purposes stated in this Agreement.
- 12.3 In the event any claim or action is brought against City relating to Contractor's performance in connection with this Agreement, Contractor shall render any reasonable assistance that City may require.

Initials: (City)

Jr.

(Contractor)

SH

13. RECORDS AND INSPECTIONS

Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

14. PERMITS AND APPROVALS

Contractor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement.

15. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Contractor's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

City of Calabasas
100 Civic Center Way
Calabasas, CA 91302
Attn: **Jeff Rubin,**
Director of Community Services
Telephone: (818) 224-1600

If to Contractor:

Top Seed Tennis Academy,
Inc.
23400 Park Sorrento
Calabasas, CA 91302
Telephone: (818) 222-2782
Mobile: (818)414-0114

With courtesy copy to:

Scott H. Howard, City Attorney
Colantuono & Levin, PC
300 South Grand Avenue, Suite 2700
Los Angeles, CA 90071-3137
Telephone: (213) 542-5700
Facsimile: (213) 542-5710

Initials: (City) JR (Contractor) SM

16. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 9, Section 10, Paragraph 12.3 and Section 13 of this Agreement shall survive the expiration or termination of this Agreement.

17. TERMINATION

In the event that City or Contractor is in default of any term or condition under this agreement, except the requirement to have and maintain insurance or fingerprinting, the non-defaulting party shall provide written notice of the default and the defaulting party shall have thirty (30) days after service of notice in which to cure the default. In the event the default involves failure to procure or maintain insurance in all respects as required by this agreement, or the default involves failure to fingerprint all employees and receive DOJ clearance prior to start date, defaulting party shall have 72 hours after service of written notice to cure the default. In the event the defaulting party fails to cure the default(s) within the period(s) of time set forth, the non-defaulting party has the right, unilaterally and in its sole and complete discretion to determine the continued existence of the default and terminate this agreement without further notice and without cause. Termination of this agreement for default is not an exclusive remedy and is without prejudice to any other remedy the terminating party may be entitled to under law.

All City data, document, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

18. GENERAL PROVISIONS

- 18.1 Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Contractor.
- 18.2 In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 18.3 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the

Initials: (City) JA (Contractor) SM

construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

- 18.4 The waiver by City or Contractor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Contractor unless in writing.
- 18.5 Consultant shall not be liable for any failure to perform if Contractor presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Contractor.
- 18.6 Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be Los Angeles County, California.
- 18.7 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 18.8 This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 18.9 All documents referenced as exhibits in this Agreement are hereby incorporated

Professional Services Agreement
City of Calabasas/Top Seed Tennis Academy, Inc.

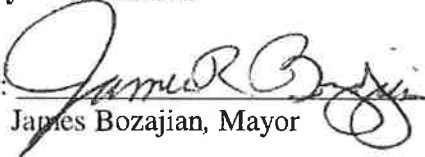
into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Contractor.

Initials: (City) Jan (Contractor) SM

Professional Services Agreement
City of Calabasas/Top Seed Tennis Academy, Inc.


TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Calabasas

By: 
James Bozajian, Mayor

Date: 8/24/16

“Contractor”
Top Seed Tennis Academy, Inc.

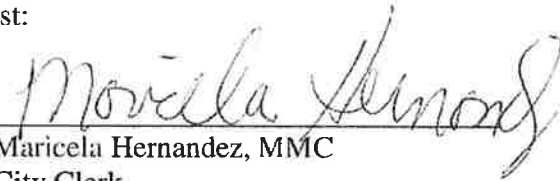
By: 
Steve McAvoy, Owner/President

Date: August 11, 2016

By: _____

Date: _____

Attest:

By: 
Maricela Hernandez, MMC
City Clerk

Date: 8/25/16

Approved as to form:

By: 
Scott H. Howard, City Attorney

Date: 2016.08.24

EXHIBIT A SCOPE OF WORK

In fulfillment of Contractor's obligations under this Agreement, Contractor shall:

