

PLEASANT VALLEY RECREATION & PARK DISTRICT AGREEMENT FOR CLASS INSTRUCTION

This Agreement is made as of the date of execution by and between the Pleasant Valley Recreation & Park District, a public agency established and operating under the Recreation and Park Law, Public Resources Code Section 5780 *et seq.* ("District") and _____, an Independent Contract Instructor for class instruction ("Contractor").

RECITALS

A. The District desires to provide recreational programming for residents of the District and out-of-District areas. No less than two (2) weeks prior to the start of each class session, the District shall provide, via Districts' recreation management system to the Contractor: a) the final details of the classes for that session, including day, time, dates and room/facility/park location and allocation of the classes based on the Contractor's submitted class request; b) dates and time of District class survey; and c) any documentation that is due prior to the start of the new session. **Contractor is responsible for ensuring all information is correct.**

B. Contractor represents that they: (a) have professional experience for each of the types of classes identified in Recital A; (b) will teach such classes to the best of their ability and in accordance with the highest professional standards; and (c) have all required licenses, permits and approvals required by law for the performance of the services required by this Agreement. Contractor agrees to perform and furnish the Services as described and for the period specified in the Agreement in a safe, professional, and satisfying manner, in accordance and full compliance with all applicable federal, state, or local statutes, rules, ordinances, and regulations, including, but not limited to, all wage and hour laws, and, to the extent the Services are performed on the District's premises (or contractor's business address), in accordance with all policies and regulations of the District relating to business and conduct, health and safety, and use of facilities, equipment, technology, and other resources. Contractor is entirely responsible for all wages and other benefits of Contractor to any assistants or other persons employed by Contractor and shall fully indemnify the District against any claims made by or on behalf of any such employees; however, contractor is not responsible for assistants separately retained by the District.

Therefore, the District and the Contractor mutually agree as follows:

1. THE CONTRACTOR'S SERVICES

1.1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

1.2. Submittals to the District. Before any class instruction has begun, the Contractor shall provide the following documents to the District:

- (a) a completed and approved Class Proposal form (Attachment A);
- (b) a copy of current Contractor certification/resume/other form detailing applicable experience;
- (c) a copy of class details for the appropriate session (Attachment B);
- (d) Live Scan fingerprints and related criminal background checks as required by Section 1.6 of this Agreement;
- (e) a copy of Contractor's tuberculosis test results as required by Section 1.7 of this Agreement;
- (f) a copy of successful completion of an adult, child & infant CPR, AED, and First Aid class as required by Section 1.8 of this Agreement;
- (g) a copy of Contractor's Certificate of Comprehensive General Liability and Liability naming the District as additionally insured; Workers' compensation (if they have employees) as required by Section 4.11 of this Agreement;
- (h) a W-9
- (i) a voided check for direct deposit (if applicable)
- (j) provide a copy of a government issued identification card; and
- (k) Mandated Reporter Certification.

1.3. Arrival and Setup. The Contractor is responsible for the preparation of their class and shall arrive on each class day prior to the scheduled start time of said class with sufficient time necessary to ensure that all needed set-up is completed prior to commencement of the class. Setup shall generally be done by District staff in accordance with the approved Class Detail form if the class is held at a District facility. If the class is held offsite, the facility setup is the sole responsibility of the Contractor.

1.4. Tools, Supplies, and Expenses. The contractor shall provide and store their personal tools and supplies at their own cost unless previous arrangements are made with the District. The District shall not be liable for lost, stolen or damaged tools, supplies, or other equipment, whether or not stored with the District. The Contractor is solely responsible for all costs or expenses incurred in connection with the performance of the Services, including travel costs, and in no event shall the District reimburse Contractor

for any such cost or expenses. Any and all equipment, materials, and supplies purchased by the District shall remain the property of the District.

1.5. Responsibilities of the Contractor.

1.5.1. Timely complete Class Detail Form (Attachment B) in accordance with the following, per specific District instructions to be provided following the execution of this Agreement. The deadline for completion of the Class Detail Form shall generally be as provided in the “Class Details Due” column below.

Activity Guide Issue	Class Details Due	Activity Guide Delivered	Activity Guide Period
Fall	First week of May	Early-to-Mid August	September - December
Winter	First week of September	Early-to-Mid December	January - April
Summer	Third week of January	Early-to-Mid April	May - August

1.5.2. Contractor shall not permit anyone who has not registered with the District and paid the required fees to participate in the class. Registrations are only accepted through the Districts’ recreation management system. Class registrations include a waiver to be signed by participants or legal guardians. The waiver is required to participate in classes and Contractor shall not allow participation in a class by any participant who has not completed and submitted a waiver to the District. These waivers will be available at the District office and through the District’s registration management system.

