

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: June 8, 2010

[X] Consent [ ] Regular  
[ ] Ordinance [ ] 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 Seagull Industries for the Disabled, Inc. for the mutual operation of the County's Therapeutic Recreation Summer Camp program.

**Summary:** The County and Seagull Industries, Inc. have previously independently offered a recreational summer camp program for persons with developmental disabilities ages 13-22. Due to budget constraints, the County's Therapeutic Recreation Section's summer program would be offered to a maximum of 12 participants in FY2010. The partnership between the County and Seagull Industries allows the summer camp program to more than double the maximum number served to 30 participants through shared resources, while maintaining quality and supervisory standards. This Agreement is for one year and shall automatically renew annually unless terminated by either party. The County will receive \$200.80 per participant and recreation supplies valued at \$200 per summer. District 3 (AH)

**Background and Justification:** The agreement outlines the operational responsibilities of the County and Seagull Industries for a recreational summer camp program at the County's Therapeutic Recreation Complex, for individuals with developmental disabilities, ages 13-22. Seagull Industries, Inc. will provide payment to the County to fully offset operational costs associated with camp participants registered through Seagull Industries' program. The Agreement also allows the County to further reach an at-risk population who may not have the means to fully pay for the summer camp program.

The Agreement has been executed on behalf of Seagull Industries for the Disabled, Inc., and now needs to be approved by the Board of County Commissioners.

Attachment: Agreement

Recommended by:   
Department Director

5-19-10  
Date

Approved by:   
Assistant County Administrator

6/2/10  
Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>3,614</u>	<u>3,614</u>	<u>3,614</u>	<u>3,614</u>	<u>(3,614)</u>
External Revenues	<u>(3,614)</u>	<u>(3,614)</u>	<u>(3,614)</u>	<u>(3,614)</u>	<u>(3,614)</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>
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

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

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

FUND: General Fund  
UNIT: Therapeutic Recreation

Parks Program Activity Fees 0001-580-5204-4721-02 (\$3,614.40)

Revenue is calculated based on 18 teens/young adults @ \$200.80 per participant. Also, in-kind support will be provided via recreation supplies to the program valued at \$200.00 per summer.

Operating costs include transportation, recreational supplies and staff time.

C. Departmental Fiscal Review: chopelakis

## III. REVIEW COMMENTS

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

[Signature] 5/26/10  
OFMB 5/26/10  
6/2/10

[Signature] 6/1/10  
Contract Development and Control  
6/1/10

### B. Legal Sufficiency:

Anne Helgert 6/2/10  
Assistant County Attorney

This Contract complies with our  
contract review requirements.

### C. Other Department Review:

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

REVISED 10/95  
ADM FORM 01

This summary is not to be used as a basis for payment

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**AGREEMENT BETWEEN PALM BEACH COUNTY AND SEAGULL INDUSTRIES FOR THE DISABLED, INC. FOR  
MUTUAL COOPERATIVE MANAGEMENT AND OPERATION OF THE THERAPEUTIC RECREATION  
COMPLEX - SUMMER CAMP PROGRAM**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and Seagull Industries for the Disabled, Inc. a Florida not-for-profit social service agency, hereinafter referred to as "Corporation".

**WITNESSETH:**

**WHEREAS**, the County owns and operates the Therapeutic Recreation Complex, which includes a Recreation Center, Gymnasium, Aquatic Center and Administration Building, hereinafter referred to as "Recreation Complex"; and

**WHEREAS**, the County utilizes the Recreation Complex to operate a comprehensive Summer Camp Program that includes a camp for people ages 13-22 with developmental disabilities featuring activities such as sports and games, enrichment activities, arts and crafts, swimming and field trips; and

**WHEREAS**, the Corporation was established as a private non-profit corporation that provides a variety of educational, social, vocational and residential programs for people ages 14-22 with developmental disabilities; and

**WHEREAS**, the County and the Corporation desire to define their respective cooperative roles for the effective and efficient management, operation and supervision of the Therapeutic Recreation Summer Camp Program; and

**WHEREAS**, the County and Corporation desire to enter into this Agreement; and

**WHEREAS**, entering into this Agreement serves a public purpose.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The recitals as set forth above are true and correct and are reaffirmed as if specifically stated herein.
2. With regard to the use of the Recreation Complex, the Corporation and all subcontractors hired by the Corporation, shall abide by all applicable federal, state and local laws, rules and regulations. The term of this Agreement shall begin upon execution by both parties hereto and shall automatically renew annually, unless terminated by either party as provided herein.
3. This Agreement may be terminated, in whole or in part, by either party, with or without cause, upon ten (10) days written notice to the other party.

