#### Agenda Item #3.M.2.

### PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

#### **AGENDA ITEM SUMMARY**

Meeting Date:	November 19, 2013	FV1 0 1	*15
meeting Date.	November 19, 2013	[X] Consent	[] Regular
		[ ] Ordinance	[] Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

#### **I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to receive and file:** the following original executed Independent Contractor Agreements:

- A) Christopher Carroll Chapman, Wheelchair Rugby Official; Therapeutic Recreation Complex, for the period October 9, 2013, through October 31, 2013;
- B) Kerin Banfield, Wheelchair Rugby Official; Therapeutic Recreation Complex, for the period October 9, 2013, through October 31, 2013;
- C) Robert C. Bogusch, Wheelchair Rugby Official; Therapeutic Recreation Complex, for the period October 9, 2013, through October 31, 2013;
- D) FLA Aquatics, Inc., Competitive Swim Team Coach; Aqua Crest Pool, for the period October 1, 2013, through September 30, 2014; and
- E) Palm Beach County Officials Association, Inc., Junior Volleyball Official; West Boynton Recreation Center, for the period October 29, 2013, through April 16, 2014.

**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 7 (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 (5)

Recommended by: 

Department Director Date

Approved by: 

(10/25/2013

**Assistant County Administrator** 

### **II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	91,656	-0-	-0-	-0-	-0-
External Revenues	(124,210)	-0-	-0-	-0-	-0-
<b>Program Income (County</b>		-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	*(32,554)	0-	0	0-	0
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0			
Is Item Included in Currer Budget Account No.:	Fund <u>0001</u>	Departmer	No nt <u>580</u> Unit Source 4721/	<u>5204/5305/52</u> 4724 Progr	

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

	Contractor	Revenue	Expense
Α	Christopher Carroll Chapman	\$2,700	\$560
В	Kerin Banfield	**	\$720
С	Robert C. Bogusch	**	\$640
D	FLA Aquatics, Inc.	\$106,250	\$85,000
E	Palm Beach County Officials Association, Inc.	\$15,260	\$4,736
	Totals	\$124,210	\$91,656

Estimated net revenue for these agreements is \$32,554. Actual revenue and operating costs will be determined at the termination of these agreements.

\*\* Estimated program revenue included in item A.

C. Departmental Fiscal Review:	in the
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#### **III. REVIEW COMMENTS**

A.	OFMB Fiscal and/or	Contract Development a	nd Control Comments
	Ci mm i local allatol	Oditiact Developinelli a	ila contioi comments.

Susa Newy 10/30/13	And. Jacobard 11/1/13
OFMB KA) 19/29 19/30 B. Legal Sufficiency:	Contract Development and Control

Assistant County Attorney

C. Other Department Review:

Department Director	

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

G:\Financial and Support Division\AGENDA ITEMS\FY2014\Receive and File\11-19-13 (ICA).doc

DIVISION: RECREATION SERVICES REVENUE ACCOUNT: 0001-580- 5204 -4721 EXPENSE ACCOUNT: 0001-580- 5204 -3422	VENDOR CODE: DOCUMENT NUMBER: VS0000000856 KP0-580-100413 X-41
M/C:SO PS: \	DD: KA

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

TH	IIS tere	INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and
Be	each	d into on
Ind	depe	endent Contractor, hereinafter referred to as "CONTRACTOR".
		WITNESSETH:
"D an	epaı	HEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the rtment," organizes and provides programming activities for the benefit and wellbeing of the general public;
les	<b>W</b> I son	HEREAS, it is the intent of the Department to organize and make available a certain program / class / referred to asWheelchair Rugby Tournament, hereinafter referred to as "activity"; and
the	<b>WI</b> teri	HEREAS, said activity will be conducted by CONTRACTOR and governed by the Department pursuant to ms and conditions of this Agreement.
and	NC d CC	<b>DW THEREFORE,</b> in consideration of the mutual covenants and agreements contained herein, COUNTY DNTRACTOR hereby agree as follows:
1.	<u>Te</u>	rm: This Agreement is effective October 9, 2013, and will terminate October 31, 2013 d is not subject to extension or renewal.
2.	Fee	es and Charges: The fee charged to participate in this activity is \$ 450 per 10 person team e collection of such fees is the responsibility of the Department.
	Add \$25	ditional charges, if any, assessed to the participants of the activity are limited to:
3.	<u>Pa</u>	yments To Contractor:
	a.	The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed five hundred sixty dollars (\$\frac{560.00}{2}\$).
	b.	Payments to CONTRACTOR will be \$ 35.00 per game (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 lette 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.	<b>Specific</b>	Details:

a.	Instructor: Christopher Carroll Chapman		
b.	Type of service / Name of activity: Wheelchair Rugby Tournament Referee		
C.	Day(s)/Date(s) Scheduled: Friday - Sunday; October 11-13, 2013		
d.	Time Scheduled: 8:00am-11:30pm		
e.	Activity area / Location: CMAA Therapeutic Recreation Complex Gymnasium		
f.	A minimum of4 and a maximum of6 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. <u>Independent Contractor Relationship</u>: 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. <u>Taxes</u>: 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. <u>Termination</u>: 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. <u>Subcontracting</u>: 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:
  - 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 all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation.

#### b. COUNTY agrees to:

- 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. <u>Exhibits</u>: 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.