1.5.3. In the event the Contractor must cancel any classes, the Contractor shall notify the class participants and the District at least 72 hours in advance of the classes in question. If Contractor cancels classes, Contractor will be required to make up the same number of classes cancelled prior to the end of the respective session and Contractor will be liable to District for any damages incurred by District as described in Section 4.11.

1.5.4. Contractor shall permit the District to issue class surveys to all participants at the completion of the class. The surveys will be non-attributable, and Contractor may receive copies with or without request after District review. The purpose of these class surveys is to continually improve District services and offerings and to evaluate future class proposals submitted by the Contractor.

1.6. Background Check. Contractor hereby warrants that they and any employee or agent of Contractor who may provide services pursuant to this Agreement who may have contact with children have never been convicted of any offense specified in Public Resources Code Section 5164 or Penal Code Section 11105.3 which would preclude any person from working with children. In addition, Contractor agrees, at Contractor’s expense, to provide District with Live Scan fingerprints and the related criminal background check for Contractor and any employee or agent of Contractor who may provide services pursuant to this Agreement who may have contact with children.

1.7. Medical Check. Contractor warrants that they and any employee or agent of Contractor who may provide services pursuant to this Agreement who may have contact with children have been examined and has been found to be free of communicable tuberculosis within the last four years. In addition, Contractor agrees, at Contractors expense, to provide the District with the medical certificate confirming this testing and result for Contractor and any employee or agent of Contractor who may provide services pursuant to this Agreement who may have contact with children. Contractor must provide recertification of TB test every four (4) years.

1.8. CPR and First Aid. Contractor is required to obtain adult, child & infant CPR/First Aid/AED Certification prior to the initial start date of their first class with the District. The District will provide a list of classes offered through the District that are available for the Contractor to attend. Contractors are responsible for all fees associated with this certification and must maintain certification throughout duration of this Agreement. Contractors are required to provide a basic first aid kit and bring it to each session. Contractor must provide recertification of CPR and First Aid every two (2) years.

1.9. Safety of Participants. It is the contractor’s responsibility to ensure the safety of participants involved with the class. The contractor is responsible for visually inspecting class areas and facilities in which they are working. If any aspect of the area appears unsafe, it is the responsibility of the contractor to notify the District and take actions that will ensure participant safety. All accident or incidents must be reported to the District and Accident/Incident Form complete within 24 hours of occurrence. If the

contractor is providing activities in one of the 27 sports set forth in California Health and Safety Code Section 124235(b)(3), all instructors shall provide proof of completion of concussion and head injury training on a yearly basis.

1.10. Mandated Reporting. Contractor is required to obtain certification of Mandated Reporting for Child Abuse and Neglect and/or Elder Abuse and Dependent Adult. The District will provide a list of classes offered for the Contractor to attend. Contractors are responsible for all fees associated with the certification and must maintain certification throughout the duration of this Agreement. Certifications will need to be renewed annually.

Contractors are considered a mandated reporter under the "California Child Abuse and Neglect Reporting Law." This means that if the Contractor "has knowledge of or observes a child in his/her professional capacity, or within the scope of his/her employment, which he/she suspects has been their victim of child abuse or neglect..." a report must be filed with Ventura County Child Protective Services. Reports must be made immediately, or as soon as practically possible, by phone. A written report must be forwarded within 36 hours of receiving the information regarding the incident (California Penal Code Section 11166[a]).

Contractors and their assistants are also considered Mandated Reporters under the "Elder Abuse and Dependent Adult Civil Protection Act." This means if the Contractor or their assistant "has knowledge, or reasonably suspects, that types of elder or dependent adult abuse have been inflicted upon an elder or dependent adult, or his or her emotional well-being is endangered in any other way..." a report must be filed with Ventura County Adult Protective Services immediately, or as soon as practically possible, by phone. A written report must be forwarded within 48 hours of receiving the information regarding the incident (California Welfare and Institutions Code Section 15630[b]).

