

## AGREEMENT FOR SPECIAL INSTRUCTOR SERVICES

### NAME OF INSTRUCTOR/BUSINESS

THIS AGREEMENT FOR SPECIAL INSTRUCTOR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ("Effective Date") by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City") and [\*NAME,\* a sole proprietor or a sole proprietor doing business as \_\_\_\_\_] ("Instructor"), with respect to the following facts:

### RECITALS:

WHEREAS, City requires the services of an Instructor who is capable and experienced in special recreation programs; and

WHEREAS, Instructor is capable and has the necessary experience in providing special recreation programs; and

WHEREAS, City desires to provide citizens of the community with special recreation programs; and

NOW, THEREFORE, City and Instructor agree as follows:

1. Retention of Instructor. City retains Instructor to perform and Instructor agrees to render, those services (hereinafter "the services") set forth in Exhibit "A," attached hereto and incorporated herein by this reference, subject to the terms and conditions contained in this Agreement.

2. Term. The term of this Agreement is for a three (3) year period and shall commence on the Effective Date, set forth above, unless earlier terminated pursuant to the provisions stated herein.

3. Standard of Performance. While performing the services, Instructor shall exercise the reasonable professional care and skill customarily exercised by reputable members of Instructor's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising his or her professional skill and expertise. Instructor hereby certifies that he/she or any contractor, representative, or employee who will be teaching the class or assisting in teaching the class is qualified to do so, and qualified to perform the services described above and in the course outline submitted to City. Instructor is responsible for all class curriculum development.

4. Criminal Background Investigation. Instructors, employees of instructors and substitute instructors shall be required to submit to a criminal background investigation by providing

to City a complete set of fingerprints for analysis by the Department of Justice. Prior to submission of Instructor's fingerprints, Instructor will be required to pay to City a fee for processing of the fingerprints by the Department of Justice. No class shall commence until the City has received clearance for the Instructor from the Department of Justice.

Pursuant to Public Resource Code section 5164, if it is determined that Instructor has been convicted of any offense specified in paragraphs one or three of subdivision (h) of Penal Code section 11105.3, excluding a misdemeanor conviction under paragraph three of subdivision (h), City shall immediately terminate this Agreement and Instructor's class shall be canceled. In addition, if Instructor has a total of three misdemeanor or felony convictions specified in Section 11105.3 of the Penal Code within the immediately preceding ten-year period, City shall immediately terminate this Agreement and Instructor's class(es) shall be canceled. Refusal by Instructor to submit to the background investigation shall also result in the termination of this Agreement and cancellation of Instructor's class(es).

5. Insurance. Prior to City's execution of this Agreement, Instructor shall obtain, and thereafter maintain during the term of this Agreement, such commercial general liability insurance to insure Instructor against damages for personal injury, including accidental death, as well as from claims for property damage which may arise from or which may concern operations by Instructor or by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Instructor. All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California. Instructor's commercial general liability policy shall cover both bodily injury (including death) and property damage (included but not limited to premises-operations liability, independent contractors liability, personal injury liability and contractual liability), in an amount not less than \$1,000,000 per-occurrence limit/\$2,000,000 aggregate. These minimum amounts of coverage shall not constitute any limitation or cap on Instructor's indemnification obligations under Section 16 hereof. Also, if Instructor carries a "Business Auto Policy", a copy of the insurance policy must be provided to the City.

Prior to the City's execution of this Agreement, insurance policies or original certificates evidencing the coverage required by this Agreement for commercial general liability shall be filed with City and shall include City, its officers and employees as additional insureds. Said policy shall be in the usual form of commercial general liability insurance, but shall include the following provision:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

The policies shall not be cancelled unless thirty (30) days' prior written notification of intended cancellation has been given to the City by certified or registered mail. City, its agents, officers, and employees make no representation that the limits of the insurance, specified to be carried, by Instructor, pursuant to this Agreement are adequate to protect the Instructor. If Instructor

believes that any required insurance coverage is inadequate, Instructor will obtain additional insurance coverage as Instructor deems adequate, at Instructor's sole expense.

