

**ROSAMOND COMMUNITY SERVICES DISTRICT
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this _____, by and between the Rosamond Community Services District, a community services district organized under the laws of the State of California its principal place of business at 3179 35th Street West, Rosamond, CA 93560 ("District") and _____, an individual with its principal place of business at _____ with ("Instructor"). District and Instructor are sometimes individually referred to as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Instructor.

Instructor desires to perform and assume responsibility for the provision of certain professional services required by District on the terms and conditions set forth in this Agreement. Instructor represents that it is experienced in providing recreational classes, and is familiar with the plans of District.

2.2 Services.

District desires to engage Instructor to render such services as part of the District's parks and recreation programs ("Services") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Instructor promises and agrees to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the recreational classes necessary for the Services. The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from _____ to _____, unless earlier terminated as provided herein. Instructor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Instructor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Instructor or under its supervision. Instructor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. District retains Instructor on an independent contractor basis and not as an employee. Instructor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Instructor shall also not be employees of District and shall at all times be under Instructor's exclusive direction and control. Instructor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Instructor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Instructor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "A." Instructor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Instructor's conformance with the Schedule, District shall respond to Instructor's submittals in a timely manner. Upon request of District, Instructor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Instructor shall be subject to the approval of District.

3.2.4 District's Representative. The District hereby designates _____, or her designee, to act as its representative for the performance of this Agreement ("District's Representative"). District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Instructor shall not accept direction or orders from any person other than the District's Representative or his or her designee.

3.2.5 Coordination of Services. Instructor agrees to work closely with District staff in the performance of Services and shall be available to District's staff, instructors and other staff at all reasonable times.

3.2.6 Standard of Care; Performance of Employees. Instructor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline. Instructor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Instructor warrants that all employees and volunteers (if required) shall have sufficient skill and experience to perform the Services assigned to them. Finally, Instructor represents that it, its employees and volunteers have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Instructor shall perform, at its own cost and

expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Instructor's failure to comply with the standard of care provided for herein. Any employee of the Instructor or its sub-instructors who is determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Services by the Instructor and shall not be re-employed to perform any of the Services or to work on the Services.

3.2.7 Laws and Regulations. Instructor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Services or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Instructor shall be liable for all violations of such laws and regulations in connection with Services. If the Instructor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Instructor shall be solely responsible for all costs arising therefrom. Instructor shall defend, indemnify and hold District, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.8 Safety. Instructor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Instructor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3 Fees and Payments.

3.3.1 Compensation. Instructor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The total compensation shall not exceed _____ without advance written approval of District. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Instructor shall submit to District an itemized statement at the end of class which indicates work completed and hours of Services rendered by Instructor and reports listed in Exhibit A, item number 7. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. District shall, within 30 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Instructor shall not be reimbursed for any expenses unless authorized in advance in writing by District.

3.3.4 Extra Work. At any time during the term of this Agreement, District may request that Instructor perform Extra Work. As used herein, "Extra Work" means any work which is determined by District to be necessary for the proper completion of the Services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Instructor shall not perform, nor be compensated for, Extra Work without written advance authorization from District's Representative.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Instructor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Instructor shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Instructor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. District may, by written notice to Instructor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Instructor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Instructor shall be compensated only for those services which have been adequately rendered to District, and Instructor shall be entitled to no further compensation. Instructor may not terminate this Agreement except for cause. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Instructor:

Name
Address
Address

District:

Rosamond Community Services District
3179 35th Street West
Rosamond, CA 93560
Attn: Parks and Recreation Department

