

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date March 1, 2011

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: a Notice of Termination for Independent Contractor, Eric Mundt (Agreement #R2010-1054), for coaching services of a USA Competitive Diving Team at Aqua Crest Pool in Delray Beach.

**Summary:** On May 5, 2010, the County entered into an Independent Contractor Agreement with Mr. Mundt (Contractor) to coach a USA Diving Team at Aqua Crest Pool. The Contractor has continually failed to meet several conditions of the Agreement including the provision of insurance, participant information and growth of the program. He has also violated some of the facility safety protocols. For these reasons, staff is recommending the termination of the Agreement. District 7 (AH)

**Background and Justification:** Eric Mundt was originally contracted to provide diving instruction at Aqua Crest Pool in May of 2008. In May of 2010, the County entered into a new Independent Contractor Agreement with Mr. Mundt to coach a USA Diving Team, as well as to provide diving instruction. During the past year, there have been continuing concerns with the contractor's performance and contract violations under the agreement. Some of the violations include:

1. Failure to provide certificates of insurance in a timely manner.
2. Failure to provide required notice of schedule changes causing confusion for participants and unnecessary staffing of the facility.
3. Failure to provide the required information on participants to the facility manager including the fees to charge each diver.
4. Failure to conduct the program in a responsible manner with full regard for the safety of the participants as well as the facility. On multiple occasions, Mr. Mundt had participants enter the pump room (a dangerous "staff only" area) to store program equipment.
5. Failure to grow the program by increasing the number of participants and interest in the sport of diving.

The facility manager communicated with Mr. Mundt on these issues multiple times via email and onsite meetings. While he would comply with staff instruction for a period of time, he would revert back to his usual practices. The Board has delegated the authority to the County Administrator and Director of


(Continued on Page 3)

**Attachments:**

1. Notice of Termination
2. Independent Contractor Agreement

Recommended by:   
Department Director

2/3/2011  
Date

Approved by:   
Assistant County Administrator

2/14/11  
Date

II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>(2,334)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>2,918</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>584</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Is Item Included in Current Budget? Yes X No \_\_\_\_\_  
 Budget Account No.: Fund 0001 Department 580 Unit 5303  
 Revenue Source 4724/Object Code 3422 Program N/A

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

FUND: General Fund  
 UNIT: Aquacrest Pool

Parks Swimming Pools	0001-580-5303-4724-02	\$2,918
Contractual Services-Recreation	0001-580-5303-3422	(\$2,334)

**C. Departmental Fiscal Review:** Chopelakis

III. REVIEW COMMENTS

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

*Termination of this contract results in minimal loss of revenue*

OFMB	<i>[Signature]</i> 2/11/11	Contract Development and Control	<i>[Signature]</i> 2/11/11
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**B. Legal Sufficiency:** *[Handwritten initials]*

*Anne Delaney*  
 Assistant County Attorney

**C. Other Department Review:**

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

REVISED 10/95  
 ADM FORM 01

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

**Continued from Page 1**

Parks and Recreation to execute Independent Contractor Agreements, but has not delegated the authority to terminate them. For this reason, the termination notice must be signed by the Board Chair. Staff feels that terminating this agreement is in the best interest of the program participants and the County at this time.

**Continued from Page 1**

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## NOTICE OF TERMINATION

### INDEPENDENT CONTRACTOR AGREEMENT

**Parks and Recreation  
Department**

2700 6th Avenue South  
Lake Worth, FL 33461  
(561) 966-6600  
Fax: (561) 963-6734  
www.pbcparcs.com



**Palm Beach County  
Board of County  
Commissioners**

Karen T. Marcus, Chair

Shelley Vana, Vice Chair

Paulette Burdick

Steven L. Abrams

Burt Aaronson

Jess R. Santamaria

Priscilla A. Taylor

**County Administrator**

Robert Weisman

March 1, 2011

Eric Mundt  
12262 Pleasant Green Way  
Boynton Beach, FL 33437

Re: MUNDT1177510510530300C

Dear Mr. Mundt:

