

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 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) Nancy Kelly, Water Exercise Instructor, North County Aquatic Complex, for the period May 7, 2013, through September 30, 2013; and
- B) LB2 Enterprises, Inc., United States Masters Swimming Program, North County Aquatic Complex, for the period June 1, 2013, through September 30, 2013.

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. District 1 (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: 
Department Director

6/18/2013
Date

Approved by: 
Assistant County Administrator

7/2/13.
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>21,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(26,785)</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>*(5,785)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>				

Is Item Included in Current Budget? Yes X No
 Budget Account No.: Fund 0001 Department 580 Unit 5305
 Object 3422/Revenue Source 4724 Program N/A

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

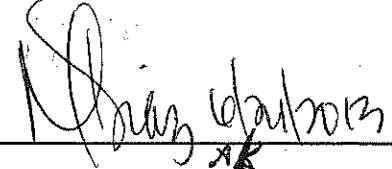
	Contractor	Revenue	Expense
A	Nancy Kelly	\$4,285	\$3,000
B	LB2 Enterprises, Inc.	\$22,500	\$18,000

* Estimated net revenue for these agreements is \$5,785. Actual revenue and operating costs will be determined at the termination of these agreements.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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


 OFMB
 6/21/13


 Contract Development and Control
 6-27-13 *B Wheeler*

B. Legal Sufficiency:


 Assistant County Attorney
 7-1-13

C. Other Department Review:

 Department Director

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

DIVISION:		VENDOR CODE:	CONTRACT NUMBER:	
REVENUE ACCOUNT: 0001-580- 5305-4724-02		VS0000000458	KPO-580-060613X446	
EXPENSE ACCOUNT: 0001-580- 5305-3422				
MC: <u>ja</u>	PS: <u>SLD</u>	FSS:	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 May 7, 2013, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "COUNTY," and Nancy Kelly, 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 Evening Water Exercise, 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 May 7, 2013 and will terminate September 30, 2013, and is not subject to extension or renewal.
2. **Fees and Charges:** The fee charged to participate in this activity is \$ 4.00 per class. 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: _____

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 Three thousand dollars (\$3,000.00).
 - b. Payments to CONTRACTOR will be \$ N/A per _____
(paid participant / class / lesson)

OR

70 % 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: Water Exercise Instructor
- b. Type of service / Name of activity: Evening Water Exercise
- c. Day(s)/Date(s) Scheduled: Tuesday and Thursday
- d. Time Scheduled: : 6:00 pm – 7:00pm
- e. Activity area / Location: North County Aquatic Complex, 861 Toney Penna Drive, Jupiter, FL 33458
- f. A minimum of 5 and a maximum of 30 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: Phil Galfano, Facility Manager Phone Number: 561-745-0241
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 of Aquatics Division
2700 6th Avenue South
Lake Worth, Florida 33461

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

Nancy Kelly
6294 Michael Street
Jupiter, FL 33458
Phone #: 561-379-9228 / email: nlk50@aol.com

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. 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.
16. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
17. **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.
18. **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.

19. **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).
20. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). 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 record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.
21. **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.
22. **Access and Audits:** The CONTRACTOR 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 Contract. 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 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 Agreement 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.

23. **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.
24. **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.

25. **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

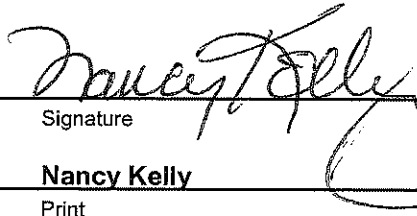
**In The Event Contract Amount
Is Equal To Or Exceeds \$10,000.00:**

County Administrator –

WITNESS –


Signature
Philip Galvano
Print

CONTRACTOR – Nancy Kelly

By: 
Signature
Nancy Kelly
Print
Water Exercise Instructor
Title

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

County Attorney –



CONTRACTOR NAME: Nancy Kelly	VENDOR CODE: VS0000000458	CONTRACT NUMBER: KP0580060613446
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EXHIBIT "A" Scope of Service

The basic requirements for the Water Exercise Instructor (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.

A. Scope of Work

The CONTRACTOR has the responsibility of preparing the programs for Aerobic and/or Arthritis Water Exercise classes. CONTRACTOR must organize each class as well as instruct the participants in each class. CONTRACTOR is responsible for the preparation and administration of all class schedules. Participants will be supervised during a variety of water exercises.

