



**COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION
CONTRACT CLASS INSTRUCTOR AGREEMENT**



WHEREAS, the Department of Parks and Recreation operates recreation programs for the purpose of providing recreational and enrichment opportunities to the general public; and

WHEREAS, the operation of said program will mutually benefit the parties hereto and the residents of the County of Los Angeles; and

WHEREAS, Instructor has represented that they have the knowledge, skills and ability to provide instruction and management for the course(s) identified herein, the following provisions shall govern this Agreement:

1. **Parties**: The parties to this Agreement are:

1.1 Instructor (First and Last Name or business name), (individual, or type of entity) who will provide services to the Los Angeles County, Department of Parks and Recreation as a skilled (Class Type) Instructor (Instructor.)

1.2 County of Los Angeles, Department of Parks and Recreation (Department or County)

2. **Instructor Services**:

2.1 Instruction: Instructor will conduct the class(es)/program(s) (Class) on behalf of the Department in accordance with all ordinances, policies and regulations of the Department included, but not limited to, in the Contract Class Instructor Handbook which will be updated annually to reflect improvements to the overall program.

2.2 Agreement Term and Proposal: This Agreement will be effective for a maximum of one year and shall expire on June 30th following the date of execution, unless terminated sooner. A new Agreement will need to be executed each year. Instructor will be required to submit a Contract Class Program Proposal form for each proposed class quarterly, according to annually stated deadlines, in which facility, curriculum and other information including class schedule and pricing will be reviewed. Proposals submitted after the annually stated deadlines will not be accepted.

2.3 Class Enrollment: Each season's class enrollment numbers will be evaluated against the minimum enrollment set on the class proposal; those classes not reaching the minimum participants will be cancelled. In the event of a

cancellation, any prior registered participants will have their fees refunded, the Instructor will be under no obligation to provide services, and the Department will be under no obligation to pay the Instructor any compensation.

- 2.4 Attendance: Instructor will be present and prepared to instruct each scheduled class. In the event of an emergency, notification of absence must be made to the Contract Class Program (CCP) Coordinator, staff at the class location and class participants immediately. In the event of an absence, Instructor must offer a make-up class at a convenient time. All classes are to be provided by Instructor; substitute Instructors shall not be utilized. If a make-up class cannot be held, participants will receive a prorated refund based on the number of cancelled classes. The Instructor will not be compensated for any cancelled classes. No instructor shall leave class participants unattended at any time, and parents must sign minors in and out for each session. Instructor may not transport any student to or from any classes at facilities and/or classrooms.
- 2.5 Registration Forms: It is the responsibility of the instructor to access and printout the class rosters and sign-in/out sheets online through the instructor portal accessible on the registration website as outlined in the instructor handbook.
- 2.6 Background Check: The Instructor and any assistants/volunteers used to teach class authorize the Department to conduct criminal background checks, reference checks, and review any disciplinary record with present and previous employers, contracting agencies, and professional references. Reference information may include information of a confidential and privileged nature such as verbal and written inquiries or information about criminal history, performance, professional demeanor and character, rehire or contracting potential, dates of employment, salary and employment/professional history, which the Department may deem relevant. By providing such authorization, Instructor further releases from all liability those individuals or organizations providing such information to the Department. Instructor must understand and release the Department, its agents, employees and staff from any and all claims or potential claims regarding any and all information released to or by the Department, and regarding any decisions made on the Contract Instructor on the basis of such information. Instructor must understand that reference information includes information of a confidential and privileged nature that may include but not be limited to verbal and written inquiries or information about rehire or contracting potential, dates of employment, salary and employment salary and employment/professional history which the Department may deem relevant. Understand that the consent to this Agreement will apply to the extent

permitted by law, unless revoked or cancelled by sending a signed statement to the Department.

- 2.7 TB Testing: All Instructors and assistants working with minors are required to submit proof of a negative TB skin test conducted within the past 2 years in compliance with Section 5163 of the California Public Resources Code. For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to providing classes.
- 2.8 All Instructors and assistants will be required to attend a Department orientation and sign a Mandated Child Abuse Reporter Acknowledgement prior to teaching a class.
- 2.9 Employees/Volunteers: Any and all personnel employed or retained by Instructor in conducting the operations of the Instructor's class shall be qualified to perform the duties assigned to them by the Instructor and must pass a background check conducted by the County. Instructor shall not hire employees or volunteers who will have supervisory or disciplinary authority over minors who have been convicted of any offense identified in California Public Resources Code Section 5164. Instructor shall fully indemnify, defend and hold harmless the Department for any such hiring. Instructor shall immediately notify the Department in writing of any violation of this provision upon discovery. Instructor shall not employ any person, paid or unpaid who is permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless Instructor has complied with the TB testing requirements set forth in section 5163 of the California Public Resources Code. Regardless of whether services have been provided prior to full execution of this Agreement, Instructor certifies to the Department that all services were provided in full compliance with the terms and provisions of this Agreement. To give effect to California Public Resources Code Sections 5163 and 5164, Instructor shall follow the procedures specified in Exhibit A, Contractor/Volunteer Clearance Verification and Compliance with the Child Abuse and Neglect Reporting Act, attached hereto.
- 2.10 Customer Service: Instructor will conduct his or her Class in a professional, courteous, helpful, and supportive manner and will always represent the Department in a positive manner. Evaluations will be emailed to participants at the end of the Class program. Results will be shared with the Instructor and used to evaluate future class proposals submitted by the Instructor.
- 2.11 Supplies and Equipment: Except as otherwise provided by the Department, Instructor shall furnish, at no cost to the Department, all supplies and equipment necessary for Instructor's performance under this Agreement. In