Name: Stacy Staebell	Phone Number: (561) 966-7021
12. <u>Insurance Requirements</u> : It is the responsibil insurance coverages specified in Exhibit "B" to this	lity of CONTRACTOR to provide proof of the required Agreement.
Such proof of insurance must be provided to the execution of this Agreement.	he Department's authorized representative prior to the

11. <u>Department Representative</u>: The Department's authorized representative for this Agreement is:

- 13. <u>Indemnification</u>: 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. <u>Notices</u>: 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: Eric Call, Director

2700 6th Avenue South

Lake Worth, Florida 33461

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

Christopher Carroll Chapman

1002 Mingo Pl

Knightdale, NC 27545-9223

- 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. <u>Availability of Funds</u>: 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. <a href="Public Entity Crimes">Public Entity Crimes</a>: 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. <u>Criminal History Records Check</u>: 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. <u>Nondiscrimination</u>: 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

	EACH COUNTY
BOARD	OF COUNTY COMMISSIONERS:
	$\mathcal{O}_{\star}$
By:	Ter sel
	Director / Assistant Director
F	Palm Beach County Parks and Recreation Departn
In The E	vent Contract Amount
	To Or Exceeds \$10,000.00:
County	Administrator –
CONTRA	
	Christopher Carroll Chapman
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By:	mis Eller Home
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CI	orichard - Ola
<u></u>	ristopher Chapman
P	rint
R	a Carca a
1)	uuc

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

County Attorney –

WITNESS -

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Title

VENDOR CODE: VS0000000856

DOCUMENT NUMBER: KPO-580-100413X41

### EXHIBIT "A" Scope of Service

### SCOPE OF SERVICE Wheelchair Rugby is a sport for individuals with Spinal Cord Injuries or other related disabilities affecting all four limbs. Players complete on a full court gymnasium using wheelchairs designed specifically for the sport. The game is played with a volleyball. Referees are trained to enforce the rules of the sport, determine if goals are scored and help ensure player safety during the game. Referees attend a clinic at least once a year and referee a minimum number of games per year. There are three levels of referee certification in the United States Quad Rugby Referees Association, levels A, B, and C. Each level receives pay according to qualifications including years of experience, number of games officiated per year, written examination score, and floor evaluation. **MATERIALS USED** Equipment to be used during the game includes but is not limited to: whistle, official uniform, volleyball, boundary cones, adapted sport wheelchairs 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 Christopher Carroll Chapman

CONTRACTOR: Christopher Carroll Chapman

Chustophul Burght Chipman

SIGNATURE

LAT 15 TO PHET CARROLL

NAME (TYPE OR PRINT)

Referee TITLE (TYPE OR PRINT)

EXHIBIT "A" Page 1 of 1

### **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:

10	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	

ONTRACTOR NAME:
Christopher Carroll Chapman

VENDOR CODE: VS0000000856

DOCUMENT NUMBER: KP0-580-100413\*\*41

### **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."
<u>Waiver of Subrogation</u> : 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: Stacy Staebell 2700 Sixth Avenue South Lake Worth, Florida 33461
<u>Umbrella or Excess Liability</u> : 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.

DIVISION: RECREATION SERVICE REVENUE ACCOUNT: 0001-580- EXPENSE ACCOUNT: 0001-580-	5204 -4721 VC0000102023 VC	Control of the second
M/C:36 PS:	DD:	

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

Ti er	IIS I	INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and d into on 10/02/2013,by and between the Board of County Commissioners of Palm County Florida hereinafter referred to as "COUNTY."
Ве	each	County, Florida, hereinafter referred to as "COUNTY," and Kerin Banfield, ar
In	depe	endent Contractor, hereinafter referred to as "CONTRACTOR".
		WITNESSETH:
"D an	epar	HEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the tment," organizes and provides programming activities for the benefit and wellbeing of the general public;
les	<b>Wi</b> sson	HEREAS, it is the intent of the Department to organize and make available a certain program / class / referred to asWheelchair Rugby Tournament, hereinafter referred to as "activity"; and
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4. Specific Details:
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a.	Instructor: Kerin Banfield
b.	Type of service / Name of activity: Wheelchair Rugby Tournament Referee
C.	Day(s)/Date(s) Scheduled: Friday - Sunday; October 11-13, 2013
d.	Time Scheduled: 8:00am-11:30pm
e.	Activity area / Location: CMAA Therapeutic Recreation Complex Gymnasium
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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.

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  - 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 all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, 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. <u>Exhibits</u>: 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. <u>Department Representative</u>: The Department's authorized representative for this Agreement is:

	Name: Stacy Staebell	Phone Number: (561) 966-7021
12	Insurance Requirements: It is the insurance coverages specified in Exhibi	responsibility of CONTRACTOR to provide proof of the required t "B" to this Agreement.
	Such proof of insurance must be proexecution of this Agreement.	ovided to the Department's authorized representative prior to the
13.	employees and elected officers harmles or causes of action of every kind or	protect, defend, reimburse, indemnify and hold COUNTY, its agents, as from and against all claims, liability, expense, loss, cost, damages character, including attorney's fees and costs, whether at trial or during and as a result of their performance of the terms of this ans of CONTRACTOR.
14.	Notices: All notices required in this A receipt requested.	greement are to be hand delivered or sent by certified mail, return

If sent to COUNTY, such notices are to be addressed:
Palm Beach County Parks and Recreation Department Attn: Eric Call, Director
2700 6th Avenue South
Lake Worth, Florida 33461
If sent to CONTRACTOR, such notices are to be addressed:
Kerin Banfield
6313 Eagle Point Drive
Liberty Township, OH 45011

Name: Stacy Staebell

- 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. <u>Arrears</u>: 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. <u>Public Entity Crimes</u>: 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. <u>Severability</u>: 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.

