

**CITY OF NORTH MIAMI PROGRAMS INSTRUCTOR  
PROFESSIONAL SERVICES AGREEMENT**

**THIS PROGRAMS INSTRUCTOR PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is entered into this **30<sup>th</sup>** day of **January, 2018**, between the City of North Miami, Florida, a Florida municipal corporation (“City”) and **Tatiana Bastian** (“Instructor”). The City and the Instructor shall collectively be referred to as the “Parties”.

**NOW, THEREFORE**, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

1. The Instructor will provide the following types of instructional services (“Services”), as determined by the Director of the City Parks and Recreation Department (“Director”), to program participants (“Participants”):
  - a) Title of course/programs: **REBEL YOGA CLASS**
  - b) Day and hour of program meeting: To be determined by the Director or Director’s designee and Instructor as needed.
  - c) Location: **Joe Celestin Center 1525 NW 135 St North Miami**
2. In exchange for Services rendered, the City agrees to pay Instructor seventy percent (70%) of the fees charged to Participants. Payment shall be made at the second week of each session. In no event shall the amount exceed One Thousand Dollars (\$1,000.00).
3. The Instructor is deemed to be an independent contractor and not an agent or employee of the City. Accordingly, neither Instructor, nor any of its employees, subcontractors, or representatives shall attain, nor be entitled to, any rights or benefits under the Civil Service or Pension Ordinances of the City, nor any rights generally afforded classified or unclassified employees.
4. The City or Instructor may terminate this Agreement, with or without cause, upon ten (10) days written notice. The City shall compensate Instructor at a rate proportional during Instructor’s Service as set forth in paragraph 2 above.
5. The Instructor shall keep an accurate attendance record and submit it to City at the end of each program session. The Instructor shall submit a written evaluation of the class/program, including but not limited to suggestions to improve the program, Participant’s special interests and problems at the conclusion of the program session.

6. All Participants must sign a release and waiver of liability form, in favor of the City, prior to any instruction. At no time will a Participant be allowed into the class/program without first signing a release and waiver of liability form. It shall be the responsibility of the Instructor to assure compliance with this section.
7. The Instructor must timely notify the City in the event the Instructor is unable to attend the class/program due an emergency, illness, or a death in the family. Instructor shall be responsible for providing, at no extra cost to the City, a qualified **Yoga** Instructor acceptable to the City in order to continue the intended services of this Agreement, in the absence of the Instructor or schedule make-up classes during the current session.
8. All notices, hand-outs, and letters notifying participants of anything pertaining to the class/program must be submitted in writing two weeks prior to the date of distribution. The information shall be reviewed by the City's Recreation Supervisor and typed on City letterhead. At no time should the Instructor distribute information without prior approval of City.
9. The Instructor shall contact City's Recreation Supervisor supervising the class/program in the event any problem should arise including but not limited to problems with the facility, staff, parents, and Participants.
10. At no time should Instructor utilize corporal punishment. The following disciplinary actions shall be adhered to without exception:
  - 1) **1<sup>st</sup> warning:** take Participant aside and talk to the Participant about any problem or concern.
  - 2) **2<sup>nd</sup> warning:** complete an incident report, talk to Participant and submit a report to the City's designated representative.
  - 3) **3<sup>rd</sup> warning:** complete an incident report, talk to parent/legal guardian and Participant, and submit a report to City's designated representative.
  - 4) **4<sup>th</sup> warning:** remove the Participant from the program with the approval of the Recreation Coordinator.

11. If special equipment is needed for Instructor's class, arrangements should be made upon execution of this Agreement.
12. The term of this Agreement shall commence on February 1, 2018 and terminate on December 31, 2018, and may be renewed for an additional one (1) year term if mutually agreed to in writing by both Parties.
13. The Instructor agrees to defend, indemnify and hold City harmless from any and all claims, demands, suits, losses, costs, expenses or damages which may be asserted, claimed or recovered against or from the City by reason of any damage to property or bodily injury including death, sustained by anyone, and which claim, demand, suit, loss, cost, expense or damage arises out of this Agreement. The Instructor recognizes the broad nature of the above indemnification and hold harmless clause, and voluntarily makes this covenant in recognition of the valuable consideration provided by City under this Agreement.
14. This is a professional services Agreement whereby the City has expressly retained the Instructor. This Agreement is not assignable or transferable in whole or in part.
15. The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability to Instructor for any cause of action due to an alleged breach by the City or for any action or claim by the Instructor arising from this Agreement, so that its liability be limited to a maximum of One Thousand Dollars (\$1,000.00). Accordingly, the Instructor agrees that the City shall not be liable to the Instructor in an amount in excess of One Thousand Dollars (\$1,000.00), for any action or claim by Instructor arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.
16. This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue shall be either in the Southern District of Florida or in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.
17. If Instructor fails to comply with any term or condition of this Agreement, or fails to perform any of its obligations hereunder, then Instructor shall be in default. Upon the

occurrence of a default hereunder, the City, in addition to all remedies available to it by law, may immediately, upon written notice to Instructor, terminate this Agreement.

- 18. This Agreement constitutes the sole and only agreement of the Parties relating to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. No modification or amendment hereto shall be valid unless in writing and executed by the Parties hereto.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by persons legally authorized and qualified on the day and year first written above.

ATTEST:

MICHAEL A. ETIENNE, ESQ  
City Clerk

CITY OF NORTH MIAMI,  
"City"

LARRY M. SPRINGS, JR.  
City Manager

WITNESS:

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"Instructor"

Print name: \_\_\_\_\_

Print name: Tatiana Bastian

Title: Yoga Instructor

Approved as to Form and  
Legal Sufficiency:

JEFF P. H. CAZEAU

City Attorney