

**Agreement
between
Fayetteville-Cumberland Parks & Recreation
and
3DAG, LLC.**

The City of Fayetteville, North Carolina, by and through **Fayetteville-Cumberland Parks and Recreation** (the CITY) and **3DAG, LLC** (3DAG) hereby voluntarily enter into this Agreement (Agreement) effective upon signing for the purpose of providing golf course services and programming for the citizens of Fayetteville and Cumberland County. This Agreement describes the purpose of the **Golf Course Services & Programming** (the Program) and the partnership between the City and 3DAG in the delivery of services.

1. **Purpose:** The Agreement is intended to offer youth and adults of Cumberland County ease of access to the sport of golf via the course currently known as the Kings Grant Golf and Country Club. The Agreement is also intended to provide upgrades to the current state of facilities at the aforementioned location.

2. **Term:** The term of this Agreement shall be one calendar year from the date of execution. The CITY may terminate this Agreement immediately upon due cause or at any time upon sixty (60) days' advance written notice to 3DAG. Due cause shall be defined as any substantial failure by 3DAG to perform its obligations under this Agreement, including but not limited to those items expressly set forth herein. In the event sufficient appropriations or monies are not made available to the CITY to provide the services outlined in this Agreement for any fiscal year, this Agreement shall terminate immediately without further obligations of the CITY.

3. **Obligations of the CITY:** The CITY shall perform the following services up to the cost indicated:

Service Provided	Frequency	Cost
Spraying program to include fertilization, pre-emerge, fungicides for the entire golf course to include greens.	2 Times a yr. (reoccurring)	\$ 5,300
Removal of approximately 50 trees, but 25 trees must be removed immediately.	1 Time	\$ 3,000
Build short game area with three putting/chip greens.	1 Time	\$ 5,000
New driving range balls; 500 dz. Titleist NXT	1 Time	\$ 2,000
Install long continuous mat across back and driving range.	1 Time	\$ 1,000
Reshape landing targets by re-sloping them front to back.	1 Time	\$ 5,000
Redo entrance and parking lot, to include landscaping and signage.	1 Time	\$ 5,000
Repair cart paths as needed.	1 Yr.	\$ 7,000

Replace irrigation heads.	1 Time	\$ 6,000
Improve drainage between hole 1 and hole 8.	1 Time - Project	\$ 800
Improve drainage on hole 5.	1 Time - Project	\$ 400
Install six picnic tables.	1 Time	\$ 1,200
Cleanup shed area to include disposal of tires and removal of trash.	1 Time	\$ 500
Total:		\$ 42,200

4. **Obligations of 3DAG:** 3DAG will provide the CITY with the following:

- a. Facilities as identified in this Agreement at the location currently known as the Kings Grant Golf and Country Club.
- b. Discounted annual league participation rates for Golf Course Services & Programming as detailed in the Payment Terms.
- c. Advertising opportunities as available on facility bulletin boards or in facility publications.
- d. First Right of Refusal for facility rental availability during non-operational hours. The CITY shall be able to rent and utilize all physical facilities at King's Grant Golf Course during non-operational hours. The maximum number of participants allowable on the facilities, and the hours of the day during which the facilities can be used, shall be agreed upon by the parties to this Agreement.

5. **Payment:** 3DAG shall be responsible for and pay all license fees and taxes that may be imposed by any city, state, or federal authority. Payments due from the CITY will be made to 3DAG within 30 days of receipt of invoice, using the agreed upon discounted rates below.

The CITY shall receive a \$10 discount per round during all times the facility is in operation. Also, the CITY shall receive discounted league participation rates per contract year for Golf Course Services & Programming as follows:

Program/League Play	Total Participants	Rounds per Participant	Total Rounds	3DAG fee Per Participant	3DAG Standard Fee Per Round	Total Parks & Recreation Savings	Est. Program Fee to 3DAG
Junior PGA League	36	6	216	\$10	\$50	\$10,440	\$360
Junior PGA League Practice Rounds	36	6	216	\$10	\$50	\$10,440	\$360

Junior PGA League - All Star	12	1	12	\$10	\$50	\$480	\$120
Senior League - Spring	48	6	288	\$30	\$50	\$12,960	\$1,440
Senior League - Summer	48	6	288	\$30	\$50	\$12,960	\$1,440
Senior League - Fall	48	6	288	\$30	\$50	\$12,960	\$1,440
Senior League - Winter	48	6	288	\$30	\$50	\$12,960	\$1,440
Women's League - Spring	48	6	288	\$35	\$50	\$12,720	\$1,680
Women's League - Summer	48	6	288	\$35	\$50	\$12,720	\$1,680
Women's League - Fall	48	6	288	\$35	\$50	\$12,720	\$1,680
Middle School League	48	6	288	\$10	\$50	\$13,920	\$480
Junior Tournament	72	2	144	\$10	\$50	\$6,480	\$720
Total Savings						\$131,760	