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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. <u>Nondiscrimination</u>: 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. <u>Regulation; Licensing Requirements</u>: 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

# Nud to scan : email

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 Bell Print	CONTRACTOR -  Kerin Banfield  By: La College College Signature  KERIN Banfield  Print  Le ferce  Title
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:	
County Attorney –	
anne Helgent	

	ITRA		

Kerin Banfield

VENDOR CODE: VC0000102023

CP6-580-100413X4

### EXHIBIT "A" Scope of Service

### SCOPE OF SERVICE Wheelchair Rugby is a sport for individuals with Spinal Cord Injuries or other related disabilities affecting all four limbs. Players complete on a full court gymnasium using wheelchairs designed specifically for the sport. The game is played with a volleyball. Referees are trained to enforce the rules of the sport, determine if goals are scored and help ensure player safety during the game. Referees attend a clinic at least once a year and referee a minimum number of games per year. There are three levels of referee certification in the United States Quad Rugby Referees Association, levels A, B, and C. Each level receives pay according to qualifications including years of experience, number of games officiated per year, written examination score, and floor evaluation. **MATERIALS USED** Equipment to be used during the game includes but is not limited to: whistle, official uniform, volleyball, boundary cones, adapted sport wheelchairs 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? √ No Yes Kerin Banfield

É (TYPE OR PRINT)

TITLE (TYPE OR PRINT)

EXHIBIT "A" Page 1 of 1

# 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:

<b>3</b>	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.

4	AME	Marka	400.00	and N	2000	Services.	

Kerin Banfield

VENDOR CODE: VC0000102023

DOCUMENT NUMBER: KPO-580-100413 X40

# **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: Stacy Staebell 2700 Sixth Avenue South Lake Worth, Florida 33461
<u>Umbrella or Excess Liability</u> : 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.

<b>DIVISION: RECREATION SERVI</b>	ICES VE	ENDOR CODE:	DOCUMENT NUMBER	1.
REVENUE ACCOUNT: 0001-580				
		VC0000126728	(PO-580-1004	TIEM DO
EXPENSE ACCOUNT: 0001-580	5204 -3422	P	40,0000,100,	1100 D 7
M/C:う  PS:		The second secon		NO.
1110.			100.	10

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

THIS I	INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and
Beach	d into on
	endent Contractor, hereinafter referred to as "CONTRACTOR".
	WITNESSETH:
WI	HEREAS COUNTY by and through its Darks and Describer Department have in the second to
"Depar and	<b>HEREAS</b> , COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the rtment," organizes and provides programming activities for the benefit and wellbeing of the general public;
<b>Wi</b> lesson	HEREAS, it is the intent of the Department to organize and make available a certain program / class / referred to asWheelchair Rugby Tournament, hereinafter referred to as "activity"; and
<b>WI</b> the term	HEREAS, said activity will be conducted by CONTRACTOR and governed by the Department pursuant to ms and conditions of this Agreement.
NC and CC	<b>DW THEREFORE,</b> in consideration of the mutual covenants and agreements contained herein, COUNTY DNTRACTOR hereby agree as follows:
	rm: This Agreement is effective October 9, 2013, and will terminate October 31, 2013, d is not subject to extension or renewal.
	es and Charges: The fee charged to participate in this activity is \$ 450 per 10 person team.  e collection of such fees is the responsibility of the Department.
Add \$25	ditional charges, if any, assessed to the participants of the activity are limited to: 5 per each additional player/staff on team
3. <u>Pa</u>	yments To Contractor:
a.	The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed six hundred forty dollars (\$\frac{640.00}{\text{000}}\$).
b.	Payments to CONTRACTOR will be \$ 40.00 per game (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

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.	<b>Specific</b>	Details:

a.	Instructor: Robert C. Bogusch
b.	Type of service / Name of activity: Wheelchair Rugby Tournament Referee
c.	Day(s)/Date(s) Scheduled: Friday - Sunday; October 11-13, 2013
d.	Time Scheduled: 8:00am-11:30pm
e.	Activity area / Location: CMAA Therapeutic Recreation Complex Gymnasium
f.	A minimum of4 and a maximum of6 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. <u>Independent Contractor Relationship</u>: 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. <u>Taxes</u>: 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. <u>Termination</u>: 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. <u>Subcontracting</u>: 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;
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  - adhere to applicable Department policies and procedures and all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation.

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	Name: Stacy Staebell	Phone Number: (561) 966-7021	_
12	Insurance Requirements: It is the responsibility of insurance coverages specified in Exhibit "B" to this Agree		luired
	Such proof of insurance must be provided to the De execution of this Agreement.	epartment's authorized representative prior to	o the
13	. <u>Indemnification</u> : CONTRACTOR shall protect, defend, r employees and elected officers harmless from and again or causes of action of every kind or character, including appellate levels or otherwise arising during and as a	nst all claims, liability, expense, loss, cost, dam ling attorney's fees and costs, whether at tr	ages ial or

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:

Agreement or due to the acts or omissions of CONTRACTOR.