This letter is to inform you that effective March 1, 2011, your Independent Contractor Agreement with Palm Beach County for coaching the USA Diving Competitive Team at Aqua Crest Pool is terminated due to contract violations. The violations are as follows:

- failure to provide a certificate of insurance within 48 hours of the County's request to do so;
- failure to provide required notice of schedule changes;
- failure to provide the required information on participants to the facility manager including the fees to charge each diver.
- failure to conduct the program in a responsible manner with full regard for the safety of the participants as well as the facility;
- and failure to increase the number of program participants.

If you have any questions, please contact Laurie Schobelock at 561-966-6629.

Sincerely,

Karen T. Marcus, Chair  
Board of County Commissioners

*"An Equal Opportunity  
Affirmative Action Employer"*

printed on recycled paper

AQUATICS DIVISION					
ACCOUNT: 0001-580-5303-3422		VENDOR CODE:		CONTRACT:	
MC: <i>ga</i>	PS: <i>20</i>	FSS: <i>none</i>	CC: <i>D</i>	CA: <i>02</i>	DD: <i>DKL</i>

**INDEPENDENT CONTRACTOR AGREEMENT FOR  
PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT**

This Agreement is made as of the 5 day of May, 2010, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as the "COUNTY" and Eric Mundt, an Independent Contractor, hereinafter referred to as "CONTRACTOR".

**WITNESSETH:**

**WHEREAS**, the COUNTY desires to make available (a) (an) USA Diving Competitive Team program, and desires to contract with CONTRACTOR to provide a specific service for that program; and

**WHEREAS**, the COUNTY and CONTRACTOR desire to clarify and define their responsibilities with regard to providing said program.

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained herein, the COUNTY and CONTRACTOR hereby agree as follows:

1. **Term:** The class, activity or service will begin on May 8, 2010 and will meet thereafter with the termination date of this agreement being May 7, 2011.
2. **Fees:** Palm Beach County Parks and Recreation Department, on behalf of COUNTY, shall collect all fees and charges from participants. The fee(s) charged by the COUNTY for this class or activity (is) (are): \$60.00/\$85.00/\$120.00/\$145.00 Revenue Account No. 0001-580-5303-4724-02
3. **Payments To Contractor:**
  - a. The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of Fourteen Thousand Dollars (\$ 14,000). The CONTRACTOR shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONTRACTOR will bill the COUNTY on a bi-weekly basis per the attached schedule of payments, or as otherwise provided in Exhibit "B" for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.
  - b. The CONTRACTOR's fee shall be the sum of \$ N/A or 80 % of the paid enrollment fees for the class or activity.
4. **Specific Details:**
  - a. Type of service/instructor: USA Diving Competitive Dive Team
  - b. Name of class or activity: Springboard Diving
  - c. Day(s)/Date(s) Scheduled: Tuesdays-Fridays (variable)
  - d. Time Scheduled: 3:00-3:45pm lessons/3:45-5:15pm
  - e. Location: Agua Crest Pool
  - f. A minimum of 6 and a maximum of 50 paid enrollments must be received by the COUNTY prior to commencement of the class or activity. COUNTY reserves the right to cancel each class or activity which does not have the specified minimum number of participants registered.

