

ORDINANCE NO. 1605

AN ORDINANCE AUTHORIZING THE INTERIM CITY ADMINISTRATOR TO ENTER INTO A CONTRACT WITH NATIONAL FITNESS CAMPAIGN (NFC), SAN FRANCISCO, CALIFORNIA TO PURCHASE A HIGHLY SPECIALIZED OUTDOOR FITNESS COURT INFRASTRUCTURE PRODUCT WITH AN INTEGRATED DIGITAL ECOSYSTEM AND FITNESS COURT MOBILE APP IN THE AMOUNT OF \$160,000.

WHEREAS, the City of Canby Parks and Recreation Advisory Board has recommended that the City Council build a National Fitness Campaign fitness court at Legacy Park; and

WHEREAS, in accordance with Oregon Administrative Rule 137-047-0275 and Oregon Revised Statute 279B.075, the City of Canby can enter into a sole-source contract with NFC upon sufficient written findings by a local contract review board after public notice with an opportunity to protest; and

WHEREAS, the Canby City Council is the local contract review board of the City of Canby; and

WHEREAS, notice was published in the Canby Herald-Pioneer on June 14, 2023, announcing the City of Canby's intent to award this sole-source contract with instructions on how to appeal this award over a seven-day period of protest; and

WHEREAS, the Canby City Council wishes to enter into a sole-source contract with NFC for its patented integrated Fitness Court system; and

WHEREAS, the Canby City Council finds that 1.) National Fitness Campaign invented and patented the integrated Fitness Court system, and it remains the sole owner of the design and engineering system; 2). NFC has a manufacturing partner that has been approved to manufacture the Fitness Courts under NFC's direction and license, and all IP, engineering, and design drawings associated with the Fitness Court are owned solely by NFC; 3). That these proprietary goods and services, unique to NFC, are the only source of this system if a municipality wants to partner in the fitness campaign in conjunction with over 500 municipalities nation-wide; and 4). because no other vendors can provide this very particular Fitness Court System, the use of the sole-source procurement process is allowable under the Oregon public contracting laws;

NOW, THEREFORE, THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The Interim City Administrator is hereby authorized on behalf of the City of Canby to enter into a sole-source contract with National Fitness Campaign (NFC) San Francisco California in the amount of \$160,000. A copy of the Agreement is attached hereto as Exhibit "A."

Section 2. The effective date of this Ordinance shall be August 4, 2023.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, June 21, 2023, ordered posted as required by the Canby City Charter; and scheduled for second reading on Wednesday, July 5, 2023, commencing at the hour of 7:00 PM in the Council Chambers located at 222 NE 2nd Avenue, 1st Floor Canby, Oregon.



Maya Benham
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 5th day of July 2023, by the following vote:

YEAS 6

NAYS 0



Brian Hodson
Mayor

ATTEST:



Maya Benham
City Recorder



Exhibit A

National Fitness Campaign LP

For all questions regarding this quote, contact: info@nfchq.com

QUOTE

Created Date 2/1/2023
 Expiration Date 7/7/2023
 Quote Number 00000550
 Bill To Name Canby, OR
 Bill To 182 N. Holly Street
 Canby, OR 97013
 US

Description	Quantity	Total Price
2023 - Fitness Court® and National Campaign Resources	1.00	\$155,000.00
2023 - Fitness Court® Studio Add-On	1.00	\$35,000.00
Freight, Packing and Insurance for shipment	1.00	\$0.00
NFC National Grant Funding Award	1.00	(\$30,000.00)
Tax %		0.0000%
Grand Total		\$160,000.00

Terms

1. PAYMENT TERMS

Purchaser will pay Seller 100% of the Purchase Price upon receipt of delivery. Purchaser is responsible for payment of shipping costs, including packing, insurance, and freight. These payment terms will apply unless both parties have agreed to other approved payment terms

2. TAX EXEMPTION

This quoted total is based upon Purchaser's tax-exempt status, for which verifying documentation must be provided to the Seller. If the Purchaser is not tax-exempt, sales tax will be applied before Purchase Price is considered final or binding.

3. STANDARD WARRANTY AND TERMS

NFC standard warranty and terms apply. See nationalfitnesscampaign.com/warranty for details.

4. PURCHASER OBLIGATIONS / TERMS AND CONDITIONS

Purchaser acknowledges upon receipt of the Fitness Court that they are responsible for the following items concerning the purchase of the Fitness Court which includes Design, Activation, and Campaign Resources:

- Purchaser is responsible for providing storage of the Fitness Court with insured protection, including liability, theft, or damage.
- A safe and environmentally controlled storage environment is required to store the tile adhesive. Store tile adhesive at temperatures between 50°F (10°C) and 100°F (38°C).
- NFC is not responsible for damage after receipt of goods by the Purchaser.
- Purchaser is responsible for (under a separate agreement) providing installation of the concrete slab footing, applicable ADA Access, Pour In Place or Tile Flooring installation, and Fitness Court installation per the NFC Installation Manual, adhesive manufacturers recommendations, and local safety, permitting, building, and planning code requirements.
- Assembly Completion Certificate submission to NFC is required within 15 days of Fitness Court Installation.
- A safe and environmentally controlled storage environment is required to store digital print graphics.
- NFC shall not be responsible for work performed by others.
- Purchaser to provide all on-site maintenance, safety, and security.
- Purchaser shall not allow any use of Fitness Court until all Graphics are installed.
- Purchaser understands that the use of exercise equipment incurs risks that are voluntarily entered into. Terms of Use of the Fitness Court by the public located at the purchaser's site shall be governed by the Purchaser in addition to the NFC minimum guidelines.
- Purchaser must maintain graphics and posted safety rules and regulations.
- Purchaser shall be responsible for site selection and all inherent risks associated with the choice of site selection, including risk to the general public.
- If the Purchaser is not the legal Land Owner, then they are required to ensure that the Land Owner is aware of and willing to abide by all Obligations / Terms and Conditions. Otherwise, they shall be responsible for these obligations, including Terms of Use. The same obligations and liabilities shall exist if the Fitness Court, which includes Design, Activation, and Campaign Resources, is sold, acquired, assumed, transferred, or gifted to another party. The new party must be aware of and willing to abide by all Obligations / Terms and Conditions herein or they will retain responsibility.

5. PURCHASER ACKNOWLEDGMENTS

Purchaser acknowledges and accepts upon receipt of Fitness Court all terms and conditions as described above, including Payment Terms, Terms of Tax Exempt Status, NFC Standard Warranty & Terms, Warranty Disclaimers, and Purchaser Obligations.

AFFIDAVIT OF POSTING

STATE OF OREGON)
)
County of Clackamas) ss:
)
CITY OF CANBY)

I, Maya Benham, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 21st day of June, 2023 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1605 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

Thereafter, on the 22nd day of June, 2023, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

- 1. Canby Civic Building
- 2. Canby Post Office
- 3. City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of more than five (5) days and until the very 5th day of July, 2023.

Maya Benham
Maya Benham, City Recorder

Subscribed and sworn to before me this 7 day of July, 2023.

Jessica Roberts
Notary Public for Oregon
My Commission Expires:

