

CITY OF AURORA, ILLINOIS PURCHASE AND SERVICES AGREEMENT

THIS AGREEMENT, is entered on the Effective Date between the City of Aurora, Illinois (“City”) an Illinois home rule municipal corporation, with its office of City Clerk located at 44 E Downer Place, Aurora, Illinois and Mettle Sports, for the Product and Services herein described. The terms “Effective Date,” “Contractor,” “Product” and “Services” shall be defined as set forth in Exhibit A.

1. **Scope of Services.** The Contractor shall provide the Product and perform the Services as set forth in Exhibit A and any attachments thereto.

2. **Term.** The term of this Agreement shall be as set forth in Exhibit A. If provided in Exhibit A, the Agreement shall renew without further action by the Parties as set forth in therein, provided that the City Council of the City has budgeted funds for the purchase and services contemplated by this Agreement.

3. **Standard of Performance.**

a. Contractor shall perform all Services set forth in this Agreement, and any other agreed documents incorporated herein, with the degree, skill, care and diligence customarily required of a professional performing services of comparable scope, purpose and magnitude and in conformance with the applicable professional standards. Contractor shall, at all times, use its best efforts to assure timely and satisfactory rendering and completion of the Services. Contractor shall ensure that Contractor and all of its employees or subcontractors performing Services under this Agreement shall be: (i) qualified and competent in the applicable discipline or industry; (ii) appropriate licensed as required by law; (iii) strictly comply with applicable federal, state, and local laws, regulations or ordinances; and (iv) strictly conform to the terms of this Agreement. Contractor shall, at all times until the completion of the Services, remain solely responsible for the professional and technical accuracy of all Services and deliverables furnished, whether such services are rendered by the Contractor or others on its behalf, including, without limitation, its subcontractors. No review, approval, acceptance, nor payment for any and all of the Services by the City shall relieve the Contractor from the responsibilities set forth herein.

b. Contractor shall also provide the Product as set forth in this Agreement, and any other agreed documents incorporated herein.

4. **Payment.** Contractor shall invoice the City for the product and its Services rendered in the amount and with the frequency set forth in Exhibit A. Upon receipt, the City shall review and process such invoices for payment in accordance with the procedures and the time limitations provided by the Local Government Prompt Payment Act. Approved but unpaid amounts shall accrue interest and penalties in the amount and to the extent authorized the Act.

5. **Termination.**

Termination for Convenience. The City has the right to terminate this Agreement, in whole or in part, for any reason or if sufficient funds have not been appropriated to cover the estimated requirement of the Product not provided or Services not yet performed, by providing Contractor with thirty (30) days' notice specifying the termination date. On the date specified, this Agreement will end. If this Agreement is terminated by the City, as provided herein, the City shall pay the Contractor only for the product provided and services performed up the date of termination. After the termination date, Contractor has no further contractual claim against the City based upon this Agreement and any payment so made to the Contractor upon termination shall be in full satisfaction. Contractor shall deliver to the City all finished and unfinished documents, studies and reports and shall become the property of the City.

6. Indemnification and Insurance.

- a. Insurance.** The Contractor shall provide to the City evidence that it has obtained and maintains the insurance coverages set forth in Exhibit B. In all cases, the Contractor shall provide the City with a certificate naming the City as an additional insured party and shall not cancel such insurance without prior notice to the City.
- b. Indemnification.** Contractor shall indemnify, defend, and hold harmless the City, its elected officials, officers, and employees from and against all claims, losses, damages, costs and expenses, including without limitation, reasonable attorney's fees arising from or out of Contractor's performance of its obligations under this Agreement, including specifically those brought by third parties.
- c. Non-Wavier.** Neither by the insurance or indemnifications requirements of this Agreement does the City waive any privilege, defense, or immunity, which may be available to it, its elected officials, officers, or employees by law, including, but not limited to those set forth in the Local Governmental and Governmental Employees Tort Immunity Act.

7. Miscellaneous Provisions.

- a. Illinois Freedom of Information Act.** The Contractor acknowledges the requirements of the Illinois Freedom of Information Act (FOIA) and agrees to comply with all requests made by the City of Aurora for public records (as that term is defined by Section 2(c) of FOIA in the undersigned's possession and to provide the requested public records to the City of Aurora within two (2) business days of the request being made by the City of Aurora. The undersigned agrees to indemnify and hold harmless the City of Aurora from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the City of Aurora under this agreement.
- b. Entire Agreement.** This Agreement, along with the documents set forth in the Exhibits and incorporated by reference elsewhere in this Agreement, with consent of the parties, represents the entire agreement between the parties with respect to the performance of the Services. No other contracts, representations, warranties or statements, written or verbal,

are binding on the parties. This Agreement may only be amended as provided herein.

- c. Consents and Approvals.** The Parties represent and warrant to each other that each has obtained all the requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated herein.
- d. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.
- e. Jurisdiction and Venue.** The Parties agree that in the event of litigation arising from this Agreement, the exclusive venue for the adjudication of such disputes shall be the Circuit Court of the Sixteenth Judicial Circuit, Kane County and that the Illinois law shall apply to such disputes without regard to its choice of law principles.
- f. Construction of Contract Provisions.** The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. Having acknowledged the foregoing, the Parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement shall have no application to the terms and conditions of this Agreement.