**received**  
5/3/10  
**COPY**

5. **Independent Contractor Status:** It is specifically understood that the CONTRACTOR is an independent contractor and not an employee of the COUNTY. The COUNTY and CONTRACTOR agree that this Agreement is not a contract of employment and that no relationship of Employer/Employee or Principal/Agent is or shall be created hereby nor shall hereafter exist by reason of the performance of the services herein specified.
6. **Taxes:** It is acknowledged and agreed by the COUNTY and CONTRACTOR that the service herein provided by the CONTRACTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from the CONTRACTOR's compensation for said service. The CONTRACTOR assumes all liability and responsibility for payment of his/her own FICA and Social Security benefits with respect to this Agreement.
7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and the CONTRACTOR may terminate this Agreement upon written notice mailed to the COUNTY at least thirty (30) working days prior to the CONTRACTOR's departure date.
8. **Subcontracting:** The CONTRACTOR may not, without written approval of the COUNTY, subcontract or assign any rights, responsibilities or obligations under this Agreement.
9. **Performance:**
  - a. CONTRACTOR agrees to:
    1. Perform the services set forth herein in accordance with all applicable association/governing body rules and regulations, and in a competent, professional, safe, and responsible manner with full regard for the safety of the participants as well as the facility.
    2. No person other than the CONTRACTOR or a qualified employee of the CONTRACTOR shall be engaged to provide the services provided for in this Agreement.
    3. Provide and maintain, in proper working order, all necessary equipment specified to conduct the services provided for in this agreement.
    4. Inspect the activity site prior to beginning each class or activity in accordance with safety standards as explained in the CONTRACTOR's orientation program. Should a safety condition exist at a facility, CONTRACTOR should report said condition immediately to the County Representative and postpone said class or activity until the condition is addressed.
    5. Inspect the activity site after the class or activity is concluded to assure that the facility is left in the condition in which it was found.
    6. Utilize his or her own methods and procedures toward a result which shall be in accordance with the purposes, intent and objectives of the COUNTY in providing such recreational class or activity.
    7. Provide the County Representative with 10 days notice of all schedule conflicts/changes.
    8. CONTRACTOR shall immediately notify the County Representative of any unanticipated absences such as personal/family illnesses.
  - b. COUNTY agrees to:
    1. Maintain the facilities in proper working order.
    2. Conduct registration, collect participation fees and process class transfers or refunds for any and all programs and registrants.
    3. Provide class/activity rosters to the CONTRACTOR for distribution.
    4. Publicize the class or activity through the Leisure Times and public service announcements.
10. **Exhibits:** If any additional provisions are applicable to the class or activity as provided for herein, CONTRACTOR

**COPY**

10. **Exhibits:** If any additional provisions are applicable to the class or activity as provided for herein, CONTRACTOR and COUNTY may attach applicable Exhibit(s). If any additional requirements such as specialty certifications, licenses and/or memberships applicable to the class or activity are required CONTRACTOR and COUNTY may attach applicable Exhibit(s). The CONTRACTOR's proposal should also be included as an Exhibit to this Agreement. All Exhibits shall be incorporated into and made a part hereof.

11. **County Representative:** The County Representative for this CONTRACT is:

Michelle Lawrence, Facility Manager

PH: 561-278-7104

12. **Insurance Requirements:**

It shall be the responsibility of the CONTRACTOR to provide evidence of the following minimum amounts of insurance coverage to Palm Beach County, Parks and Recreation Department, Division of Aquatics, 2700 6<sup>th</sup> Avenue South, Lake Worth, FL 33461, Attention: Dave Lill, Director of Aquatics.

The CONTRACTOR shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Contract, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of the Contract. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Contract. CONTRACTOR shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages.

- A. **Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- B. **Auto Liability:** CONTRACTOR shall maintain Auto Bodily Injury Liability at a limit of liability not less than **\$100,000** Each Person, **\$300,000** Each Accident and Auto Property Damage Liability at a limit of liability not less than **\$100,000** Each Accident for all owned, non-owned and hired automobiles.
- C. **Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.
- E. **Professional Liability:** CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence For, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, CONTRACTOR
- a. **Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by the Contract has been endorsed to include Palm Beach County as an Additional Insured.
- b. **Waiver of Subrogation:** CONTRACTOR 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 CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.



This Waiver 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 CONTRACTOR enter into such an agreement on a pre-loss basis.

