

**CITY OF NORTH PORT  
RECREATION PROGRAM INSTRUCTOR AGREEMENT**

THIS AGREEMENT is made as of this \_\_\_\_\_ day of \_\_\_\_\_, by and between the City of North Port, Florida, a municipal corporation, hereinafter referred to as the "City" and \_\_\_\_\_, hereinafter referred to as the "Instructor" and whose address is \_\_\_\_\_.

1. **Instructional Services:** The Instructor agrees to perform instructional services in a qualified and expert manner for the particular class as described in the attached "Exhibit A," which is incorporated herein. Instructor certifies that she is competent to perform the services and there are no moral, legal or ethical reasons why the Instructor cannot accept or perform under the stated terms and conditions. The Instructor is to provide any materials needed for the class that are not otherwise provided by the City, as noted on Exhibit A.
2. **Compensation:** The class fee shall be set as mutually agreed upon between the parties and described in Exhibit A. The City shall retain 30% of the total fees collected in exchange for promoting and advertising the program and to cover facility expenses and administrative costs to process class registrations and/or payment transactions; the Instructor shall receive the remaining net proceeds. The Instructor shall validate attendance rosters for each class and payments to the Instructor will be processed on monthly basis based on the fees collected for classes held the preceding month.
3. **Term:** This Agreement shall be in effect beginning \_\_\_\_\_ and continuing through \_\_\_\_\_.
4. **Schedule and Location:** The Instructor and the City mutually agree that the Instructor will provide the Instructional Services on the meeting day(s), time(s) and at the location(s) as described in Exhibit A. The City will make every effort to provide the Instructor's first choice of facility from which to deliver the services; however, the City reserves the right to reassign the location for a class or classes, if necessary, with at least fourteen (14) days' written notice to the Instructor.
5. **Independent Contractor:** The relationship between the Instructor and the City is that of an independent contractor and nothing herein shall be construed as creating an employment relationship between the parties. The Instructor is not entitled to any benefits other than the compensation provided in Section 2. It is the parties' intention that the Instructor will be an independent contractor and not a City employee for all purposes, including but not limited to the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Workers' Compensation and Unemployment Compensation. The Instructor will retain sole and absolute discretion in the judgment of the manner and means of carrying out his/her activities and duties under this Agreement, within established City facility rules and regulations. The Instructor agrees that he/she is conducting a separate and independent enterprise from the public employer, that he/she has a full opportunity to find other business, that he/she has made his/her own investment in his/her business and that he/she will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any employer-employee or agency relationship between the City and the Instructor, and the City will not be liable for any obligation incurred by the Instructor, including but not limited to unpaid minimum wages and/or overtime premiums due to any of Instructor's employees. This Agreement does not constitute the City and Instructor as partners or joint venturers for any purpose.
6. **Workers' Compensation Insurance:** If the Instructor is required by law to obtain workers' compensation coverage, proof of insurance in the statutorily required amounts must be provided. If the Instructor is not required to obtain workers' compensation coverage, the Instructor must provide proof of exemption. All documentation must be submitted to the City prior to the beginning of the first class scheduled.

7. Licenses: Instructor shall obtain all necessary licenses for the instruction of the class, including but not limited to any ASCAP, BMI or SESAC license required for the playing of copyrighted music. Lack of a required license shall be deemed a material breach of this Agreement.
8. Indemnification: At all times, the Instructor will indemnify the City from all losses, damages, liabilities and expenses that arise or are claimed against the City and that are in favor of any person, firm or corporation for personal injuries or property damages, including but not limited to assault or sexual harassment, that arose about or on the premises as a result of the Instructor's use or occupancy of the premises, or that arose from the Instructor's failure to comply with any laws, statutes, ordinances or regulations.

The Instructor shall be fully liable for the actions of its directors, officers, members, partners or subcontractors, and the employees and agents of each of them and shall fully indemnify and hold harmless the City of North Port, its employees, agents and assigns from claims, suits, actions, damages and costs of every type and description, including attorney's fees (at both trial and appellate levels), arising from or relating to personal injury or death, including but not limited to assault or sexual harassment, and damage to real property or tangible personal property, alleged to be caused in whole or in part by the Instructor, its officers, directors, members, partners or subcontractors and employees or agents of any of them; provided, however, that the Instructor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the City.

