

MEMORANDUM

TO: Commissioner Ron Peters, Chair
Tulsa County Board of County Commissioners

FROM: Richard Bales, Director
Tulsa County Parks Division

SUBJECT: Park Facility Independent Instructor Agreement

DATE: July 2, 2014

The Park Division respectfully request Board approval of the attached agreements between the BOCC and Kate Kline for an "Arts & Craft" class, Geoffrey Beeson for a "Japanese Martial Arts" class, Christy Hays for a "Zumba" class, Michael Amberg for a "Sports & Fitness" class dba as "Amazing Athletes", Stephen McPherson for a "Krav Mega Self Defense" class, and Aymee Beiter for a "Zumba/Posture" class offered at the LaFortune Community Center for the Fiscal year of 2014/2015.

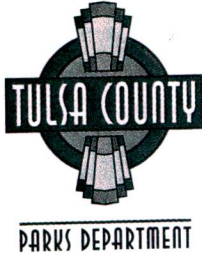
The forms have been signed off "Approved As To Form" by the District Attorney's office.

All the classes except the Arts & Craft class instructed by Kate Kline require the insurance certificate which is attached.

**ORIGINAL TO COUNTY CLERK'S OFFICE FOR MONDAY JULY 14, 2014
BOCC AGENDA.**

rb:

xc: Comm. Keith
Comm. Smaligo
Pat Ward e-mail only)
(Cherrie Lewallen e-mail only)
file



Independent Instructor Agreement For Recreational Classes/Activities

This Agreement is made as of the _____ day of _____, 20____, by and between the Board of County Commissioners of Tulsa County, Oklahoma, hereinafter referred to as the "COUNTY" and _____, an Independent Instructor, hereinafter referred to as "INSTRUCTOR".

WITNESSETH:

WHEREAS, the COUNTY desires to make available (a) (an) Posture / Zumba program, and desires to contract with INSTRUCTOR to provide a specific service for that program; and

WHEREAS, the COUNTY and INSTRUCTOR desire to clarify and define their responsibilities with regards to providing said program.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the COUNTY and INSTRUCTOR hereby agree as follows:

1. **Term:** The class, activity or service will begin on July, 2014 and will meet thereafter _____ number of times, with the termination date of this agreement being June 30, 2015.
- 2.. a. **Fees:** Tulsa County Parks, on behalf of COUNTY, shall collect fees and charges from the INSTRUCTOR. The fee(s) charges charged by the COUNTY for this class or activity (is) (are): _____, or 20 % of the paid enrollment fee(s) charges for the class or activity.
- b. **Fees:** The INSTRUCTOR shall collect all fees and charges from the Participants. The fee(s) charges charged by the INSTRUCTOR for this class or activity (is) (are): \$5/class or \$20/ mo. unit. or \$45/10 classes or 20 % of the paid enrollment fee(s) for the class or activity.

3. PAYMENT TO COUNTY:

The INSTRUCTOR shall pay to the COUNTY the sum of \$ _____ or 20 % of the paid enrollment fee(s) charges charged for the class or activity payable on or before the 10th of each month to the TULSA COUNTY PARKS.

4. **SPECIFIC DETAILS:**

- a. Type of service/instruction: Zumba/Pasture
- b. Name of class or activity: _____
- c. Day(s)/Date(s) Scheduled: Mon, Tue, Thurs
- d. Time Scheduled: 5:05 PM
- e. Location: _____

f. A minimum of _____ and a maximum of _____ paid enrollments must be received by the INSTRUCTOR prior to commencement of the class or activity. COUNTY reserves the right to cancel each class or activity which does not have the specified minimum number of Participants registered.

- 5. **Independent Instructor Status:** It is specifically understood that INSTRUCTOR is an Independent Instructor and not an Employee of the COUNTY. The COUNTY and INSTRUCTOR agrees that this Agreement is not a contract of employment and that no relationship of Employer/Employee or Principal/Agent is or shall be created hereby nor shall hereafter exist by reason of the performance of services herein specified.
- 6. **Taxes:** It is acknowledged and agreed by the COUNTY and INSTRUCTOR that the service herein provided by the INSTRUCTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from the INSTRUCTOR'S compensation for said service. The INSTRUCTOR assumes all liability and responsibility for payment of his/her own or qualified employee FICA and Social Security benefits with respect to this Agreement.
- 7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the INSTRUCTOR and the INSTRUCTOR may terminate this Agreement upon written notice mailed to the COUNTY at least thirty (30) working days prior to the INSTRUCTOR'S departure date.
- 8. **Subcontracting:** The INSTRUCTOR may not subcontract or assign any rights, responsibilities or obligations under this Agreement.
- 9. **Schedule/Cancellation:** Due to special events or unforeseen circumstances the COUNTY reserves the right to cancel or reschedule class or activities.
- 10. **Insurance:** The INSTRUCTOR shall acquire liability insurance for any class, activity or function. Said insurance is limited to no less than \$1,000,000.00. INSTRUCTOR shall name as co-insured on policy: Tulsa County, Board of County Commissioners. A copy of insurance must be attached as an exhibit to this Agreement.