Date: _____

FOR: CITY OF AURORA, ILLINOIS

By: _____

Jolene Coulter

Director of Purchasing

FOR: CONTRACTOR

By: _____

Print: _____

Title: _____

**EXHIBIT A
CITY OF AURORA, ILLINOIS
PURCHASE AND SERVICES AGREEMENT**

Contractor Information ("Contractor")	
Legal Name:	Mettle Sports llc
Type of Entity:	Illinois Business Corporation Illinois Not-For Profit Corporation XX Illinois Limited Liability Company or Limited Partnership Partnership or Solo Proprietorship Other. Organized under the laws of the State of _____, and authorized to do business in Illinois.
Address:	1555 Sherman Ave. Unit 322 Evanston, IL 60201
Email:	neal@mettlesports.com
Phone:	312-757-6373

Contract Term Information	
Effective Date:	Upon execution
Term:	One Year
Renewal Period:	No Renewals are Authorized

Payment Terms	
Daily	The City shall compensate the Contractor on an hourly daily basis at the rate of \$100.00 per hour.
Monthly	The City shall compensate the Contractor on a monthly basis at the rate of \$_____per calendar month.
Total	The total compensation of the Contractor under this Agreement shall be \$_____.
XX Other	<p>Total compensation for the Contractor under this Agreement shall not exceed \$61,000. The price includes one (1) 12x13m SoccerGround portable street soccer pitch (\$45,000), shipping (\$4,000) and moving costs, including but not limited to moving truck and labor, plus routine maintenance, defined generally as inspection of netting and hardware (\$1,200 per move with a maximum of 10 moves).</p> <p>Replacements due to non-warranted wear and tear will be suggested as necessary with cost estimates. The contractor will invoice for the move cost plus and replacement parts immediately following each move upon agreement with the City.</p>

Expenses		
	Authorized	The City shall reimburse the Contractor for its ordinary and customary expenses incurred in the performance of the Services under this Agreement. In no instance shall the total compensation of the Contractor and the reimbursement of its expenses exceed \$_____ in the aggregate.
XX	Not Authorized	The Contractor is responsible for its ordinary and customary expenses incurred in the performance of the Services under this Agreement.

EXHIBIT A
Scope of Work

- a. Contractor agrees to provide one (1) 12x13m SoccerGround portable street soccer pitch (“Product” or “Pitch”) as follows:
 - 1. A fully-contained portable street soccer pitch system consisting of approximately 3-meter-long panels (noise absorbing, sandwich-panels, 40 mm thick).
 - 2. Netting at both ends of the Pitch up to the total height of 3m with mesh-size 100 x100mm, 4mm thick Goals 3 x 2m with entry gates on the left- and right- hand sides of each goal.
- b. Contractor agrees to deliver Pitch to an initial site as agreed by City and Contractor not later than May 15, 2023.
- c. Contractor agrees to perform the Services set forth herein pursuant to this Agreement.
- d. Designated locations shall be communicated to Contractor via email to established contact with at least five (5) days’ notice in order to provide an opportunity to survey the locations for adequate, level area, free from obstacles (manhole covers, drains, etc.). The final decision as to safety of the sight will be made jointly by Contractor and the City of Aurora.
- e. After the initial deliver, Contractor agrees to move the Pitch to a different location in the City up to 10 times throughout 2023. Contractor agrees to move the pitch anywhere within a 15-mile radius of current placement.
- f. Contractor will provide all necessary crew and transport in order to strike, re-locate and set-up Pitch in designated locations.
- g. Contractor is not responsible for decals, balls, management of the use of the Pitch or any service other than the placement of the Pitch at the designated location.
- h. For City Purposes Only:

-Transportation & Maintenance costs occurring until June 30, 2023 will be reimbursed through the ICJIA grant the Youth Services division received in 2022, and will not exceed \$2,400. All transportation & maintenance costs from July 1, 2023-November 1, 2023 will be covered by general funds through the Youth Services division’s 2023 budget.

EXHIBIT B

INSURANCE REQUIREMENTS

The Contractor, at its own expense, shall secure and maintain in effect throughout the duration of this contract, insurance of the following kinds and limits to cover all locations of the Contractor's operations.

The Contractor shall furnish Certificates of Insurance to the City before starting or within ten (10) days after the execution of the contract, whichever date is reached first. All insurance policies shall be written with insurance companies approved by the City and licensed to do business in the State of Illinois and having a rating of not less than A IX, according to the latest edition of the A.M. Best Company; and shall include a provision preventing cancellation of the insurance policy unless thirty (30) days prior written notice is given to the City.

This provision shall also be stated on each Certificate of Insurance as: "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail ten (10) days written notice to the certificate holder named to the left."

If requested, the awardee of this proposal will give the City a copy of the insurance policies. The policies must be delivered to the City within two weeks of the request.

The limits of liability for the insurance required shall provide coverage for not less than the following amount, or greater where required by law:

- (1) Worker's Compensation Insurance - Statutory amount.
- (2) General Liability Insurance:
 - (a) \$1,000,000 per occurrence and \$2,000,000 general aggregate
 - (b) \$500,000 per occurrence for Property Damage
 - (c) \$1,000,000 per occurrence for Personal Injury
- (3) Auto Liability Insurance:
 - (a) Bodily injury with limits not less than \$1,000,000
 - (b) Property damage with limits not less than \$500,000
- (4) Umbrella excess liability of \$1,000,000 per occurrence, \$2,000,000 aggregate

The Contractor shall include the City as a primary, non-contributory additional named insured on both General and Auto Liability Insurance policies and indicate said status on any Certificates of Insurance provided to the City pursuant to this project. The Contractor shall pay all insurance premiums without cost to the City.