

## **PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** for professional services is made by and between the City of Madison, Alabama, a municipal corporation, located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as “City,” and Lance Gilbreath, hereinafter referred to as “Contractor.”

### **WITNESSETH:**

**WHEREAS**, the City owns and maintains facilities known as the City of Madison Wellness Center at the Madison Community Center; and

**WHEREAS**, the City desires to obtain the services of a professional fitness instructor for classes involving full body circuit and “lunch crunch”; and

**WHEREAS**, the City is also in need of instructors to teach beginner pickleball; and

**WHEREAS**, Contractor is a unique provider of these services.

**NOW, THEREFORE**, in consideration of mutual covenants and agreements herein set forth, the parties, intending to be legally bound, hereby agree as follows:

### **SECTION ONE: SERVICES TO BE PROVIDED**

- A. Pursuant to the provisions of this Agreement, Contractor will provide the following services to the City:
1. Contractor shall be responsible for professional training/instruction during classes that shall include scheduling on Monday through Thursday during the periods of 6 a.m. through 1:00 p.m. and the Contractor shall have sole responsibility for the manner in which such classes and/or training is conducted.
  2. Contractor shall be responsible for cleanup and the return of equipment to proper locations after each class he/she teaches.
  3. Contractor may be allowed to store his/her own equipment in City-provided space, at the sole discretion of the Director of Parks and Recreation. The City shall not be responsible for any damage to and/or loss of Contractor’s equipment.
  4. Contractor shall have access to cardiovascular equipment, free weights, speakers and some weight room equipment provided by the City.
  5. Contractor shall maintain an accurate roll for all classes/training he conducts and shall provide enrollment lists and attendance records to the City upon request and as otherwise provided in this Agreement.

6. The City will, when practicable, provide the Contractor with two (2) hours' notice if classes do not meet the minimum requirements of five (5) participants.
  7. The Contractor shall not allow more than twenty-five (25) participants in any one class.
  8. The Contractor's classes shall have a minimum of ten (10) participants, or the class shall be subject to cancelation.
  9. Contractor shall provide classes to senior citizens at no cost and only charge adults under the age of sixty-five for these classes.
- B. Contractor agrees to comply with all applicable Federal, State, and local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment. Contractor further agrees to observe all City recreation and safety policies, as well as generally recognized training safety standards and policies.
- C. Contractor shall thoroughly and proficiently perform all services and furnish all supplies, materials, machinery, equipment, and means, except as otherwise expressly specified herein, necessary or proper to carrying out the services required by this Agreement. Contractor shall perform all services in accordance with the provisions of this Agreement. Contractor alone shall be responsible for the legality, safety, efficiency, and adequacy of the services performed hereunder.
- D. Contractor shall hold a City of Madison business license, as well as any appropriate and necessary governmental and industry-specific licenses and permits. It is the sole responsibility of the Contractor to obtain the same in a timely manner relevant to the performance of the work contemplated hereunder.
- E. Contractor agrees to submit to a criminal background check conducted pursuant to the City of Madison Parks and Recreation Department's volunteer background check policy.

**SECTION TWO: FEE/EXPENSE STRUCTURE**

The Contractor shall remit ten percent (10%) of all revenues from classes performed at the Wellness Center to the City in consideration for use of the City facility. The Contractor shall be responsible for accounting for and remitting any applicable federal, state, and local taxes associated with fees paid to Contractor.

**SECTION THREE: INDEMNIFICATION**

To the fullest extent permitted by law, Contractor agrees to hold harmless and indemnify the City from and against all injuries, deaths, damages, losses, liabilities, judgments, costs, and expenses to the extent caused by the negligent acts, errors and/or omissions of Contractor in performance of the work or services rendered pursuant to the instant Agreement. This promise to indemnify shall survive the expiration of this Agreement.

**SECTION FOUR: COMMENCEMENT; TERM**

This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the final signature shall be the date the Agreement comes into effect. The term of this agreement shall be for one (1) year from the date of commencement, and the Agreement shall continue in force from year to year, unless either party gives notice of its intent to terminate thirty (30) calendar days in advance of the anniversary date of commencement.

**SECTION FIVE: TERMINATION**

This Agreement may be terminated by either party, with or without cause, upon the provision of thirty (30) days' notice to the other party.

**SECTION SIX: INDEPENDENT CONTRACTOR RELATIONSHIP**

It is mutually understood and agreed and it is the intent of the parties that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement. It is further mutually understood and agreed that employees or students of Contractor are not nor shall be deemed to be employees or students of City, and employees of City are not nor shall they be deemed to be employees of Contractor.

It is specifically agreed by the parties that the City's provision of work space or the making of other accommodations for Contractor to perform portions of his work is merely for the City's convenience and is not intended to indicate or create an employer-employee relationship or confer any employment rights or benefits whatsoever on Contractor, including, but not limited to, worker's compensation and health insurance.

**SECTION SEVEN: EXCUSED PERFORMANCE**

In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be of Local, State or Federal origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period of the other party's suspension of performance.

**SECTION EIGHT: ASSIGNMENT**

Contractor shall not assign or transfer this Agreement or any part thereof without the express, written consent of City.

**SECTION NINE: ENTIRE AGREEMENT; WAIVER**

This Agreement constitutes the entire Agreement between the parties with respect to the provision of the services outlined herein, and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by duly authorized representatives of Contractor and City. This Agreement supersedes all other agreements between the parties.

**SECTION TEN: NOTICES**

All notices to City shall be addressed to:  
**City of Madison Parks and Recreation Department**  
**100 Hughes Road**  
**Madison, Alabama 35758**

With a copy to:  
**City of Madison Legal Department**  
**100 Hughes Road**  
**Madison, Alabama 35758**

All notices to Contractor shall be addressed to:  
**Lance Gilbreath**  
**Gilbreath.lance@gmail.com**

**SECTION ELEVEN: GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Alabama.

**SECTION TWELVE: IMMIGRATION LAW**

By signing this Agreement, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom, to the extent allowed by Federal law.

**SECTION THIRTEEN: MISCELLANEOUS PROVISIONS**

- A. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.



**Lance Gilbreath, Contractor**

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Date: \_\_\_\_\_

**STATE OF ALABAMA**

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**COUNTY OF MADISON**

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I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Lance Gilbreath, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public