

APR 8 2019

Approved

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Randy Gillespie **TODAY'S DATE:** April 2, 2019

DEPARTMENT: Personnel

SIGNATURE OF DEPARTMENT HEAD: Randy Gillespie

REQUESTED AGENDA DATE: April 8, 2019

SPECIFIC AGENDA WORDING: Consideration to approve Service Agreement for Instructor with Elizabeth Ramirez to provide Zumba Fitness classes at Johnson County Employee Gym.

PERSON(S) TO PRESENT ITEM: Randy Gillespie

SUPPORT MATERIAL: (Must enclose supporting documentation)

| | |
|--|----------------------------------|
| TIME: 5 minutes | ACTION ITEM: <u> X </u> |
| | WORKSHOP: _____ |
| (Anticipated number of minutes needed to discuss item) | CONSENT: _____ |
| | EXECUTIVE: _____ |

STAFF NOTICE:

| | |
|----------------------------------|-------------------------------------|
| COUNTY ATTORNEY: _____ | IT DEPARTMENT: _____ |
| AUDITOR: _____ | PURCHASING DEPARTMENT: _____ |
| PERSONNEL: _____ | PUBLIC WORKS: _____ |
| BUDGET COORDINATOR: _____ | OTHER: _____ |

*****This Section to be Completed by County Judge's Office*****

ASSIGNED AGENDA DATE: _____

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE _____

COURT MEMBER APPROVAL _____ Date _____

SERVICE AGREEMENT FOR INSTRUCTOR

This Service Agreement For Instructor (hereinafter referred to as the "Agreement") is entered into by JOHNSON COUNTY, a political subdivision of the State of Texas, hereinafter referred to as "County" and **Elizabeth ("Liz") Ramirez**, hereinafter referred to as "Independent Contractor", and collectively referred to as the "Parties".

In consideration for the mutual promises contained herein and other goods and valuable consideration, the receipt of which is hereby acknowledge, the Parties agree as follows:

PURPOSE OF THE AGREEMENT

County and Independent Contractor are entering into this Agreement for the purpose of offering a structured group activity for participation by the employees of the County with the goal of promoting an active lifestyle to enhance the health and wellbeing of the employees of the County.

PERFORMANCE OF SERVICE

Independent Contractor agrees to provide **Zumba Fitness** classes, hereinafter referred to as "Classes" plural or "Class" singularly, to employees of the County at the gymnasium known as the Johnson Employee Gym and formerly known as the "Brown Gym" located at 105 South Walnut, Cleburne, Texas 76033 and hereinafter referred to as the "Gym".

COMPENSATION

Independent Contractor shall receive no compensation from the County for the instructing of the Classes. Independent Contractor shall be entitled to use the south one-half of the County's Gym as the location for the Classes at no cost to Independent Contractor. Independent Contractor may charge each Johnson County Employee who participates in said Class a fee of **\$5.00** per session which will be Independent Contractor's compensation for instructing the Class.

SCHEDULING

Independent Contractor agrees to schedule a Class on **Monday and Wednesday** of each week and agrees that the Class will be begin at **5:30 p.m. and end at 6:30 p.m.** on the scheduled day.

PARTICIPANTS

The Parties agree and understand that the County cannot guarantee a minimum number of County's employees that will participate in said Classes and that Independent Contractor agrees to instruct the Classes on the day and at the time agreed upon above regardless of the number of participants that attend a particular scheduled Class. Independent Contractor understands and

agrees that participants of the Class must be employees of County and a Class may not include any participant who is not an employee of County.

WARRANTIES

Independent Contractor shall perform said instruction of Classes with due diligence, in a good and workmanlike manner and in accordance with specifications provided by County or in the absence of such specifications, generally accepted professional standards for said services, and, where applicable, standards imposed by law for comparable or similar services.

INDEPENDENT CONTRACTOR

In performing the services as an instructor of Classes under this Agreement, Independent Contractor shall act at all time as an Independent Contractor. Independent Contractor shall not make any commitment or incur any charge or expense in the name of County. Independent Contractor expressly agrees, acknowledges and stipulates that neither this Agreement nor the performance of its obligations or duties hereunder shall ever result in Independent Contractor, or anyone employed by Independent Contractor being:

- 1) An employee of representative of County; or
- 2) Entitled to any benefits from County, including, without limitation, pension, profit sharing or accident insurance or health, medical, life or disability insurance benefits or coverage, to which employees of County may be entitled. County shall have no direction or control of Independent Contractor or its employees and agents except in the results to be obtained.

INSURANCE

Independent Contractor shall at all times during the term of this Agreement at Independent Contractor's sole expense carry such insurance as may be reasonably requested by County, including but without limitation, the following types and limits:

1. Worker's Compensation Insurance
Statutory – Texas Workers' Compensation Act, Chapter 401 et. seq., V.T.C.A., Labor Code
2. Comprehensive General Liability, to include contractual liability:
 - a. Commercial and Comprehensive Liability
 - b. \$100,000.00 CSL BI & PD per Occurrence
 - c. \$200,000.00 General Aggregate
 - d. \$100,000.00 Personal/Advertising Injury
3. Automobile
\$100,000.00 each accident Combined Single Liability
Each accident Uninsured/Underinsured Motorists Combined Single Liability.