those situations where the CCP Coordinator permits Instructor to use the Department's equipment, Instructor shall be responsible for returning the Department's equipment to the Department in the same condition as it was received, except for ordinary wear and tear. Instructor shall place orders for merchandise, supplies and equipment as an independent contractor, and shall make no representation that such merchandise, supplies or equipment are ordered, purchased or sold for or on behalf of the Department.

- 2.12 Distribution of Materials: Instructor will submit all materials to be distributed in Class for approval by the CCP Coordinator prior to the class start date. Instructors are not authorized to sell anything to participants outside of their pre-approved supply/material fee.
- 2.13 Equipment Security: Instructor shall provide, at Instructor's sole cost and expense, for the safety and security of the Instructor's supplies and equipment while used at the class location. It is further understood and agreed that the Department in no way purports to be a bailee and is in no way responsible for lost, stolen or damaged property.
- 2.14 Facility Security: Instructor shall at all times act to ensure the security of the class location. Instructor shall adhere to emergency and safety procedures and perform inspections of class location as developed and determined by the Department.
- 2.15 Department Facility/Classroom: Instructor is responsible for securing his or her assigned teaching area at their designated Facility. Department staff will be available to unlock and lock the main doors/gates to a facility at the opening and closing of business hours. All doors in the assigned teaching area must be checked before and after each class. Instructor is responsible for set-up and clean-up of every class. No storage of instructional materials is allowed, unless approved by the CCP Coordinator. The Department is not responsible for any lost or stolen items.
- 2.16 Participant Information: Instructor shall maintain the confidentiality of all records and information in accordance with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures relating to confidentiality, including, without limitation, County policies concerning information technology security and the protection of confidential records and information. Instructor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Agreement.
- 2.17 Communication: Instructor will maintain direct communication with the CCP Coordinator regarding Class information such as class cancellations,

inquiries, changes, accidents, incidents, any concerns, and/or recommendations to improve expectations or services patrons may express. Instructor must notify the CCP Coordinator of any schedule changes before the season begins and such changes are subject to Department review and approval. Instructor is responsible for notifying all participants of cancelled classes by email, phone, note at site, and/or in person.

2.18 Insurance Requirements:

2.18.1 General Liability Insurance requirements will be waived for all low-risk classes, as determined by the County.

2.18.2 Instructors/Contractors teaching medium-risk or high-risk classes will have to provide a Certificate of Insurance or other evidence of General Liability Insurance coverage, which shall be primary to and not contributing with any other insurance or self-insurance maintained by the County and at a minimum meet the County required limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate, and a copy of the Additional Insured endorsement to the General Liability policy naming the County and its agents as an additional insured. For all aquatic related classes, the minimum General Liability Insurance coverage requirements are \$3,000,000 per occurrence and \$5,000,000 aggregate.

2.18.3 Additional insurance coverage and/or higher levels of coverage may be required by the Department depending on the type of class. Workers compensation insurance coverage is required for instructors who employ their own staff in accordance with Labor Code § 3700 et seq.

2.18.4 See Exhibit C, Insurance Requirements for High-Risk Classes, for detailed information on insurance requirements for medium-risk and high-risk classes and classes that require additional and/or higher levels of insurance.

2.19 Concussion Protocol for Certain Activities: Instructor shall perform its obligations under the Agreement in conformance with Health and Safety Code Section 124235. For any applicable activity provided in Health and Safety Code Section 124235, Instructor shall comply with the concussion protocol which includes but is not limited to the following

- Be required to immediately remove from play participant who is suspected of suffering a concussion or head injury;

- Prevent that participant from returning to play for the remainder of the day and not returning until evaluated by a licensed health care provider who provides a written clearance;
- If the participant has sustained a concussion, there shall be a graduated return to play over seven days after receiving medical clearance to return to play;
- Parents or guardians of players under 18 shall be notified of the date of injury, symptoms observed, and any treatment provided;
- A yearly fact sheet will be provided to all participants and if the participant is under seventeen to their parent. The fact sheet shall be signed and returned to the Instructor;
- Each of the Instructor's Coaches and Administrators shall complete concussion training at least once before supervising a participant in an activity of the Instructor.