Palm Beach County Parks and Recreation Department

Attn: Eric Call, Director

Name: \_Stacy Staebell

2700 6th Avenue South Lake Worth, Florida 33461

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

- 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.
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(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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 —
VITNESS -	CONTRACTOR - Robert C. Bogusch
Signature	By: Signature
ANA NOGVERAS Print	ROBINET C. BOSUSCY
APPROVED AS TO	Title
ORM AND LEGAL SUFFICIENCY:	

County Attorney -

anne Idelgand

NAME (TYPE OR PRIN

Robert C. Bogusch

VENDOR CODE: VC0000126728 DOCUMENT NUMBER: KPO-580-100413-X-39

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

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EXHIBIT "A" Page 1 of 1 official

TITLE (TYPE OR PRINT)

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	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.

# **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: Stacy Staebell 2700 Sixth Avenue South Lake Worth, Florida 33461
<u>Umbrella or Excess Liability</u> : 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.

DIVISION: FINANCIAL & SUPPORT SERVICES REVENUE ACCOUNT: 0001-580- 5303 -4724 EXPENSE ACCOUNT: 0001-580- 5303 -3422	VENDOR CODE: DOCUMENT NUMBER: VG0000130528- KPO-580-100713X43
MIC: 20 PS: JCM	DD: TOHL

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

TH	IIS	INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and
er	itere	ed into on
Dt	aui	r County, Florida, nereinafter referred to as "COUNTY," andFLA Aquatics, Inc.
ID	зере	endent Contractor, hereinafter referred to as "CONTRACTOR".
		WITNESSETH:
"D an	epa	HEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the rtment," organizes and provides programming activities for the benefit and wellbeing of the general public;
les	<b>W</b> son	HEREAS, it is the intent of the Department to organize and make available a certain program / class / referred to as USA Swimming & US Masters Swimming Program, hereinafter referred to as "activity"; and
the	<b>W</b> ter	<b>HEREAS</b> , said activity will be conducted by CONTRACTOR and governed by the Department pursuant to ms and conditions of this Agreement.
an	NC d C(	<b>DW THEREFORE,</b> in consideration of the mutual covenants and agreements contained herein, COUNTY DNTRACTOR hereby agree as follows:
1.	Te an	rm: This Agreement is effective October 1, 2013, and will terminate September 30, 2014, d is not subject to extension or renewal.
2.	Fe Th	es and Charges: The fee charged to participate in this activity is \$ 30-\$158 per month.  e collection of such fees is the responsibility of the Department.
	Ad-	ditional charges, if any, assessed to the participants of the activity are limited to:
3.	<u>Pa</u>	yments To Contractor:
	a.	The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed Eighty five thousand dollars (\$\frac{85,000.00}{\dollars}).
	b.	Payments to CONTRACTOR will be \$pern/a
		(paid participant / class / lesson)  OR
		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.	<b>Specific</b>	Details:

a.	Instructor: FLA Aquatics, Inc.		
b.	Type of service / Name of activity: USA Swimming and US Masters Swim programs		
c.	. Day(s)/Date(s) Scheduled: To be worked out with Pool Manager quarterly		
d.	Time Scheduled: To be worked out with Pool Manager quarterly		
e.	Activity area / Location: Aqua Crest Pool, 2503 Seacrest Blvd., Delray Beach, FL 33444		
f.	A minimum of15 and a maximum of150 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. <u>Taxes</u>: 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. <u>Termination</u>: 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. <u>Subcontracting</u>: 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:
  - 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
  - adhere to applicable Department policies and procedures and all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, 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.
- 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. <b>Department Representative</b> : The Department	ent's authorized representative for this Agreement is:
Name: David Salvador4,Facility Manager I	Phone Number: (561) 278-7104

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: Director of Aquatics Division

2700 6th Avenue South

Lake Worth, Florida 33461

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

FLA Aquatics, Inc.

Attn: Duffy Dillon

289 SE 3rd Terrace, Pompano Beach, FL 33060

Phone: 954-468-5590; email: ddillon@flaswim.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. <u>Arrears</u>: 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. <u>Public Entity Crimes</u>: 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. <u>Severability</u>: 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. <u>Nondiscrimination</u>: 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. <u>Regulation</u>; <u>Licensing Requirements</u>: 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS:

Bv:

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

auro

Print

CONTRACTOR -

FLA Aquatics, In

By: Signatur

Signature

Print

Title

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

County Attorney -

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# EXHIBIT "A" Scope of Service

The basic requirements for the Head USA Swimming and US Masters Swimming Coach (CONTRACTOR) are as follows:

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

#### A. Scope of Work

The CONTRACTOR has the responsibility of training swimmers in preparation for competitive swimming events. CONTRACTOR will be responsible for organizing and supervising a the program in accordance with USA Swimming and US Masters Swimming standards and the approved rule books. 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 all ages and all skill levels.

Immediately upon arrival at the Facility, inspect the site prior to beginning any activity. Should any safety condition exist at the Facility, the CONTRACTOR shall report said condition to the staff opening the facility immediately and to the Facility manager 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. The staff member opening the Facility shall perform the water test and if the chemical levels are not reading between 1.0 – 10.0 for chlorine and 7.2-7.6 for pH the CONTRACTOR will not allow participants to get into the water.

