

AGREEMENT

Between

CITY OF SUNRISE

And

SAWGRASS YOUTH SPORTS SUNRISE, INC.

**Providing YOUTH TACKLE FOOTBALL AND TACKLE FOOTBALL
CHEERLEADING SERVICES**

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**Providing YOUTH TACKLE FOOTBALL AND TACKLE FOOTBALL
CHEERLEADING SERVICES**

THIS IS AN AGREEMENT dated this _____ day of _____, 2011, by and between the CITY OF SUNRISE (hereinafter referred to as "CITY") and SAWGRASS YOUTH SPORTS SUNRISE, INC. (hereinafter referred to as SUNRISE GATORS), relating to the provision of services for the operation of a youth tackle football and tackle football cheerleading program.

WHEREAS, the SUNRISE GATORS is a duly constituted organization within the City of Sunrise; and

WHEREAS, the SUNRISE GATORS currently provide a youth tackle football and tackle football cheerleading program in the American Youth Football League (A.Y.F.L.) that is available to the residents of Sunrise; and

WHEREAS, the CITY desires to offer a youth tackle football and tackle football cheerleading program in the American Youth Football League (A.Y.F.L.) for its residents;

NOW THEREFORE, in consideration of the mutual covenants and undertakings and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do mutually covenant and agree as follows:

1. SCOPE OF SERVICES TO BE PROVIDED BY SUNRISE GATORS

1.1 Operation of Program. The SUNRISE GATORS shall provide a youth tackle football and youth tackle football cheerleading program during the term of this Agreement.

1.1.1 The Tackle Football Program shall consist of teams in the following age and weight divisions; Division: Pee Wee: 8 and under seventy-five (75) pounds, Division: 90: 9 and under ninety (90) pounds, Division: 100: 10 and under one hundred (100) pounds, Division: 110: 11 and under one hundred and ten (110) pounds, Division: 120: 12 and under one hundred and twenty (120) pounds, Division: 135: 13 and under one hundred and thirty-five (135) pounds and Division: Unlimited: 14 and under unlimited. There shall be one team offered in each weight division. Teams shall have a maximum of thirty-eight (38) children and a minimum of fourteen (14) children each.

1.1.2 The Tackle Football Cheerleading Program shall consist of teams in the age divisions stipulated by the A.Y.F.L.

and shall be open to children five (5) to fourteen (14) years of age. There shall be one tackle football cheerleading squad offered to correspond to each tackle football team.

- 1.1.3 Sunrise Gators shall provide the CITY with a copy of the official rosters for each team from the A.Y.F.L no later than following the third game of the season.

1.2 Supervision

- 1.2.1 Coaches and Program Staff. The SUNRISE GATORS shall provide coaches, who shall conduct themselves at all times and in all matters in a courteous, competent, and professional manner. SUNRISE GATORS shall not utilize any person identified on any Florida or National registry as a sex offender or sex predator to provide services under this Agreement. SUNRISE GATORS represents that its principal owners, corporate officers and employees and coaches/program staff do not have any criminal charges and CITY reserves the right to approve or reject, for any reason, SUNRISE GATORS' employees, adult coaches or program staff assigned to perform services under this Agreement at any time. In addition, SUNRISE GATORS agrees that employees, adult coaches, program staff or volunteers performing services under this Agreement shall be subject to a Level II background screening as set forth in Florida Statutes Chapter 435. SUNRISE GATORS shall provide the CITY with sufficient information for the CITY to conduct the first 56 Level II background screening at CITY's expense. Thereafter, all Level II background screenings shall be conducted by SUNRISE GATORS at its expense. SUNRISE GATORS shall conduct state and national criminal record checks on all employees, adult coaches, program staff and volunteers providing services under this Agreement before such individual performs services under this Agreement. Proof of criminal history checks must be provided to the City once per year. All coaches will be required to show proof of CPR/AED certification from a recognized agency. The CITY will provide up to 4 CPR/AED classes, at no cost, for those coaches that do not currently have the required certification.

- 1.2.2 Supervision of Coaches. SUNRISE GATORS shall assure that all coaches abide by and adhere to the rules and regulations of the A.Y.F.L. and the City of Sunrise Leisure Services Department. The City's Leisure

Services Director (herein referred to as DIRECTOR) or designee may require that the SUNRISE GATORS not be permitted to use coaches who have failed to follow the aforementioned rules and regulations or who fail to conform to the standards expected under the terms of the AGREEMENT including but not limited to the provisions of section 2.5 of this Agreement.

