

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 6, 2008

Consent  
 Ordinance

Regular  
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Agreement with ACCESSPORTAMERICA, INC. to develop and implement outrigger canoeing and windsurfing programs for people with disabilities.

**Summary:** This Agreement provides for the development and implementation of an outrigger canoeing and windsurfing program with instruction for citizens with disabilities in Palm Beach County. ACCESSPORTAMERICA, INC. will provide the County with boats, equipment and instructors. The County will provide assistance with supervision of program, docks and a storage area within Okeeheelee Park. This Agreement is for one year with the option to renew on an annual basis if agreed upon by both parties. ACCESSPORTAMERICA, INC. will provide instruction to the Therapeutic Recreation Section program participants free of charge. District 6 (AH)


**Background and Justification:** ACCESSPORTAMERICA, INC. is a national non-profit organization dedicated to the discovery and achievement of higher function and fitness for children and adults with disabilities through sports. The Recreation Division's Therapeutic Recreation Section is responsible for providing programs to Palm Beach County citizens with disabilities. Currently, there are no outrigger canoeing and windsurfing programs for people with disabilities in Palm Beach County. This agreement will meet the desires of all involved organizations to provide these activities to people with disabilities. The County will implement the program through the Therapeutic Recreation Section, and provide facilities necessary to store and launch outrigger canoes and windsurfers. ACCESSPORTAMERICA, INC. will provide instruction to Therapeutic Recreation Section program participants free of charge and will conduct private lessons to other agencies serving people with disabilities for a donation fee not to exceed \$20 per person, per lesson.

The Agreement has been executed on behalf of with ACCESSPORTAMERICA, INC. and now needs to be approved by the Board of County Commissioners.

Attachment: Agreement

Recommended by:   
Department Director

4/16/08  
Date

Approved by:   
Assistant County Administrator

4/30/08  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2008	2009	2010	2011	2012
Grant Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b>NET FISCAL IMPACT</b>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
 Object \_\_\_\_\_ Program N/A

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

There is no additional fiscal impact associated with this item.

C. Departmental Fiscal Review: ckopelakis

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

atwillhite 4.28.08  
 OFMB  
 SH 4/25/08  
 CN 4/23/08

Jim J. [Signature] 4/29/08  
 Contract Development and Control  
 Evans 4/29/08

**B. Legal Sufficiency:**

Anne Delgard 4/30/08  
 Assistant County Attorney

This Contract complies with our contract review requirements.

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**AGREEMENT BETWEEN PALM BEACH COUNTY  
AND ACCESS SPORT AMERICA FOR EQUIPMENT AND INSTRUCTORS FOR  
PEOPLE WITH DISABILITIES IN PALM BEACH COUNTY**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and ACCESSPORTAMERICA, INC., a not-for-profit corporation, hereinafter referred to as "ACCESSPORTAMERICA, INC.".

**WITNESSETH:**

**WHEREAS**, ACCESSPORTAMERICA, INC. is a not-for-profit corporation dedicated to the discovery and achievement of higher function and fitness for children and adults with disabilities through high-challenge sports; and

**WHEREAS**, ACCESSPORTAMERICA, INC. is committed to providing safe and enjoyable sport experiences to children and adults with disabilities in Palm Beach County; and

**WHEREAS**, County desires to provide outrigger canoeing and adaptive windsurfing programs for people with disabilities in Palm Beach County to complement its existing sailing program; and

**WHEREAS**, ACCESSPORTAMERICA, INC. desires to provide services to Palm Beach County and provide five (5) instructor(s) to teach outrigger canoeing and adaptive windsurfing programs for people with disabilities in Palm Beach County; and

**WHEREAS**, programs geared at promoting accessibility serve a public benefit; and

**WHEREAS**, both parties desire to enter into this Agreement.

**NOW THEREFORE**, in consideration of the covenants and promises contained herein, the parties hereby agree to the following terms and conditions:

1. ACCESSPORTAMERICA, INC. shall provide equipment and five (5) trained instructors to the County and Special Olympics for canoeing and adaptive windsurfing programs for people with disabilities aged 8 and up, as more specifically identified in the Scope of Services, which is attached hereto and incorporated herein as Exhibit "A", hereinafter referred to as the "Project".

