



**CITY OF SANTA BARBARA
AGREEMENT FOR PERSONAL SERVICES
No. _____**

THIS AGREEMENT, made and entered into on the _____ day of _____,
20__ by and between

_____, an individual
hereinafter referred to as "Contractor";

and

CITY OF SANTA BARBARA, a municipal
corporation hereinafter referred to as "City".

WITNESSETH:

WHEREAS, the City desires to provide for the citizens of Santa Barbara, instructors/leadership to provide, for a fee, various recreation and cultural activities;

WHEREAS, the City does not have employees within its work force who can provide all the needed instruction/leadership;

WHEREAS, the City Council has indicated its desire for the City to retain as independent contractors, individuals with appropriate backgrounds and experience to give instruction/leadership in various program areas;

WHEREAS, Contractor is a competent and experienced individual in a particular recreation or cultural activity and is willing to provide program instruction/leadership for the City.

NOW, THEREFORE, in consideration of the above recitals and the covenants and conditions herein contained the parties do mutually agree as follows:

1. SERVICES TO BE PERFORMED BY CONTRACTOR.

Contractor shall perform the following services:

- A. Instruct fitness classes.
- B. Provide 1 instructor to ___ participants.

- C. Complete fingerprinting and criminal background check for all contractors, instructors, assistants or substitutes that have direct interaction with youth participants. Receive clearance from the Recreation Supervisor prior to beginning classes/activities/services.
- D. Complete TB testing and provide results to the Recreation Supervisor for all contractors, instructors, assistants or substitutes that have direct interaction with youth participants.
- E. Contractors, instructors, assistants and substitutes shall maintain valid Community CPR and First Aid certifications. Copies shall be provided to the Recreation Supervisor.
- F. Prevent avoidable injury to participants as well as damage to City property, equipment and facilities. Immediately report hazards to City.
- G. Be familiar with the “Independent Contractor Manual” and abide by the policies set forth. Return signed Independent Contractor Acknowledgement form.
- H. Maintain accurate registration records including completed and signed registration forms and waivers. Review registration forms for medical and emergency information.
- I. Contractor is responsible for the cost of rekeying the facility in the event of a loss of an exterior door key.
- J. Provide all supplies and equipment. The City does not provide equipment storage.
- K. Be responsible for returning City owned equipment in good condition and responsible for lost or damaged City equipment.
- L. Limit amplified sound levels so they do not interfere with other classes or neighboring properties. Reduce volume when instructed by the Recreation Facility Monitor.
- M. Provide an annual report to the Recreation Supervisor with observations and recommendations for program improvement moving forward, by October 1, 20____.
- N. Provide publicity. Utilize the Parks and Recreation Department flyer template and receive content and layout approval from the Recreation Supervisor, prior to printing and distributing flyers.

2. SERVICES TO BE PERFORMED BY CITY.

City will perform the following services:

- A. Provide program listing in printed Parks and Recreation marketing materials and on-line.
- B. Assist in providing information by phone, e-mail or mail.
- C. Provide space at the Cabrillo Pavilion Fitness Room on the following schedule (TBD). City reserves the right to cancel individual dates with a minimum of 2 weeks' notice to Contractor.

3. TERM.

The term of this agreement shall commence on the above stated date and shall terminate on TBD, unless earlier terminated pursuant to Paragraph 4 of this agreement.

4. TERMINATION.

Either party may terminate this Agreement with or without cause at any time upon fifteen (15) days written notice.

5. CODE OF CONDUCT.

Contractor agrees to comply with the City of Santa Barbara Parks and Recreation Department Code of Conduct attached hereto and incorporated herein by reference. (Exhibit A)

6. COLLECTION OF FEES.

In addition to the services provided in Paragraph 1 of the agreement, Contractor when required by the Parks and Recreation Director, shall collect fees from all individuals in classes and activities the Contractor is authorized to conduct.

7. COMPENSATION.

In consideration of the performance of the services provided herein, Contractor shall pay the City \$35 per-hour for use of the Cabrillo Pavilion Fitness Room:

Contractor required to count participants at each class and submit weekly Attendance Record Sheets to the Recreation Supervisor at the end of each week.

Students are permitted in the facility fifteen (15) minutes before and after scheduled class time, if there are no adjacent facility bookings. In the event of an adjacent booking, students will be permitted in the facility five (5) minutes before or after scheduled class. Any time students remain in the facility beyond the time listed, the Contractor will be billed the hourly rental rate for the facility.

8. METHOD OF PAYMENT.

The compensation provided in Paragraph 7 shall be due on the last day of each month. Payments later than seven (7) days late will be subject to a ten percent (10%) penalty and shall become immediately due and payable to City. Payments later than fourteen (14) days late will be subject to an additional ten percent (10%) penalty and shall become immediately due and payable to City.