- 1.3 Equipment. SUNRISE GATORS shall only use equipment that meets the nationally recognized standards for use in youth tackle football programs. SUNRISE GATORS shall be responsible for purchasing and maintaining all program equipment, except as noted in section 2.6, for the term of this Agreement.
- 1.4 American Youth Football League. The Chairperson of Sawgrass Youth Sports Sunrise, Inc., shall select a representative to serve on the Board of the American Youth Football League (A.Y.F.L.). The SUNRISE GATORS shall remain members in good standing of the American Youth Football League for the term of the Agreement. The CITY may consider any league sanctions imposed against the SUNRISE GATORS grounds for termination of this Agreement.
- 1.5 Budget, Payment of Expenses and Financial Reporting
 - 1.5.1 Establish Program Registration Fees. The SUNRISE GATORS shall be responsible for establishing program registration fees for children participating in the youth tackle football and tackle football cheerleading program. Said fees shall be subject to the approval of the Leisure Services Director, and based on a proposed program budget submitted to the DIRECTOR prior to January 1 each year of the Agreement. Said approval shall not be unreasonably withheld.
 - 1.5.2 Payment of Program Expenses. The SUNRISE GATORS shall be responsible for the payment of all officials for all league games. The SUNRISE GATORS shall be responsible for the payment of all expenses incurred by the organization that are identified by this Agreement as being payable by or through the CITY.
 - 1.5.3 Financial Reporting. The SUNRISE GATORS shall provide an accurate accounting of all revenues and expenditures to the DIRECTOR by January 31 of each year of the Agreement for the 12-month period ending December 31.

The City's Auditor shall have the right, upon giving reasonable notification, to examine and audit any and all financial books and records of the SUNRISE GATORS as same relates to compensation due to CITY.

The SUNRISE GATORS shall ensure the DIRECTOR is provided a complete and current list of participants in the program, as often as deemed necessary by the DIRECTOR and without delay, to verify paid participation in the program.

- 1.6 Safety. SUNRISE GATORS shall be responsible for the safety of all individuals while participating in any program authorized by this AGREEMENT. The CITY, at all times, reserves the right to expel from the CITY property any person conducting himself or herself in violation of the CITY ordinances, regulations, or rules. SUNRISE GATORS will not be held accountable for any unknown and unobservable defects in the CITY's facilities except those unknown and unobservable defects in the CITY's facilities that would have been known and observable with the use of reasonable care by SUNRISE GATORS. SUNRISE GATORS shall exercise reasonable care in avoiding injury as a result of any known defects or safety hazards.
- 1.7 Subcontracting. Unless otherwise specified, SUNRISE GATORS shall not subcontract or otherwise engage subcontractors to perform the required services without prior written consent of CITY.

2. SERVICES TO BE PROVIDED BY CITY

- 2.1 Registration of Interested Children. The CITY shall register interested children in the youth tackle football and tackle football cheerleading program.
- 2.2 Collection of Program Registration Fees. The CITY shall be responsible for the collection of all program registration fees. The CITY shall compensate the SUNRISE GATORS eighty percent (80%) of the total program registration fees it collects for the SUNRISE GATORS youth tackle football and tackle football cheerleading programs. These funds shall be used to pay the expenses of the program. The SUNRISE GATORS shall not under any circumstances collect program registration fees.
 - 2.2.1 Registration. The SUNRISE GATORS will remove children from a Division if registration exceeds the maximum number of participants permitted. Cuts shall be based on age and skill level. Participants cut from a

Division shall be eligible for a full refund of registration fees.