1.11. Taking or Using of Photos and Videos of Students. Contractor agrees that they and their employees and agents may only make video recordings and take photographs of students of classes provided pursuant to this Agreement after receiving (A) prior written notice from the District and (B) signed consent forms from the students, or in the case of a student who is a minor, from the students' parent or guardian. Moreover, should the Contractor desire to use the photos or video for any purpose other than personal use, including but not limited to advertising the Contractor's business on flyers or on the internet or social media, such specific purpose must be clearly described in the notice signed by the District and students. Contractor's violation of this section is grounds for immediate termination of this Agreement and Contractor shall be barred from contracting with the District for a minimum of three years.

1.12. Participant Information. Contractor is not permitted to use any participant information, rosters, mailing lists, etc. for any purposes other than authorized District use. Participant information shall be kept confidential and cannot be shared with any third parties or with other participants.

1.13. Conduct. Contractor shall warrant they are trained, qualified, and experienced to instruct the class/program in a safe, professional manner. They shall perform all services required pursuant to this Agreement in the manner according to the standards currently observed by a competent practitioner of Contractor's profession in California. All products of whatsoever nature which Contractor delivers to the District pursuant to this Agreement shall be prepared in a professional manner and conform to the standards to quality normally observed by a person currently practicing in Contractor's profession. Contractor shall assign only competent personnel to perform services.

1.14. Independent Contractor/Business. Contractor acknowledges, understands and agrees this Agreement is by and between the District and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the District and Contractor. Contractor has control over the means and methods of performing the Services and District shall only dictate the results of the performance. Contractor shall furnish, at its own expense, the equipment, supplies, and other materials used to perform the services required by this Agreement, unless other arrangements have been made. The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement all compensation and benefits. The Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the District.

2. THE DISTRICT'S RESPONSIBILITIES

2.1. Responsibilities of the District. The District shall provide adequate space (classroom, auditorium, field, trail, open space, etc.) for Contractor to perform services. Should the class be indoors at a District facility, any lights, tables, chairs, air conditioning (A/C not available at Freedom Center), or heat shall be included. The District shall notify Contractor, at least 48 hours (two days) in advance, if for any reason the District cancels or needs to relocate any class to another location.

2.2. Marketing and Advertising. The District shall provide class details, to include day, time, location of class, in the appropriate Activity Guide, with registration available online through the District's recreation management software. Contractor will

be generally authorized to advertise the class in other ways (online, print, broadcast) at no expense to the District. Contractor shall coordinate all media and publicity activities with the District representative overseeing this Agreement.

2.3. Review of Services. The District reserves the right to review the seasonal offerings of the Contractor three times a year to determine if the Services being offered are meeting the District's ongoing programming needs, and whether the Services are meeting the minimum enrollment and revenue estimates as defined below. The District reserves the right to cancel any Service if actual enrollment does not reach minimum levels listed. Periodically, class/service evaluations may be conducted by District staff to identify opportunities for the District and Contractor to improve Service content and delivery.

a. If a class that does not require District staff oversight including but not limited to facility management or room set-up, the class must meet a minimum of 2 registered participants by Contractor's third season or second year if only conducting classes one season of the year.

b. If a class that does require District staff oversight including but not limited to facility management or room set-up, the class must meet a minimum of 5 registered participants by Contractor's third season or second year if only conducting classes one season of the year.

3. PAYMENT FOR SERVICES AND CLASS DISCOUNTS

Basic Fee Amount. Contractor is authorized to set their own class fees. The District shall compensate the Contractor for the services described in this Agreement based on "net revenue" of each class. "Net revenue" is the total amount of the paid registration fees for the class, minus all applicable expenses, including but not limited to: out-of-District fees, administrative fees, refund processing fees, and/or discounts. For all classes/programs/camps/activities, the District shall receive \$5.00 per registrant as an administrative fee, which is not included in the revenue split. This amount is at the discretion of the District and is subject to change.

3.1. Contractor is authorized to charge a materials fee, to be kept and collected by the Contractor.

Net revenue shall be divided between Contractor and the District as follows:

For all classes that utilize District Lands (fields, facilities, open space, etc.):

65% of "net revenue" to Contractor; and

35% of "net revenue" to District.

For all classes that do not utilize District Lands (fields, facilities, open space, etc.):

70% of "net revenue" to Contractor; and

30% of "net revenue" to District.

Contractors using both District and outside facilities will be paid the lower rate.