Palm Beach County Parks and Recreation Department desires to serve all constituents of the public by providing programming for all ages and skill 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. Should any other 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 classes when conditions are unsafe.

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

CONTRACTOR will work within the aquatic chain-of-command: Facility Manager, Aquatic Program Coordinator, Aquatics Supervisor and Aquatics Director as outlined in Attachment A.

CONTRACTOR will ensure that all participants are instructed in the pool rules and safety procedures to ensure that risk of injury or accidents is minimized. All program participants will obey all pool rules. CONTRACTOR and all personnel on site will be certified in Aquatic Exercise; First Aid/CPR (equivalent or higher training) and must have access to a first aid kit at all times.

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

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 regarding program needs, program changes, additions or removals, or concerns with the facility or equipment, by attending scheduled meetings and in general daily interaction.

CONTRACTOR will obtain approval from the Facility Manager for all activities other than permitted class times.

CONTRACTOR will adhere to all applicable COUNTY policies and procedures.

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

CONTRACTOR NAME: Nancy Kelly	VENDOR CODE: VS0000000458	CONTRACT NUMBER: KP0580060613*446
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EXHIBIT "A"

Scope of Service

CONTRACTOR will provide Facility Manager with daily attendance figures.

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-93-164-D)

B. Use of Premises

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

CONTRACTOR must submit written requests for additional pool 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 Water Exercise program.

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.

C. Personnel

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

D. 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 fees and charges will be made payable to: Board of County Commissioners. The COUNTY will provide the CONTRACTOR with bi-weekly reports updating participant's payment status.

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

CONTRACTOR NAME: Nancy Kelly	VENDOR CODE: YS0000000458	CONTRACT NUMBER: KP0580060613K446
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EXHIBIT "A" Scope of Service

E. 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 service; there will be no advanced payment for services. The County will provide IRS Form 1099 (Miscellaneous Non-Employee Compensation) to the CONTRACTOR.

MATERIALS USED

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: Nancy Kelly

Nancy Kelly
SIGNATURE

Nancy Kelly
NAME (TYPE OR PRINT)

Water Exercise Instructor
TITLE (TYPE OR PRINT)

SCOPE OF SERVICES

ATTACHMENT A

AQUATIC CHAIN OF COMMAND

North County Facility Manager – Phil Galfano

PGalfano@pbcgov.org

Office: (561)745-0241

Cell: (561)401-6129

Aquatic Programs Coordinator – Jennifer Anglin

Office: (561) 966-6632

Aquatics Supervisor – Laurie Schobelock

Office: (561) 966-6629

Aquatics Division Director - Dave Lill

Office: (561) 966-6630

CONTRACTOR NAME: Nancy Kelly	VENDOR CODE: VS0000000458	CONTRACT NUMBER: KP0580060613K-446
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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: Nancy Kelly	VENDOR CODE: VS0000000458	CONTRACT NUMBER: KP0580060613K46
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EXHIBIT "B" Insurance Requirements



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: Jennifer Anglin, Aquatic Programs Coordinator
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.



CERTIFICATE OF LIABILITY INSURANCE

OP ID: B5

DATE (MM/DD/YYYY)

04/11/13

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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

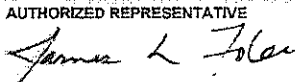
PRODUCER InterWest Insurance Services License #0B01094 P.O. Box 8110 Chico, CA 95927-8110 ACE Program	Phone: 530-895-1010 Fax: 530-895-1313	CONTACT NAME: Bobbie Beeny PHONE (A/C, No, Ext): 530-895-1010 FAX (A/C, No): 530-895-1313 E-MAIL ADDRESS: bbeeny@iwins.com PRODUCER CUSTOMER ID #: KELLNA1
	INSURER(S) AFFORDING COVERAGE	
INSURED Nancy L. Kelly 6294 Michaels St Jupiter, FL 33458	INSURER A: Philadelphia Ind. Ins. Co. NAIC # 18058	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR: WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Prof Liability	X	PHPK576912	02/11/13	02/11/15	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Abuse/Molestation		PHPK576912	02/11/13	02/11/15	Each Occ 100,000 Aggregate 300,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Certificate holder is added as additional insured but only with respect to the operations of the named insured except that liability resulting from the additional insureds sole negligence. See attached CG2026 07 04.