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 I, 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 accident or injury 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. CONTRACTOR will 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.

CONTRACTOR will adhere to all applicable COUNTY policies and procedures

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

CONTRACTOR will provide the facility manager a monthly list with registered USA Swimming and US Masters swimmers 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 USA Swimming and/or Us Masters teams.

#### 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. 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. It is the CONTRACTOR'S responsibility to maintain clean and orderly storage areas that have been allocated for the program. The CONTRACTOR shall open the Facility each morning in conjunction with scheduled Facility staff for the US Masters swimming program when utilizing the Facility prior to the Facility's opening to the general public. The CONTRACTOR shall also close and secure the Facility each evening in conjunction with scheduled Facility staff if the program conclusion is after operational hours. The CONTRACTOR shall assist Facility staff in the removal and replacement of pool covers when the pool covers are in use.

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

# EXHIBIT "A" Scope of Service

substitution can become effective. Approval shall not be granted for new personnel until the successful completion of the required background screening.

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.

#### 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 payments will be made payable to: Board of County Commissioners. The COUNTY will provide the CONTRACTOR with biweekly reports updating participant's payment status. CONTRACTOR shall assist COUNTY with the collection of fees.

Any and all monthly program fee 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.

F. The County will provide IRS form 1099 (Miscellaneous Non-Employee Compensation) to the Contractor.

#### **MATERIALS USED**

Lane Lines, Time Clock, Kick Boards, Pull Buoys

Are participants being transported as part of the Scope of Se	rvice?	☐ Yes	✓ No
According to Florida Statute Chapter 440, are you required to Workers' Compensation and Employer Liability coverage?	maintain	Yes	□No
CONTRACTOR: FLA Aquatics Inc.  SIGNATURE			
Duffy Dillon NAME (TYPE OR PRINT)	CEO TITLE (TYP	E 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.

<u>Paln</u>	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.
JUL	<u>Commercial General Liability</u> : CONTRACTOR shall maintain Commercial General Liability at a limi 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.

# EXHIBIT "B" Insurance Requirements

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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."

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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.

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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: Veronica Kinnett
2700 Sixth Avenue South
Lake Worth, Florida 33461

SCA

<u>Umbrella or Excess Liability</u>: 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 "<u>Additional Insured</u>" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

SA

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**

DATE (MM/DD/YYYY) 09/18/2013

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 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

PRODUCER	1-602-840-3234	CONTACT	
Risk Management Services, Inc.		NAME:	
3		PHONE FAX (A/C, No, Ext): (A/C.	No): 602-274-9138
P.O. Box 32712		E-MAIL ADDRESS: info@theriskpeople.com	NO): 002 274-3136
Phoenix, AZ 85064-2712		PRODUCER CUSTOMER ID #:	
INSURED		INSURER(S) AFFORDING COVERAGE	NAIC#
FLA AQUATICS		INSURER A: LEXINGTON INS CO	19437
USA Swimming, Inc dba USA Swimm	ing	INSURER B: MUTUAL OF OMAHA INS CO	71412
DUFFY DILLON 289 SE 3RD TERRACE		INSURER C:	
POMAPNO BEACH, FL 33060		INSURER D:	
		INSURER E :	
COVERAGES		INSURER F :	

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		SUBF					
A	GENERAL LIABILITY	INSR	WVD				LIMI	rs
	-	^	^	011429193	01/01/13	01/01/14	EACH OCCURRENCE	\$ 1,000,000
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
1	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	\$ EXCLUDED
	X Participant Legal	1					PERSONAL & ADV INJURY	\$ EXCLUDED
l	X Liability Included						GENERAL AGGREGATE	\$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	\$ 1,000,000
	X POLICY PRO- JECT LOC							\$
	ANY AUTO						COMBINED SINGLE LIMIT (Ea accident)	\$
	ALL OWNED AUTOS						BODILY INJURY (Per person)	\$
	SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
	HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	NON-OWNED AUTOS							\$
								\$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	\$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$
}	DEDUCTIBLE							\$
ļ	RETENTION \$ WORKERS COMPENSATION							\$
	AND EMPLOYERS' LIABILITY	ĺ					WC STATU- OTH- TORY LIMITS ER	
	OFFICER/MEMBER EXCLUDED?	N/A						\$
	(Mandatory in NH) If yes, describe under						E.L. DISEASE - EA EMPLOYEE	\$
В	DÉSCRIPTION OF OPERATIONS below XS MEDICAL/DENTAL			WEWD CD2 FOF 4				\$
_	,,			T5MPSP35054	01/01/13	01/01/14	Maximum Limit	25,000
DESC	PIDTION OF OREDATIONS / CO.							

ATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) Verification of General Liability coverage for INSURED ACTIVITIES. Excess Medical/Dental coverage provided for participants only. The Certificate Holder is included as Additional Insured per attached ADDITIONAL INSURED ENDORSEMENT EFFECTIVE CERTIFICATE ISSUE DATE. \*30 DAY CANCELLATION PER POLICY PROVISIONS\*

CERTIFICATE HOLDER	CANCELLATION
Palm Beach County Board of County Commissioners Laurie Schobelock 2700 6th Avenue South	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
Lake Worth , FL 33461 USA	Carolyn J. Blumit
FG-FLA	© 4000 2000 A CODD CODDODATION

ACORD 25 (2009/09) 35753210

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#### **Endorsement No. 2**

This endorsement, effective January 1, 2013, forms a part of Policy Number 011429193 issued to United States Swimming, Inc. by Lexington Insurance Company.