- c. **Certificates of Insurance:** Within forty-eight (48) hours of the COUNTY's request to do so, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Contract have been obtained and are in full force and effect. During the term of the Contract and prior to each subsequent renewal thereof, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of each and every insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage.
  - d. **Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
  - e. **Right to Revise or Reject:** 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, coverage, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.
13. **Indemnification:** The CONTRACTOR shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, servants, employees and elected officers harmless from and against any and all claims, liability, losses, expense, cost, damages and/or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, which may arise from any and all acts or omissions of the CONTRACTOR during the performance of the CONTRACTOR's service under this Agreement.
14. **Notices:** All notices required in this Agreement shall be hand delivered or sent by certified mail, return receipt requested, if sent to the COUNTY shall be mailed to:

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

and if sent to the CONTRACTOR shall be mailed to:

CONTRACTOR'S Name: Eric Mundt

CONTRACTOR'S Address: 12262 Pleasant Green Way; Boynton Beach, FL 33437

CONTRACTOR'S Phone No. 561-503-3059

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15. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, or shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.
16. **Availability of Funds:** The COUNTY's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.
17. **Arrears:** The CONTRACTOR 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 CONTRACTOR further

warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

18. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the CONTRACTOR 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).
19. **Criminal History Records Check:** The CONTRACTOR shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if CONTRACTOR'S employees or subcontractors are required under this Agreement to enter a "critical facility" as identified in Resolution R-2003-1274. The CONTRACTOR 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 records check, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.
20. **Severability:** 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.
21. **Entirety of Contractual Agreement:** The COUNTY and the CONTRACTOR 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.

INTENTIONALLY LEFT BLANK

**COPY**

IN WITNESS WHEREOF, the parties have set their hands and seals in the date first above written.

**PALM BEACH COUNTY WITNESS**

Nancy Beale  
SIGNATURE

NANCY BEALE  
NAME (TYPE OR PRINT)

**PALM BEACH COUNTY**

[Signature]  
DEPARTMENT DIRECTOR/ASSISTANT DIRECTOR

[Signature]  
COUNTY ADMINISTRATOR (If contract value exceeds \$10,000.)

**CONTRACTOR WITNESS**

[Signature]  
SIGNATURE

Alessandra Caliendo  
NAME (TYPE OR PRINT)

**INDEPENDENT CONTRACTOR**

[Signature]  
SIGNATURE

Eric T. Moody  
NAME & TITLE (TYPE OR PRINT)

AS TO FORM AND  
LEGAL SUFFICIENCY.  
Anne Delgado  
COUNTY ATTORNEY

**COPY**

## **SCOPE OF SERVICES**

### **The basic requirements for the Head Coach (CONTRACTOR) are as follows:**

The CONTRACTOR shall provide these services during the term of this contract in compliance with all terms of the agreement. If any conflict arises, this Scope of Services will supersede.

#### Scope of Work

The CONTRACTOR has the responsibility of training divers in preparation for competitive programs. CONTRACTOR must organize and supervise the competitive diving program as well as instruct and train participants in competitive diving. CONTRACTOR is responsible for the preparation of daily training schedules; administration of training schedules, registering team and individuals with US Diving; and technical instruction of competitive diving. Participants will be supervised during a variety of exercises, diving drills, dry land exercises and instructional sessions. CONTRACTOR will supervise divers at practices and meets; will oversee the entry of divers in sanctioned US Diving competition and represent the team as a delegate to the Florida Gold Coast Association of United States Diving.

As Palm Beach County Parks and Recreation Department desires to serve all constituents of the public by providing programming for all ages and skills levels.

Perform the services set forth herein in a competent, professional, safe and responsible manner with full regard for the safety of the participants as well as for the facility.

Immediately upon arrival at the facility, inspect the site prior to beginning any activity (if applicable and staff or another coach has not arrived prior). Prior to divers entering the water perform a water test with facilities test kit for chemical levels in the water, if chemical levels are not reading between 1.5-3.0 for chlorine and 7.2-7.6 for pH, divers should not enter the pool. Should any safety condition exist at the facility, the CONTRACTOR will report said condition to the facility manager immediately upon the manager's arrival at the facility. If the condition creates a risk to the participants or spectators, the activity will be postponed until corrective action has been completed.