2.20 Compliance with Applicable Rules: Instructor agrees to abide by all facility rules and Department policies and procedures outline in the CCP Handbook.

3. **Indemnification**: The Instructor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, agents and volunteers (County Indemnitees) from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from and/or relating to this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the County indemnitees.

4. **Instructor Warranties**: Instructor warrants that:

- 4.1 They are trained, qualified, and experienced to instruct the class/program, in a safe, professional manner.
- 4.2 In the performance of this Agreement, Instructor shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, directives, guidelines, policies and procedures, and all provisions required thereby to be included in this Agreement are hereby incorporated herein by reference. Instructor shall indemnify, defend, and hold harmless County, its officers, employees, and agents, from and against any and all claims, demands, damages, liabilities, losses, costs, and expenses, including, without limitation, defense costs and legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to any failure by Instructor, its officers, employees, agents, or subcontractors, to comply with any such laws, rules, regulations, ordinances, directives, guidelines, policies, or procedures, as determined by County in its sole judgment. Any legal defense pursuant to Instructor's indemnification obligations under this paragraph (3.2) shall be conducted by Instructor and performed by counsel

selected by Instructor and approved by County. Notwithstanding the preceding sentence, County shall have the right to participate in any such defense at its sole cost and expense, except that in the event Instructor fails to provide County with a full and adequate defense, as determined by County in its sole judgment, County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and to reimbursement from Instructor for all such costs and expenses incurred by County in doing so. Instructor shall not have the right to enter into any settlement, agree to any injunction or other equitable relief, or make any admission, in each case, on behalf of County without County's prior written approval.

5. **Independent Contractor/Business:** Instructor acknowledges, understands and agrees this Agreement is by and between the Department and the Instructor 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 Department and the Instructor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever. The Instructor 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 Department shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Instructor. The Instructor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of Workers' Compensation liability, solely employees of the Instructor and not employees of the Department. The Instructor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Instructor pursuant to this Agreement.

6. **Department Duties:**

6.1 **Publicity:** Department will publicize Class in the quarterly "Seasons" brochure and/or other media outlets, as determined by the CCP Coordinator and CCP Handbook. The Department shall inform the Instructor of the deadline for submission of class information by publication of the Annual Contract Class Production Schedule. Other forms of publicity such as press releases or flyers must be approved by the CCP Coordinator before distribution. The Department reserves the right to use photographs of participants and/or instructors for promotional purposes and that the photographs belong to the Department and compensation will not be provided.

- 6.2 Class Details: The Department has approved Class type, fee(s), minimum and maximum enrollment goals, total number of classes offered, and location of said classes outlined in the approved class proposal form(s) in Exhibit D.
- 6.3 Class Registration: The Department will determine the registration dates and deadlines for classes. Classes featured in the “Seasons” brochure and/or other media outlets are only available to participants who enroll through the Department ActiveNet registration system.
- 6.4 Activity Fees: The Department will collect all activity fees. Instructors are not permitted to collect payments outside of their pre-approved supply fee or allow drop-in registration. The Instructor may not allow a student to participate in a class until they have completed the necessary registration through the online ActiveNet registration system. It is the responsibility of the Instructor to check the class roster to make sure the participant has signed up for the class.
- 6.5 Compensation: The Department will compensate Instructor for services to be provided hereunder as follows: Instructor will be paid for services rendered under this Agreement at **sixty percent (60%)** of the activity fees received for the Class conducted by Instructor excluding any participant withdrawals or refunds. The Instructor is responsible for all costs associated with the class, including but not limited to: instructional supplies, copies of materials, transportation, and/or cost of assistants. The remaining **forty percent (40%)** of fees for the Class will be retained by the Department to offset program costs, including administration, registration, facility, rental, utilities, building maintenance and publicity. Instructor will be paid in either one lump sum for classes lasting 5 weeks or less, or twice during the season for classes lasting 6 weeks or longer. Payment amount will be determined by the number of participants registered according to the Department’s ActiveNet registration system and the activity fee. **Instructor will not be paid for any cancelled classes, no matter the reason for the cancellation. Instructors must submit a payment due report to the Department within 90 days after completion of service.** The Department has 30 days from receipt of an undisputed payment due report to submit payment to the instructor via direct deposit. Certified Local Small Business Enterprises (LSBEs) will receive prompt payment for services they provide to the department. Prompt payment is defined as fifteen (15) calendar days after receipt of an undisputed payment due report. The payment due report should be generated by the instructor using the instructor portal on the registration website and submitted to the CCP coordinator as outlined in the instructor handbook.
- 6.6 Refunds: In support of the Department’s effort to achieve 100% customer satisfaction, the Department may refund registration fees in full or in part for any of the following reasons: If the participant requests to withdraw from the

class prior to the start of the second class; if the Department 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; or if Instructor cancels class and Instructor 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.

