

RESOLUTION NO. 2019-20

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF BENTON CITY TO SIGN THE SERVICES AGREEMENT BETWEEN THE CITY OF BENTON CITY AND COLUMBIA KAYAK ADVENTURES, LLC FOR KAYAK GUIDE SERVICES

WHEREAS, the City is the recipient of an outdoor recreation grant through the Washington State Recreation and Conservation Office, allowing the City to implement a program of water recreation activities and hiking called "No Child Left Inside"; and

WHEREAS, the City Council of the City of Benton City desires to include kayaking in the water recreation activities planned for the "No Child Left Inside" program; and

WHEREAS, Columbia Kayak Adventures, LLC is certified and has the skills and expertise necessary to provide kayak guide services; and

WHEREAS, the City Council desires to enter into a Services Agreement with Columbia Kayak Adventures, LLC, to provide kayak guide services for the City's "No Child Left Inside" recreation program. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

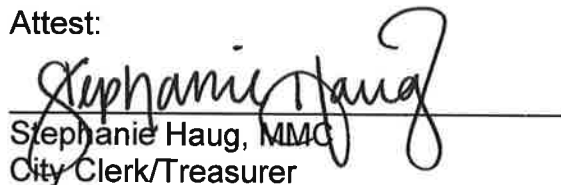
That the Mayor of the City of Benton City, Washington, is hereby authorized and directed to sign the Services Agreement between the City of Benton City and Columbia Kayak Adventures, LLC, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and to take all necessary steps required to complete this transaction.

ADOPTED this 7th day of August 2019, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 7th day of August 2019.

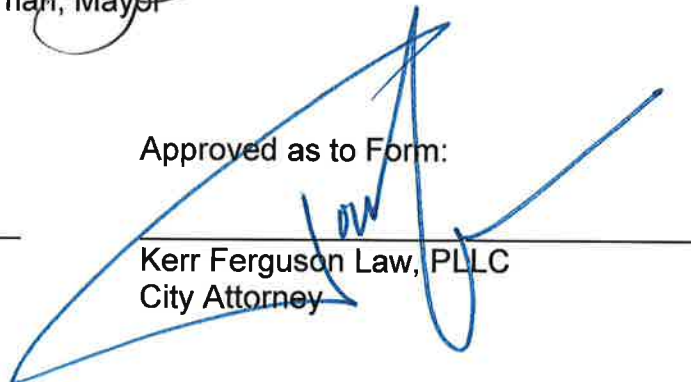
Resolution 2019- 20 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 7th day of August 2019.


Linda Lehman, Mayor

Attest:


Stephanie Haug, MMC
City Clerk/Treasurer

Approved as to Form:


Kerr Ferguson Law, PLLC
City Attorney

SERVICES AGREEMENT

Between

City of Benton City and Columbia Kayak Adventures, LLC

THIS AGREEMENT is made and entered into this 12th day of August, 2019, by and between the City of Benton City, Washington, a Municipal Corporation, hereinafter referred to as "City", and Columbia Kayak Adventures, LLC, hereinafter referred to as "Contractor."

WHEREAS, the City is the recipient of an outdoor recreation grant through the Washington State Recreation and Conservation Office, allowing the City to implement a program of water recreation activities and hiking called "No Child Left Inside"; and

WHEREAS, the City intends to contract with Contractor to provide kayak guide services for the "No Child Left Inside" program.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Scope of Services.** The Contractor shall provide kayak guide services to City on the dates of August 12, 14, 16, 19, 21 and 23, in 2019, at 1:00 p.m. each day with a maximum of twelve (12) youth per guided kayak trip. Contractor will launch each trip from Sportsman Park in Benton City, Washington, and conclude each trip at 10406 East Pendleton Road, Benton City, Washington. Contractor shall provide two (2) certified guides per trip along with equipment for each guide. Guides shall be certified in accordance with accepted industry standards.
2. **Compensation and Payment.** Compensation for the performance of the services described herein shall be Fifty Dollars and 00/100 (\$50.00) per hour, per guide, per trip. Time shall be calculated starting at bus arrival to pick-up location and ending at bus departure from drop-off location.
3. **Independent Contractor Relationship.**
 - 3.1 The parties intend that an independent contractor relationship is created by this Agreement. The City is interested primarily in the results to be achieved; subject to the scope of services and the specific requirements of this Agreement, the implementation of services will lie solely with the discretion of Contractor. No agent, employee, officer or representative of Contractor shall be deemed to be an employee, agent, officer, or representative of the City for any purpose, and the employees of Contractor are not entitled to any of the benefits or privileges the City provides for its employees. Contractor shall be solely and entirely responsible for its acts and for the acts of its agents, employees, officers, subcontractors or representatives during the performance of this Agreement.