CONTRACTOR will be required to make judgments regarding safe weather and water conditions, and will be expected to cancel or postpone practice sessions when conditions are unsafe.

CONTRACTOR shall follow established CRITICAL INCIDENT PROCEDURES/ EMERGENCY ACTION PLANS should a serious injury or incident occur at the facility.

CONTRACTOR will work within the aquatic chain-of-command: Facility Manager, Aquatics Program Coordinator, Aquatics Supervisor and Aquatics Director.

CONTRACTOR will ensure that all participants be instructed in the pool rules and safety procedures to ensure that risk of injury or accidents is minimized. During facility operational hours, program participants will obey all pool rules. CONTRACTOR and all personnel on site

will be certified in American Red Cross Safety Training for Coaches; First Aid/CPR (equivalent or higher training) and must have a first aid kit available at all times.

CONTRACTOR will provide a service capable of responding to public questions, program information and membership details.

CONTRACTOR will provide the facility manager with 14 days notice of all anticipated conflicts, schedule changes, and or absences. The CONTRACTOR shall immediately notify the facility manager of any unanticipated absences.

CONTRACTOR will work with and maintain open dialogue with the facility manager, liaison and/or parent organization (if applicable) regarding program needs, program changes, additions or removals, or problems with the facility or equipment, by attending scheduled meetings and in general daily interaction.

CONTRACTOR will provide copies of newsletters, calendars and handbooks to the facility manager and obtain approval from the facility manager for all activities other than permitted practice times.

Adhere to all applicable COUNTY policies and procedures.

CONTRACTOR and CONTRACTOR'S staff shall display effective and respectful behavior in all public contacts while performing contracted services.

CONTRACTOR will provide the facility manager a computer disk with registered US Diving members containing the following information: first name; last name; age; sex; skill group they are assigned and what monthly fees are to be assessed that diver. All changes to this information must be made monthly via computer disk and provided to the facility manager on the first of each month.

CONTRACTOR will provide facility manager with daily attendance figures for each month on the first of each month.

CONTRACTOR will secure necessary meet officials, and volunteers for the set up, running, take down and clean up for all meets.

CONTRACTOR will recognize and abide by the terms of the Agreement between the COUNTY and the School Board of Palm Beach County for the Mutual Use of Recreation Facilities.  
(R-208-2241)

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#### Use of Premises

The facility, when permitted by the COUNTY for the CONTRACTOR for the US Diving competitive program shall not be permitted by the Contractor, for use to any other organization or group during their permitted time.

CONTRACTOR must submit written requests for space to the facility manager on an annual basis. CONTRACTOR and facility manager will meet on a bi-annual basis to assess annual request. Said requests shall be reviewed by the facility manager and request for said usage shall not be unreasonably withheld. At a minimum, submit to the facility manager quarterly, proposed pool

needs and activity schedules. The facility manager will review said schedule and after considering the needs of the general public and other program offerings at the facility make reasonable changes thereto, or agree to the schedule as proposed.

Ensure proper use and care of all equipment by CONTRACTOR, CONTRACTOR'S staff, and program participants.

Ensure that the facility is utilized properly and as scheduled, left clean and that opening and closing procedures are followed. It is the CONTRACTOR'S responsibility to maintain clean and orderly storage areas that have been allocated for the competitive diving program. The CONTRACTOR shall open the facility each morning for the US Diving competitive diving program when utilizing the facility prior to the facility opening to the general public. The CONTRACTOR shall also close and secure the facility each evening if the program conclusion is after operational hours.

The Parks and Recreation Department will provide a work area (if necessary) for the Head Coach to utilize during program hours.

CONTRACTOR will inform the facility manager immediately of any equipment malfunction or failure.

The Parks and Recreation Department may authorize the closing of the pool during necessary repair work or in the event of severe weather. In these instances the pool will remain closed until the COUNTY authorizes its reopening.