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Compliance With Public Resources Code Section 5164 In the event that Instructor and/or his/her employees and/or volunteers will have or, in the opinion of the District, are expected to have supervisory or disciplinary power over a minor or any other person under his/her care, Instructor and/or his/her employees or volunteers shall comply with Public Resources Code § 5164, which requires that the District obtain summary criminal history information of Instructor and/or his/her employees and volunteers having supervisory or disciplinary authority over any minor or any other person in his/her care. Instructor and/or his/her employees and volunteers who will have or are expected to have supervisory or disciplinary authority over any minor or any other person in his/her care shall provide evidence to District of full compliance with Public Resources Code § 5164 prior to advertising the recreational class. Evidence of compliance with Section 5164 shall include, but not be limited to evidence of a clearance from the Department of Justice or other reliable proof that Instructor and/or his/her employees or volunteers have not been convicted of any of the offenses set forth in Section 5164. Failure to provide District with evidence of compliance with Section 5164 in said time period shall be grounds for the District's immediate termination of this Agreement. The District's obligation to make the payments to Instructor under this Agreement is conditioned upon the District first receiving evidence of full compliance with Public Resources Code Section 5164.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification. Instructor shall defend, indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Instructor, its officials, officers, employees, agents, instructors, and contractors arising out of or in connection with the performance of the Services of this Agreement, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses. Instructor shall defend, at Instructor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents, or volunteers. Instructor shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Instructor shall reimburse District and its directors, officials, officers, employees, agents, and/or

volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Instructor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials officers, employees, agents, or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Kern County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 District's Right to Employ Other Instructors. District reserves right to employ other instructors in connection with this Service.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.12 Assignment or Transfer. Instructor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the District. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Instructor include all personnel, employees, agents, and volunteers of Instructor, except as otherwise specified in this Agreement. All references to District include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Instructor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Instructor, to solicit or secure this Agreement. Further, Instructor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Instructor, 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, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Labor Certification. By its signature hereunder, Instructor certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.20 Authority to Enter Agreement. Instructor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Instructor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement

**ROSAMOND COMMUNITY
SERVICES DISTRICT**

Name

Reviewed By: _____
District Representative

Instructor

Approved By: _____
General Manager

EXHIBIT "A"
SCOPE OF SERVICES

1. Instructor shall perform the services set forth in this Agreement in accordance with the District's established rules and regulations appropriate for conducting the organized recreational class and the applicable rules and regulations for use of the District's facilities. _____ for all interested parties will be conducted _____ excluding demonstrations, exhibitions, recitals, and competition.
2. Instructor shall determine the methods, details and means of performing the organized recreational class, and shall provide a written Program Description describing the program, the program objectives, and the suggested age or skill divisions, if applicable. The Program Description shall be submitted to the District at least forty-five (45) days in advance to market the program prior to the commencement of the recreational class.
4. Instructor shall provide the supplies, materials and equipment for the recreational class, except for supplies, materials and equipment provided by the District or required of the student, as may be specifically set forth in this Agreement.
5. Instructor shall provide the Scope of Services in a District recreational facility and will be responsible for setting up before and cleaning up after the recreational class, except for assistance the District may provide as may be specifically set forth in this Agreement.
6. Instructor will be responsible for supervising the conduct of students during the recreational class in order to ensure the peaceful enjoyment of the recreational class, to ensure the safety of students, and the protection of the District's personnel and property.
7. Instructor will provide the District with a written report on the recreational class. Instructor shall also provide the District with a report summarizing the content of the course evaluations completed by the students of the recreational class. The formats of such reports will be provided by the District.
8. Instructor will maintain attendance records in a format approved by the District.
9. Instructor will ensure that prior to the commencement of the recreational class that all participants have paid in full the appropriate registration fee, and have submitted to District a fully executed Hold Harmless & Release of Liability form.
10. Instructor shall provide a minimum of 24 hours notice of class cancellation to the Parks & Recreation Division administration office and be responsible for contacting all students in the class.
11. Instructor shall provide appropriate substitution when possible if Instructor is unavailable to attend the class. These substitutions shall not exceed 10% of the class schedule and must be cleared by the District.

12. Instructor shall enforce the District's policies, including any code of conduct policy, while performing the services contained herein.

13. Class size is limited to 4 minimum and 20 maximum.

EXHIBIT "B"
SCHEDULE OF FEES

Instructor and District shall negotiate the class fee.

Instructor is not entitled to give discounts.

No family discounts will be offered by the District

Instructor shall be compensated for the Scope of Services pursuant to the following sliding scale based on the number of registered students and fees collected per class, excluding late payment fee:

If 3 - 5 students register and pay for a class: Instructor receives 50% of the fees collected.

If 6 - 9 students register and pay for a class: Instructor receives 60% of the fees collected.

If 10-14 students register and pay for a class: Instructor receives 70% of the fees collected.

If 15 or more register and pay for a class: Instructor receives 80% of the fees collected.