6. Registration. Registration for the class must be conducted at the Parks, Recreation and Community Services Department ("PRCSD") or community center where the class is to be held at least two (2) weeks prior to the first class session. Registration may also be completed online on the City's website at [www.RivReg.org](http://www.RivReg.org) or by mail to Parks, Recreation and Community Services Department, City of Riverside, 6927 Magnolia Ave., 2<sup>nd</sup> Floor, California 92506. Instructor is not permitted to accept registration fees.

7. Minimum Enrollment. The minimum enrollment is set by PRCSD. In the event the minimum enrollment agreed to has not been met one (1) week prior to the start of class at any particular site, City or Instructor may immediately cancel the class. If after three (3) sessions the class(es) have not met the minimum enrollment set by PRCSD, the City has the option to terminate future instruction of said class(es) by Instructor. Enrollment credits, transfers and refunds resulting from any class cancellation will be directly processed by City to the participants.

8. Absences. If at any time Instructor is unable to conduct a scheduled class, Instructor shall either (a) secure at Instructor's own expense a qualified substitute, or (b) notify each participant in the class of the cancellation and the date the canceled class will be made up. Instructor shall also notify City's Recreation Services Coordinators at the class site and of contract classes twenty-four (24) hours prior to class time of the substitution or of the cancellation. If applicable, the Recreation Services Coordinator or Instructor at any particular site shall then post a notice at the facility regarding any cancellation and the rescheduled date for the class. Failure to make up a class or secure a qualified substitute instructor will result in the deduction of compensation for such class from Instructor's next payment and may result in termination of this Agreement.

9. Use of City Facilities. City shall provide adequate space at the site for the conduct of the class, including the provision of any necessary utilities. Instructor shall provide, at Instructor's own expense, all necessary equipment and materials for the conduct of the class. Instructor agrees to follow all rules established by the City for use of City facilities. If the Instructor desires to teach the class at their place of business or a non-City facility, the Instructor must:

- a. Parking. Provide ample parking for enrollees.
- b. Signage. Post signs at site to direct participants to the location where they are to gather (e.g. at bowling centers, identify which lanes to report to).

10. Release of Minor Participants. Minor participants may only be released to a parent or legal guardian. However, said parent or legal guardian may designate other individuals to whom the minor participant may be released by listing individuals on their Activity Registration Form and Waiver or when registering through the City's online registration software. Prior to the

commencement of Instructor's class, Instructor will be required to download a roster with all individuals to whom each child may be released via the City's registration software instructor portal.

A minor participant will only be released to a non-parent or non-legal guardian upon presentation of a valid California driver's license or identification card confirming the individual's identity with the individual named on the class roster. Instructors of minors, who are under twelve (12) years of age, will be required to keep a sign-in sheet when releasing a child from a class.

11. Transporting Minors. Under no circumstances may Instructor, or Instructor's employees or agents, transport a minor participant. If, after the conclusion of any class session, a minor participant has not been picked-up, Instructor shall make every attempt to contact the minor participant's parent, legal guardian or any other authorized individual to whom the minor may be released. If no contact can be made with any of the above individuals, Instructor shall contact the Assistant Recreation Coordinator, Recreation Services Coordinator or Recreation Supervisor of the class site or those administering this Agreement.

12. Advertising. To the greatest extent practicable, City shall list the class(es) in the City's Activity Guide and other publicity pieces relating to the special recreation programs of the Parks, Recreation and Community Services Department which may be published from time to time. Instructor may not advertise, print or publish any promotional material in connection with any instruction or services to be conducted under this Agreement without the prior written approval of City's Parks, Recreation and Community Services Director or the designee of such Director.