- 2.3 Facilities. The DIRECTOR or his designee shall be responsible for scheduling facilities for practices and games for the 2011 season for the youth tackle football and tackle football cheerleading programs. The CITY shall provide all maintenance of the scheduled facilities, owned and operated by the CITY, at a level established by the DIRECTOR.
- 2.3.1 When scheduling facilities for games and practices the DIRECTOR shall strive to make the best facilities available recognizing the need to provide the most appropriate facilities for all CITY programs.
- 2.3.2 When required for SUNRISE GATORS or AYFL meetings the CITY shall provide meeting space at no cost to the program, based upon space availability.
- 2.4 Program Promotion and Publicity. The CITY shall provide program promotion and publicity through the CITY'S "Horizons" publication and media releases in a manner consistent with that of other CITY recreation programs.
- 2.5 Background Checks. The CITY will pay for the cost of fifty-six (56) Level II background checks and SUNRISE GATORS will pay and perform any additional Level II background checks. The CITY will use the results of these background checks to assist in determining the suitability to participate in the program. The CITY will provide Volunteer Identification Badges for all coaches that have met the requirements of the background check. It is mandatory that these badges be worn by coaches, while working as a volunteer. Failure to wear the badge, can result in removal from the coaching position.
- 2.6 Equipment. The CITY shall provide the following equipment, one each or set per participant:
- Football
- 1 set Slotted football pad set (includes one tailbone pad, two thigh pads, two knee pads, two hip pads;
 - 1 each Reconditioned or new helmet;
 - 1 pair Socks to match game uniform;
 - 1 each Reconditioned or new shoulder pads:
- Cheerleaders
- 1 each Practice short;
 - 1 each Practice t-shirt;
 - 1 each Game bloomers:

3. TERM OF AGREEMENT

- 3.1 This AGREEMENT shall become effective upon execution by both parties and shall continue through March 1, 2012, unless otherwise terminated earlier as provided in Paragraph 10. This AGREEMENT may be extended by written mutual agreement of SUNRISE GATORS, the Leisure Services Director and the Purchasing Director.
- 3.2 Any terms or conditions of this AGREEMENT that require acts beyond the date of the term of this AGREEMENT, including, but not limited to Paragraph 7, Indemnification, shall survive termination of this AGREEMENT and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

4. RELATIONSHIP OF THE PARTIES

- 4.1 Independent Contractor: SUNRISE GATORS, its instructors, employees, subcontractors, volunteers and agents shall be and remain independent contractors and not agents or employees of CITY with respect to the acts and services performed by and under the terms of this AGREEMENT. This AGREEMENT shall not in any way be construed to create an employer/employee relationship, a partnership association, joint venture or undertaking between the parties.
- 4.2 No Benefits: Neither SUNRISE GATORS nor any of its employees, subcontractors, volunteers and agents shall receive or be entitled to any benefits afforded to CITY employees.
- 4.3 Taxes and Other Employment Levies: CITY shall not be responsible for reporting or paying to SUNRISE GATORS employment taxes or other similar levies which may be required by federal or state law.
- 4.4 Duty to Use Reasonable Care for Accident Prevention: SUNRISE GATORS shall exercise reasonable care and precaution at all times for the protection of persons and property at the premises provided under this AGREEMENT. SUNRISE GATORS shall notify the Leisure Services Director in writing within three (3) days of any event.

5. TAXES

- 5.1 SUNRISE GATORS shall pay all applicable sales, consumer, use and other similar taxes required by law.

6. LICENSE FEES AND ROYALTIES

6.1 SUNRISE GATORS shall pay all license fees and royalties and assume all costs arising out of or from the use of any invention, design, process, product or device which is the subject of patents rights of copyrights held by others and used in the performance of the work which is the subject of this AGREEMENT, except those items specifically provided by the CITY.

7. INDEMNIFICATION

7.1 General Indemnification: SUNRISE GATORS shall indemnify, defend, save and hold harmless the CITY, its officers, agents and employees, from any and all claims, damages, losses, liabilities and expenses direct, indirect or consequential, arising out of or alleged to have arisen out of or in consequence of the performance of the services by the SUNRISE GATORS or its subcontractors, agents, officers, servants, independent contractors, employees or volunteers pursuant to this AGREEMENT, specifically, including but not limited to, any act, omission, default or negligence of the SUNRISE GATORS in the provision of the services under this AGREEMENT; and the violation of applicable federal, state, county or municipal laws, ordinances or regulations by SUNRISE GATORS.

7.2 Patent and Copyright Indemnification: SUNRISE GATORS shall indemnify, save and hold harmless, the CITY, its officers, agents and employees from all claims, damages, losses, liabilities and expenses arising out of an alleged infringement of copyrights, patent rights, the unauthorized or non-licensed use of any material, property or other work in connection with the performance of the services provided pursuant to this AGREEMENT.

