

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 16, 2013

☒ 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 receive and file: the following original executed Independent Contractor Agreements:

- A) Karen Lindquist, Outdoor Skills Instructor, Daggerwing Nature Center, for the period March 26, 2013, through March 29, 2013 (LINDQ10866203135242E); and
- B) Elaine Margaret Williamson, Water Fitness Instructor, Gleneagles Country Club Aquatic Center, for the period April 1, 2013, through October 1, 2013 (WILL12372304135204E).

**Summary:** In accordance with County PPM CW-O-051, all delegated contracts/agreements/grants must be submitted by the initiating Department as a Receive and File Agenda Item. These Independent Contractor Agreements have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator/Director/Assistant Director of the Parks and Recreation Department in accordance with Resolution 94-422, amended by Resolutions 2002-2103, 2007-0409, and 2012-0168, and are now being submitted to the Board to receive and file. Districts 3 and 5 (AH)

**Background and Justification:** A resolution providing authority to execute Independent Contractor Agreements with recreation instructors and sports officials (Resolution 94-422, amended by Resolutions 2002-2103, 2007-0409 and 2012-0168) was adopted by the Board to streamline the hiring process. The Board granted the Director/Assistant Director of Parks and Recreation authority to execute Independent Contractor Agreements and Amendments with recreation instructors and sports officials up to \$10,000, with contracts of \$10,000 or more requiring the County Administrator's approval.

The Agreements attached have been executed on behalf of the Board by the County Administrator/Director/Assistant Director of the Parks and Recreation Department in accordance with the authority delegated by the Board, and are now being submitted to the Board to receive and file.

**Attachments:** Independent Contractor Agreements (2)

Recommended by: Jennifer E. Ciullo  
Department Director

03/19/2013  
Date

Approved by: [Signature]  
Assistant County Administrator

4/3/13  
Date

## **II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>4,170</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(8,250)</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>
NET FISCAL IMPACT	<u>*(4,080)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

### # ADDITIONAL FTE

**POSITIONS (Cumulative)**    0                                                    

**Is Item Included in Current Budget?** Yes   X   No       

**Budget Account No.:** Fund 0001 Department 580 Unit 5204/5242  
Object 3422/Revenue Source 4721/4724 Program N/A

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

	Contractor	Revenue	Expense
A	Karen Lindquist	\$450	\$150
B	Elaine Margaret Williamson	\$7,800	\$4,020
	<b>Totals</b>	<b>\$8,250</b>	<b>\$4,170</b>

\* Estimated net revenue for these agreements is \$4,080. Actual revenue and operating costs will be determined at the termination of each agreement.

**C. Departmental Fiscal Review:** \_\_\_\_\_

### III. REVIEW COMMENTS

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

OFMB AK 3/25/13 3/25/13

Dr. J. Jacobson 4/2/13  
Contract Development and Control  
4-1-13 3 Wheeler

**B. Legal Sufficiency:**

Anne Delgent 4-3-13  
Assistant County Attorney

**C. Other Department Review:**

Department Director

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

- c. The COUNTY, through the Department, will process payment to CONTRACTOR on a bi-weekly basis following receipt of CONTRACTOR's invoice.

Though CONTRACTOR's invoice will be considered the basis for payment, the actual amount paid will be determined by the COUNTY. In the event of a discrepancy between the amount paid and the amount invoiced, the decision of the COUNTY is final. CONTRACTOR may request to review any supporting documentation utilized to determine the amount paid.

4. **Specific Details:**

- a. Instructor: Karen Lindquist
- b. Type of service / Name of activity: Outdoor Skills
- c. Day(s)/Date(s) Scheduled: Tuesday - Thursday, March 26, 2013 - March 28, 2013
- d. Time Scheduled: 2:00 pm - 4:00 pm each day
- e. Activity area / Location: Daggerwing Nature Center in Burt Aaronson South County Regional Park
- f. A minimum of 5 and a maximum of 15 paid participants must be received by the Department prior to commencement of the activity. The Department reserves the right to cancel the activity in the event that the specified minimum number of participants have not registered and paid.

5. **Independent Contractor Status:** It is specifically understood that 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 that the service to be provided by CONTRACTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from CONTRACTOR's compensation for said service. CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as now exist or may hereafter come into being as such taxes may be applicable to the payments made by COUNTY to CONTRACTOR in exchange for the services to be performed hereunder.

Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's Tax Exempt Status. As such, CONTRACTOR is not exempt from the payment of sales taxes to suppliers for any materials as may be used in the performance of CONTRACTOR's obligations under this Agreement.