ASSIGNMENT

The Parties agree and understand that the Independent Contractor will perform the services as an Instructor of the Classes under this Agreement will not assign or delegate the services as an Instructor of the Classes to another party.

INDEMNITY

Independent Contractor shall protect, defend, indemnify and hold harmless County and its representatives, officers, directors, agents, employees, county commissioners, and county judges, etc., from and against any and all claims, demands and causes of action asserted by any party (including but not limited to; employees of Independent Contractor) that arise out of Independent Contractor's negligent acts or omissions or willful misconduct and result in personal injury (including bodily injury), illness, death or property loss or damage or any civil fines or penalties imposed by any governmental agency, officer, or court of law.

WAIVER OF SUBROGATION

Independent Contractor hereby waives any and all rights to recover against County (including County's representatives, County Commissioners, officers, partners, employees, agents, customers, and invitees) for any loss or damage arising from any cause covered by any insurance required to be carried by Independent Contractor pursuant to this Agreement or any other insurance actually carried by Independent Contractor. Independent Contractor shall cause its insurer to issue appropriate waiver of Subrogation endorsements to all policies of insurance carried in connection with this Agreement.

VENUE

This Agreement is to be construed under the laws of the State of Texas and all obligations of the parties created by this Agreement are performable in JOHNSON COUNTY, Texas.

PRIOR AGREEMENTS SUPERSEDED

This Agreement constitutes the parties sole agreement and supersedes any prior understandings or written or oral agreements between parties with respect to insurance or indemnification. This Agreement does not waive any terms or conditions with respect to prior contracts, proposals, purchase orders, request for proposals (RFP).

AMENDMENT

No amendment, modification or alteration of this Agreement is binding unless in writing dated subsequent to the date of this Agreement and duly executed by all parties hereto.

TERM

This Agreement shall be in effect as of the latter signature date hereof and shall continue in full force for one year unless terminated earlier as set forth in this Agreement. Either party may cancel this Agreement by providing written notice to the other party thirty (30) days prior to cancellation.

GENERAL PROVISIONS

No waiver by either party of any one or more defaults by the other party in the performance of this Agreement or any contract hereunder shall operate or be construed as a waiver of any future default or defaults by the same party, whether of a like or different character.

It is intended that if any provision of this Agreement is unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties. In any event, all other provisions of this Agreement shall be deemed valid, binding and still enforceable.

In the event that either party commits any material breach of this Agreement including, without limitation, any breach of any indemnification obligation, in addition to any other remedy that the aggrieved party may have, at law or in equity, it shall be entitled to recover all costs, including court cost and attorney's fees, incurred in any proceeding wherein the aggrieved party seeks redress for such breach.

This Agreement and any contract hereunder shall not be considered exclusive contracts. County shall have the right to hire others to perform the same or similar services.

This Agreement is executed on behalf of the County by the presiding officer of its governing body who is authorized to execute this instrument by order heretofore passed and recorded in its minutes.

This Agreement is executed on behalf of Independent Contractor by its authorized official, agent, or officer and has the authority necessary to execute this Agreement and further certifies that any resolution necessary to create such authority has been duly passed and is now in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date written below:

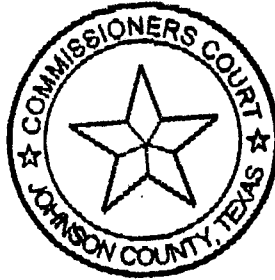
JOHNSON COUNTY

By 
Roger Harmon, County Judge

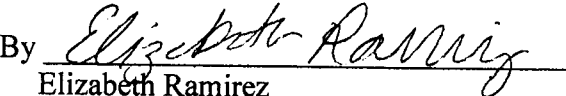
Date: 4/8/19

ATTEST:


Becky Ivey, County Clerk



INDEPENDENT CONTRACTOR

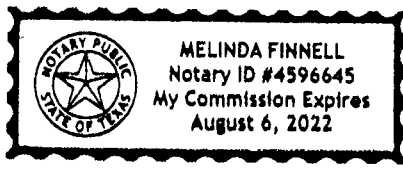
By 
Elizabeth Ramirez

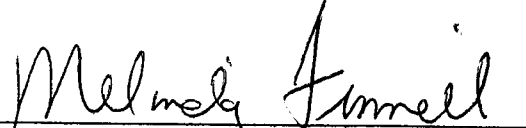
Date: 4-4-19

STATE OF TEXAS §

JOHNSON COUNTY §

This instrument was acknowledged before me on the 4 day of April, 2019,
by Elizabeth Ramirez.




Notary Public, State of Texas