1. Provide a comprehensive tennis program for youth through adults that meets the needs of beginner through advanced tennis programs and is in accordance with the USTA, United States Tennis Association.
2. Employ, train, schedule, supervise, discipline, and pay the employees and sub-contractors used to operate the tennis program. In order to operate the tennis program, Contractor shall employ and/or contract for the following positions: tennis teaching professionals, social event coordinator, maintenance personnel (which shall be responsible for the maintenance of the facility) and front desk personnel. Contractor will also employ an hourly/part time administrative assistant position 10–20 hours per week depending on the season and a full time Business Services Coordinator (salary/benefits). The level of Contractor employment and staffing necessary to operate the tennis program shall be subject to the approval of the City.
3. Contractor will have all program fees payable to the City of Calabasas and make a commercially reasonable good faith effort to collect all Gross Revenues derived from Contractor's tennis programs at the Center, both current and past due. Such effort shall not include judicial proceedings.
4. Contractor shall furnish the independent accounting firm, contracted by the City with pertinent accounting materials, books and records requested by the City from time to time with respect to Contractor's tennis related programs at the Center.
5. Require Contractor's management and/or mid-management to attend a minimum of $\frac{3}{4}$ of the staff meetings at the Center required by the City.
6. Contractor agrees to comply with Public Resources Code 5164 which requires the City to take reasonable steps to determine if a prospective employee, contractor or volunteer has been convicted of any crimes specified in Penal code Section 11105. Contractor further agrees to have all current/prospective employee's, Contractor's, and volunteers' complete a Supplemental Application Form, provided by the city and submit fingerprints for purposes of screening any prospective employees, contractor or volunteer for a criminal background. City shall submit at the sole cost of Contractor, any request for criminal background screening to the Department of Justice. No employee shall perform any work for the Contractor until such time that fingerprint clearance is received by the City.
7. Contractor shall perform its obligations under this Agreement in a positive and professional manner. In fulfilling this obligation, Contractor shall, without limitation; return telephone messages within 48 hours and process refunds within 30 days.
8. Prior to proceeding with any marketing and promotional material going out, Contractor will confirm all tournament, programs and events with City to ensure facilities are available and parking can be accommodated.

In fulfillment of City's obligations under this Agreement, City shall:

1. Make the areas of Center specified in Section 12, above, available to Contractor for the purposes stated in this Agreement. City shall not, except as specified herein, interfere with Contractor in the exercise of any of its rights or responsibilities under this Agreement.
2. Employ a Recreation Manager to oversee the operation of the entire Center and all activities, including coordination of the full time Business Services Coordinator, front desk and maintenance personnel duties. The Recreation Manager will have thirty percent (30%) of their salary and benefits charged as a 522 Expenditure as agreed to by both parties.
3. Oversee the full time Business Services Coordinator (employed by Top Seed) and coordinate/facilitate the Contractor accounting procedures (for operations at the Center), including; deposits, processing receivables, payroll, accounts payable, processing registration, and other duties as assigned by the Recreation Manager. The Business Services Coordinator's salary and benefits will be charged as a 522 Expenditure as agreed to by both parties.
4. Deposit all revenues generated by Contractor's tennis programs (i.e. tennis memberships, daily court use, lessons, social events, league fees, tennis camps, and other related tennis programs) at the Center, defined herein as "Gross Revenues", into the appropriate city account (the "910 Joint Account") and provide Contractor monthly statements itemizing all such revenues.
5. Establish and maintain the 910 Joint Account as depository for Gross Revenues derived from tennis membership and Top Seed programs and services offered at the Center. City shall issue checks out of the 910 Joint Account, as mutually agreed upon by both parties, for the following expenses (defined as "522 Expenditures"):
 - a. One-half of the water bill for the Center
 - b. All tennis related electricity charges
 - c. Tennis, program and social supplies
 - d. Office supplies
 - e. Custodial supplies
 - f. All tennis court related repairs and maintenance (but not capital improvements)
 - g. One-half of monthly landscape bill
 - h. Insurances as outlined in the Agreement
 - i. All salaries (and related benefits) for tennis professionals, maintenance and front desk personnel, the tennis social events coordinator, the salary and benefits for the Business Services Coordinator, administrative assistant and 30% of salary and benefits for the Recreation Manager. All such sums shall be mutually agreed upon by both parties.
6. Provide Contractor with all pertinent accounting materials, books and records requested by Contractor from time to time relating to the 910 Joint Account and 522 Expenditures.
7. Pay expenses covered exclusively by the City and others, but not included in this Agreement or payable from the 910 Joint Account, including pool related electricity charges, gas for the pool heater, 70% of Recreation Manager salary and benefits, non-tennis court related repairs of the