7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and CONTRACTOR may terminate this Agreement by providing thirty (30) business days advance written notice to the COUNTY. Such notice to be delivered to the Department's authorized representative.
8. **Subcontracting:** CONTRACTOR may not, without the advance written consent of the Department, 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 and the facility;
2. assure that no person other than CONTRACTOR or a qualified employee of CONTRACTOR is engaged in the provision of the services required to be performed hereunder;
3. provide and maintain, in proper working order and condition, all equipment and materials necessary to conduct the services to be performed hereunder;
4. inspect the activity area prior to beginning each activity to assure safety standards. In the event of a safety concern, CONTRACTOR is to report such concern immediately to the authorized Department representative and postpone the activity until the Department's representative determines that the concern has been addressed;
5. inspect the activity area following each activity to assure that the area remains in good condition and order;
6. utilize instructional methods and procedures conducive with the Department's purpose, intent, and objective in providing the recreational activity;
7. provide the Department's authorized representative five (5) business days advance notice of all schedule conflicts/changes;
8. immediately notify the Department's authorized representative of any unanticipated absences such as personal/family illnesses; and
9. adhere to applicable Department policies and procedures and COUNTY Ordinances, including, but not limited to, Ordinance No. 2004-022, as amended by Ordinance No. 2011-003, pertaining to Parks and Recreation.

b. COUNTY agrees to:

1. maintain the activity area and associated facilities in a safe and clean condition;
2. conduct registration, collect participation fees, and process refunds;
3. provide activity rosters to the CONTRACTOR; and
4. publicize, promote, and advertise the activity when feasible.

10. **Exhibits:** CONTRACTOR's Scope of Service is included as Exhibit "A" to this Agreement. Any and all other applicable Exhibits hereto are attached and incorporated herein.

If additional provisions or requirements such as specialty certifications, licenses and/or memberships are applicable to the activity provided for herein, such provisions and/or requirements may be attached hereto as an Exhibit.

11. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Kelli Dorschel, Nature Center Manager II Phone Number: (561) 629-8760

12. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified in Exhibit "B" to this Agreement.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement.

13. **Indemnification:** 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, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omission of CONTRACTOR.

14. **Notices:** All notices required in this Agreement are to be hand delivered or sent by certified mail, return receipt requested.

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department  
Attn: Kathleen Bolander, Recreation Programs Supervisor  
2700 6th Avenue South  
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Karen Lindquist  
952 Arlington Drive  
West Palm Beach, FL 33415  
(561) 315-7033

15. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will 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 construed as giving any rights or benefits hereunder to anyone other than the COUNTY and CONTRACTOR.

16. **Availability of Funds:** 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.

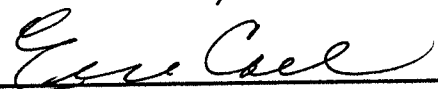
17. **Arrears:** CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability 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, 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:** 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 checks, 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. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.
- Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONTRACTOR, 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 interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
22. **Entirety of Contractual Agreement:** COUNTY and 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.
23. **Nondiscrimination:** CONTRACTOR 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, familial status, sexual orientation, gender identity or expression.
24. **Regulation; Licensing Requirements:** CONTRACTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR 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. CONTRACTOR shall also be responsible for any and all costs associated with any required background checks.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:**

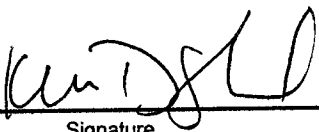
By:   
Director / Assistant Director  
Palm Beach County Parks and Recreation Department

**In The Event Contract Amount  
Is Equal To Or Exceeds \$10,000.00:**

**County Administrator –**

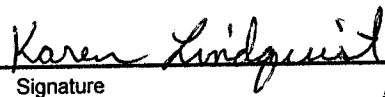
\_\_\_\_\_

**WITNESS –**

  
Signature  
Kelli Dorschel  
Print

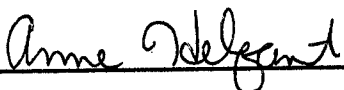
**CONTRACTOR –**

**Karen Lindquist**

By:   
Signature  
Karen Lindquist  
Print  
Outdoor Instructor  
Title

**APPROVED AS TO  
FORM AND LEGAL SUFFICIENCY:**

**County Attorney –**



CONTRACTOR NAME: Karen Lindquist	VENDOR CODE: LINDQ108662	CONTRACT NUMBER: LINDQ10866203135242E
-------------------------------------	-----------------------------	--