#### OTHER INSUREDS - CLUBS OR GROUP MEMBERS

**Section II – Who is An Insured** is amended to include United States Swimming, Inc. member clubs, in which all athletes or participants and coaches are members of United States Swimming, Inc., and group members as insured's solely as respects to "bodily injury" and "property damage" arising from "insured activities".

"Insured activities" are defined as:

- a. Swimming meets that have been issued a written "sanction" or "approval";
- Swimming practices, "dry land training activities" and learn to swim programs, where all swimmers or participants are members of United States Swimming, Inc., and are conducted under the direct and active supervision of a "member coach";
- c. United States Swimming, Inc. Swim-A-Thons ®;
- d. "Approved social events" and "approved fund raising activities";
- e. "Swimming Tryouts";

"Sanction" is defined as a permit that has been issued by one of the "United States Swimming, Inc. Local Swimming Committees" to a US Swimming, Inc. club to conduct a meet in conformance with all United States Swimming, Inc. rules.

"Approval" is defined as a permit issued by one of the "United States Swimming, Inc. Local Swimming Committees" for meets conducted in conformance with United States Swimming, Inc. technical rules in which both members and non members may compete. United States Swimming, Inc. member clubs that either host or participate in a meet that has been issued an "approval" will be consider an insured provided that all of its athletes or participants and coaches are members of United States Swimming, Inc.

"Member coach" is defined as a coach member of United States Swimming, Inc. who has complied with safety training required by United States Swimming, Inc.

"Approved social events" and "approved fund raising activities" are events and activities for which an insured has received approval from Risk Management Services, Inc.

"Swimming Tryouts" are defined as swimming practices where a swimmer(s) who is not and who has never been a member of United States Swimming, Inc. participates with a

United States Swimming, Inc. club, for a period not to exceed thirty consecutive days in a twelve month period, to determine the swimmer's interest in becoming a member of United States Swimming, Inc.

"Dry land training activities" are defined as weight training, running, calisthenics, exercise machine training and any other activity for which an insured has received approval from Risk Management Services, Inc.

#### **ENDORSEMENT No. 4**

This endorsement shall be effective the issue date of the Certificate of Insurance to which it is attached and forms a part of Policy Number 011429193 Issued to United States Swimming, Inc. by Lexington Insurance Company.

## ADDITIONAL INSURED - OWNERS AND/OR LESSORS OF PREMISES

**Section II – Who is An Insured** is amended to include as an "Additional Insured" any person or organization of the type designated below, and as evidenced by a certificate of insurance issued to the "Additional Insured" by us or on our behalf, but only with respect to liability arising out of "insured activities" by a United States Swimming, Inc. club or group member.

"Additional Insured" for the purpose of this endorsement is defined as an owner and/or lessor of a premise(s) that is leased, rented or loaned to a Named Insured or a United States Swimming, Inc. club or group member.

The insurance afforded with respect to an "Additional Insured" by this endorsement is subject to the following additional exclusions:

- a. This insurance applies only to an "occurrence" which takes place while the Named Insured or a United States Swimming, Inc. club or group member is utilizing the premises;
- This insurance does not apply to an "occurrence" arising out of or related to structural alterations, new construction or demolition operations performed by or on behalf of an "Additional Insured";
- c. This insurance does not apply to an "occurrence" arising out of or related to any design defect or maintenance of the premises by or on behalf of an "Additional Insured";
- d. This insurance shall be considered primary and non contributory if required by a written agreement with any insurance that the "Additional Insured" maintains except when caused by the Additional Insured's "sole" negligence.



## CERTIFICATE OF LIABILITY INSURANCE

**TEAME-1** 

OP ID: TO

DATE (MM/DD/YYYY) 09/26/2013

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). Phone: 407-869-0962 CONTACT Michele Mason SIHLE INSURANCE GROUP, INC. PHONE (A/C, No, Ext): 407-389-3607
E-MAIL ADDRESS: MMason@sihle.com P. O. BOX 160398 ALTAMONTE SPRINGS, FL 32716 Kenneth G. Sihle Fax: 407-774-0936 FAX (A/C, No): 407-389-8407 INSURER(S) AFFORDING COVERAGE INSURER A: Zenith Insurance Company 13269 INSURED Team Elite Athletic Management INSURER B: International, Inc. DBA FLA Aquatics, Inc. INSURER C: Qualifer - Duffy Dillon 289 SE 3rd Terrace INSURER D : Pompano Beach, FL 33060 INSURER E: INSURER F **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. ADDL SUBR INSR LTR POLICY EFF POLICY EXP
(MM/DD/YYYY) (MM/DD/YYYY) TYPE OF INSURANCE **POLICY NUMBER** GENERAL LIABILITY EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) COMMERCIAL GENERAL LIABILITY \$ CLAIMS-MADE OCCUR MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ **GENERAL AGGREGATE** \$ GEN'L AGGREGATE LIMIT APPLIES PER: PRODUCTS - COMP/OP AGG POLICY PRO-JECT LOC \$ AUTOMOBILE LIABILITY OMBINED SINGLE LIMIT ANY AUTO BODILY INJURY (Per person) \$ ALL OWNED SCHEDULED AUTOS NON-OWNED AUTOS BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) HIRED AUTOS \$ \$ UMBRELLA LIAB OCCUR EACH OCCURRENCE \$ EXCESS LIAB CLAIMS-MADE AGGREGATE \$ RETENTION \$ DED WORKERS COMPENSATION
AND EMPLOYERS' LIABILITY
ANY PROPRIETOR/PARTNER/EXECUTIVE
OFFICER/MEMBER EXCLUDED?
(Mandatory in NH)
If yes, describe under
DESCRIPTION OF OPERATIONS below X WC STATU-TORY LIMITS Z066567709 10/30/2012 10/30/2013 100,000 E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT | \$ DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) CERTIFICATE HOLDER CANCELLATION