2. ACCESSPORTAMERICA, INC. shall conduct the Project at Okeeheelee Park upon written notice by the County that a particular program has been scheduled.. Programs associated with the Project will be offered to the County and Special Olympics free of charge.
3. County shall schedule and advertise all programs association with the Project. Programs shall include, but are not limited to leisure spectrum, summer day camps, break camps, dry land safety information, operation of outrigger canoes, windsurfers, sails and associated equipment and water based instruction for maneuvering the outrigger canoes, windsurfers and sails.
4. ACCESSPORTAMERICA, INC. instructors shall provide instruction no less than two days per week, per a mutually agreed upon schedule, free of charge to Special Olympics and the County.
5. County employee(s) may monitor all programs, but the five (5) trained instructors provided by ACCESSPORTAMERICA, INC. shall conduct the programs.
6. ACCESSPORTAMERICA, INC. may provide one-on-one private lessons to outside agencies serving people with disabilities and to individuals with disabilities aged eight (8) and up for a donation not to exceed \$20 per person, per lesson. ACCESSPORTAMERICA, INC. shall be responsible for organizing all private lessons, and must receive approval from County at least five (5) days prior to holding any private lesson.
7. County shall provide a staging area located on the west side of the lake in Okeeheelee Park for the equipment described in Exhibit "A". The County, Special Olympics and

ACCESSPORTAMERICA, INC. shall have access to the equipment during Park hours. County shall not be liable for any damage which may occur to the equipment described in Exhibit "A" while being stored at the staging area.

8. ACCESSPORTAMERICA, INC. shall maintain and repair all equipment described in Exhibit "A". Equipment that is considered by County to be unsafe or inoperable shall immediately be replaced or repaired by ACCESSPORTAMERICA, INC., at ACCESSPORTAMERICA, INC. sole cost and expense.
9. The term of this Agreement shall be for one (1) year, commencing upon the date of execution by the parties hereto. At the expiration of the initial term of this Agreement, this Agreement shall automatically renew for additional one (1) year periods unless one party provides written notice to the other party of their intent not to renew this Agreement at least sixty (60) days prior to expiration date of this Agreement.
10. ACCESSPORTAMERICA, INC. shall abide by, and be governed by, all applicable federal, state, county, and municipal laws, including but not limited to, Palm Beach County's ordinances, as said laws and ordinances exist and are amended from time to time.
11. ACCESSPORTAMERICA, INC. warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.  
Upon request by County, ACCESSPORTAMERICA, INC. shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.

12. ACCESSPORTAMERICA, INC. shall maintain books, records, documents, and other evidence which sufficiently and properly reflect all costs of any nature expended in the performance of this Agreement for a period of not less than five (5) years. Upon advance notice to ACCESSPORTAMERICA, INC. County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.
  
13. ACCESSPORTAMERICA, INC. is an independent contractor and is not an agent, servant, or employee of County or its Board of County Commissioners. In the event a claim or lawsuit is brought against County or any of its officers, agents or employees, ACCESSPORTAMERICA, INC. shall indemnify, save, and hold harmless and defend the County, its officers, agents, and/or employees from and against any and all claims, liabilities, losses, judgments and/or causes of action of any type arising out of or relating to any act or omission of ACCESSPORTAMERICA, INC. , its agents, servants, and/or employees in the performance of this Agreement. This provision shall survive termination or expiration of this Agreement.
  
14. ACCESSPORTAMERICA, INC. represents that it has or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with County. Any changes or substitutions in ACCESSPORTAMERICA, INC. key personnel must be made known to the County's representative, and written approval must be granted by the County before said change or substitution can become effective.
  
15. ACCESSPORTAMERICA, INC. warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. All of ACCESSPORTAMERICA, INC. personnel (and all subcontractors) while on County premises shall comply with all County requirements governing conduct, safety and security.

16. ACCESSPORTAMERICA, INC. shall, at its sole expense, maintain in effect at all times during the life of this Agreement, Commercial General Liability at a limit of liability not less than \$1,000,000 per Occurrence. ACCESSPORTAMERICA, INC. warrants the coverage shall be endorsed with a 2026 Additional Insured-Designated Person or Organization, or similar endorsement, in favor of Palm Beach County, Board of County Commissioners, a political Subdivision of the State of Florida its Officers, Agents, and Employees; and shall not include an endorsements excluding Personal Injury, Watercraft Liability, Contractual Liability nor Cross Liability. ACCESSPORTAMERICA, INC. shall deliver County a Certificate of Insurance evidencing the required coverage, and providing a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage, to Contract/Grant Coordinator, Parks and Recreation Department, Palm Beach County Parks and Recreation Department, 2700 Sixth Avenue South, Lake Worth, Fl 33461.

17. ACCESSPORTAMERICA, INC. shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. ACCESSPORTAMERICA, INC. shall provide this coverage on a primary basis.

18. The County, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Agreement. County reserves the right, but the not obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

19. The County's performance and obligation to pay and perform under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.
20. This Agreement can be terminated by either party at any time, upon thirty (30) days written notice to the other party.
21. ACCESSPORTAMERICA, INC. shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. ACCESSPORTAMERICA, INC. further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
22. ACCESSPORTAMERICA, INC. warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.
23. ACCESSPORTAMERICA, INC. hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County's representative upon request.
24. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.