- 3.2 In the performance of the services provided under this Agreement, Contractor is an independent contractor with full authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City.
- 3.3 The Independent Contractor shall comply with all State and Federal laws including, but not limited to:
 - 3.3.1 The definition requirements of RCW 50.04.140 (Employment Security).
 - 3.3.2 RCW 51.08.195 (Industrial Insurance).
 - 3.3.3 Obtain or possess a current City business license.
- 3.4 The City may, at its sole discretion, require Contractor to remove any employee, agent or subcontractor from working on this Project who, in the City's sole discretion, may be detrimental to the City's interest.
4. **Term.** This Agreement shall commence upon execution, and unless terminated for a breach or as provided herein, shall continue in full force and effect through August 31, 2019, except that Section 5 shall survive the termination of this Agreement. This Agreement may be renewed upon the mutual written agreement of the parties.
5. **Indemnification.**
 - 5.1 The Contractor shall defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers from any and all claims and causes of action, including, but not limited to, actions of law or administrative proceedings for all injuries to persons or damages to property, and all losses, damages, demands, suits, judgments, including attorney fees, arising out of, or as a result of, or in connection with the work performed under this Agreement, and caused or occasioned in whole or in part by reason of errors, negligent acts or omissions of the Consultant or its subcontractors in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City, its officers, employees, agents, and volunteers.
 - 5.2 No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.
 - 5.3 This Section has been mutually negotiated by the parties, and the provisions of this section shall survive the expiration or termination of this Agreement.
6. **Insurance.** Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees, or subcontractors.

- 6.1 Minimum Scope of Insurance. Contractor shall obtain insurance of the types described below:
- 6.1.1 Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - 6.1.2 Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City.
 - 6.1.3 Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- 6.2 Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:
- 6.2.1 Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 - 6.2.2 Commercial General Liability insurance shall be written with limits no less than:
 - \$1,000,000 each occurrence;
 - \$2,000,000 general aggregate; or
 - \$1,000,000 per occurrence or per claim limits for sexual abuse and molestation insurance.
- 6.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:
- 6.3.1 Contractor's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of Contractor's insurance and shall not contribute with it.
 - 6.3.2 Contractor's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after ten (10) days prior written notice by certified mail, return receipt requested, has been given to the City.

6.3.3 City shall be named as an additional insured on all policies.

6.4 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

6.5 Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

7. General Provisions.

7.1 For the purpose of this Agreement, time is of the essence.

7.2 Notice. Notice provided for in this Agreement shall be sent by one of the following:

7.2.1 Personal service on the party listed below.

7.2.2 Certified mail to the physical address of the parties, or by electronic transmission to the e-mail addresses designated for the parties below.

7.3 The point of contact for the purpose of this Agreement shall be:

7.3.1 For the City: Stephanie Haug, City Clerk
 1009 Dale Avenue, Suite A
 Benton City, WA 99320
 509-588-3322
 shaug@ci.benton-city.wa.us

7.3.2 For the Contractor: John Dudley

206-445-5178
columbiakayadventures@gmail.com

8. Dispute Resolution. This Agreement has been and shall be construed as having been made and entered into and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington.

In the event of a dispute regarding the enforcement, breach, default or, interpretation of this Agreement, said dispute shall be resolved by arbitration pursuant to RCW 7.04A, as amended, with both parties waiving the right of a jury trial upon trial de novo, with venue placed in Benton County, Washington. The substantially prevailing party shall be

entitled to its reasonable attorney fees and costs as additional award and judgment against the other.

9. **Termination.** Either party may terminate this Agreement for any reason upon giving the other party no less than ten (10) calendar days written notice in advance of the effective date of such termination.
10. **Waiver/Severability.** Any waiver by any party hereto with regard to any of its rights hereunder shall be in writing and the failure of any party to insist upon or enforce strict performance by the other party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement shall not be construed as a waiver or relinquishment of any extent of such party's right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same shall be and remain in full force and effect. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
11. **Integration/Modification.** This Agreement between the parties consists in its entirety of this document. Any modification of this Agreement or change order affecting this Agreement shall be in writing and signed by both parties.
12. **Authorization.** By signature below, each party warrants that they are authorized and empowered to execute this Agreement binding the City and Contractor respectively.
13. **Construction.** This Agreement sets forth the entire understanding and agreement of the parties relating to the subject matter hereof. This Agreement shall be construed as a whole. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret/construe this Agreement or any portion thereof. Each party signing this Agreement acknowledges that they participated in the drafting of this Agreement and, as such, this Agreement shall not be presumptively interpreted/construed in favor of nor against any particular party, but rather this Agreement shall be given an objectively fair and reasonable interpretation and construction in light of and in accordance with its express terms and provisions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

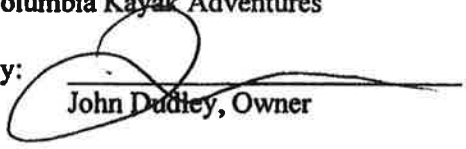
CITY:
City of Benton City, Washington

By:



Linda Lehman, Mayor

CONTRACTOR:
Columbia Kayak Adventures

By:

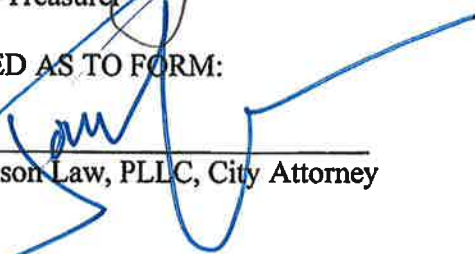

John Dudley, Owner

ATTEST:



Stephanie Haug, MMC
City Clerk-Treasurer

APPROVED AS TO FORM:



Kerr Ferguson Law, PLLC, City Attorney