



CITY OF STARKVILLE Parks and Parks and Recreation Department

PROGRAM CONTRACTOR AGREEMENT

THIS AGREEMENT between the CITY OF STARKVILLE, hereinafter referred to as “CITY” AND _____, hereinafter referred to as the “CONTRACTOR”, establishes that said Contractor performing in the capacity of an independent contractor and not an agent or employee of the City, agrees to provide ??.

I. TERMS OF AGREEMENT

This Agreement is in effect from _____ to _____, unless terminated sooner, as this agreement may be terminated by the Parks and Recreation Department for good cause. Good cause shall be based upon violation by the Contractor of the terms of this Agreement, or policies and procedures of the City or the Parks and Recreation Department. The Contractor may also terminate the Agreement if the City is in violation of the terms. Either party may terminate this Agreement without good cause upon 30 days notice, in writing.

II. CONTRACTOR RESPONSIBILITIES

1. The Contractor as an independent contractor is responsible for payment of federal withholding tax and social security contributions. Furthermore, the Contractor shall not be entitled to any fringe benefits normally provided City employees such as worker’s compensation, insurance coverage, unemployment compensation, retirement, disability leave, and any leave with pay.
2. If in the course of the duties, operations and services under this Agreement, in the event the Contractor or their agent, representative, employee or sub-contractor becomes aware or should become aware of any dangerous condition(s) in or on the premises or equipment, Contractor or their agent, representative, employee or sub-contractor shall immediately take appropriate action and cease activities, so as not to endanger persons or property.
3. Contractor shall provide all necessary supplies and equipment required to provide agreed upon services and shall keep all equipment in safe and good working condition.
4. If required Contractor, at Contractor’s expense, shall procure and maintain all governmental licenses or permits required for the proper and lawful conduct of Contractor’s business and activity carried on in the provided spaces. The Contractor shall make available, upon request, evidence satisfactory to City that all required licenses are in good standing. The Contractor shall be responsible for

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any fines resulting from its failure to comply with all licensing and permit requirements. The revocation of any license shall be deemed a material default and may result in the termination of this Agreement.

5. The primary Contractor shall annually submit to a National Level 2 VECHS background check by the City at the City's expense. All individuals employed or sub-contracted by the Contractor shall be required to conduct, with results submitted to the City, a National Level 2 VECHS background check prior to starting work on City property; and re-conducted annually with the results submitted to the City. Cost of these background checks shall be borne by the Contractor. Contractor is required to have a written employment agreement in place with all instructors prior to teaching.
6. Unauthorized Aliens; Patriot's Act: Contractor certifies that Contractor is not acting directly or indirectly for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, Specially Designated National or Blocked Person as defined by and pursuant to any law, order, rule or regulation. Contractor further certifies that it is not engaged in this Agreement directly or indirectly on behalf of any such person, group, entity or nation. Contractor hereby agrees to defend, indemnify and hold City harmless from and against any and all claims, damages or losses, including attorney's fees, arising from or related to a breach of the foregoing certification.
7. Contractor hereby agrees to maintain a good credit rating with all suppliers, manufacturers and others as well as to compensate all personnel under the Contractor's employment in a timely manner so as not to discredit the reputation of the program, the City of Starkville and the City's Parks and Recreation Department.
8. The Contractor further agrees to conduct himself/herself in such a manner as to reflect good relations for the City of Starkville and the City's Parks and Recreation Department.
9. Contractor and its employees will report in writing any and all felony or misdemeanor arrests, convictions, or notices to appear of Contractor and/or employees/sun contractors which occur after the date of hire within forty-eight (48) hours of the occurrence. The Contractor is required to provide any and all documentation related to the arrest to the Recreation Supervisor who will in turn provide the information to the Assistant Parks and Recreation Department Director and/or Parks and Recreation Department Director. The Department Director will determine what action, if any, will be taken.

III. CITY RESPONSIBILITIES

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1. The City shall collect and process all fees for services provided by the Contractor. Customers will be required to make payments prior the start of class. The City shall work in conjunction with Contractor regarding uncollected fees; however, the collection of uncollected fees will ultimately be the responsibility of the Contractor.
2. The City of Starkville Parks and Recreation Department maintains ownership and sponsorship of program(s) at all times. All advertising/promotions shall be coordinated by the Parks and Recreation Department.
3. The Parks and Recreation Department reserves the right to cancel or re-schedule classes, or terminate instructors. In the event of cancellation or termination, contractor will receive payment in proportion to those classes or activities completed.
4. The quality of instruction, class size, fees, time and day of program must be acceptable to the Parks and Recreation Department and such determination shall be final.