**EXHIBIT "A"**  
**Scope of Service**

<p><b>SCOPE OF SERVICE</b></p> <p>Knots – Participants will learn how to tie a square knot, clovehitch and bowline. They will play games, learn the uses of each knot, and make a knot board.</p> <p>Map and Compass - Participants will learn how to use a compass, follow a bearing, find north and other cardinal directions. They will play games and look at different kinds of maps.</p> <p>Survivor Challenge – Participants will learn about the plants and animals of Florida and how to survive in the wilderness thru an interactive game. They will sample store-bought "wild" edibles, and be introduced to compass and maps, and star charts.</p>
<p><b>MATERIALS USED</b></p> <p>Knots - Materials: Rope, scissors, cardboard, candy, markers, glue</p> <p>Map and Compass - Materials: Compasses, maps, games, paper, pencils</p> <p>Survivor Challenge - Materials: Compasses, maps, paper, pencils, food, survivor game board, <del>paper, pencils</del></p>
<p>Are participants being transported as part of the Scope of Service? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>According to Florida Statute Chapter 440, are you required to maintain Workers' Compensation and Employer Liability coverage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

CONTRACTOR: Karen Lindquist

Karen Lindquist  
SIGNATURE

Karen Lindquist  
NAME (TYPE OR PRINT)

Outdoor Instructor  
TITLE (TYPE OR PRINT)



CONTRACTOR NAME: Karen Lindquist	VENDOR CODE: LINDQ108662	CONTRACT NUMBER: LINDQ108662031352 42E
-------------------------------------	-----------------------------	---

## EXHIBIT "B"

### Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. 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 Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:

- ☒

**No Insurance Required:** Based on scope of services, CONTRACTOR shall not be required to provide insurance.
- ☐

**Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- ☐

**Auto Liability:** CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.
- ☐

**Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.
- ☐

**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 Agreement. 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, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

<b>CONTRACTOR NAME:</b> Karen Lindquist	<b>VENDOR CODE:</b> LINDQ108662	<b>CONTRACT NUMBER:</b> LINDQ10866203135242 E
--	------------------------------------	--

☐ **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 this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."

☐ **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.

☐ **Certificates of Insurance:** Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:

Palm Beach County Board of County Commissioners  
C/O Parks and Recreation Department  
Attn: Kathleen Bolander, Recreation Programs Supervisor  
2700 Sixth Avenue South  
Lake Worth, Florida 33461

☐ **Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for 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 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.

☐ **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 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.

KPO-580-031313\*331

DIVISION: FINANCIAL & SUPPORT SERVICES		VENDOR CODE:	CONTRACT NUMBER:	
REVENUE ACCOUNT: 0001-580- 5204 -4724		VC0000123723	WILL12372304135204E	
EXPENSE ACCOUNT: 0001-580- 5204 -3422				
MC: SS	PS: D	FSS: W	CC:	DD:

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

THIS INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on 03/12/2013, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "COUNTY," and Elaine Margaret Williamson, an Independent Contractor, hereinafter referred to as "CONTRACTOR".

### WITNESSETH:

**WHEREAS**, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," organizes and provides programming activities for the benefit and wellbeing of the general public; and

**WHEREAS**, it is the intent of the Department to organize and make available a certain program / class / lesson referred to as Water Fitness Classes, hereinafter referred to as "activity"; and

**WHEREAS**, said activity will be conducted by CONTRACTOR and governed by the Department pursuant to the terms and conditions of this Agreement.

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

1. **Term:** This Agreement is effective April 1, 2013, and will terminate October 1, 2013, and is not subject to extension or renewal.

2. **Fees and Charges:** The fee charged to participate in this activity is \$ 40.00 per session. The collection of such fees is the responsibility of the Department.

Additional charges, if any, assessed to the participants of the activity are limited to: \_\_\_\_\_  
Participants also have the option to pay a daily fee of \$6.00. \_\_\_\_\_

3. **Payments To Contractor:**

a. The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed Four thousand twenty dollars (\$ 4,020.00 ).

b. Payments to CONTRACTOR will be \$ 30.00 per class  
(paid participant / class / lesson)

OR

       % of the total participation fees paid.

The total participation fees paid expressly exclude any other fees and charges as may be assessed and collected including but not limited to charges for materials or late registration fees.

- c. The COUNTY, through the Department, will process payment to CONTRACTOR on a bi-weekly basis following receipt of CONTRACTOR's invoice.

Though CONTRACTOR's invoice will be considered the basis for payment, the actual amount paid will be determined by the COUNTY. In the event of a discrepancy between the amount paid and the amount invoiced, the decision of the COUNTY is final. CONTRACTOR may request to review any supporting documentation utilized to determine the amount paid.