PALMP&R

**Palm Beach County Board of County Commissioners** c/o Parks & Recreation Dept. 2700 6th Avenue S. Lake Worth, FL 33461

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

AUTHORIZED REPRESENTATIVE

Ken

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ACORD 25 (2010/05)

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DIVISION: RECRE REVENUE ACCOU EXPENSE ACCOU	NT: 0001-	80- 5252		VENDOR CODE: PALM0168	CONTRACT NUMBER: KPO-580 101713\( \dagger \)
MC:	PS:	JZ	FSS:	CC:	DD:

U.S.				.0
1			R AGREEMENT FOI RECREATION DEPA	
THIS INDEPENDE entered into on Beach County, Flor	INT CONTRACTOR	AGREEMENT, hereing the service of th	nafter referred to as the veen the Board of Cour andPalm Beach County	e "Agreement," is made and the commissioners of Palm Officials Association, Inc, ar
		WITNESS	ETH:	
WHEREAS, Co "Department," orga and	OUNTY, by and throunizes and provides p	ugh its Parks and Re rogramming activities	creation Department, he for the benefit and well	ereinafter referred to as the being of the general public
WHEREAS, it lesson referred to a	is the intent of the D s Junior Vo	Department to organiz olleyball League	ze and make available, hereinafter referred	a certain program / class / to as "activity"; and
WHEREAS, sa the terms and cond	id activity will be conditions of this Agreeme	ducted by CONTRACent.	TOR and governed by t	the Department pursuant to
NOW THEREF	ORE, in consideration	n of the mutual cove ows:	nants and agreements o	contained herein, COUNTY
Term: This Agr and is not subje	reement is effective ect to extension or ren	October 29, 2013 newal.	, and will terminate	April 16, 201
	ges: The fee charged f such fees is the resp		activity is \$ \$60.00 fell/\$80 spring	g per <u>player</u> .
Additional charg	ges, if any, assessed t	to the participants of t	he activity are limited to:	
B. Payments To C	Contractor:			-

a.	The total amoun	t payable by COUNTY under this	Agreement for the services	to be performed hereunder
	is not to exceed	Four thousand Seven Hundred Thirty Six	dollars (\$4,736.00 ).	

b.	Payments to CONTRACTOR will be \$ 32.00	_per_	game
	OR		(paid participant / class / lesson)
	% 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:
┱.	Obecilio	velano.

a.	Instructor: Volleyball Officials	
b.	Type of service / Name of activity: Officiating / youth volleyball games	
	Day(s)/Date(s) Scheduled: Tuesdays / Wednesdays / Saturdays / October 29, 2013 - April 15, 2013	
d.	Time Scheduled: 9:00am - 9:00pm	
e.	Activity area / Location: Gymnasium / West Boynton Recreation Center	
f.	A minimum of 24 and a maximum of 216 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. <u>Independent Contractor Relationship</u>: 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. <u>Taxes</u>: 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. <u>Subcontracting</u>: 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:

- 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
- adhere to applicable Department policies and procedures and all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, 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. <u>Exhibits</u>: 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: Ellen Gilmer / Jim Henneme	Phone Number: (561) 355-1125	_

12. <u>Insurance Requirements</u>: 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. <u>Indemnification</u>: 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: Jim Henneman
2700 6th Avenue South
Lake Worth, Florida 33461

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

is sent to CONTINA	CTOR, such houses are to be address
Russell L. Black	
1320 Fishers Place	
West Palm Beach, FL 33	3413
561-684-2010	

- 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. <u>Availability of Funds</u>: 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. <u>Arrears</u>: 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. <u>Public Entity Crimes</u>: 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. <u>Criminal History Records Check</u>: 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. <u>Nondiscrimination</u>: 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.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

**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 -  WILLIAM Signature  JIM HEUNEMAN  Print	CONTRACTOR - Palm Beach County Officials Association (2)  By: Signeture Print Title

County Attorney -

CONTRACTOR NAME:	
Paim Beach	County Officials Association

VENDOR CODE: PALM0168 CONTRACT NUMBER:
KPO-580-101713\*55

## EXHIBIT "A" Scope of Service

# SCOPE OF SERVICE Mr. Black/PBCOA will be providing services as a volleyball official for the West Boynton Recreation Center Junior Volleyball League. Officials will be using rules governed by the Florida High School Athletic Association and all supplemental rules related to the West Boynton Junior Volleyball League. Games will be played on Tuesdays, Wednesdays or Saturdays from October 29, 2013 through April 15, 2014. Game times will range from 9:00am – 9:00pm. A fee for services provided will be \$32.00 per official per game **MATERIALS USED** Whistles Are participants being transported as part of the Scope of Service? No According to Florida Statute Chapter 440, are you required to maintain √ No Workers' Compensation and Employer Liability coverage? Yes

EXHIBIT "A" Page 1 of 1

C	ON	TR/	<b>NCT</b>	OR	NA	ME:

Palm Beach County Officials Association, Inc.