7. **Americans with Disabilities ACT (ADA)**: The County of Los Angeles, Department of Parks and Recreation is dedicated to providing people with and without disabilities the opportunity to participate in Department programs together. The ADA is federal legislation that gives Civil Rights protection to individuals with disabilities, similar to those rights provided to individuals based on race, sex, national origin, and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, local and state government services, and telecommunications.
8. **Compliance with Civil Rights Law**: The Instructor hereby assures that they will comply with Subchapter VII of the Civil Rights Act of 1964, 42 USC Sections 2000(e)(1) through 2000(e)(17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement. The Instructor shall comply with Exhibit B, Contractor's EEO Certification.
9. **Compliance with the County Policy of Equity**: Instructor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.bos.lacounty.gov/pdf/PolicyOfEquity.pdf>). The Instructor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The Instructor, their employees and subcontractors acknowledge and certify receipt and understanding of the CPOE. Failure of Instructor, their employees or subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the Instructor to termination of contractual Agreements as well as civil liability.
10. **Compliance with County's Zero Tolerance Policy on Human Trafficking**: Instructor acknowledges that the County has established a Zero Tolerance Policy on Human Trafficking prohibiting contractors from engaging in human trafficking.
 - 10.1 If an Instructor or member of Instructor's staff is convicted of a human trafficking offense, the County shall require that the Instructor or member of Instructor's staff be removed immediately from performing services under the

Agreement. County will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

10.2 Disqualification of any member of Instructor's staff pursuant to this paragraph shall not relieve Instructor of its obligation to complete all work in accordance with the terms and conditions of this Agreement.

11. **Termination of Agreement:** The Department may cancel a class or terminate this Agreement immediately upon any breach of performance of this Agreement by the Instructor or his or her assistants or any violation of State, Federal or local law. The Department may terminate this Agreement without cause upon seven (7) business days written notice to the Instructor. The Instructor may terminate this Agreement without cause upon 30 days written notice to the Department. Grounds for immediate termination of an Agreement include but are not limited to: verbal altercations and/or physical abuse, drug and/or alcohol use, notification of activity from the Department of Justice, violation of park and/or facility rules, improper and/or unprofessional conduct and/or representation of the Department, and/or commercial use or enterprise in a County park, without permission.
12. **Assignment and Delegation:** The Instructor shall not assign its rights or delegate its duties under this Agreement, or both, whether in whole or in part, without the prior written consent of the Department, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, Department consent shall require a written Amendment to the Agreement, which is formally approved and executed by the parties. Any payments by the Department to any approved delegate or assignee on any claim under this Agreement shall be deductible, at the Department's sole discretion, against the claims, which the Instructor may have against the Department.
13. **Ownership of Materials, Software and Copyright:**
 - 13.1 County shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "materials") which are originated or created through the Instructor's work pursuant to this Agreement. The Instructor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the County all of the Instructor's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to the Instructor's work under this Agreement.
 - 13.2 During the term of this Agreement and for five (5) years thereafter, the Instructor shall maintain and provide security for all of the Instructor's working papers prepared under this Agreement. County shall have the right to inspect, copy and use at any time during and subsequent to the term of this Agreement, any and all such working papers and all information contained therein.

13.3 Any and all materials, software and tools which are developed or were originally acquired by the Instructor outside the scope of this Agreement, which the Instructor desires to use hereunder, and which the Instructor considers to be proprietary or confidential, must be specifically identified by the Instructor to the County's CCP Coordinator as proprietary or confidential, and shall be plainly and prominently marked by the Instructor as "Proprietary" or "Confidential" on each appropriate page of any document containing such material.

13.4 The County will use reasonable means to ensure that the Instructor's proprietary and/or confidential items are safeguarded and held in confidence. The County agrees not to reproduce, distribute or disclose to non-County entities any such proprietary and/or confidential items without the prior written consent of the Instructor.

13.5 Notwithstanding any other provision of this Agreement, the County will not be obligated to the Instructor in any way under this subparagraph for any of the Instructor's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required under the previous subparagraph or for any disclosure which the County is required to make under any state or federal law or order of court.

13.6 All the rights and obligations of this Section shall survive the expiration or termination of this Agreement.

14. Patent, Copyright and Trade Secret Indemnification:

14.1 The Instructor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Instructor's work under this Agreement. County shall inform the Instructor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure and shall support the Instructor's defense and settlement thereof.