Special Events	Events per Year	Participants per Event	3DAG Fee	Standard Rate	Savings per Event	Total Parks & Recreation Savings
4-Hour Cross Country Run (or 5K Race)	5	500	\$0.00	\$5,400.00	\$5,400.00	\$27,000.00
Total Savings						\$27,000.00

Instructional Summer Camp	Days per Camp	Total Participants	3DAG Fee per Participant	Standard Rate	Savings per Participant	Total Parks & Recreation Savings
Youth Summer Camp (Mon. through Fri., 9AM to Noon)	5	100	\$10.00	\$300.00	\$290.00	\$29,000.00
Total Savings						\$29,000.00

6. **Goodwill Clause:** 3DAG agrees to conduct its activities and endeavors to regulate its conduct so as to maintain, promote, and advance the good will and reputation of the Program and the CITY. In fulfilling its obligations under this Agreement, should 3DAG engage in any activities that would fail to advance the good will and reputation of the Program and the City or otherwise have a negative impact on the CITY, the CITY may terminate this Agreement for due cause.

7. **Independent Contractor:** 3DAG is an independent Contractor and as such has no authority to act as an agent of the CITY or to enter into any Contract for or on behalf of the CITY. 3DAG is not an employee of the CITY and therefore not entitled to any benefits provided employees of the CITY, including, but not limited to, workers' compensation, medical care, leave benefits and retirement. 3DAG shall be responsible for the payment of all federal, state, and local taxes that may be due as a result of this Agreement.

8. **Indemnification:** To the extent permitted by law, 3DAG agrees to indemnify and hold harmless the CITY and its elected officials, employees, agents, successors, and assigns, from any and all liability and claims for any injury or damage caused by any act, omission or negligence of 3DAG, its agents, servants, employees, contractors, licensees, or invitees. Indemnification of the City by 3DAG does not constitute a waiver of the City's governmental immunity in any respect under North Carolina law.

9. **Assignment:** It is the intent of this Agreement to secure the personal services of 3DAG and failure of 3DAG for any reason to make the personal services available to the CITY for the purposes described in this Agreement shall be cause for termination of this Agreement. 3DAG shall not assign this Agreement without prior written consent of the CITY. Notwithstanding the foregoing, upon prior notice to the CITY, 3DAG may assign this Agreement to a corporation or limited liability company 3DAG may form after the execution of this Agreement of which 3DAG is the sole shareholder or member. Should 3DAG find it necessary to hire other employees or independent contractors to assist with its duties under this Agreement, 3DAG shall use its best efforts and all due diligence to ensure that said employee or independent contractor is of high moral character, has not engaged in any misconduct involving children and is aware of and complies with the terms of this Agreement and applicable law.

10. **Nondiscrimination:** 3DAG agrees not to discriminate by reason of age, race, religion, color, sex, national origin or handicap while performing the services required in the Agreement.

11. **Governing Law:** The validity, interpretation, performance and execution of this MOU and all rights accruing under this Agreement shall be governed by North Carolina law.

12. **Background Check:** 3DAG and all affiliated instructors/employees will be subject to and must pass a CITY background check approved by the CITY.

13. **Compliance with Laws:** 3DAG agrees to comply with all applicable statutes, ordinances, and regulations of the United States, the State of North Carolina, the CITY and all applicable units of local government.

14. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties. No modification, addition, deletion, etc. to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each party.

15. **Severability:** The Parties agree that if any provision of this Agreement shall be held invalid for any reason, the remaining provisions shall not be affected if they may continue to conform with the purposes of this Agreement and the requirements of applicable law.

16. **E-Verify:** 3DAG acknowledges that "E-Verify" is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. 3DAG further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a). 3DAG hereby pledges, attests and warrants through execution of this Agreement that 3DAG complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by 3DAG shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Agreement.

17. **NC Iran Divestment Act Compliance:** As mandated by N.C. Gen. Stat. § 147-86.59(a), 3DAG certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. 3DAG further certifies that in accordance with N.C. Gen. Stat. § 147-86-59(b) it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. 3DAG certifies that the signatory to this Agreement is authorized by 3DAG to make the foregoing statement.

This Agreement will become effective upon approval by the designated officials of 3DAG and the City of Fayetteville. This Agreement will terminate exactly one year from the date of its execution.

(Signatures on following page)

The undersigned representatives of the parties agree to and understand the above statements.

Attest:

CITY OF FAYETTEVILLE:

Paralela T. Megiel
City Clerk



Kristoff T. Bauer
KRISTOFF T. BAUER,
Deputy City Manager, ICMA-CM

2/22/17
Dated

3DAG

By: KEVIN RODRIGUEZ

Address: 347 SHAWCROFT

Phone: 910 630-1111

Date: 2/22/17

Kevin Rodriguez
Vendor Signature

2 February 2017

This instrument has been pre-audited in the manner
Required by the Local Government Budget and Fiscal
Control Act.

Cheryl J. Spivey
CHERYL J. SPIVEY, Chief Financial Officer