Waived: _____
Signature: Director of Parks/ Tulsa County, Board of County Commissioners

11. Performance:

a. **INSTRUCTOR** agrees to:

1. Perform the service set forth herein in accordance with all applicable Tulsa County and Tulsa County Parks rules and regulations, and in a competent, professional, and safe, and responsible manner with full regard for the safety of the participants as well as the facility.
2. No person other than the INSTRUCTOR or a qualified employee of the INSTRUCTOR shall be engaged to provide the services provided for in this Agreement.
3. Provide written activity plans for each class or activity for which the INSTRUCTOR is responsible. (Written activity plans must be submitted prior to execution of contract.)
4. Provide and maintain, in proper working order, all necessary equipment specified to conduct the services provided for in this agreement.
5. Inspect the activity site prior to beginning each class or activity, and noting any damage or unsafe condition to facility, equipment prior to its use. Should an unsafe condition exist at a facility INSTRUCTOR should report said condition immediately to the County Representative and postpone said class or activity until condition is addressed.
6. Inspect the activity site after the class or activity is concluded to assure that the facility is left in the condition in which it was found.
7. Utilize his or her own methods and procedures toward a result which shall be in accordance with the purposes, intent and objectives of the COUNTY in providing such recreational class or activity.
8. Provide the County Representative with _____ day(s) notice of all schedule conflicts/changes.
9. INSTRUCTOR shall immediately notify the County Representative of any unanticipated absences due to circumstances such as personal/family illnesses.
10. Provide the County Representative with a complete and accurate Class/Activity Financial Report, copies of participant payment receipts, and acceptable payment in accordance with this Agreement, due on or before the 10th day of each month following a month in which classes were conducted or monies were collected.

b. **COUNTY** agrees to:

1. Maintain the facilities in proper working order.
2. Provide class/activity roster and activity financial forms to the INSTRUCTOR.
3. Publicize the class or activity through the Park Program Guide and public service announcements.

12. **Exhibits:** If any additional provisions are applicable to the class or activity, as provided for herein, INSTRUCTOR and the COUNTY may attach applicable Exhibit(s). If any additional requirements such as specialty certifications, licenses and/or memberships applicable to the class or activity are required INSTRUCTOR and COUNTY may attach applicable Exhibit(s). The INSTRUCTOR'S proposal should also be included as an Exhibit to this Agreement. All Exhibits shall be incorporated into and made part hereof.

13. **County Representative:** The County Representative for this CONTRACT is:

Cherie Lewallen Phone Number: 496-6221

14. **Indemnification:** The INSTRUCTOR shall indemnify and save harmless and defend Tulsa COUNTY, Board of County Commissioners, and their respective agents, servants, and employees from and against any and all claims, liability, losses, or causes of action which may arise from any and all negligent acts or omissions of the INSTRUCTOR during the performance of the INSTRUCTOR'S services under this Agreement.

15. **Notices:** All notices required in this Agreement shall be hand delivered or sent by certified mail, return receipt requested, if sent to the COUNTY shall be mailed to:

Director of Tulsa County Parks
2315 West Charles Page Blvd
Tulsa, Oklahoma 74127
(918) 596-5990

and if sent to the INSTRUCTOR shall be mailed to:

INSTRUCTOR'S Name:

[Signature]

INSTRUCTOR'S address:

2023 S. Harvard Ave, Tulsa, OK

INSTRUCTOR'S Phone No:

(918) 933-1700

16. **Terms:** The terms of this CONTRACT and the enforcement thereof shall be governed by the laws of the State of Oklahoma.

IN WITNESS WHEREOF, The parties have read the foregoing and in the date first above written, understand it, and agree to abide by it.

TULSA COUNTY PARKS DIRECTOR

BOARD OF COUNTY COMMISSIONERS

SIGNATURE

SIGNATURE

INSTRUCTOR

TULSA COUNTY CLERK

SIGNATURE

SIGNATURE

APPROVED AS TO FORM
ASSISTANT DISTRICT ATTORNEY

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/13/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: K&K Insurance Group, Inc. CONTACT NAME: Mass Merch Underwriting. INSURER(S) AFFORDING COVERAGE: Nationwide Mutual Insurance Company. NAIC #: 23787.

COVERAGES CERTIFICATE NUMBER: W00342696 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF, POLICY EXP, LIMITS. Includes rows for General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and Medical Payments.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) Certified Instructor of: Aerobics, Cardio kickboxing, Children's fitness programs, Dance, Exercise, Fitness bootcamp, Personal training, Pilates, Strength, Yoga, ZUMBA®

The certificate holder is added as an additional insured, but only with respect to the liability arising out of the operations of the insured named above.

CERTIFICATE HOLDER: Board of County Commissioners, BOCC, 500 S. Denver, Tulsa, OK 74103. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

Coverage is only extended to U.S. events and activities. ** NOTICE TO TEXAS INSURED: The Insurer for the purchasing group may not be subject to all the insurance laws and regulations of the State of Texas. ACORD 25 (2010/05) The ACORD name and logo are registered marks of ACORD © 1988-2010 ACORD CORPORATION. All rights reserved.