CERTIFICATE HOLDER Board of County Commissioners Palm Beach County 2700 6th Ave South Lake Worth, FL 33461	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)
Board of County Commissioners Palm Beach County 2700 6 th Ave South Lake Worth, FL 33461
Information required to complete this Schedule, if not shown above, will be shown in the Declarations

Section II – Who is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect To liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or In part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

DIVISION: FINANCIAL & SUPPORT SERVICES		VENDOR CODE:	CONTRACT NUMBER:	
REVENUE ACCOUNT: 0001-580- 5305 -472402		VC0000124047	KPO-580-060513*443	
EXPENSE ACCOUNT: 0001-580- 5305 -3422				
MC:	PS:	FSS:	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 05/30/2013, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "COUNTY," and LB2 Enterprises, Inc., 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 United States Masters Swimming Program, 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 June 1, 2013, and will terminate September 30, 2013, and is not subject to extension or renewal.
2. **Fees and Charges:** The fee charged to participate in this activity is \$ 45.00 per month. 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: _____

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 Eighteen Thousand dollars (\$ 18,000.00).
 - b. Payments to CONTRACTOR will be \$ _____ per _____
(paid participant / class / lesson)

OR

80 % 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: Masters Swimming Coach
- b. Type of service / Name of activity: United States Masters Swimming Program
- c. Day(s)/Date(s) Scheduled: Monday, Tuesday, Wednesday, Thursday, Friday and Saturday
- d. Time Scheduled: 5:30 am-8:00 am MON-FRI; 8 am-10 am SAT; 11:30 am-12:30 pm TUE & THU; 7:30 pm-8:30 pm MON & WED & THU
- e. Activity area / Location: North County Aquatic Complex, 861 Toney Penna Drive, Jupiter, FL 33458
- f. A minimum of 10 and a maximum of 70 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 Relationship:** The CONTRACTOR is, 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 CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

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: Phil Galfano Phone Number: (561) 745-0839

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, 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 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: Aquatics Director
2700 6th Avenue South
Lake Worth, Florida 33461

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

LB2 Enterprises, Inc. c/o Linda Bostic
115 Still Lake Drive
Jupiter, FL 33458
Phone: 561-373-1440 / email: lindabostic@gmail.com

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. 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.

16. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.

17. **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.

18. **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.
19. **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).
20. **Criminal History Records Check:** 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 shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). 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 record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.
21. **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.
22. **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.

23. **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.
24. **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.
25. **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.


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

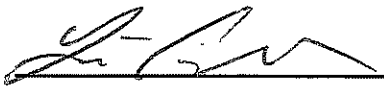
**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

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

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

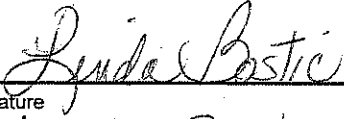
County Administrator –


WITNESS –


Signature
Laurie C. Spellich
Print

CONTRACTOR –

LB2 Enterprises, Inc.

By: 
Signature
Linda Bostic
Print
President / Head Coach
Title

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

County Attorney –



CONTRACTOR NAME: LB2 Enterprises, Inc.	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KPO 580-0605136443
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EXHIBIT "A" Scope of Service

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.

A. Scope of Work

The CONTRACTOR has the responsibility of training swimmers in preparation for competitive fitness and open water swimming events. CONTRACTOR will be responsible for organizing and supervising a USMS program in accordance with USMS standards and the approved USMS rule book. CONTRACTOR is responsible for daily training. Participants will be supervised during a variety of exercises, swimming drills, and instructional sessions.

Palm Beach County Parks and Recreation Department desires to serve all constituents of the public by providing programming for ages 18 and over and all skills levels.

Immediately upon arrival at the facility, if pool staff is not present, inspect the site prior to beginning any activity. CONTRACTOR will be required to make decisions regarding safe weather and water conditions, and will be expected to cancel or postpone practice sessions when conditions are unsafe. If chemical levels are not reading between 1.5-3.0 for chlorine and 7.2-7.6 for pH swimmers should not enter the pool. Location of the test kit, training in its use, and access to it will be made available to the CONTRACTOR. 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 shall be provided with and follow established CRITICAL INCIDENT PROCEDURES/ EMERGENCY ACTION PLANS should a serious incident or injury occur at the facility.