7.3 SUNRISE GATORS shall pay all claims, losses, liens, fines, settlements or judgements of any nature whatsoever in connection with the foregoing indemnifications, including, but not limited to, reasonable attorney's fees and court costs.

7.4 SUNRISE GATORS shall defend all actions in the name of CITY when applicable, and select legal counsel with City's prior approval to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of SUNRISE GATORS under this indemnification agreement. Nothing contained in this AGREEMENT is intended nor shall be construed to waive City's rights and immunities under the Section 768.28, Florida Statutes, as amended from time to time.

7.5 These indemnifications shall survive the term of this AGREEMENT.

7.6 The SUNRISE GATORS acknowledges that specific consideration has been paid for this indemnification provision.

8. **INSURANCE**

8.1 SUNRISE GATORS agrees to maintain, on a primary basis and at its sole expense, at all times during the life of any resulting agreement the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as CITY'S review or acceptance of insurance maintained by SUNRISE GATORS is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by SUNRISE GATORS under any resulting contract.

8.2 Commercial General Liability: SUNRISE GATORS agrees to maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence, **\$2,000,000** Annual Aggregate. Coverage shall specifically include an endorsement for Sports Participant Legal Liability. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Participants Liability, Contractual Liability nor Cross Liability.

8.3 Additional Insured: The SUNRISE GATORS agrees to endorse the CITY as an Additional Insured on the Commercial General Liability with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 2026 07 04 Additional Insured – Designated Person or Organization endorsement; or alternatively the CG2010 10 01 Additional Insured – Owners, Lessees, or Contractors or GC2010 07 04 Owners, Lessees, or Contractors endorsement, including the additional endorsement of GC2037 10 01 Additional Insured – Owners, Lessees, or Contractors – Completed Operations shall be required to provide back coverage for the contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured shall read "City of Sunrise."

8.4 Waiver of Subrogation: SUNRISE GATORS agrees by entering into this contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit SUNRISE GATORS to enter into a pre-loss agreement to waive subrogation without an endorsement, then SUNRISE GATORS agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should SUNRISE GATORS enter into such an agreement on a pre-loss basis.

8.5 Certificate(s) of Insurance: SUNRISE GATORS agrees to provide CITY a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect.

Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate Holder address shall read:

Original to:

City of Sunrise
Attn: Leisure Service Director
Leisure Services Department
10610 W. Oakland Park Blvd,
Sunrise, FL 33351

Copy to:

City of Sunrise
Attn: Risk Manager
Risk Management Division
1601 NW 136 Ave, Bldg-A, Ste#102
Sunrise, FL 33323

8.6 Right to Revise or Reject CITY's Risk Manager reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

9. WARRANTIES

- 9.1 SUNRISE GATORS warrants to CITY that it shall comply with all applicable federal, state, and local laws, regulations and orders in carrying out its obligations under the AGREEMENT.
- 9.2 SUNRISE GATORS warrants to CITY that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the AGREEMENT.

10. TERMINATION

- 10.1 Termination for Convenience of CITY; Upon ninety (90) calendar days written notice delivered by certified mail, return receipt requested, the CITY may without cause and without prejudice to any other right or remedy, terminate this AGREEMENT for the CITY's convenience whenever the CITY determines that such termination is in the best interest of the CITY. Upon receipt of the notice of termination for convenience, the SUNRISE GATORS shall promptly discontinue all work at the time. Any services performed or expenses incurred by the SUNRISE GATORS' shall be at SUNRISE GATORS own risk and the CITY shall not be responsible for the costs of those post termination services or expenses. The SUNRISE GATORS shall be paid for all work properly performed prior to the effective date of termination and for all materials, supplies and services which cannot be canceled and which were placed prior to the effective date of the termination.
- 10.2 Termination for Cause: This AGREEMENT may be terminated for cause with thirty (30) calendar days written notice delivered by

certified mail, return receipt requested to the SUNRISE GATORS, upon failure of the SUNRISE GATORS to materially perform any of the terms, obligations, restrictions, conditions, provisions or requirements set forth herein. The SUNRISE GATORS shall be liable for all re-procurement costs and any and all damages permitted by law arising from the default and breach of this AGREEMENT.

