

**RESOLUTION RECORD**  
**COUNCIL OF THE CITY OF BRECKSVILLE**

Resolution No. 4940

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN  
INDEPENDENT CONTRACTOR AGREEMENT WITH TOM ENGLISH  
FOR WORK AS THE YOUTH BASEBALL AND SOFTBALL LEAGUE  
DIRECTOR FOR THE CITY OF BRECKSVILLE RECREATION  
DEPARTMENT FOR THE YEAR 2019; AND DECLARING AN  
EMERGENCY**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brecksville, County of Cuyahoga, and State of Ohio, that:

**SECTION 1.** The Mayor be, and he hereby is, authorized to enter into an Independent Contractor Agreement with Tom English for work as the Youth Baseball and Softball League Director for the City of Brecksville Recreation Department, for the year 2019, in the amount of four thousand five hundred dollars (\$4,500.00), to be paid following the Payment Schedule or Terms attached as Exhibit "B" of the agreement, a copy of which Independent Contractor Agreement is attached hereto as Exhibit "A" and incorporated herein as if by reference.

**SECTION 2.** The Council hereby appropriates sufficient funds to effectuate the provisions contained in Section 1 hereof and the Director of Finance is hereby authorized to transfer the funds necessary to complete this expenditure from the available funds of the City. The Director of Finance be and is hereby further authorized to issue the fiscal officer's certificate necessary to make the expenditures as described in Section 1 hereof, and is further directed to issue vouchers of this City in the amounts and for the purposes expressed in Section 1 hereof, said amounts to be charged to the appropriately designated Fund.

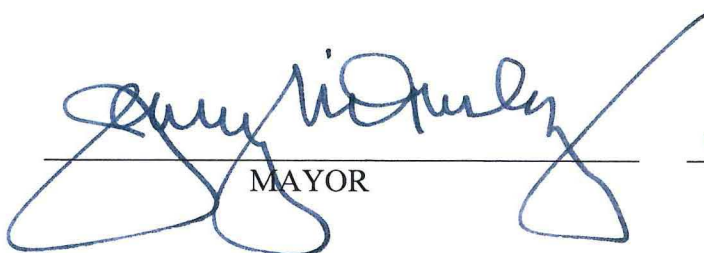
**SECTION 3.** The Council declares this Resolution to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare, the reason for the emergency is the Recreation Department's need for a Youth Baseball and Softball League Director, therefore, said Resolution shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: March 19, 2019

APPROVED: March 19, 2019

I do hereby certify that the foregoing is a true and correct copy of Resolution No. 4940 duly passed by the Council of the City of Brecksville, Ohio, on 3-19, 2019 and that same was duly posted in accordance with the existing Charter of the City of Brecksville on 3-21, 2019.

  
CLERK OF COUNCIL

  
MAYOR


  
CLERK OF COUNCIL

EXHIBIT "A"

THE CITY OF BRECKSVILLE

Independent Contractor Agreement  
(Athletics – Community Center)

This Independent Contractor Agreement ("Contract") is made by and between the City of Brecksville ("City") and THOMAS ENGLISH {Insert Name of Business or Individual} a INDIVIDUAL {Insert Legal Status of Business (e.g., corporation, limited liability company, partnership, sole proprietor, etc.)} whose principal place of business is 10054 DEER RUN {Insert Address of Business}, Ohio 44141 {Insert Zip Code} ("Contractor")

1. **Status of Contractor.** The Contractor is an independent contract and not an employee of the City and as such, is not subject to City's control as to the means and methods of accomplishing the work or service to be performed hereunder, but the City may specify and control the result to be accomplished including any specifications, standards, or requirements. This Contract shall not be construed to create any partnership, joint venture, nor other agency relationship between the parties, who are independent of one another. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the City and the named Contractor. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the parties that any such person or entity, other than the parties hereto, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
2. **Term.** This Contract shall commence on the Effective Date, which shall be the later of (1) the date it is signed by the City authorized representative; or (2) the following date: January 1, 2019 and shall terminate on December 31, 2019 unless sooner terminated as provided herein or extended by mutual written agreement of the parties.
3. **Work or Services to be Performed by Contractor.** The work and/or services to be performed by the Contractor are detailed in Exhibit "A", attached hereto and expressly made a part hereof by reference.
4. **Payment for Work or Services.** The City agrees to pay Contractor for the satisfactory performance by Contractor of the work and/or services as detailed in Exhibit "A", in accordance with the schedule of payment(s) attached hereto and expressly made a part hereof by reference and marked Exhibit "B".
5. **Governmental Immunities Preserved.** Notwithstanding any other provision of this Contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions contained in Chapter 2744 of the Ohio Revised Code as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the City of Brecksville, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of Chapter 2744 of the Ohio Revised Code as

now or hereafter amended, which provisions are hereby incorporated and made a part of this Contract.