14.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Instructor, at its sole expense, and providing that County's continued use of the system is not materially impeded, shall either:

Procure for County all rights to continued use of the questioned equipment, part, or software product; or

Replace the questioned equipment, part, or software product with a non-questioned item; or
Modify the questioned equipment, part, or software so that it is free of claims.

14.3 The Instructor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Instructor, in a manner for which the questioned product was not designed nor intended.

15. Data Destruction:

15.1 Instructor (s) and Vendor(s) that have maintained, processed, or stored the County of Los Angeles' ("County") data and/or information, implied or expressed, have the sole responsibility to certify that the data and information have been appropriately destroyed consistent with the National Institute of Standards and Technology (NIST) Special Publication SP 800-88 titled *Guidelines for Media Sanitization*. Available at:

<http://csrc.nist.gov/publications/PubsDrafts.html#SP-800-88 Rev.%201>

15.2 The data and/or information may be stored on purchased, leased, or rented electronic storage equipment (e.g., printers, hard drives) and electronic devices (e.g., servers, workstations) that are geographically located within the County, or external to the County's boundaries. The County must receive within ten (10) business days, a signed document from Instructor (s) and Vendor(s) that certifies and validates the data and information were placed in one or more of the following stored states: unusable, unreadable, and indecipherable.

15.3 Vendor shall certify that any County data stored on purchased, leased, or rented electronic storage equipment and electronic devices, including, but not limited to printers, hard drives, servers, and/or workstations are destroyed consistent with the current National Institute of Standard and Technology (NIST) Special Publication SP-800-88, *Guidelines for Media Sanitization*. Vendor shall provide County with written certification, within ten (10) business days of removal of any electronic storage equipment and devices that validates that any and all County data was destroyed and is unusable, unreadable, and/or undecipherable.

16. Damage to County Facilities, Buildings or Grounds:

16.1 The Instructor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Instructor or employees or agents of the Instructor. Such repairs shall be made immediately after the Instructor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

16.2 If the Instructor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Instructor by cash payment upon demand.

17. Record Retention and Inspection-Audit Settlement:

17.1 The Instructor shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. The Instructor shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. The Instructor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Instructor and shall be made available to the County during the term of this Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Instructor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Instructor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

17.2 In the event that an audit of the Instructor is conducted specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Instructor or otherwise, then the Instructor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Instructor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Agreement. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

17.3 Failure on the part of the Instructor to comply with any of the provisions of this subparagraph shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

17.4 If, at any time during the term of this Agreement or within five (5) years after the expiration or termination of this Agreement, representatives of the County conduct an audit of the Instructor regarding the work performed under this Agreement, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Instructor, then the difference shall be either: a) repaid by the Instructor to the County by cash

payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Instructor from the County, whether under this Agreement or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Instructor, then the difference shall be paid to the Instructor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Agreement exceed the funds appropriated by the County for the purpose of this Agreement.

18. **Public Records Act**: Any documents submitted by the Instructor; all information obtained in connection with the Department's right to audit and inspect the Instructor's documents, books, and accounting records pursuant to Paragraph 19 (Record Retention and Inspection-Audit Settlement) of this Agreement; as well as those documents which are submitted as part of the application and class proposal for this Agreement, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.
19. **Conflict of Interest**: No County employee whose position with the County 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 Instructor or have any other direct or indirect financial interest in this Agreement.
20. **County Lobbyist Ordinance**: Instructor is aware of the requirements of Chapter 2.160 of the Los Angeles County Code with respect to County Lobbyists as such are defined in Section 2.160.010 of said Code and certifies full compliance therewith. Failure to fully comply shall constitute a material breach upon which County may terminate or suspend this Agreement.
21. **Solicitation of Consideration**: It is improper for any officer, employee or agent of County to solicit consideration, in any form, from an Instructor with the implication, suggestion or statement that the Instructor's provision of consideration may secure more favorable treatment for the Instructor in the award of the Agreement or that the Instructor's failure to provide such consideration may negatively affect the County's consideration of the Instructor's submission. An Instructor shall not offer to or give, either, directly or through an intermediary, consideration, in any form, to an officer, employee or agent of County for the purpose of securing favorable treatment with respect to the award of an Agreement. Instructor shall immediately report any attempt by an officer, employee or agent of County to solicit such improper

consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861. Failure to report such solicitation may result in the Agreement being terminated.

22. **Contractor's Warranty of Adherence to County's Child Support Compliance Program:**

22.1 The Instructor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through contracts are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

22.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Instructor's duty under this Agreement to comply with all applicable provisions of law, the Instructor warrants that it is now in compliance and shall during the term of this Agreement maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

23. **Force Majeure:**

23.1 Neither party shall be liable for such party's failure to perform its obligations under and in accordance with this Agreement, if such failure arises out of fires, floods, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by such party or any of such party's subcontractors), freight embargoes, or other similar events to those described above, but in every such case the failure to perform must be totally beyond the control and without any fault or negligence of such party (such events are referred to in this paragraph as "force majeure events").