25. ACCESSPORTAMERICA, INC. shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if ACCESSPORTAMERICA, INC. employees or subcontracts are required under this Agreement to enter a "critical facility" as identified in Resolution R-2003-1274. ACCESSPORTAMERICA, INC. acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although County agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, ACCESSPORTAMERICA, INC. shall be solely responsible for the financial, schedule, and staffing implications association in complying with Ordinance 2003-030.
26. ACCESSPORTAMERICA, INC. shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. ACCESSPORTAMERICA, INC. is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.
27. The County and ACCESSPORTAMERICA, INC. agree that this Agreement sets forth the entire agreement between the parties and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
28. The parties may pursue any and all actions available under law to enforce this Agreement including, but not limited to, actions arising from the breach of any provision set forth herein.

29. This Agreement shall be governed by the laws of the State of Florida and any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County.

30. As provided in Section 287.132-133, Florida Statutes, be entering into this contract or performing any work in furtherance hereof, ACCESSPORTAMERICA, INC. certifies that it, its affiliates, suppliers, subcontractors and consultants who performed hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

31. Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by U.S. mail. All notices shall be addressed to the following:

As to the County:

Director of Parks and Recreation  
Palm Beach County Parks and Recreation Department  
2700 Sixth Avenue South  
Lake Worth, Florida 33461

As to AccesSportAmerica:

Florida Program Director  
Glen Kerpchar  
3839 NE Linda Drive  
Jensen Beach, Florida 34957

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement on the date first above written.

ATTEST:  
SHARON R. BOCK,  
Clerk & Comptroller

PALM BEACH COUNTY BOARD OF  
COUNTY COMMISSIONERS:

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Commissioner Addie L. Greene,  
Chairperson

WITNESSES:  
[Signature]  
(Signature)

ACCESSPORTAMERICA, INC. :  
By: [Signature]

Brenda Watson  
(Printed Name)

Name: Glen Kerpchar  
(Printed Name)

[Signature]  
(Signature)

Title: Florida Program Director

Jackie Lambert  
(Printed Name)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By: \_\_\_\_\_  
County Attorney

By: [Signature]  
Director, Parks and Recreation Dept.

**EXHIBIT "A"**  
**ACCESSPORTAMERICA, INC.**  
**Outrigger Canoeing and Windsurfing Program**  
**Okeehetee Park**  
**Scope of Service**

- ACCESSPORTAMERICA, INC. shall provide three (3) outrigger canoes, five (5) wind surfers and five (5) sails, including all associated boards, sails, masts, booms, universal joint assembly and life jackets for all participants (hereinafter referred to collectively as "equipment").
- ACCESSPORTAMERICA, INC. shall provide five (5) trained instructors to the County and Special Olympics to conduct classes associated with the Project,
- including but not limited to: Leisure Spectrum, Summer Day Camps, Break Camps, and in conjunction with the existing sailing program, dry land safety information, operation of equipment and water based instruction for maneuvering the equipment and fitness components.

<b>ACORD CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 4/2/2008
PRODUCER (260)424-4150 FAX: (260)424-4187 <b>Lupke Rice Insurance &amp; Financial Services</b> P.O. Box 11309 Fort Wayne IN 46857		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED <b>Disabled Sports USA</b> 415 Hungerford Drive, #100 Rockville MD 20850		
		INSURERS AFFORDING COVERAGE
		NAIC #
		INSURER A: <b>Lexington Insurance Co</b>
		INSURER B: <b>ACE American Insurance Co</b>
		INSURER C:
		INSURER D:
		INSURER E:

**COVERAGES**  
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADDL	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CG2412 11/85 LX7128 GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC	0352608	12/1/2007	12/1/2008	EACH OCCURRENCE \$ 2,000,000
		DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ PERSONAL & ADY INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000				
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B		OTHER Accident	PTPN01883185	12/1/2007	12/1/2008	AMED 25,000 AD&D 10,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
 Event: AccessSportAmerica High Challenge Sports  
 Dates: 3/27/08 - 12/31/08  
 Relationship to Event: Sponsor  
 Certificate Holder is added as Additional Insured with respect to the operations of AccessSportAmerica.  
 (Revised 4/2008)

<b>CERTIFICATE HOLDER</b>  Palm Beach County Board of County Commiss c/o Therapeutic Recreation 2778 Lake Worth Road Lake Worth, FL 33461	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE John Kuger/JANIC
--	---

## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.