The Instructor shall fully indemnify and hold harmless the City, and its agents, employees and assigns from any claims, suits, actions, damages and costs of every type and description, including attorney's fees (at both trial and appellate levels), arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right made by third parties for any alleged violations by Instructor, its agents, employees or assigns. In the event of a claim, the City shall promptly notify the Instructor in writing by prepaid certified mail (return receipt requested), or by delivery through any nationally recognized courier service (such as Federal Express or UPS), which provides evidence of delivery, at the notice address provided in Section 9. Such notification may also be provided by email transmission to the address submitted by the Instructor on Exhibit A.

The City shall provide all available information and assistance that the Instructor may reasonably require regarding any claim.

The City may, in addition to other remedies available to it at law or equity, and upon written notice to the Instructor, retain such monies from amounts due the Instructor as may be deemed by the City to be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it. The City may set off any liability or other obligation of the Instructor or its affiliates to the City against any payments due the Instructor under any contract with the City. This agreement for indemnification shall survive termination or completion of the Recreation Program Instructor Agreement.

In the event that there is a conflict between this Agreement and any other applicable indemnification agreement between the City and the Instructor, the agreement which provides the most protection for the City shall take precedence. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable by a court of competent jurisdiction, in whole or in part, the remaining provisions, and any partially unenforceable provisions to the extent enforceable, shall nevertheless be binding and enforceable.

9. Notices:

All notices to the City shall be hand delivered or sent by certified mail to the following address:

City of North Port/Attention: Parks & Recreation Manager  
6207 West Price Boulevard, North Port, Florida 34291

All notices to the Instructor shall be hand delivered or sent by certified mail to the following address:

From time to time, either party may designate in writing a specific person or another entity or another address or email address for receipt of such items. Any notice under this Agreement is deemed to be given at the time it is received, or if not accepted at the time it is mailed.

10. Background Investigation: Prior to performing any services under this Agreement, the Instructor (and any employees or assistants that will be working with the Instructor) must consent to and pass a criminal and personal background investigation. The cost of the investigation will be due to the City upon execution of the background release form(s). The City, in its sole discretion, shall determine whether the Instructor passes the background investigation. In the event the City determines the Instructor does not pass the background investigation, this Agreement is automatically terminated and written notice will be provided to the Instructor. In the event the City determines any employee or assistant of the Instructor does not pass the background investigation, written notice will be provided to the Instructor that the employee or assistant shall not be permitted to be assigned to instruct any class scheduled under the terms of this agreement with the Instructor.
11. Assignment: The Instructor may not assign this Agreement.
12. Choice of Law: The laws of Florida shall govern this Agreement and exclusive venue for this agreement shall be in Sarasota County, Florida.
13. Waiver: A waiver by either City or Instructor of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.
14. Termination: This Agreement shall terminate upon the full performance by the parties of its terms and conditions. Either party may terminate this Agreement at any time by giving the other party fourteen (14) days' written notice of termination, in which event the above described compensation shall be prorated. The City may terminate this Agreement due to a material breach by Instructor after three (3) business days' written notice to Instructor.
15. Severability: The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable by a court of competent jurisdiction, in whole or in part, the remaining provisions, and any partially unenforceable provisions to the extent enforceable, shall nevertheless be binding and enforceable.
16. Entire Agreement: The parties have made no oral or written representations, agreements, arrangements or understandings between them that relate to the subject matter of this Agreement and that are not fully expressed in this Agreement. This agreement may be modified only by written agreement executed by both parties.

**CITY OF NORTH PORT**

**INSTRUCTOR**

By: Peter D Lear, CPA, CGMA, City Manager

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

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

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

**EXHIBIT A**  
**To Recreation Program Instructor Agreement**

**INSTRUCTIONAL SERVICES**

**I. CLASS DESCRIPTION**

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Title:

Class Description:

Age Group:

Day(s):

Time(s):

Location(s):

Start Date:

End Date:

Special materials and/or services to be provided:

Instructor

City

**II. CLASS FEE**

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Per month:

Achieve Anything Membership discount (if applicable:

**III. INSTRUCTOR INFORMATION**

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Name:

Address:

City:

State:

Zip:

Phone/Fax:

Cell:

E-mail:

Assistant instructors (if applicable):