23.2 In the event Instructor's failure to perform arises out of a force majeure event, Instructor agrees to use commercially reasonable best efforts to obtain goods or services from other sources, if applicable, and to otherwise mitigate the damages and reduce the delay caused by such force majeure event.

24. **Governing Law, Jurisdiction, Venue:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Instructor agrees and consents to the exclusive jurisdiction of the courts of the State of

California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.:

25. **Counterparts/Electronic Signature**: This Agreement may be executed in counterparts, including both counterparts that are executed on paper and counterparts that are in the form of electronic records and are executed electronically. An electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or e-mail electronic signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called pdf format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered had been signed using a handwritten signature. The parties (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature, (ii) intended to be bound by the signatures (whether original, faxed or electronic) on any document sent or delivered by facsimile or, electronic mail, or other electronic means, (iii) are aware that the other party will reply on such signatures, and (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and California Uniform Electronic Transactions Act ("UETA")(Cal. Civ. Code § 1633.1, et seq.), that a signature by fax, email or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction
26. **Non-Exclusivity**: Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Instructor. This Agreement shall not restrict Department from acquiring similar, equal or like goods and/or services from other entities or sources.
27. **Waiver**: No waiver by the County of any breach of any provision of this Agreement shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The rights and remedies set forth in this paragraph (29) shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

28. **Entire Agreement:** The documents and exhibits attached hereto constitute the entire Agreement between the Department and the Instructor for the provisions of the classes stated herein. 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.

Agreement Acknowledgement

I, _____, an independent contract class instructor with the Los Angeles County Department of Park and Recreation have read the Contract Class Instructor Agreement. By signing below, I certify that I have read and understand all of the contents including policies, procedures and guidelines outlined in the agreement and its exhibits.

Instructor:

Signature

Date

Norma E. García-González, Director
County of Los Angeles,
Department of Parks and Recreation

By: _____
Signature/Title

Agency: _____

Background Check
Completed: _____
Date/Initials

Exhibit A

**CONTRACTOR/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE
WITH THE CHILD ABUSE AND NEGLECT REPORTING ACT**

If Instructor provides services involving minors, and as a Department-approved method of complying with the provisions contained in this Agreement, Instructor must submit to a criminal background check conducted by the Department which also applies to each of its employees and volunteers who have supervisory or disciplinary authority over minors.

1. Instructor shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 *et. seq.* Additionally, Instructor certifies to the following:

Any and all personnel employed or retained by Instructor in conducting the operations of Instructor's program shall be qualified to perform the duties assigned to them by Instructor. Instructor agrees that Instructor shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code Section 5164 (copy attached).

The Department and Instructor understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If Instructor intends to have employees or volunteers under the age of 18 providing services under this Agreement, Instructor shall maintain and make available to Department, if requested, guidelines, procedures or policies, that safeguard and ensure that no employees or volunteers under the age of 18 will be providing services under this Agreement unsupervised, and further, Instructor shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code Section 5164. The instructor, their employees and volunteers must all submit to a background check conducted by the Department before they may begin teaching a class.

2. Instructor shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by Instructor shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed by the Department prior to the beginning of services under this Agreement, and the person meets the standards set forth above.

3. That no person paid or unpaid by Instructor shall be permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless Instructor has provided proof to the department that they have complied with the TB testing

requirements set forth in Section 5163 of the California Public Resources Code. All Instructors, their employees and volunteers must provide evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current instructor) of the date of execution of this Agreement. For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. The Instructor shall keep on file each "Certificate" of clearance for the persons described above and shall also make available a copy of each Certificate to the Department. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

I, the Instructor by signing below verify that I have read and agree to the above:

Signature:

Date:

Print Name:

Exhibit B

PROPOSER'S EEO CERTIFICATION

Organization/Instructor Name

Address

Tax Identification Number of Social Security Number

GENERAL

In accordance with provisions of the County Code of the County of Los Angeles, the Proposer certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

CERTIFICATION	YES	NO
1. Proposer has written policy statement prohibiting discrimination in all phases of employment.	()	()
2. Proposer periodically conducts a self-analysis or utilization analysis of its work force.	()	()
3. Proposer has a system for determining if its employment practices are discriminatory against protected groups.	()	()
4. When problem areas are identified in employment practices, Proposer has a system for taking reasonable corrective action to include establishment of goal and/or timetables.	()	()

Signature

Date

Name and Title of Signer (please print)

