



CITY OF DEL REY OAKS

Staff Report

DATE: September 27, 2022

TO: Honorable Mayor and Members of City Council

FROM: John Guertin, City Manager

SUBJECT: Donation of Basketball Court Surfacing and Basketball Goals

CEQA: This action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines section 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15304 (Minor Alterations to Land).

Recommendation

Approve Agreement for Donation of Basketball Court Surfacing and Basketball Goals (Agreement), subject to final negotiation of the Agreement, and approval by the City Attorney.

Summary & Discussion

Recently, the City was approached by resident Ryan Sanchez, who offered to refurbish the City's basketball court and goals at Del Rey Park, and has offered to pay for the costs of the improvements. The donation includes removal of the existing concrete surfacing, which is to be replaced with "Mateflex" sports court tiles. Also, the basketball court goals will be replaced.

The Agreement, which is between the City and Mr. Sanchez's company RS Management Group, Inc., properly protects the City with respect to the donated improvements.

FISCAL IMPACT - None; materials and installation are being donated.

ALTERNATIVES - Provide other direction to staff.

ATTACHMENTS - Draft Agreement

Respectfully Submitted,

John Guertin
City Manager

**AGREEMENT FOR DONATION OF
BASKETBALL COURT SURFACING AND BASKETBALL GOALS**

THIS AGREEMENT FOR DONATION OF BASKETBALL COURT SURFACING AND BASKETBALL GOALS ("Agreement") is made and entered into this ____ day of September by and between the City of Del Rey Oaks, a municipal corporation ("City") and RS MANAGEMENT GROUP, INC., a California Corporation ("Donor"). City and Donor may be collectively referred to herein as the "parties."

RECITALS

WHEREAS, the City has a public basketball court located in Del Rey Park; and

WHEREAS, Ryan Sanchez, President of RS Management Group, Inc. desires to donate to the City new surfacing for the basketball court and new basketball goals, including installation (the "Improvements") as more particularly described in Exhibit A, attached hereto, and incorporated herein by this reference; and

WHEREAS, the City welcomes improvements that will enhance its parks for the betterment of the community; and

WHEREAS, City and Donor desire to establish the terms and conditions under which Donor will irrevocably donate the Improvements to City and City will officially accept the donation.

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

AGREEMENT

1. IRREVOCABLE DONATION AND CONDITIONAL ACCEPTANCE.

1.1. **Donation.** Donor hereby irrevocably donates the Improvements to City for the enhancement of the City's recreational offerings.

1.2. **Conditional Acceptance.** City hereby accepts the Improvements upon the condition subsequent that the City's Engineer review and approve of the design of the Improvements. Once executed, the City Engineer's approval shall be attached hereto as Exhibit B, and shall be incorporated herein. Upon execution of this Agreement by the parties, design approval by the City Engineer, and installation of the Improvements, all rights of title and ownership in the Improvements will be conveyed to the City and the Improvements shall become the sole property of the City. All future decisions regarding the use and continued ownership of the Improvements will be within the sole and unconditional discretion of the City.

1.3. **License to Install.** The City shall grant Donor a temporary license as necessary to install the Improvements.

2. REPRESENTATIONS AND WARRANTIES OF DONOR/ PERFORMANCE STANDARDS.

2.1. Donor represents and warrants that Donor has title, and has the legal right to transfer title, to the Improvements covered by this Agreement.

2.2. Donor warrants that Donor and Donor's employees performing services under this Agreement are specially trained and experienced to perform the services described herein.

2.3. Donor and its employees shall perform all services in a safe and skillful manner consistent with the highest standards of care, diligence and skill ordinarily exercised by professionals in similar fields. All services performed under this Agreement that are required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

2.4. Donor shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. Donor shall not use the City property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

2.5. Donor agrees to perform all work under this Agreement to the satisfaction of City and as specified herein. The City Manager or his or her designee shall perform an evaluation of the work. If the quality of work is not satisfactory, City in its discretion may meet with Donor to review the quality of work and resolve the matters of concern..

3. RELEASE AND INDEMNIFICATION.

Donor agrees to indemnify and hold harmless City, its elected officials, officers, agents, employees, volunteers and/or assigns from and against any and all liability, damages, claims and demands of whatever kind and nature, either in law or in equity, which arises or may hereafter arise from any installation of the Improvements not in conformance with the applicable manufacturer's instructions, or otherwise negligent installation.

4. INSURANCE.

4.1. Donor shall submit and maintain in full force all insurance as described herein. Without altering or limiting Donor's duty to indemnify, Donor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

4.1.1. Commercial General Liability Insurance including but not limited to premises, personal injuries, bodily injuries, property damage, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

4.1.2. Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

4.1.3. **Workers' Compensation Insurance.** If Donor employs others in the performance of this Agreement, Donor shall maintain Workers' Compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence.

