

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SOUTH BEND
DEPARTMENT OF VENUES PARKS & ARTS AND CREATIVE DANCEN'**

THIS AGREEMENT is made and executed between the City of South Bend, Indiana (“City”) Department of Venues Parks & Arts (“VPA”), acting by and through its Board of Park Commissioners (“Board”), and Creative DanceN’, a for-profit corporation (“Creative”), organized under the laws of the State of Indiana and having its offices located at 3371 Cleveland Road, Suite 110, South Bend, IN 46628 (each a “Party” and collectively the “Parties”).

WHEREAS, VPA desires to support programing for the youth population of the community; and

WHEREAS, Creative exists for the purpose promoting youth development through dance; and

WHEREAS, the City is the owner of the property located at 321 E. Walter Street, South Bend, Indiana, 46616, commonly known as the O’Brien Recreational Center (“the Facility”); and

WHEREAS, Creative desires to use the space at the Facility to conduct a satellite dance program;

NOW, THEREFORE, the City and Creative do hereby mutually agree as follows:

I. TERM OF AGREEMENT

This Agreement shall commence on _____, __, 20__ and continue until _____, __, 20__, at which point this Agreement shall terminate unless it is renewed for successive one (1) year terms by written agreement of the Parties.

II. CONSIDERATION AND CONTRIBUTIONS BY THE PARTIES

(a) Consideration: During the term of this Agreement, the City will allow Creative to use the Facility, free of charge, for its satellite dance program sessions. In consideration of the City’s Facility use contribution, Creative agrees to offer reduced fee classes as follows:

7 Week Class/Sessions	Fall	Winter	Spring
30 Minute Classes	\$45	\$45	\$45
45 Minute Classes	\$60	\$60	\$60

4 Week Intro Class/Session	Fall	Winter	Spring
30 Minute Classes	\$25	\$25	\$25
45 Minute Classes	\$35	\$35	\$35

(b) Additional Contribution from City:

1. VPA will provide webpage advertising of programs/classes
2. VPA will promote Creative dance programs/classes through flyers and information guide.

(c) Additional Contributions from Creative:

1. Creative will VPA with the number of participants for each session and a total number of participants upon the conclusion of a services of classes.
2. Creative will provide the instructors for the program.
3. Creative agrees to be responsible for participant registration.
4. Creative agrees to provide marketing and all supplies needed for the program.
5. Creative agrees to include VPA's link on the Creative DanceN' website.
6. Creative will provide VPA with proof of insurance

III. RESPONSIBILITIES OF VPA

- (a) VPA shall work together with Creative to develop a schedule of dates and times for use of the Facility for the Creative dance program(s).
- (b) VPA shall be responsible for the removal of trash and debris located in the trash receptacles and dumpster located at the Facility as customary and necessary.
- (c) VPA shall be responsible for the cost of electricity usage at the Facility, including lighting of the Facility parking lot during use of the Facility for Creative program(s)
- (d) VPA shall be responsible for the maintenance, upkeep and repairs of the Facility, not caused by Creative's use of the Facility, in the sole discretion of VPA.

IV. RESPONSIBILITIES OF CREATIVE

- (a) Creative agrees to work together with VPA to develop a schedule of dates and times for use of the Facility for the purpose of the program.
- (b) shall provide staffing and supervision for the program.
- (c) shall handle registration of participants for the program.
- (d) shall provide all marketing and supply needs for the program.
- (e) understands and agrees that the Facility is to be used only for the purpose of conducting the program and for no other purpose without the prior written consent of VPA.
- (f) shall be responsible for any special preparation of the Facility prior to scheduled uses of the Facility and shall restore and repair any damaged caused by, to the Facility following each use, normal wear and tear excepted.
- (g) shall remove all trash and debris after each use and place in Facility trash receptacles and dumpsters.
- (h) agrees to obey all rules and regulations of the Facility as well as all applicable local, state and federal laws and regulations.

(V) ASSIGNMENT

Creative may not assign the rights granted in this Agreement without first obtaining prior written consent from VPA.

(VI) INDEMNIFICATION

Creative hereby agrees to defend, indemnify, and hold harmless the City, VPA, its officials, employees, and agents from any and all claims of any nature which arise from the performance by the Creative under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising solely out of the negligence of the City, VPA, its officials, directors, employees, and agents, and shall not be limited by any insurance coverage carried by Creative. The obligations of Creative under this section shall survive the termination of this Agreement.

(VII) INSURANCE

Creative shall at its sole cost and expense, obtain, maintain and submit to VPA, Certificates of Insurance in the following amounts, naming the City as an additional named insured:

Workers' Compensation Insurance that satisfies the minimum statutory limits; and

Commercial General Liability in an amount not less than: (1) \$1,000,000 per occurrence; (2) \$100,000 for damage to rented premises; (3) \$5,000.00 for medical expense; (4) \$500,000 for personal and advertising injury; (5) \$1,000,000 products/completed operations; (6) \$1,000,000 auto liability; (7) \$2,000,000 general aggregate limit; and (8) \$5,000,000 excess/umbrella liability.

Creative shall ensure that the Certificates of Insurance contain provisions that the policies and coverages afforded thereunder will not be canceled until at least 30 days after written notice is provided to the City.

(VIII) ILLEGALITY

If any provision of this Agreement is found by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected thereby, and in lieu of any provision that is found to be illegal, invalid, or unenforceable, there will be added as part of this Agreement a provision as similar to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

(IX) NON-DISCRIMINATION

The City and VPA are committed to ensuring equality of opportunity and does not exclude, deny the benefit of, or otherwise subject any person to discrimination in any City program, service or activity on the basis of race, color, sexual orientation, national origin, sex, age or disability. Creative agrees to comply with and to act consistently with this policy in the performance of Creative's duties under this Agreement.

(X) ENTIRE AGREEMENT

This document contains all of the agreements between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.

(XI) LAW GOVERNING AGREEMENT

This Agreement shall be governed by the laws of the State of Indiana and venue shall be in St. Joseph County, Indiana.

(XII) COUNTERPARTS

This Agreement may be executed in counterparts which when taken together shall constitute one fully executed original.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have caused this Agreement to be executed as of the day and year first written above. The parties have read and understand the foregoing terms of this Agreement and do, by their respective signatures hereby agree to its terms.

CREATIVE DANCEN'

Signature

Printed Name and Title

Street Address

P.O. Box

City, State Zip

**CITY OF SOUTH BEND, INDIANA
BOARD OF PARKS COMMISSIONERS**

Mark Neal, President

Aimee Buccellato, Member

Consuella Hopkins, Member

Dan Farrell, Member

ATTEST:

Eva Ennis, Clerk