13. Attendance Records and Rosters. Instructor shall download (via the City's registration software instructor portal), prepare and submit an accurate class attendance sheet. The attendance sheets shall include the dates the class has met, a listing of the participants' full name and whether or not the participant was in attendance on the day the class was held. Attendance sheets shall be submitted at least one (1) week prior to the final class meeting. City shall provide a schedule of due dates for attendance sheets prior to commencement of class(es). City shall charge a five per cent (5%) fee for invoices not submitted by the deadline. Instructor shall ensure all participants are on the class roster prior to commencement of each class.

14. Compensation. In consideration for the provision of the class including services, materials and equipment at the site as herein above provided, City shall pay Instructor a percentage of all enrollment fees collected per each session of the class as specified in Exhibit "A". In no event shall an Instructor be paid both a flat-rate and a percentage of the enrollment fees. Said sum(s) shall be paid in accordance with City's usual accounting procedures not more often than bi-weekly following submission of a completed attendance sheet for each class from Instructor to City. Instructor will be paid, after completed attendance sheet(s), are received by the City. City shall charge a five per cent (5%) fee for invoices not submitted by the deadline.

15. Termination. This Agreement may be terminated upon fifteen (15) days written notice by either party; provided, however, City may terminate this Agreement upon twenty-four (24) hours verbal notice in the event City determines the public's health, safety or welfare requires such

termination. In such event, payment, if any, to Instructor shall be based upon services rendered to the effective date of termination. If Instructor terminates the Agreement without adequate justification or notice, such termination may be grounds for not entering into any new contract with Instructor.

16. Indemnification. Except for City's sole negligence or willful misconduct, Instructor shall indemnify and hold City and City's officers and employees harmless from all damages, costs and expenses, including attorney's fees, in law or equity, including damage to property or personal injury, including death, that may arise or be incurred due to intentional or negligent acts, errors or omissions of Instructor or any of Instructor's employees, substitute Instructors or agents committed while rendering services pursuant to this Agreement. The parties expressly agree that any payment, attorney fee, cost or expense City incurs or makes to or on behalf of an injured City employee under City's self-administered Workers' Compensation program are included as a loss, expense or cost for the purposes of this paragraph. The provisions of this paragraph shall survive the expiration or early termination of this Agreement.

17. Non-Discrimination. Instructor agrees, assures and certifies that, except as permitted by law, no person shall, on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression or sexual orientation, be excluded from participation in or be denied the benefits of the services provided pursuant to this Agreement, and that Instructor shall not discriminate on said grounds in the selection and retention of employees and substitute Instructors and the procurement of materials and equipment, except as provided in Section 12940 of the Government Code of the State of California. Instructor shall also conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

18. Independent Contractor Status. Instructor expressly agrees and acknowledges that he or she is an independent contractor and not an employee or officer of the City. Instructor expressly acknowledges and agrees that City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance. Instructor, as an independent contractor, shall be responsible for any and all taxes that apply to Instructor.

19. Business Tax. Instructor understands that the activity described herein constitutes doing business in the City of Riverside, and Instructor agrees that Instructor will register for and pay a business tax within thirty (30) days of the first class start date pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement. Failure to pay business tax within the thirty (30) days will result in automatic cancellation of the class(es) and termination of this Agreement. Instructor acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which is owed or which will be owed to City, City reserves the right to withhold and offset said amounts from such payments or refunds or reimbursements owed by City to Instructor. Notice of such withholding and offset, shall promptly be given to Instructor by City in writing. In the event of a dispute as to the

amount owed or whether such amount is owed to City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

20. Subcontracting and Assignments. Instructor shall not subcontract or assign any portion of the rights, obligations or duties required by this Agreement, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**Please check and initial the statement that applies:**

☐ **I will not be using representatives or employees.** \_\_\_\_\_

☐ **I will be using representatives or employees. Attached please find as Exhibit “A” and incorporated herein by reference, the full names, addresses and phone numbers of all representatives or employees who will be providing any services pursuant to this Agreement.** \_\_\_\_\_

Instructor shall not subcontract or assign any portion of the right, obligations or duties required under this Agreement, without first obtaining prior written approval from the City. Subcontracts, if any, shall contain a provision making them subject to all provisions of this Agreement.