Professional Services Agreement
City of Calabasas/Top Seed Tennis Academy, Inc.

Center (i.e. repairs or maintenance in locker rooms, lights in parking lot or swimming pool area), and any capital improvement or expenditures (which are to be disbursed from the Capital Improvement Fund described in Section 6 above).

8. Establish a line item within the City's 522 Joint Expenditures to reimburse Contractor for payroll, worker's compensation, and payroll taxes for tennis professionals, front desk and maintenance staff, social events coordinator, head pro, director of tennis, business services coordinator and administrative assistant subject to staffing levels approved by the City.
9. Assist with marketing and promotion of Contractor and development of the tennis programs cooperatively with Contractor. Specifically, City shall provide one (1) page in the seasonal recreation brochure for program material related to the City. The City will make available space for promotional banners and deck signage as approved by the Recreation Manager during the program season.
10. Implement an annual membership fee increase based on the Consumer Price Index (CPI), and have it effective September 1st of each year. City will also, on a periodic basis, conduct a membership fee survey to access current membership rates in the local area.

EXHIBIT B
APPROVED FEE SCHEDULE

Approved Fee Schedule is outlined in Section 6 of this agreement above.

AMENDMENT No. # 1 TO PROFESSIONAL SERVICES AGREEMENT
(City of Calabasas and Top Seed Tennis Academy, Inc.)

This Amendment No. #1 (“Amendment”) to Professional Services Agreement (“Agreement”) is made on this 23rd day of June, 2021 at Calabasas, California, by and between the City of Calabasas, a municipal corporation, 100 Civic Center Way, Calabasas, California 91302 (“City”) and Top Seed Tennis Academy, Inc., 23400 Park Sorrento, Calabasas, CA 91032 (“Contractor”).

This “Amendment” modifies the original Agreement between the “City” and the “Contractor” dated August 11, 2016 in the following fashion:

- A. City and Contractor desire to amend the Agreement by modifying section 3.3 – Definitions to read as follows.

3. Definitions

- 3.1 “Scope of Services”: Such professional services as are set forth in Exhibit A and incorporated herein by this reference.
- 3.2 “Commencement Date”: August 11, 2016
- 3.3. “Expiration Date”: July 31, 2021

- B. City and Contractor desire to amend the Agreement by modifying section 4 – Term of the Agreement to read as follows:

4. TERM

The parties hereby acknowledge and agree that the Agreement shall renew upon the same terms and conditions contained in the Agreement on a month-to-month basis unless City or Contractor provides notice pursuant to Section 15 by the 15th of each month of nonrenewal for the subsequent month.

Initials: (City) _____ (Contractor) STJ

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Calabasas

By: _____
James Bozajian, Mayor

Date: _____

“Contractor”
Top Seed Tennis Academy, Inc.

By:  _____
Steve McAvoy, Owner/President

Date: June 14, 2021

By: _____

Date: _____

Attest:

By: _____
Maricela Hernandez, MMC
City Clerk

Date: _____

Approved as to form:

By: _____
Scott H. Howard, City Attorney

Date: _____