4. The Corporation shall hold County, its agents, employees and elected officers harmless from any and all claims, liability, expense, loss, cost or damages that may result to the Corporation's recreation supply inventory located at the Recreation Complex in the Fountains Recreation Center building storage closet. Any other property left at the Recreation Complex by Corporation shall be done so at Corporation's sole risk and expense.
5. The Corporation represents that it has, or will secure at its own expense, all necessary members or employees required to perform the services under this Agreement. All of the Corporation's members and employees while on County property will comply with all County requirements governing conduct, safety and security.
6. The County shall:
  - A. Provide program space for a maximum of 18 teens and young adults who are registered with the Corporation from ages 13 to 22. The County shall also provide space for children who are registered with the County.
  - B. Plan a variety of recreation components during the summer camp program (7:30am – 5:30pm) Monday – Friday, beginning approximately June 14<sup>th</sup> – August 6<sup>th</sup> each year, which may change from year to year. Examples of recreation components include fieldtrips, social skills training, tennis, arts and crafts, and cooking. Upon approval by County, Corporation staff will direct an agreed upon number of pre-planned activities. For purposes of this section, the County's Therapeutic Recreation Complex manager is hereby authorized to provide approval to Corporation to direct pre-planned activities. County and Corporation will jointly supervise all activities.
  - C. Handle summer camp program registration, permission slips, record keeping and statistics for County registered program participants.
  - D. Handle billing, requisitions and paperwork associated with field trips and activities for County's registered program participants.
  - E. Provide the Corporation with all necessary forms pertaining to the summer camp program.
  - F. Provide transportation for a maximum of 18 teens and young adults and a maximum of 4 employees of the Corporation from the Therapeutic Recreation Complex to field trips and scheduled outings. If transportation is not being provided by the Corporation to and from summer camp, Corporation's parents/guardian must pick up their children from the Therapeutic Recreation Complex by 5:30 pm. Failure by the Corporation's parents/guardian to pick up their children by 5:30 pm shall result in County charging the parent/guardian \$5.00 per child for every 15 minutes the parent/guardian is late. If the child has not been picked up by 60 minutes following the program end time, County shall call the Sherriff's Office.

7. The Corporation shall:

- A. Handle program registration, permission slips, record keeping and statistics exclusive to the registered Corporation participants. Corporation is required to provide the County with all necessary paperwork and a final count of campers who will be attending the summer camp program two weeks prior to the start of camp.
- B. Provide one camp assistant director and two-three counselor staff members to co-lead pre-planned recreational activities at the Therapeutic Recreation Complex. The number of counselors provided will be determined by a minimum staff to camper ratio of 1 counselor to every 6 campers.
- C. Pay to the County a registration fee of \$200.80 per camper for the summer camp program, which is an eight (8) week program. The registration fee is due two weeks prior to the start of summer camp each year this Agreement is renewed. The Corporation will not be held to any financial responsibility or providing staff if there are no registered campers originating from the Corporation for any week.
- D. Contribute recreation supplies valued at \$200.00 per summer, due by June 1 of each year this Agreement is renewed.
- E. Attend staff meetings at the Recreation Complex with the County's summer camp program director to provide feedback twice per summer.
- F. Provide transportation for up to 18 participants to and from the camper's home and the Therapeutic Recreation Complex for Corporation registered campers that choose to pay for transportation service.

8. The Corporation shall, at it's sole expense, maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as County's review or acceptance of insurance maintained by Corporation are not intended to and shall not in any manner limit or qualify the liability and obligations assumed by Corporation under this Agreement.

- A. Commercial General Liability: Corporation shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence listing Palm Beach County Board of County Commissioners as additional insured. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. Corporation shall provide this coverage on a primary basis.

- B. Worker's Compensation Insurance & Employer's Liability: Corporation shall maintain Worker's Compensation and Employers Liability in accordance with Florida Statute Chapter 440.
- C. Automobile Liability Coverage: Corporation shall maintain automobile liability coverage at a limit of liability not less than \$500,000 Each Occurrence including non-owned vehicle coverage. Corporation shall also provide proof of auto liability coverage for any hired company used to transport Corporation's campers employees or members to/from the Recreation Complex.
- D. Waiver of Subrogation: Corporation hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Corporation shall agree to notify the insured and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Wavier of Subrogation requirement shall not apply to any policy, which includes a condition to the policy specifically prohibiting such an endorsement, or voids coverage should Corporation enter into such an agreement on a pre-loss basis.
- E. Certificate of Insurance: Prior to execution of this Agreement, Corporation shall deliver to the County's representative a Certificate(s) of insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.
- F. Right to Review: 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 not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.
9. Corporation shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages, or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of Corporation, its agents, members, employees or subcontractors. This provision shall survive termination or expiration of this Agreement.
10. The County and the Corporation each binds itself and its partners, successors, executors, administers and assigns to the other party and to the partners, successors, executors, administers or assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the County nor the Corporation shall assign, sublet, convey or

transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Corporation.