CONTRACTOR will work within the aquatic chain-of-command: Facility Manager, Aquatics Program Coordinator, Aquatics Supervisor and Aquatics Director as outlined in Attachment A. CONTRACTOR will work with and maintain open dialogue with the facility manager regarding program needs, program changes, additions or removals, or problems with the facility or equipment, by general daily interaction and scheduled meetings as needed.

CONTRACTOR will ensure that all participants are 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 will be certified in American Red Cross Safety Training for Swim Coaches; First Aid; CPR (equivalent or higher training) and a first aid kit will be made available at all times. 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.

CONTRACTOR will provide responses to public questions and requests for program information and membership details. CONTRACTOR shall display effective and respectful behavior in all public contacts while performing contracted services.

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. The County will provide the CONTRACTOR with 14 days notice of anticipated events that would affect the Masters scheduled practices or approved activities.

CONTRACTOR will provide copies of any literature pertaining to the USMS swim team to the facility manager and obtain approval from the facility manager for all activities at the facility other than permitted practice times.

Adhere to all applicable COUNTY policies and procedures.

CONTRACTOR NAME: LB2 Enterprises, Inc.	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KPO-580-060513X443
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EXHIBIT "A" Scope of Service

CONTRACTOR will provide the facility manager a monthly list with registered US Masters containing the following information: first name; last name; age and sex. All changes to this information must be made monthly 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 last day of each month.

CONTRACTOR will secure necessary timers, meet officials and volunteers for the set up, running, take down and clean up for all swim meets hosted by the Masters team.

B. Use of Premises

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

CONTRACTOR will submit written requests for lane space to the facility manager on an annual basis. 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 and program participants.

Ensure that the facility is utilized properly and as scheduled, left clean and that opening and closing procedures are followed. The CONTRACTOR shall also close and secure the facility each evening if the program conclusion is after operational hours.

CONTRACTOR will inform the facility manager immediately via e-mail, telephone or in person 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.

C. 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.

CONTRACTOR NAME: LB2 Enterprises, Inc.	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KPO-580-060513X443
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EXHIBIT "A" Scope of Service

D. Program Fees & Charges

The Palm Beach County Parks and Recreation Department, on behalf of the COUNTY, shall collect all program fees (\$45.00 per month per participant or the \$25.00 half month fee for new swimmers) 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 bi-weekly reports updating participant's payment status. CONTRACTOR shall assist COUNTY with the collection of fees.

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

E. 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 service; there will be no advanced payment for services. The County will provide IRS form 1099 (Miscellaneous Non-Employee Compensation) to the CONTRACTOR.

F. County payment of registration fees

The County will pay for the Annual USMS team registration, but not the team registration. The payment will vary according to the bi-laws of the USMS organization.

MATERIALS USED

Kick Boards, Pull buoys, Lane Lines, Timing system.

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: LB2 Enterprises, Inc.

SIGNATURE

Linda Bostic

NAME (TYPE OR PRINT)

Head Coach

TITLE (TYPE OR PRINT)

CONTRACTOR NAME: LB2 Enterprises, Inc.	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KP0-580-060513X443
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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: LB2 Enterprises, Inc.	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KP0-580-060513X443
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EXHIBIT "B" Insurance Requirements

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: Aquatics 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.

AUTOS <input type="checkbox"/> NOT PROVIDED WHILE IN HAWAII													
<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION										EACH OCCURRENCE			
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / Y/N PARTNER / <input type="checkbox"/> EXECUTIVE OFFICER / MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A							<input type="checkbox"/> WC STATUTORY LIMITS			
MEDICAL PAYMENTS FOR PARTICIPANTS										PRIMARY MEDICAL			
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) RE: Sports Instruction Conducted at Locations Not Owned/Operated by Instructor Swimming, PROFESSIONAL LIABILITY The certificate holder is added as an additional insured, but only with respect to the liability arising out of the operations of the insured above.													

CERTIFICATE HOLDER
CANCELLATION
RELATIONSHIP:
Property Owner/Lessor

Palm Beach County Board of County Commissioners
2700 6th Ave. So.
Lake Worth, FL 33461

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Coverage is only extended to U.S. events and activities

** NOTICE TO TEXAS INSURED: The Insurer for the purchasing group may not be subject to all the insurance laws and regulations of the State of Texas.

ACORD 25 (2009/09)

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