4. **Specific Details:**

- a. Instructor: Elaine Margaret Williamson
- b. Type of service / Name of activity: Water Fitness Classes
- c. Day(s)/Date(s) Scheduled: Monday – Friday / April 1, 2013 – September 30, 2013
- d. Time Scheduled: 9:00am, 10:00am
- e. Activity area / Location: Gleneagles Country Club Aquatic Center
- f. A minimum of 6 and a maximum of 15 paid participants must be received by the Department prior to commencement of the activity. The Department reserves the right to cancel the activity in the event that the specified minimum number of participants have not registered and paid.

5. **Independent Contractor Status:** It is specifically understood that 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 that the service to be provided by CONTRACTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from CONTRACTOR's compensation for said service. CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as now exist or may hereafter come into being as such taxes may be applicable to the payments made by COUNTY to CONTRACTOR in exchange for the services to be performed hereunder.

Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's Tax Exempt Status. As such, CONTRACTOR is not exempt from the payment of sales taxes to suppliers for any materials as may be used in the performance of CONTRACTOR's obligations under this Agreement.

7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and CONTRACTOR may terminate this Agreement by providing thirty (30) business days advance written notice to the COUNTY. Such notice to be delivered to the Department's authorized representative.
8. **Subcontracting:** CONTRACTOR may not, without the advance written consent of the Department, 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 and the facility;
2. assure that no person other than CONTRACTOR or a qualified employee of CONTRACTOR is engaged in the provision of the services required to be performed hereunder;
3. provide and maintain, in proper working order and condition, all equipment and materials necessary to conduct the services to be performed hereunder;
4. inspect the activity area prior to beginning each activity to assure safety standards. In the event of a safety concern, CONTRACTOR is to report such concern immediately to the authorized Department representative and postpone the activity until the Department's representative determines that the concern has been addressed;
5. inspect the activity area following each activity to assure that the area remains in good condition and order;
6. utilize instructional methods and procedures conducive with the Department's purpose, intent, and objective in providing the recreational activity;
7. provide the Department's authorized representative five (5) business days advance notice of all schedule conflicts/changes;
8. immediately notify the Department's authorized representative of any unanticipated absences such as personal/family illnesses; and
9. adhere to applicable Department policies and procedures and COUNTY Ordinances, including, but not limited to, Ordinance No. 2004-022, as amended by Ordinance No. 2011-003, pertaining to Parks and Recreation.

b. COUNTY agrees to:

1. maintain the activity area and associated facilities in a safe and clean condition;
2. conduct registration, collect participation fees, and process refunds;
3. provide activity rosters to the CONTRACTOR; and
4. publicize, promote, and advertise the activity when feasible.

10. **Exhibits:** CONTRACTOR's Scope of Service is included as Exhibit "A" to this Agreement. Any and all other applicable Exhibits hereto are attached and incorporated herein.

If additional provisions or requirements such as specialty certifications, licenses and/or memberships are applicable to the activity provided for herein, such provisions and/or requirements may be attached hereto as an Exhibit.

11. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Jason Wong

Phone Number: (561) 966-7083

12. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified in Exhibit "B" to this Agreement.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement.

13. **Indemnification:** 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, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omission of CONTRACTOR.

14. **Notices:** All notices required in this Agreement are to be hand delivered or sent by certified mail, return receipt requested.

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department  
Attn: Director  
2700 6th Avenue South  
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Elaine Margaret Williamson  
332 Puritan Road  
West Palm Beach, FL 34866

15. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will 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 construed as giving any rights or benefits hereunder to anyone other than the COUNTY and CONTRACTOR.

16. **Availability of Funds:** 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:** 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. 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, 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:** 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 checks, 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. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONTRACTOR, 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 interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

22. **Entirety of Contractual Agreement:** COUNTY and 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.

23. **Nondiscrimination:** CONTRACTOR 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, familial status, sexual orientation, gender identity or expression.

24. **Regulation; Licensing Requirements:** CONTRACTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR 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. CONTRACTOR shall also be responsible for any and all costs associated with any required background checks.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:**

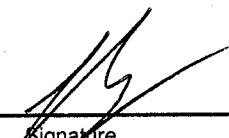
By:   
Director / Assistant Director  
Palm Beach County Parks and Recreation Department

**In The Event Contract Amount  
Is Equal To Or Exceeds \$10,000.00:**

**County Administrator –**


\_\_\_\_\_

**WITNESS –**

  
Signature  
Jason Wong  
Print

**CONTRACTOR –**

**Elaine Margaret Williamson**

By:   
Signature

ELAINE M. WILLIAMSON  
Print

WATER AEROBICS INSTRUCTOR  
Title

**APPROVED AS TO  
FORM AND LEGAL SUFFICIENCY:**

**County Attorney –**





CONTRACTOR NAME: Elaine Margaret Williamson	VENDOR CODE: VC0000123723	CONTRACT NUMBER: W1412372304135204E
--	------------------------------	--