IV. COMPENSATION

The above stated Contractor shall receive _____ *% of the registration fee per participant* OR _____ flat fee per _____. Payments will be made at the end of the session. In the event the Contractor stated minimum number of registrants is not met, the City and Contractor reserve the ability to re-negotiate compensation.

V. INDEMNIFICATION AND RELEASE

Indemnification:

The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, employees and volunteers from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the use of the Facility by the Contractor. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the User, or any third party. It is the intent of the parties that this provision shall extend to, and include, any and all claims, causes of action or liability caused by the concurrent, joint and/or contributory negligence of the City, an alleged breach of an express or implied warranty by the City or which arises out of any theory of strict or products liability.

Release:

The Contractor hereby releases, relinquishes and discharges the City, its officers, agents, employees and volunteers from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or

death of any person and any loss of or damage to any property that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's use of the Facility whether or not said claims, demands, or causes of action are covered in whole or in part by insurance.

VI. HARRASSMENT POLICY

The City prohibits any form of unlawful harassment, including harassment based on race/ethnicity, color, religion, sex, age, national origin, marital status, veteran status, sexual orientation, genetic information, political affiliation, disability which does not preclude the performance of the essential functions of the positions, with reasonable accommodation(s) provided as necessary, or any other form of unlawful discrimination in accordance with federal, state, or local law. Harassment is generally defined as conduct that creates an intimidating, hostile, or offensive environment, unreasonably interfering with an individual's work performance, or adversely affecting an individual's opportunities within the workplace. Examples of harassment, whether inadvertent, in jest, or otherwise, include but are not limited to the following:

- a. Verbal harassment, including abusive derogatory comments, demeaning jokes, or slurs;
- b. Physical harassment, including assault, physical interference with normal work or movement, etc.
- c. Visual harassment, including displays of derogatory or demeaning posters, cartoons, cards, graffiti, gestures, or drawings.

VII. SEXUAL HARASSMENT POLICY

The City expressly prohibits any form of sexual harassment. Sexual harassment is generally defined as conduct that creates an intimidating, hostile or offensive work environment, unreasonably interfering with an individual's work performance, or adversely affecting an individual's opportunities within the workplace.

Sexual harassment is further defined as:

- a. making unwelcome sexual advances or requests for sexual favors, or other verbal or physical conduct of a sexual nature, a condition of an employee's continued employment, or;
- b. making submission to or rejections of such conduct the basis for employment decisions affecting the employee: or,
- c. creating an intimidating, hostile, or offensive working environment by such conduct.

Examples of improper conduct, whether inadvertent, in jest, or otherwise, include but are not limited to the following:

- a. Verbal harassment, including abusive derogatory comments, demeaning jokes, slurs, sexual advances, obscene messages, etc.

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- b. Physical harassment, including assault, physical interference with normal work or movement, etc.
- c. Visual harassment, including displays of derogatory or demeaning posters, cards, cartoons, graffiti, gestures, drawings or sexually suggestive pictures, etc.

VIII. WORKPLACE VIOLENCE

It is the policy of the City to expressly prohibit any acts or threats of violence by any City employee, former employee or contractual employee against any other employee in or about City facilities or elsewhere at any time. The City also will not condone any acts or threats of violence against City employees, customers, or visitors on City premises at any time or while they are engaged in business with or on behalf of the City, on or off City premises.

IX. COMPLIANCE WITH LAWS

Contractor shall, at its expense, comply with all valid requirements of governmental authorities and all applicable present and future federal, state, and local laws, ordinance, rules, and regulations relating to the use of the provided spaces and/or requirements of providing program(s). Contractor will indemnify City against any penalty, damage or charge imposed for any violation by Contractor, its agents and employees, of such requirements.

The City will comply with all applicable laws, rules and regulations imposed upon it as the owner of the provided spaces.

This Agreement is contingent upon Contractor obtaining all certificates, licenses, permits, and other approvals that may be required by any federal, state, or local authority for the provision of the program(s). The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Contractor's responsibility.

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Contractor Signature

Date

Approved:

Mayor

Date