

# Agenda Item Form

Agenda Date: 7/27/04

Districts Affected: 8

Dept. Head/Contact Information: Norman C. Merrifield/Alicia Terrazas (ext. 4057)

## Type of Agenda Item:

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Resolution            | <input type="checkbox"/> Staffing Table Changes   | <input type="checkbox"/> Board Appointments        |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds              | <input type="checkbox"/> Donations                 |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer          | <input type="checkbox"/> Item Placed by Citizen    |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application         |
| <input type="checkbox"/> Other _____                      |   |  |

## Funding Source:

- General Fund  
 Grant (duration of funds: \_\_\_\_\_ Months)  
 Other Source: User Fee

## Legal:

- Legal Review Required      Attorney Assigned (please scroll down): Lupe Cuellar       Approved       Denied

Timeline Priority:     High       Medium       Low      # of days: \_\_\_\_\_

## Why is this item necessary:

Necessary to permit Independent Contractor Contract to perform duties outlined in contract

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

Contract is for performance of services. Maintenance and operating expenditures are nil.

## Statutory or Citizen Concerns:

Demands and needs are met.

## Departmental Concerns:

Approval of contract enables Parks & Recreation Department to meet it's mission, objectives and functions.

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**THAT** the Mayor be authorized to execute the following **INDEPENDENT CONTRACTOR** contract on behalf of the **PARKS AND RECREATION DEPARTMENT**. Funding for this contract is in fiscal year **2003/2004** appropriations to be approved by the City Council.

**LEONA FORD WASHINGTON COMMUNITY CENTER  
DEPARTMENT ID: 51510081, ACCOUNT 502214**

1. CONTRACTOR: Anita Martell  
DATES: July 28, 2004 through August 31, 2004  
RATE PER CL: \$8.50  
MAXIMUM AMT: \$170.00  
CONTRACT: **2003/2004-169**

APPROVED this 27<sup>th</sup> day of July 2004.

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Guadalupe Cuellar  
Deputy City Attorney

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy  
Mayor

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Norman Merrifield, Director  
Parks & Recreation Department

STATE OF TEXAS )  
COUNTY OF EL PASO )



**INDEPENDENT CONTRACT FOR  
PERSONAL SERVICES  
PARKS AND RECREATION**

This contract entered into by and between the **CITY OF EL PASO**, a home rule municipal corporation hereinafter referred to as "City," and Anita Martell, hereinafter referred to as "Contractor," witnesseth:

**WHEREAS**, the City desires to engage the Contractor to render personal services for the Parks and Recreation Department; and

**WHEREAS**, Contractor possesses the skills to render said services to the City;

**NOW THEREFORE**, the parties hereto mutually agree as follows:

1. **SCOPE OF EMPLOYMENT** The Contractor shall perform the following services at times and at locations that are mutually agreeable to Contractor and City, and the Contractor hereby accepts and agrees to perform such services: Aerobic Instruction @Leona Ford Washington Community Center Monday thru Thursday 5:30 to 6:30 pm
2. **TIME OF PERFORMANCE** The services of Contractor are to be performed beginning July 28, 2004 and be completed by August 31, 2004.
3. **COMPENSATION AND METHOD OF PAYMENT** The Contractor shall be paid a total fee not to exceed a maximum of \$170.00. The fee shall be paid at a rate of \$8.50 per class game for a maximum of 20 classes games. The City will provide no fringe benefits. Contractor's pay shall be proportionately adjusted in the event that all services described above are not performed. Contractor agrees that at no time will he/she make a claim against the City for more than the amount provided under the terms of this contract. Contractor also understands that taxes will not be withheld from the Contractor's payment, and consequently, Contractor assumes all liability for payment of taxes on his/her earnings.
4. **LOCATION OF PERFORMANCE** The places where such employment is to be performed is the City of El Paso, State of Texas or in such places as may be necessary in the performance of this agreement. Venue for all purposes shall be in the courts of El Paso County, Texas.
5. **INDEPENDENT CONTRACTOR RELATIONSHIP** Nothing herein shall be construed as creating a relationship of employer and employee between the Parties. The City shall not be subject to any obligations or liabilities of the Contractor incurred in the performance of this contract unless otherwise herein authorized. The Contractor expressly agrees to indemnify and hold harmless the City for any and all liabilities and obligations incurred due to any breach of contract or negligent acts or omissions or other defalcations on the part of the Contractor.
6. **TERMINATION** Either party may terminate this contract without cause after 14 days written notice to the other party of the intention to terminate this contract, or at any time by mutual agreement of the parties. Should the City have cause to terminate this agreement or if Contractor is in breach of this contract, the contract may be terminated immediately upon written notification to the contractor of the cause for termination. The right to terminate the contract under the provisions specified in this contract may be exercised by the Director of the Parks and Recreation Department on behalf of the City. Contractor acknowledges that he/she has no right of appeal with respect to such termination.
7. **COMPLETE AGREEMENT** This agreement constitutes and expresses the entire agreement between the parties hereto in reference to the personal services of the Contractor for the City, and in reference to any of the matters or things herein provided for, or here in before discussed or mentioned in reference to such services, all promises, representations and understanding relative thereto herein being merged.



CONTRACT NO:

8. **NOTICE** Any notices required under this contract shall be sufficient if sent by Certified Mail, Return Receipt Requested, postage prepaid, to the following address:

**CITY:** Mayor, City of El Paso, Texas  
2 Civic Center Plaza  
El Paso, Texas 79901-1163

**CONTRACTOR:** Name: Anita Martell  
Address:  
SS#:  
Phone:

9. **TERMINATION** Either party may terminate this contract without cause after 10 days written notice to the other party of the intention to terminate this contract, or at any time by mutual agreement of the parties. Should the City have cause to terminate this agreement or if Contractor is in breach of this contract, the contract may be terminated immediately upon notification to the contractor of the cause for termination.

10. **NO INSURANCE PROVIDED** Contractor specifically acknowledges that, in his/her capacity as an independent contractor, he/she has not been provided with Worker's Compensation Insurance or other insurance coverage regularly covered by the City of El Paso Parks and Recreation Department to its regular employees; and that he/she will secure similar coverage so as to protect his/her interest in the event of any personal injuries or damages of any kind.

11. **COSTS AND EQUIPMENT** Contractor understands that he/she is responsible for all overhead, travel, equipment and support costs incurred in performing the contracted services. Contractor also agrees that he/she will be responsible for supplying all equipment and instrumentalities necessary to carry out the services to be provided.

12. **CONTINGENCY** This agreement is contingent upon paid registration for the program of a minimum of 10 participants, and a maximum of 35 participants. In the event that the minimum number of participants is not reached, this agreement shall be null and void.

**IN WITNESS WHEREOF** the parties have executed this agreement in El Paso, Texas on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF EL PASO, TEXAS**

**ATTEST:**

\_\_\_\_\_  
Joe Wardy, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Guadalupe Cuellar  
Deputy City Attorney

**CONTRACTOR:**

\_\_\_\_\_  
**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Parks & Recreation Director

\_\_\_\_\_  
Program Coordinator

\_\_\_\_\_  
Superintendent

\_\_\_\_\_  
Administrative Analyst