**EXHIBIT "A"**  
**Scope of Service**

**SCOPE OF SERVICE**

Water Fitness classes include classes titled Water Walking, Water Aerobics, and Water Exercise. The class will be conducted by a trained professional who is also a Certified Water Fitness Instructor. The classes will be conducted under the supervision of a qualified certified American Red Cross Lifeguard at the Palm Beach County Therapeutic Recreation Center Aquatic Facility. Instructor will be in the water with the students.

Skills to be taught include, but are not limited to: aerobic activity, mobility, balance, coordination, rhythmic breathing, and personal water safety. Instruction will be based on each individual's ability.

**MATERIALS USED**

Equipment to be used during instruction includes Coast Guard approved personal floatation devices, kickboards, goggles, and buoyant aquatic equipment.

Are participants being transported as part of the Scope of Service?

☐ Yes

☒ No

According to Florida Statute Chapter 440, are you required to maintain Workers' Compensation and Employer Liability coverage?

☐ Yes

☒ No

CONTRACTOR: Elaine Margaret Williamson

Elaine M. Williamson  
SIGNATURE

ELAINE M. WILLIAMSON  
NAME (TYPE OR PRINT)

WATER AEROBICS INSTRUCTOR  
TITLE (TYPE OR PRINT)

## EXHIBIT "B"

### Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. 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 Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

**Palm Beach County Parks & Recreation Department Representative to Initial as applicable:**

☐

**No Insurance Required:** Based on scope of services, CONTRACTOR shall not be required to provide insurance.

☒

**Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☐

**Auto Liability:** CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

☐

**Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

☒

**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 Agreement. 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, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

CONTRACTOR NAME: Elaine Margaret Williamson	VENDOR CODE: VC0000123723	CONTRACT NUMBER: WILL12372304135204E
--	------------------------------	---



**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 this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."



**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.



**Certificates of Insurance:** Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:

Palm Beach County Board of County Commissioners  
C/O Parks and Recreation Department  
Attn: Director  
2700 Sixth Avenue South  
Lake Worth, Florida 33461



**Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for 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 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.



**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 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.

# 2013

Elaine Williamson  
Water Fitness Instructor

February 1, 2013

To whom it may concern,

I will not need workman's compensation due to the size of the company.

Sincerely,

*Elaine M. Williamson*  
Elaine Williamson

332 Puritan Road West Palm Beach, FL 34866

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 2/8/2013												
<b>PRODUCER</b> Sports & Fitness Insurance Comp P.O. Box 1967  Madison, MS 39130		<b>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.</b>												
<b>INSURED</b>  Elaine Williamson, 332 Puritan Road  West Palm Beach, FL 33405		<table><tr><td><b>INSURERS AFFORDING COVERAGE</b></td><td><b>NAIC #</b></td></tr><tr><td>INSURER A: General Insurance Company of America</td><td></td></tr><tr><td>INSURER B:</td><td></td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr></table>	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>	INSURER A: General Insurance Company of America		INSURER B:		INSURER C:		INSURER D:		INSURER E:	
<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>													
INSURER A: General Insurance Company of America														
INSURER B:														
INSURER C:														
INSURER D:														
INSURER E:														

<b>COVERAGES</b>							
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 ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
A	<b>GENERAL LIABILITY</b>	LPF-9623419C	2/24/2013	2/24/2014	EACH OCCURRENCE	\$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000	
	<input checked="" type="checkbox"/> Professional				PERSONAL & ADV INJURY	\$ 1,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$ 2,000,000	
<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG	\$ 2,000,000	
	<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident)	\$	
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS						
	<input type="checkbox"/> NON-OWNED AUTOS						
	<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT	\$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$	
					AUTO ONLY: AGG	\$	
	<b>EXCESS/UMBRELLA LIABILITY</b>				EACH OCCURRENCE	\$	
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$	
	<input type="checkbox"/> DEDUCTIBLE					\$	
	<input type="checkbox"/> RETENTION \$					\$	
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATU-TORY LIMITS	OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$	
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$	
	<b>OTHER</b>				E.L. DISEASE - POLICY LIMIT	\$	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS							
Personal Trainers							
Certificate holder is named Additional Insured.							

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
Palm Beach County Board of Commissioners 2728 Lake Worth Road Lake Worth, Fl., FL 33461	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> 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