

RECREATION PROGRAM SERVICES AGREEMENT

FOR Dance Classes

This Recreation Program Services Agreement ("Agreement") is dated effective this 21st day of August, 2013. The parties ("Parties") to this Agreement are the City of Fife, a Washington Municipal Corporation ("City"), Metro Parks Tacoma, Contractor ("Contractor").

- A. The City seeks the temporary professional services of a skilled independent contractor capable of working without direct supervision to provide Dance Classes at the Fife Community Center.
- B. The Contractor has the requisite skill and experience necessary to provide such services.

NOW, THEREFORE, the Parties agree as follows:

1. Services
Contractor shall provide the services more specifically described in Exhibit "A", attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted practices for other similar services, performed to the City's satisfaction, within the time period agreed upon by the City and Contractor and pursuant to the direction of the City Administrator or his or her designee.
2. Term
The term of this Agreement shall commence upon the execution of this Agreement by both of the Parties and shall continue until the completion of the Services, but in any event no later than December 31, 2014 ("Term"). This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Contractor.
3. Termination
Prior to the expiration of the Term, this Agreement may be terminated immediately, with or without cause by the City. The Contractor may cancel this Agreement only upon thirty (30) days prior written notice to the City.
4. Compensation
 - 4.1 Total Compensation.
The cost per participant for the Dance Class will vary between thirty seven dollars (\$37) and sixty one (\$61.00) per course. The Contractor will be paid 90% of the gross resident registration fee. Classes will commence when at least six (6) participants are registered. The City makes no warranties regarding the availability of students for any particular class.

The City incurs no financial obligations to pay Contractor if a class is not held due to insufficient students to start a class. Nothing in this agreement shall be construed to obligate the City to pay more than the agreed upon fee.

4.2 Method of Payment

The City of Fife agrees to collect all fees and process all registrations. Upon conclusion of the program, a voucher or invoice is submitted by the Contractor in the form specified by the City, and the appropriate City representative approves the same. Payment shall be made on a monthly basis, thirty (30) days after receipt of such voucher or invoice.

4.3 Contractor Responsible for Taxes

The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this agreement.

5. Compliance with Laws

Contractor shall comply with and perform the Services in accordance with all applicable federal, state, and City laws including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended.

6. Warranty/Standard of Care

The Contractor warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Fife by obtaining a City of Fife business license (as appropriate). Services provided by Contractor under this agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances. Further, the Contractor agrees to provide to the City the Contractor's tax identification number and their state business registration number.

7. Independent Contractor/Conflict of Interest

The Contractor is not a City employee. This agreement is a personal services contract, not an employment contract. Contractor is not entitled to, nor shall it receive, any City benefits other than the payment for services rendered as specified herein. The Contractor shall be responsible for the payment of all taxes including, but not limited to, income tax, self-employment tax and any other taxes associated with the operation of his or her business and monies received as a result of this contract. The Contractor may or will be performing professional services for other private agencies or governmental agencies. However, the Contractor shall assure that his or her scheduling work for other entities shall not conflict or interfere with Contractor's ability to perform the Services.

8. Indemnification

8.1 Contractor Indemnification

The Contractor agrees to indemnify and hold the City, its elected officials, officers, employees, agents and volunteers harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors or omissions of the Contractor, its partners, shareholders, agents employees, or by the Contractor's breach of this Agreement. Contractor waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW, Contractor's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation, or benefits payable to or by any third party under workers' compensation acts or programs.

8.2 City Indemnification

The City agrees to indemnify and hold the Contractor, its officers, directors, shareholders, partners, employees, and agents harmless from any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City, its employees or agents.

8.3 Survival

The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

9. Equal Opportunity Employer

In all Contractor services, programs or activities, and all Contractor hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by Contractor or by Contractor's employees, agents, subcontractors or representatives against any person because of sex, age, (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Contractor's breach, may result in ineligibility for further City agreements.

10. Insurance

The Contractor agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating that is satisfactory to the City:

- 10.1 Commercial general liability insurance with combined single limits of liability not less than \$1,000,000 for bodily injury, including personal injury or death, products liability and property damage.

The City shall be named as additional insured on all such insurance policies, with the exception of workers' compensation coverage's. Contractor shall provide certificates of insurance, concurrent with the execution of this Agreement, evidencing such coverage and, at City's request, furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. All insurance policies shall contain a clause of endorsement providing that they may not be terminated or materially amended during the Term of this Agreement, except after thirty (30) days prior written notice to the City. If Contractor's insurance policies are "claims paid", Contractor shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated. Contractor's failure to maintain such insurance policies shall be grounds for the City's immediate termination of this Agreement.

The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

11. Books and Records

The Contractor agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representatives the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

12. Non-Appropriation of Funds

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.

13. General Provisions.

- 13.1 This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior

negotiations, representations, or agreements, either written or oral. This Agreement shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

- 13.2 Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.
- 13.3 Any action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington. Venue shall be in Pierce County Superior Court.
- 13.4 In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.
- 13.5 Any notices required to be given by the City to Consultant or by Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Kurt Reuter, PRCS Director
5411 23rd Street East
Fife, WA 98424
Phone: 253-922-2489
Fax: 253-922-5355

Metro Parks Tacoma, Contractor
4702 S 19th St
Tacoma, WA 98405
Phone: 253-471-0500

- 13.6 A waiver or failure to enforce any provision of this Agreement, or breach thereof, shall not be construed as a continuing waiver of such provision or breach, nor shall the same constitute a waiver of any other provision or any subsequent breach of the same or any other provision.
- 13.7 The article and paragraph headings contained in this Agreement have been included solely for reference purposes and shall not affect, or be used in connection with, the construction or interpretation of this Agreement. Each separate paragraph shall be treated as severable to the end that if one or more of such paragraphs shall be judged or declared illegal, invalid, or unenforceable, this Agreement shall be interpreted, and shall remain in full force and effect, as if such paragraphs had never been contained in this Agreement.

13.8 This Agreement is intended to solely benefit the parties and shall not be construed or interpreted to create any rights or benefits to any third parties.

IN WITNESS WHEREOF the Contractor has executed this instrument, on the day and year first below written and the City of Fife Approving Authority has caused this instrument to be executed by and in the name of the City of Fife the day and year first above written.

Executed by the City of Fife this 18th day of ~~August~~ November, 2013.

(SEAL)

CITY OF FIFE

By: Kurt Reuter

Kurt Reuter, PRCS Director
5411 23rd Street East
Fife, WA 98424

ATTEST:

Carol E. Etgen
City Clerk, Carol Etgen, CMC

APPROVED AS TO FORM:

Loren Combs
Loren Combs, City Attorney
assisted by Allen

Executed by the Contractor this 18th day of ~~August~~ November, 2013.

[Signature]
Metro Parks Tacoma, Contractor
4702 S 19th St
Tacoma, WA 98405
Phone: 253-471-0500

EXHIBIT "A"

SERVICES TO BE PERFORMED

- Contractor shall provide Dance Classes for participants ages 3+, at the Fife Community Center. Each class shall be one half hour in length on Wednesdays
- The agreed upon class size is a minimum of six (6) registered participants.
- Contractor shall arrive around thirty (30) minutes prior to the start of the class to set-up.
- Contractor will notify the City of Fife of any cancellations or schedule changes at least five (5) working days prior to the scheduled start date of each camp.
- Contractor will notify City of Fife Recreation Services Supervisor, Julie Dames Ryan, 253-896-8652, on developments with respect to the class and its operations.