6. **Insurance.** The City agrees to indemnify and hold Contractor harmless from any liability which may arise as a result of the performance of the Contractor within the scope of duties to be performed under this Agreement. However, the City's liability shall be strictly limited to those matters for which the City receives a defense and complete indemnification by the City's insurance carriers. Contractor agrees that any and all claims and liability of every kind, nature and description which are not defended against or completely indemnified by the City's insurance carriers shall be the sole and complete responsibility of the Contractor who further agrees to indemnify and hold the City harmless from the costs of any such claim or liability, including but not limited to the reimbursement if any of the City's legal fees. City agrees to give notice to Contractor of any claim or action for which the Contractor will be liable in accordance with the provisions contained in this Subsection as soon as is practicable.

7. **Termination for Convenience.** The City may terminate this Contract at any time the City determines that the services of the Contractor are no longer needed. The City shall effect such termination by giving written notice of termination to the Contractor and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. In that event the contractor shall be entitled to receive just and equitable compensation for any satisfactory services and supplies delivered to the date of termination.

8. **Termination for Default.** A party will be considered in default of its obligations under this Contract if such party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Contract and such failure continues for five (5) days after the non-defaulting party gives the defaulting party written notice thereof. In the event of default, the non-defaulting party, upon written notice to the defaulting party, may terminate this Contract as of the date specified in the notice, and may seek such other and further relief as may be provided by law.

9. **Legal Authority.** The Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract and to bind the Contractor to its terms. The person(s) executing this Contract on behalf of the Contractor warrant(s) that such person(s) have full authorization to execute this Contract.

10. **Non-Assignment.** Contractor shall not assign or subcontract any of its obligations under this Contract without the advance written consent of the City. Any unauthorized assignment shall be void. City shall have the right, but not the obligation to terminate this Contract, without waiver of any other right or remedy, upon notice of Contractor's assignment or subcontract in violation of this section.

11. **Binding effect.** This Contract is binding upon the heirs, personal representatives, successors, and permitted assigns of both parties.

12. **Entire Agreement.** This Contract including the exhibits incorporated herein by reference constitutes the entire agreement between the parties, and supersedes any previous contracts, understandings, or agreements of the parties, whether verbal or written, concerning the subject matter of this Contract.

13. **Amendment.** No modification or amendment to this Contract shall be valid unless it is made in a writing signed by the authorized representatives of the parties.

14. **Waiver.** The waiver by either party of a breach or violation of any provision of this Contract shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.

15. **Severability.** In the event that any provision of this Contract is held unenforceable for any reason, the remaining provisions of this Contract shall remain in full force and effect.

16. **Independent Contractor.** The Contractor shall perform its duties hereunder as an independent Contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be or shall be deemed to be an agent or employee of the City. Contractor shall pay when due all required employment taxes and income tax and local head tax on any monies paid by the City pursuant to this Contract. Contractor acknowledges that the Contractor and its employees are not entitled to unemployment insurance benefits unless the Contractor or third party provides such coverage and that the City does not pay for or otherwise provide such coverage. Contractor shall have no authorization, express or implied, to bind the City to any agreements, liability, or understanding except as expressly set forth herein. Contractor shall provide and keep in force workers' compensation (and provide proof of such insurance when requested by the City) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of the Contractor, its employees and agents.

17. **Choice of Law.** The laws of the State of Ohio and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Contract. The venue for any and all action related in any way to the Contract shall be Cuyahoga County, Ohio. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

IN WITNESS WHEREOF, the parties hereto have signed this Contract on the date indicated herein below.

City of Brecksville

By: \_\_\_\_\_

Date: \_\_\_\_\_

Independent Contractor

By: \_\_\_\_\_

Authorized Signature

Date: 3-04-2019

By: \_\_\_\_\_

Authorized Signature

As the parent and natural guardian of:

\_\_\_\_\_ a minor

Date Contract Terminated: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit A

(Description of Work and/or Services to be performed)

### Brecksville Youth Baseball & Softball League Supervisor

- Point person for volunteer coaches, parents, and umpires on site during the season
- League Supervisor for Player Pitch Leagues (Ages 8-18)
- League Supervisor for Machine Pitch and Tee Ball Leagues (Ages 4-8)
- Field Supervisor on game days

## Exhibit B

(Payment Schedule or Terms)

Total of **\$4,500** to be paid based on the following schedule below.

May 2019: \$1,500

June 2019: \$1,500

July 2019: \$1,500