Exhibit C

Insurance Requirements for High-Risk Classes

1. General Provisions for all Insurance Coverage:

- 1.1 Without limiting Instructor's indemnification of County, and in the performance of this Agreement and until all of its obligations pursuant to this Agreement have been met, Instructor shall provide and maintain at its own expense insurance coverage satisfying the requirements specified in this Agreement. These minimum insurance coverage terms, types and limits (the "Required Insurance") also are in addition to and separate from any other contractual obligation imposed upon Instructor pursuant to this Agreement. The County in no way warrants that the Required Insurance is sufficient to protect the Instructor for liabilities which may arise from or relate to this Agreement.
- 1.2 Evidence of Coverage and Notice to County: Certificate(s) of insurance coverage (Certificate) satisfactory to County, and a copy of an Additional Insured endorsement confirming County and its Agents (defined below) has been given Insured status under the Instructor's General Liability policy, shall be delivered to County at the address shown below and provided prior to commencing services under this Agreement.
- 1.3 Renewal Certificates shall be provided to County not less than ten (10) days prior to Instructor's policy expiration dates. The County reserves the right to obtain complete, certified copies of any required Instructor and/or sub-contractor insurance policies at any time.
- 1.4 Certificates shall identify all Required Insurance coverage types and limits specified herein, reference this Agreement by name or number, and be signed by an authorized representative of the insurer(s). The Insured party named on the Certificate shall match the name of the Instructor identified as the contracting party in this Agreement. Certificates shall provide the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding fifty thousand dollars (\$50,000), and list any County required endorsement forms.
- 1.5 Neither the County's failure to obtain, nor the County's receipt of, or failure to object to a non-complying insurance certificate or endorsement, or any other insurance documentation or information provided by the Instructor, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the Required Insurance provisions.

- 1.6 Certificates and copies of any required endorsements shall be emailed to your Contract Class Coordinator or to ContractClasses@parks.lacounty.gov
- 1.7 Instructor also shall promptly report to County any injury or property damage accident or incident, including any injury to an Instructor employee occurring on County property, and any loss, disappearance, destruction, misuse, or theft of County property, monies or securities entrusted to Instructor. Instructor also shall promptly notify County of any third-party claim or suit filed against Instructor or any of its subcontractors which arises from or relates to this Agreement and could result in the filing of a claim or lawsuit against Instructor and/or County.
- 1.8 Additional Insured Status and Scope of Coverage: The County of Los Angeles, its Special Districts, Elected Officials, Officers, Agents, employees and volunteers (collectively County and its Agents) shall be provided additional insured status under Instructor's General Liability policy with respect to liability arising out of Instructor's ongoing and completed operations performed on behalf of the County. County and its Agents additional insured status shall apply with respect to liability and defense of suits arising out of the Instructor's acts or omissions, whether such liability is attributable to the Instructor or to the County. The full policy limits and scope of protection also shall apply to the County and its Agents as an additional insured, even if they exceed the County's minimum Required Insurance specifications herein. Use of an automatic additional insured endorsement form is acceptable providing it satisfies the Required Insurance provisions herein.
- 1.9 Cancellation of or Changes in Insurance: Instructor shall provide County with, or Instructor's insurance policies shall contain a provision that County shall receive, written notice of cancellation or any change in Required Insurance, including insurer, limits of coverage, term of coverage or policy period. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. Failure to provide written notice of cancellation or any change in Required Insurance may constitute a material breach of the Agreement, in the sole discretion of the County, upon which the County may suspend or terminate this Agreement.
- 1.10 Failure to Maintain Insurance: Instructor's failure to maintain or to provide acceptable evidence that it maintains the Required Insurance shall constitute a material breach of the Agreement, upon which County immediately may withhold payments due to Instructor, and/or suspend or terminate this Agreement. County, at its sole discretion, may obtain damages from Instructor resulting from said breach. Alternatively, the County may purchase the

Required Insurance, and without further notice to Instructor, deduct the premium cost from sums due to Instructor or pursue Instructor reimbursement.

