

## INDEPENDENT CONTRACTOR AGREEMENT

This agreement for the provision of Zumba Fitness classes ("Agreement") is made and entered into this 20<sup>th</sup> of December, 2011 ("Effective Date"), by and between the City of Redlands, a municipal corporation (hereinafter "City") and Ana M. Martinez, (hereinafter "Contractor"). City and Contractor are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

### RECITALS

WHEREAS, Contractor has expressed an interest in conducting Zumba Fitness classes for City's Recreation Division; and

WHEREAS, Contractor has represented to City that she has the requisite experience, special knowledge and professional expertise similar to others in the recreation industry who conduct fitness classes;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City of Redlands and Ana M. Martinez, agree as follows:

### AGREEMENT

#### Section 1. Services.

A. City hereby engages Contractor to conduct Zumba Fitness classes for City's Recreation Division (the "Services") at the Redlands Community Center. Contractor shall be solely responsible for determining the method, details and means of performing the Services and shall advise City of the same prior to the provision of any Services under this Agreement. Contractor further agrees to perform the Services to the best of her ability and in an efficient, safe and competent manner.

B. The Services may be scheduled by Contractor, at any time, during week days, depending upon the availability of the Redlands Community Center facility.

C. As consideration for providing the Services, City shall register and collect fees for participants in Contractor's program. City shall then pay Contractor seventy percent (70%) of the fees collected, no later than fourteen days after the registration period ends. Notwithstanding any other provision of this Agreement, Contractor shall be responsible for full payment to any participant of any refund of fees to such participant. City shall have no obligation for payment of any refunds.

Section 2. Independent Contractor. It is the express intention of the Parties that Contractor is and shall remain during its performance of the Services, an independent contractor and not an employee or agent of City. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Contractor and City. The

Parties acknowledge that Contractor is not a City employee for State tax, Federal tax or any other purpose.

Section 3. Contractor's Employees. No employees or agents of Contractor shall participate in the performance of the Services without the prior written consent of City.

Section 4. Business License. Contractor shall obtain a business license from City as a pre-condition of performing the Services.

Section 5. Termination. City shall have the right to terminate this Agreement upon ten (10) days prior written notice to Contractor. City shall have no liability for any claims or damages resulting to Contractor as a result of any exercise by City of its right to terminate this Agreement.

Section 6. Notices. All notices shall be given in writing by personal delivery or by mail. Notices, sent by mail should be addressed as follows:

City: Fred Cardenas, Director  
Quality of Life Department  
City of Redlands  
PO Box 3005  
Redlands, CA 92373

Contractor: Ana Martinez  
1448 Walnut  
San Bernardino, CA 92410

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section.

Section 7. Indemnity. Contractor shall defend, indemnify and hold City, and its elected officials, officers, employees and agents harmless from and against any and all actions, damages, losses, causes of action and liability imposed or claimed relating to the injury or death of any person or damage to any property, including attorneys' fees and other legal expenses, arising directly or indirectly from any negligent or intentionally wrongful act or omission of Contractor in performing the Services.

Section 8. Entire Agreement/Amendment. This Agreement represents the entire Agreement of the Parties as to the matters contained herein. Any amendment of this Agreement shall be effective only if it is in writing and signed by the Parties.

Section 9. Assignment. This Agreement shall not be assigned without the prior written consent of City. Any assignment, or attempted assignment, without such prior consent, shall be null and void and, at the option of City, result in the immediate termination of this Agreement.

Section 10. Insurance. Contractor shall obtain and maintain during the term of this Agreement all insurance required by this Section and shall submit to City certificates of insurance and appropriate endorsements evidencing that the insurance is in force and effect. Evidence of such insurance shall be provided to City within ten (10) calendar days of the Effective Date of this Agreement, and prior to commencement of any Services. Acceptance of the certificates by City shall not relieve Contractor of any of the insurance requirements contained herein, nor decrease the liability of Contractor.

- (a) If applicable, workers' compensation and employer's liability insurance for its employees throughout the terms of this Agreement pursuant to Labor Code Sections 1860 and 3700, and in amounts which satisfy statutory requirements.
- (b) Comprehensive and general liability insurance with a carrier acceptable to City in an amounts not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury. Such insurance shall not be cancelled unless thirty (30) days prior written notice is provided to City.
- (c) Business automobile liability coverage with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability.
- (d) Except for workers' compensation and employer's liability insurance, City shall be named as an additional insured on all policies and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.

Section 11. Attorneys' Fees. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs or other relief, be entitled to recover its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

CITY OF REDLANDS

CONTRACTOR

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Pete Aguilar, Mayor

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Ana M. Martinez

ATTEST:

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Sam Irwin, City Clerk