9. ASSIGNMENT.

This is an agreement for personal services and is not assignable without the prior written consent of City.

10. CONTRACTOR.

Both parties hereto in the performance of this agreement will be acting in an independent capacity and not as agents, employees, partners or joint ventures of one another. Contractor is not an employee of City and is not entitled to any of the rights, benefits or privileges of City employees including but not limited to medical or worker's compensation insurance. The services Contractor performs pursuant to this agreement are intended to have the result of increasing the ability and enjoyment of the participants in recreation or cultural classes or activities Contractor conducts. The means and the manner by which Contractor accomplishes this result and conducts the activity shall be determined by Contractor.

11. TAXES.

Prior to performing any of the services provided in this agreement, Contractor shall pay the City Tax and Permit Inspector the appropriate business tax and provided in Title 5 of the Santa Barbara Municipal Code.

12. HOLD HARMLESS.

Contractor agrees to investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges, expense (including attorney's fees) and causes of action of any character which the City may incur, sustain or be subjected to on account of loss or damage to property or the loss of use thereof and for bodily injury to or death of any persons (including but not limited to the property, employees, subcontractors, agents and invitees of each party hereto) arising out of or in any way connected with the work to be performed pursuant to this agreement or occupancy, operation, maintenance, enjoyment and use of any City premises under this agreement to the extent permitted by law.

13. INSURANCE REQUIREMENTS.

As part of the consideration of this Agreement, Contractor agrees to purchase and maintain at its sole cost and expense during the life of this agreement, and for five years thereafter, insurance coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- A. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
- B. **Workers' Compensation:** In accordance with the provisions of the California Labor Code, Consultant is required to be insured against liability for Workers' Compensation or to undertake self-insurance. Statutory Workers' Compensation and Employers' Liability of at least \$1,000,000 shall cover all Consultant's staff while performing any work incidental to the performance of this agreement.

If the Contractor maintains higher coverage limits than the amounts shown above, then the City requires and shall be entitled to coverage for the higher coverage limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

OTHER INSURANCE PROVISIONS

Each insurance policy shall contain, or be endorsed to contain, the following five (5) provisions:

1) Additional Insured Status

The City of Santa Barbara, its officers, employees, and agents, shall be covered as additional insureds on the Commercial General Liability and the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. Additional Insured coverage shall be provided in the form of an endorsement to the Contractor's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used). A copy of the endorsement evidencing that the City of Santa Barbara has been added as an additional insured on the policy, must be attached to the certificate of insurance.

2) Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that the City is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage subcontractors shall provide coverage with a format at least as broad as Insurance Services Office form CG 20 38 04 13.

3) Notice of Cancellation

A provision that coverage will not be cancelled or subject to reduction without written notice given to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990.

4) Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

5) Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

ACCEPTABILITY OF INSURERS

All insurance coverage shall be placed with insurers that have a current rating from AM Best of no less than A: VII; and are admitted insurance companies in the State of California. All other insurers require prior approval of the City.

CLAIMS MADE POLICIES

If the required Professional Liability (Errors and Omissions) policy provides coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

COVERAGE LIMITS SPECIFICATIONS

Approval of the insurance by City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Contractor may be held responsible for payment of damages resulting from Contractor's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

If, for any reason, Contractor fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Agreement and obtain

damages from the Contractor resulting from said breach. Alternately, City may purchase such required insurance coverage, and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

SELF-INSURED RETENTIONS

Any self-insured retentions must be declared to and approved by the City. At the option of the City, either: the Contractor shall cause the insurer to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

EVIDENCE OF COVERAGE

Contractor must provide evidence that it has secured the required insurance coverage before execution of this agreement. A Certificate of Insurance supplied by the City or the appropriate ACORD and Insurance Services Office forms evidencing the above shall be completed by Contractor's insurer or its agent and submitted to the City prior to execution of this Agreement by the City.

Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

14. NONDISCRIMINATION.

Contractor agrees to comply with Nondiscrimination Certificate attached hereto and incorporated herein by reference. (Exhibit B)

15. PARAGRAPH HEADINGS.

The paragraph headings contained herein are for convenience and reference only and are not intended to define or limit the scope of this agreement. This contract constitutes the entire agreement between the City and Contractor with respect to the subject matter hereof and supersedes all prior offers and negotiations, both oral and written. This contract may not be amended or modified in any respect whatsoever except by an instrument in writing signed by City and Contractor.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

CITY OF SANTA BARBARA,
a Municipal Corporation

William Hornung
C.P.M., General Services Manager

An Individual

Whitney Hoover
Name

623 De La Vina Street, Unit G
Address

Santa Barbara CA 93101
City State Zip

training@whitneyhoover.com
Email