11. ADVERTISEMENTS

11.1 Requests for signs or advertisements of any kind shall be directed to the DIRECTOR, who will determine at her sole discretion whether to authorize signs or advertisements. Posters and flyers advertising any programs shall be approved in advance, in writing by the DIRECTOR or his duly authorized representative.

12. ASSIGNMENT

12.1 SUNRISE GATORS recognizes that the services of the SUNRISE GATORS are unique in nature and, therefore, the SUNRISE GATORS shall not assign, or transfer its rights, title or interests in the AGREEMENT nor shall SUNRISE GATORS delegate any of the duties and obligations undertaken by SUNRISE GATORS without CITY'S prior written approval.

13. NON-EXCLUSIVITY

13.1 This AGREEMENT is considered a non-exclusive Agreement between the parties. The CITY shall have the right to purchase from other sources or perform with its own forces, the same kind of services to be provided by SUNRISE GATORS during the term of this AGREEMENT.

14. NON-DISCRIMINATION

14.1 No person, on the grounds of race, color, national origin, religion, age, or sex shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

15. GOVERNING LAW; VENUE

15.1 The validity, construction and effect of this AGREEMENT shall be governed by the laws of the State of Florida.

15.2 Any claim, objection or dispute arising out of the terms of this AGREEMENT shall be litigated in courts having jurisdiction over Broward County, Florida. Both parties agree to waive a jury trial and will proceed to a trial by judge, if necessary. Except as set forth in

Section 7, should the parties be involved in legal action arising under or connected to the AGREEMENT, each party will be responsible for their own attorney's fees and costs.

16. PROHIBITION AGAINST CONTINGENT FEES

16.1 SUNRISE GATORS warrants that it has not employed or retained any company or person other than a bona fide employee working solely for SUNRISE GATORS to solicit or secure this AGREEMENT and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than bona fide employees working solely for SUNRISE GATORS any fee, commission, percentage, gift or other consideration contingent upon or resulting for the award for making of this AGREEMENT. For the breach or violation of this provision, CITY shall have the right to terminate the AGREEMENT without liability at its discretion, to deduct from the contract price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

17. ENTIRE AGREEMENT

17.1 This AGREEMENT contains the entire understanding of the parties relating to the subject matter superseding all prior communications between the parties whether oral or written. This AGREEMENT may not be altered, amended, modified or otherwise changed nor may any of its terms be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this AGREEMENT shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

18. CUMULATIVE REMEDIES

18.1 The remedies expressly provided in this AGREEMENT to CITY shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of CITY now or in the future existing at law or in equity.

19. SEVERABILITY

19.1 Should any part, term of provision of this AGREEMENT be by the courts decided to be invalid, illegal or in conflict with any law of this state, the validity of the remaining portions or provisions shall not be affected.

20. PARAGRAPH HEADINGS

20.1 All paragraph headings in this AGREEMENT are included for convenience only and are not to be construed as a part hereof or in any way as limited or expanding the terms set out in this AGREEMENT.

21. NOTICES

21.1 All notices or other communications required by this AGREEMENT shall be in writing and deemed delivered upon mailing by certified mail, return receipt requested, to the following persons and addresses:

CITY: Leisure Services Director
10610 West Oakland Park Blvd.
Sunrise, Florida 33351

Copy to: Sunrise City Attorney
10770 West Oakland Park Blvd.
Sunrise, Florida 33351

SUNRISE GATORS:

Bill Coyne
Program President/Director
12213 NW 25 Court
Coral Springs, FL 33065

IN WITNESS WHEREOF, the parties have made and executed this AGREEMENT on the respective dates under each signature: The CITY, signing by and through its duly authorized representative on the _____ day of _____, 2011.

CITY

By: _____
Michael J. Ryan, Mayor

Date: _____

AUTHENTICATION:

By: _____
Felicia Bravo, City Clerk

(SEAL)

Approved as to form and legal sufficiency:
Stuart R. Michelson
City Attorney
City of Sunrise
777 Sawgrass Corporate Parkway.
Sunrise, Florida 33326
Telephone: (954) 746-3300

By: _____
Stuart R. Michelson, City Attorney

SAWGRASS YOUTH SPORTS SUNRISE,
INC.:

By: _____
Bill Coyne, Program President/Director

Date: _____