11. This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

12. The Corporation represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The Corporation further represents that no person having any such conflict of interest shall be employed for said performance of services.

The Corporation shall promptly notify the County's representatives, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Corporation's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Corporation may undertake, and request an opinion of the County as to whether the association, interest or circumstance would, in the opinion of the County, constitute a conflict of interest, if entered into by the Corporation. If, in the opinion of the County, the prospective business association, interest or other circumstance would not constitute a conflict of interest by the Corporation, the County shall so state in the notification and the Corporation shall, at its option, enter into said circumstance and it shall be deemed not a conflict of interest with respect to services provide to the County by the Corporation under the terms of this Agreement.

13. The Corporation 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. The Corporation further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
14. The Corporation and its members and employees are, and shall be, in the performance of all work, services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Corporation's sole direction, supervision, and control. The Corporation shall exercise control over the means and manner in which it and its members and employees perform the work, an in all respects the Corporation's relationship and the relationship of its members to

the County shall be that of an Independent Contractor and not as employees or agents to the County. The Corporation does not have the power or authority to bind the County in any promise, agreement or representation.

15. The Corporation shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Corporation's place of business.
16. The Corporation warrants and represents that the summer camp program will be open to all individuals without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression.
17. The Corporation 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 upon request.
18. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to the extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to person 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.
19. As provide by F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance herof, the Corporation certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).
20. The County may reject any proposed action taken by the Corporation, which may be contrary to the educational objectives and or policies of the County and the Recreation Complex.
21. All notices required in this Agreement shall be sent by certified mail, return receipt request, hand delivery or other delivery service requiring signed acceptance. If sent to the County, notices shall be addressed to:

Jackie Lambert  
Coordinator, CMAA Therapeutic Recreation Complex  
2728 Lake Worth Rd.  
Lake Worth, FL 33461

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If sent to the Corporation, notices shall be addressed to:

Christine Farley  
SAIL Principal, Seagull Industries for the Disabled Inc.  
1801 12th Avenue South  
Lake Worth Road, FL 33461

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22. The Corporation shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), as amended, if Corporation's employees, members or subcontractors are required under this Agreement to enter a "critical facility" as identified in Resolution R-2003-1274. The Corporation acknowledges and agrees that all employees, members and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. The Corporation shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.
23. The County's performance and obligation to perform under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.
24. The County and Corporation 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 or conditions contained in this Agreement may be added to, modified, or superseded or otherwise altered, except by written instrument executed by the parties hereto.
25. The parties agree that, in the event the Corporation is in default of its obligations under this Agreement, the County shall provide Corporation thirty (30) days written notice to cure the default. In the event the Corporation fails to cure the default within the thirty (30) day cure period, the County shall have no further obligations under this Agreement. The Director of Parks and recreation Department is hereby authorized to provide such notice to the Corporation.
26. Palm Beach County has established the Office of the Inspector General in ordinance 2009-049, as may be amended, which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor and inspect the activities of the County, its officers, agents,

employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statute, in the same manner as a second degree misdemeanor.

(Remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Agreement on behalf of the County, and the Corporation, has hereunto set its hand the day and year above written.

ATTEST:  
SHARON R. BOCK, Clerk &  
Comptroller


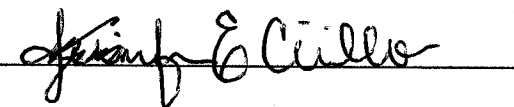
PALM BEACH COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

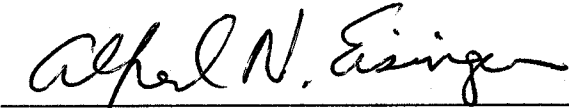
By: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Burt Aaronson, Chair

WITNESS:

Seagull Industries for the Disabled, Inc.

  
Signature  
Alfred N. Eisinger  
Typed name  
Exec. Director  
Title

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

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

APPROVED AS TO TERMS AND CONDITIONS

By:   
Director, Parks and Recreation Department