4.1.4. **Other Insurance Requirements:**

- 1) The City shall be a named additional insured on Donor's policy.
- 2) All insurance required under this Agreement must be written by an insurance company either:
 - a) admitted to do business in California with a current A.M. Best rating of no less than A:VI; or
 - b) an insurance company with a current A.M. Best rating of no less than A:VII.

4.2. Prior to the start of work under this Agreement, Donor shall file certificates of insurance and endorsements evidencing the coverage required by this Agreement with the City Manager. Donor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy that would alter the information on the certificate then on file, including, without limitation, the amount of coverages or the term of coverages.

4.3. Neither the insurance requirements hereunder, nor acceptance or approval of Donor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Donor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Donor is financially liable for its indemnity obligations under this Agreement.

4.4. The City Manager reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

5. **GENERAL PROVISIONS.**

5.1. **Non-discrimination.** During the performance of this Agreement, Donor shall not unlawfully discriminate against any person because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, either in Donor's employment practices or in the furnishing of services to recipients.

5.2. **Acceptance of Services Not a Release.** Acceptance by the City of the Improvements to be performed under this Agreement does not operate as a release of Donor from professional responsibility for the services performed.

5.3. **Headings.** The headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement. The headings are for convenience only.

5.4. **Entire Agreement.** This Agreement, including the Exhibits attached hereto, constitute the entire agreement between the parties hereto with respect to the terms, conditions, and services and supersedes any and all prior proposals, understandings, communications,

representations and agreements, whether oral or written, relating to the subject matter of this Agreement. Any amendment to this Agreement will be effective only if it is in writing signed by both parties hereto and shall prevail over any other provision of this Agreement in the event of inconsistency between them.

5.5. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and may be signed in counterparts, but all of which together shall constitute one and the same Agreement.

5.6. **Multiple Copies of Agreement.** Multiple copies of this Agreement may be executed, but the parties agree that the Agreement on file in the office of the City's City Clerk is the version of the Agreement that shall take precedence should any difference exist among counterparts of this Agreement.

5.7. **Authority.** Any individual executing this Agreement on behalf of the City or Donor represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

5.8. **Severability.** If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the Agreement for any cause. If a part of the Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

5.9. **Non-exclusive Agreement.** This Agreement is non-exclusive, and both the City and Donor expressly reserve the right to enter into agreements with other Donors for the same or similar services, or may have its own employees perform the same or similar services.

5.10. **Assignment of Interest.** The duties under this Agreement shall not be assignable, delegable, or transferable without the prior written consent of the City. Any such purported assignment, delegation, or transfer shall constitute a material breach of this Agreement upon which the City may terminate this Agreement and be entitled to damages.

5.11. **Laws.** Donor agrees that in the performance of this Agreement it will reasonably comply with all applicable federal, state, and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Del Rey Oaks.

5.12. **Exhibits.** The following Exhibits are incorporated herein by reference as if fully set forth: Exhibit A, Donor's Invoice; Exhibit B, City Engineer's Design Approval.

[Signatures follow on the next page.]

IN WITNESS WHEREOF, the parties enter into this Agreement on the day and year first above written in Del Rey Oaks, California.

CITY OF DEL REY OAKS

RS MANAGEMENT GROUP, INC.

John Guertin, City Manager

Ryan Sanchez, President

Date: _____

Date: _____

Approved as to form:

Alex J. Lorca, City Attorney

RS MANAGMENT GROUP, INC
PO BOX 1752
MONTEREY, CA 93942

INVOICE

091922

Bill To:

CITY OF DEL REY OAKS
650 CANYON DEL REY
DEL REY OAKS, CA 93940

Date: Sep 19, 2022

Payment Terms: BID

PO Number: BASKETBALL COURT

Balance Due: \$60,000.00

Item	Quantity	Rate	Amount
DEMOLITOION AND REMOVAL OF CURRENT BASKETBALL COURT	1	\$10,000.00	\$10,000.00
INSTALL 80X60 CONCREATE SLAB	1	\$20,000.00	\$20,000.00
INSTALL MATEFLEX SPORTS COURT TILE	1	\$22,000.00	\$22,000.00
INSTALL 2 BASKETBALL GOALS	1	\$8,000.00	\$8,000.00

Subtotal: \$60,000.00

Tax (0%): \$0.00

Total: \$60,000.00

Notes:

THIS IS JUST A BID

Terms:

THANK YOU