21. Workers’ Compensation Insurance. By executing this Agreement, Instructor certifies that Instructor is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers’ compensation or to undertake self-insurance before commencing any of the work. Instructor shall carry the insurance or provide for self-insurance required by California law to protect said Instructor from claims under the Workers Compensation Act.

Prior to City’s execution of this Agreement, Instructor shall file with City either (1) a certificate of insurance or self-insurance evidencing that such insurance is in effect, or that Instructor is self-insured for such coverage; or (2) a certified statement that Instructor has no employees, and acknowledging that if Instructor does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with the City shall provide that City shall be given ten (10) days prior written notice before modification or cancellation thereof.

22. City’s Right to Employ Other Instructors. City reserves the right to employ other Instructors.

23. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, description, computer program data, input record data, written information, and other materials either created by or provided to Instructor in connection with the performance of this Agreement shall be held confidential by Instructor, except as otherwise directed by the Supervisor of contract classes.

Nothing furnished to Instructor, which is otherwise known to the Instructor or is generally known, or has become known, to the related industry shall be deemed confidential. Instructor shall not use City's name or insignia, photographs of the site or class participants, or any publicity pertaining to the services or the project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the City.

All class rosters, participant addresses and contact information, and any other such information or documents compiled by City and provide to Instructor, shall remain the property of City. Instructor shall not release such information to others without the prior written authorization by City. Instructor shall not use such information for any other purpose than those used by the Instructor solely for administration of classes and performing City business. Instructor will take reasonable steps consistent with the law to prevent distribution of such information. Instructor's obligations under this paragraph shall survive the termination of this Agreement.

24. Solicitation. Instructor maintains and warrants that he or she has not employed nor retained any company or person to solicit or secure this Agreement. Further, Instructor warrants that he or she has not paid nor agreed to pay any company or person any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

25. General Compliance with Laws. Instructor shall at all times observe and comply with all laws, ordinances and regulations.

26. Ownership of Documents. All reports, maps, drawings and other contract deliverables prepared under this Agreement by Instructor shall be and remain the property of City upon City's compensation of Instructor for his or her services as herein provided. Instructor shall not release to others information furnished by City without prior approval of the City's Parks, Recreation and Community Services Director, or his designee.

27. Severability. Each provision, term, condition, covenant and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement and the remainder of the Agreement shall continue in full force and effect.

28. Authority. The individuals executing this Agreement and the instruments referenced herein on behalf of Instructor each represent and warrant that they have the legal power, right and actual authority to bind Instructor to the terms and conditions hereof and thereof.

29. Notices. Service of any notices or other communications permitted under this Agreement shall be deemed sufficient if sent by one party, to the other by United States mail, postage

prepaid and addressed as indicated on Exhibit "A". Either party may at any time change said party's address for mailing upon written notice to the other.

30. Successors and Assigns. This Agreement shall be binding upon City and its successors and upon Instructor and Instructor's heirs, successors and assigns, and shall not be assigned by Instructor, either in whole or in part, without the express written consent of City.

31. Modification. It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in a writing signed by the parties hereto and that oral understandings or agreements not incorporated herein shall not be binding on the parties hereto.

32. Merger. This is the entire agreement of the parties and each party acknowledges that no oral promises, representations or warranties have been made to the other.

33. Venue and Jurisdiction. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

(Signatures on following page)



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day herein above.

CITY OF RIVERSIDE, a California  
charter city and municipal corporation

NAME AND ENTITY

By: \_\_\_\_\_  
Parks, Recreation and  
Community Services Director

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

Attest: \_\_\_\_\_  
City Clerk

Certified as to Availability of Funds:

By: \_\_\_\_\_  
Chief Financial Officer

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy City Attorney