3.2. Payment for Services. The District will process payment for the Contractor upon completion of course and receipt of signed invoices for services. Invoices must be submitted to the District's Recreation Services Department within 30 calendar days of class completion. The District has 30 days from receipt of an undisputed payment due report to submit payment to the contractor via direct deposit. Contractor is entirely responsible for all wages and other benefits of Contractor to any assistants or other persons employed by Contractor and shall fully indemnify the District against any claims made by or on behalf of any such employees; however, contractor is not responsible for assistants separately retained by the District.

3.3. Refunds. In support of the District's effort to achieve 100% customer satisfaction, the District may refund registration fees in full or in part for any of the following reasons.

a. If withdrawal/transfer from a program/class is made five (5) business days prior to the start of a program/class there will be a full refund, less a \$10 administrative fee. If withdrawal is made less than five (5) business days before the first day of the program/class, there will be no refund issued. Registered participants not present for the

program/class will forfeit all fees paid. No refund will be issued for programs/classes and activities where the registration cost is \$10 or less. Pro-rating is not available for late registration.

b. The District cancels class for any reason at any time, including, but not limited for an Act of God, Force Majeure, major disaster, health crisis, or epidemic.

c. The Contractor cancels class and is not able to provide a makeup class in a timely manner.

In the event of a refund, there will be a corresponding deduction from the percentage of the fee otherwise due to the Instructor.

4. GENERAL PROVISIONS

4.1. Terms. The terms of this agreement shall be effective for two (2) years from the date of execution.

4.2. Termination. The District may cancel this Agreement or any of the classes described herein, at the District's sole discretion, at any time, with or without cause. Should the Contractor cancel or fail to attend a class required hereunder, Contractor shall be responsible to District for all ensuing damages to the District including, but not limited to, all costs associated with retaining a replacement Contractor, unless the District agrees in writing to waive any or all of the resulting damages. The District shall not be liable for compensation to the contractor for the remainder of the agreement should it be terminated. If contractor fails to complete a service as identified in agreement, the contractor shall not be compensated for any part of the incomplete or terminated services.

Grounds for immediate termination of the agreement may include but are not limited to:

- Verbal and/or physical abuse,
- Actions which may cause injury to another,
- Being under the influence of drugs or alcohol while teaching,
- Improper and/or unprofessional conduct and/or representation of the District
- Violation of the procedures and policies set forth in the Independent Contracted Instructor Handbook
- Commercial use or enterprise in a District park without permission and/or a permit

4.3. Indemnity. The Contractor agrees to indemnify, hold harmless and defend the District, the District's Board, and every officer, employee, agent and volunteer of the District from any and all claims, losses, or actions brought by any person or persons resulting directly or indirectly from the wrongful or negligent acts, errors, or omissions of the Contractor including any claims and damages arising from the use or possession by Contractor or its agents or employees of unauthorized images (i.e. photographs) of students and their invitees as well as any claims arising in any way in connection with or by a person employed by or hired to work as an independent contractor or volunteer for Contractor.

4.4. American with Disabilities Act (ADA). The ADA is federal legislation, which guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, local and state government services and telecommunications.

It is the policy of the District to fully comply with the provisions of the ADA, and to make reasonable accommodations to individuals with vision or hearing impairments or other disabilities so they can have an equal opportunity to participate, unless an undue burden would result. Physical barriers must be removed if removal is readily achievable, easily accomplished, and able to be carried out without much difficulty or expense. If not, alternative methods of providing the services must be offered. Public accommodations may not discriminate against an individual or entity because of the known disability of an individual with whom the public entity or its representatives is known to have a relationship or association.

Participants requiring accommodations are requested to notify The District four (4) weeks prior to the start of a class in order to discuss individual needs. The District will make all reasonable modifications to ensure people with disabilities have an equal opportunity to access all The District programs, services and activities. The District will not impose unnecessary eligibility standards or rules denying individuals with disabilities the opportunity to participate in services, programs and activities.

If you become aware of a need for a participant accommodation, you are expected to notify The District as soon as possible to best ensure ADA compliance.

4.5. Non-Discrimination. In carrying out the performance of the services designated in this Agreement, the Contractor shall not discriminate against any employee, class participant, or member of the public because of race, religion, creed, color, medical condition, sex, marital status, national origin or sexual orientation.

4.6. Entire Agreement. This Agreement supersedes all other agreements, either oral or written, between the parties and contains all the covenants and agreements between the parties with respect to the subject matter hereof. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by either party or anyone acting on behalf of any party, which are not embodied herein and that any other agreement, statement, or promise not contained in the Agreement shall not be valid or binding. Any modifications of this Agreement will be effective only if memorialized in a writing signed by both parties.