- 1.11 Insurer Financial Ratings: Coverage shall be placed with insurers acceptable to the County with A.M. Bes ratings of not less than A: VII unless otherwise approved by County.
- 1.12 Instructor's Insurance Shall Be Primary: Instructor's insurance policies, with respect to any claims related to this Agreement, shall be primary with respect to all other sources of coverage available to Instructor. Any County maintained insurance or self-insurance coverage shall be in excess of and not contribute to any Instructor coverage.
- 1.13 Waivers of Subrogation: To the fullest extent permitted by law, the Instructor hereby waives its rights and its insurer(s)' rights of recovery against County under all the Required Insurance for any loss arising from or relating to this Agreement. The Instructor shall require its insurers to execute any waiver of subrogation endorsements which may be necessary to affect such waiver.
- 1.14 Subcontractor Insurance Coverage Requirements: Instructor shall include all subcontractors as insured under Instructor's own policies or shall provide County with each subcontractor's separate evidence of insurance coverage. Instructor shall be responsible for verifying each subcontractor complies with the Required Insurance provisions herein and shall require that each subcontractor name the County and Instructor as additional insureds on the subcontractor's General Liability policy. Instructor shall obtain County's prior review and approval of any subcontractor request for modification of the Required Insurance.
- 1.15 Deductibles and Self-Insured Retentions (SIRs): Instructor's policies shall not obligate the County to any portion of any Instructor deductible or SIR. The County retains the right to require Instructor to reduce or eliminate policy deductibles and SIRs as respects the County, or to provide a bond guaranteeing Instructor's payment of all deductibles and SIRs, including all related claims investigation, administration and defense expenses. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.
- 1.16 Claims Made Coverage: If any part of the Required Insurance is written on a claims made basis, any policy retroactive date shall precede the effective date of this Agreement. Instructor understands and agrees it shall maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.

- 1.17 Application of Excess Liability Coverage: Instructors may use a combination of primary, and excess insurance policies which provide coverage as broad as (“follow form” over) the underlying primary policies, to satisfy the Required Insurance provisions.
- 1.18 Separation of Insureds: All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.
- 1.19 Alternative Risk Financing Programs: The County reserves the right to review, and then approve, Instructor use of self-insurance, risk retention groups, risk purchasing groups, pooling arrangements and captive insurance to satisfy the Required Insurance provisions. The County and its Agents shall be designated as an Additional Covered Party under any approved program.
- 1.20 County Review and Approval of Insurance Requirements: The County reserves the right to review and adjust the Required Insurance provisions, conditioned upon County’s determination of changes in risk exposures.

2. Insurance Coverage

- 2.1 Commercial General Liability: Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01), naming County and its Agents as an additional insured, with limits of not less than:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

- 2.2 Automobile Liability: Insurance (providing scope of coverage equivalent to ISO policy form CA 00 01) with limits of not less than \$1 million for bodily injury and property damage, in combined or equivalent split limits, for each single accident. Insurance shall cover liability arising out of Instructor’s use of autos pursuant to this Agreement, including owned, leased, hired, and/or non-owned autos, as each may be applicable.
- 2.3 Workers Compensation and Employers’ Liability Insurance: or qualified self-insurance satisfying statutory requirements, which includes Employers’ Liability coverage with limits of not less than \$1 million per accident. If Instructor will provide leased employees, or, is an employee leasing or

temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. If applicable to Instructor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

2.4 Unique Insurance Coverage

2.4.1 Sexual Misconduct Liability: Insurance covering actual or alleged claims for sexual misconduct and/or molestation with limits of not less than \$2 million per claim and \$2 million aggregate, and claims for negligent employment, investigation, supervision, training or retention of, or failure to report to proper authorities, a person(s) who committed any act of abuse, molestation, harassment, mistreatment or maltreatment of a sexual nature.

2.4.2 Property Coverage: Instructors given exclusive use of County owned or leased property shall carry property coverage at least as broad as that provided by the ISO special causes of loss (ISO policy form CP 10 30) form. The County and its Agents shall be named as an Additional Insured and Loss Payee on Instructor's insurance as its interests may appear. Automobiles and mobile equipment shall be insured for their actual cash value. Real property and all other personal property shall be insured for their full replacement value.

2.4.3 Technology Errors & Omissions Insurance: Insurance for liabilities arising from errors, omissions, or negligent acts in rendering or failing to render computer or information technology services and technology products. Coverage for violation of software copyright should be included. Technology services should at a minimum include (1) systems analysis; (2) systems programming; (3) data processing; (4) systems integration; (5) outsourcing including outsourcing development and design; (6) systems design, consulting, development and modification; (7) training services relating to computer software or hardware; (8) management, repair and maintenance of computer products, networks and systems; (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data

output, and any other services provided by the vendor with limits of not less than \$10 million.

- 2.4.4 Privacy/Network Security (Cyber) Liability: Insurance coverage providing protection against liability for (1) privacy breaches [liability arising from the loss or disclosure of confidential information no matter how it occurs]; (2) system breach; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; (5) unauthorized access to or use of computer systems with limits of not less than \$2 million. No exclusion/restriction for unencrypted portable devices/media may be on the policy.
- 2.4.5 Miscellaneous Coverage: Garage, Builder's Risk, Installation, Owners and Instructors Protective Liability, Pollution (Environmental) Liability, Asbestos Liability, Railroad Protective Liability, Earthquake, Flood, Terrorism, Motor Truck Cargo Liability, Equipment Breakdown, Aircraft Liability, Marine Protection and Indemnity, Fine Art, Fiduciary.

Exhibit D
Approved Class Proposal Form