#### Personnel

The CONTRACTOR will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required herein shall be performed by the CONTRACTOR, or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR'S key personnel must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY'S representative before said change or substitution can become effective.

CONTRACTOR shall indoctrinate and train all staff in the philosophies and public relations concerns of the COUNTY. CONTRACTOR'S staff and pool staff will be crossed trained to be knowledgeable of each others programs. CONTRACTOR shall cooperate with facility management and staff, contributing to the harmony and productivity of the unit.

#### Program Fees & Charges

The Palm Beach County Parks and Recreation Department, on behalf of the COUNTY, shall collect all program fees and charges from participants. All program fee and charges payments will be made payable to: **Board of County Commissioners**. The COUNTY will provide the CONTRACTOR with weekly reports updating participants' payment status. CONTRACTOR

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shall assist COUNTY with the collection of fees.

Any and all monthly program rate change must be approved in writing in advance by the Director of the Parks and Recreation Department.

**Payments To Contractor**

Payment shall be made to the CONTRACTOR by the COUNTY when invoiced but no more than once every two weeks per the approved payment proposal. Payments will be made only for the current month of services; there will be no advanced payment of services.

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# ACORD CERTIFICATE OF LIABILITY INSURANCE

1544416

DATE (MM/DD/YYYY)  
12/30/09

**PRODUCER**

F & K Insurance Group, Inc.  
1712 Magnavox Way  
P.O. Box 2338  
Fort Wayne, IN 46801

**THIS CERTIFICATE IS A STATEMENT 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**

USA DIVING, INC., UNITED STATES DIVING FOUNDATION, INC. AND ITS MEMBER CLUBS  
132 E. WASHINGTON STREET, STE 800  
INDIANAPOLIS, IN 46204

**INSURERS AFFORDING COVERAGE**

**NAIC #**

INSURER A: NATIONWIDE LIFE INSURANCE COMP  
INSURER B: NATIONAL CASUALTY COMPANY  
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.

NC=NOT COVERED

PER ADOL LTR BRND	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS				
B	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR Owners & Contractors GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	KRD0000807900	12:01AM 12/31/09	12:01AM 9/01/10	EACH OCCURRENCE	\$ 1000000			
	DAMAGE TO RENTED PREMISES (Ea occurrence)				\$ 1000000				
	MED EXP (Any one person)				\$ NONE				
	PERSONAL & ADV INJURY				\$ 1000000				
	GENERAL AGGREGATE				\$ NONE				
	PRODUCTS - COMP/OP AGG				\$ 1000000				
	Part Lgl Liab				\$ 1000000				
	<b>AUTOMOBILE LIABILITY</b> <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)	\$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO							BODILY INJURY (Per person)	\$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$							BODILY INJURY (Per accident)	\$
<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				PROPERTY DAMAGE (Per accident)	\$				
<b>OTHER</b> Participant Accident	SPX0003748300	12:01AM 12/31/09	12:01AM 9/01/10	AUTO ONLY - EA ACCIDENT	\$				
				OTHER THAN AUTO ONLY: EA ACC	\$				
				AGG	\$				
				EACH OCCURRENCE	\$				
				AGGREGATE	\$				
					\$				
					\$				
					\$				
				WC STATU-TORY LIMITS					
				OTHER					
				EL EACH ACCIDENT	\$				
				EL DISEASE - EA EMPLOYEE	\$				
				EL DISEASE - POLICY LIMIT	\$				
				ADED	25000				
				Primary Medical	NC				
				Excess Medical	25000				
				Weekly Indemnity	NC				

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

CLUB: AQUA CREST DIVING EFF. DATE: 12/31/09-9/01/10  
LOCATION: VARIOUS - DELRAY BEACH, FL \*CERTIFICATE HOLDER IS AN  
ADDITIONAL INSURED AS RESPECTS TO THE LIABILITY ARISING FROM THE NAMED INSURED.

**COPY**

**CERTIFICATE HOLDER**

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS.

**CANCELLATION**

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 MAILED 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

*Tim M. Hester*