4.7. Governing Law. This Agreement shall be governed by the laws of the State of California and any lawsuit or action relating in any way to this Agreement must be filed in Ventura County, California.

4.8. Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any person or entity to perform in whole or in part the work or services required hereunder. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of District. Any such prohibited assignment or transfer shall be void. Any assistants employed by Contractor must adhere to the policies and procedures set forth in the Instructor Handbook and the terms of this agreement and cannot participate in the provision of services until all requirements for participation (testing, clearance, and licensing) have been met. A list of assistants working with the contractor must be provided to the District in writing (email will suffice) prior to an assistant being onsite.

4.9. Independent Contractor. Neither the District nor any of its officers, employees, agents or volunteers shall have any control over the manner, mode or means by which Contractor performs the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of District and shall remain under only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of District. District shall not deduct any withholding taxes or social security from the compensation of Contractor nor pay unemployment insurance taxes, nor provide Worker's Compensation payment or other benefits on behalf of the Contractor.

4.10. Tax Reporting. As a condition of this Agreement, and prior to final execution of this Agreement, Contractor is required to complete and submit an IRS Form W-9. Contractor acknowledges that they will receive an IRS Form 1099-MISC from the District if Contractor makes over \$600.00 and that Contractor shall be solely responsible for all federal, state, and local taxes. The District will not be responsible for withholding or paying any income, payroll, Social Security, or other federal, state, or local taxes.

4.11. Insurance. Independent Contractors who teach classes must provide a Certificate of Insurance naming Pleasant Valley Recreation & Park District as an additionally insured with endorsement and 30-day cancellation notice. For more information, please see the Contract Instructor Manual.

a. **Commercial General Liability Insurance:** The District will determine General Aggregate and occurrence policy limits per recommendation of CAPRI. Depending on the Hazard risk class, Insurance policy limit requirements can range between \$1M and \$2M each occurrence, and \$2M and \$4M General Aggregate. Insurance shall be endorsed such that the insurance is primary and noncontributory, and District shall be named as an additional insured.

b. **Workers Compensation & Employer Liability Insurance:** The District requires Independent Contractors who operate as a business to carry Workers Compensation & Employer Liability insurances coverage with limits of no less than \$1M per accident. The Workers Compensation policy shall also include a waiver of subrogation with respect to the District.

c. **Sexual Abuse and Molestation (SAM) Coverage:** The District requires all Contract Instructor's liability insurance to contain SAM coverage. In the event an insured instructor cannot be issued this coverage, the District will work with that instructor on alternative forms of coverage.

Contractor agrees that the provisions of this Section will not be construed as limiting in any way the extent to which Contractor may be held responsible for the payment of damages to any persons or property resulting from Contractor's activities or the activities of any person or persons for which Contractor is otherwise responsible.

4.12. Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class

mail, in the case of the District, to the District's General Manager at Pleasant Valley Recreation & Park District 1605 E. Burnley Street, Camarillo, CA 93010, and in the case of the Contractor at the address designated on the execution page of this Agreement. A digital copy may also be emailed to the Districts Recreation Services Manager.

4.13. Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

4.14. Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

4.15. Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

4.16. Force Majeure. Notwithstanding anything to the contrary contained in this agreement, the District shall be excused from its obligation under this agreement to the extent and whenever it shall be prevented from the performance of such obligations by any Force Majeure Events. For purposes of this agreement, a "Force Majeure Event" includes but is not limited to fires, floods, earthquakes, pandemic, epidemic, civil disturbances, acts of terrorism, regulation of public authority, and other causes beyond their control. The contractor waives any right of recovery against the District and the contractor shall not charge results of "acts of God" to the District, its officers, employees, or agents.

4.17. Conflict of Interest. No District employee whose position with the District enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Agreement.

4.18. Non-Exclusivity. Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Agreement shall not restrict the District from acquiring similar, equal or like goods and/or services from other entities or sources.

4.19. Entire Agreement. The documents and exhibits attached hereto constitute the entire Agreement between the District and the Contractor for the provision of the classes. Statements or representations of any kind not embodied herein shall be of no force and effect. This Agreement may be modified only in writing by mutual agreement.

This Agreement executed the date and year listed below.

CONTRACTOR:

DISTRICT:

Signature

Name

Mary Otten

Title

General Manager

Company Name

Pleasant Valley Recreation & Park District

E-mail

motten@pvrpd.org

Phone

805-482-1996 x114

Date