VENDOR CODE: PALM0168 CONTRACT NUMBER: KPO-580-101713-455

# 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.

<u>Paln</u>	n 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.
The	<u>Commercial General Liability</u> : 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.

VENDOR CODE: **PALM0168** 

CONTRACT NUMBER: KPO-580-1017132

#### **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. 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: Jim Henneman

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.



COUNTY, by and through its Risk Management Department, in Right to Revise or Reject: 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.

_	ORD.		CER	TIFICATE OF LIABIL	JTY INSURANO	CE	09/05/	2013	
THE #	CERTIFICATE IS ISSUED AS A MATTER OF TIVELY AMEND, EXTEND OR ALTER THE SSUING INSURER(S), AUTHORIZED REPR	ESENT/	TIVE OR	PRODUCER, AND THE CERTIF	JW. THIS CERTIFICAT TICATE HOLDER.	E OF INSURANCE DO	ES NOT CONSTITUTE A CONTRACT	BETWEEN	
IMPOR	RTANT: If the certificate holder is an ADDITIO an endorsement. A statement on this certific	OBLAL ING	CHOCK #			AIVED, subject to the to	erms and conditions of the policy, certa	in policies ma	
PROD	UCER			*********	CONTACT NAME: Sp				
SADLER & COMPANY, INC. P.O. BOX 5866 COLUMBIA, SOUTH CAROLINA 29250-5866				PHONE (A/ C, No. Ext): 800-622-7370   FAX (A/ C, No): 803-256-4017					
				E-MAIL ADDRESS: soda@sadiersports.com PRODUCER CUSTOMER ID#:					
INSUR									
D/ B/ A Palm	SPORTSPLEX OPERATORS AND DEVEL Beach County Officials Association	OPERS /	ASSOCIAT	TION	INSLIDE	P/S/ AEEODO	ING COVERAGE	NAIC #	
7167	Boscanni Drive				INSURER A: NATION		11/110 #		
	ton Beach, FL 33437 #: 18829					WIDE LIFE INSURANCE			
0.00	7. 10020				INSURER C:	WIDE LIFE INSURANCE	ECOMPANT		
A Me	mber of the Sports, Leisure & Entert	ainmer	nt RPG	ŀ	INSURER D:				
	RAGES			CERTIFICATE NUMBER	₹		REVISION NUMBER		
PERT/	S TO CERTIFY THAT THE POLICIES OF IN ITHSTANDING ANY REQUIREMENT, TER IN. THE INSURANCE AFFORDED BY THE AVE BEEN REDUCED BY PAID CLAIMS.	SURANO M OR CO POLICI	DE LISTED INDITION ES DESCR	D BELOW HAVE BEEN ISSUED OF ANY CONTRACT OR OTHE RIBED HEREIN IS SUBJECT TO	TO THE INSURED NA R DOCUMENT WITH F ALL THE TERMS, EX	MED ABOVE FOR THI RESPECT TO WHICH I CLUSIONS AND CON	E POLICY PERIOD INDICATED, THIS CERTIFICATE MAY BE ISSUED DITIONS OF SUCH POLICIES. LIMITS	OR MAY SHOWN	
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/ DD/ YYYY)	POLICY EXP (MM/ DD/ YYYY)	LIMITS		
A	GENERAL LIABILITY	X	T				EACH OCCURRENCE	Jen oca c	
	COMMERCIAL GENERAL LIABILITY					1	DAMAGE TO RENTED PREMISES	\$2,000,00	
	☐CLAIMS MADE ☐OCCUR					1	(Ea occurrence)	\$300,000	
İ			[	KRO0000001413200	12:53PM ET	12:01AM ET	MEDICAL EXPENSES (other than participants)	\$5,000	
	GEN'L AGGREGATE LIMIT APPLIES				09/03/2013	09/03/2014	PERSONAL & ADV INJURY	\$2,000,00	
	PER:	1				l	GENERAL AGGREGATE	NONE	
							PRODUCTS- COMP/ OP AGG	\$2,000,00	
	POLICY PROJECT LOC						LEGAL LIAB TO PARTICIPANTS	\$2,000,00	
	AUTOMOBILE LIABILITY  ANY AUTO						COMBINED SINGLE LIMIT (Ea Accident)		
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS						BODILY INJURY (Per person)		
	HIRED AUTOS		j				BODILY INJURY (Per accident)		
	NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)		
	☐UMBRELLA LIAB ☐OCCUR  ☑EXCESS LIAB ☐CLAIMS-MADE						EACH OCCURRENCE	n/a	
	☐DEDUCTIBLE ☐RETENTION			n/a	n/ a	n/ a	AGGREGATE	<u> </u>	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				·		WC STATUTORY LIMITS		
- 1	ANY PROPRIETOR / PARTNER / EXECUTIVE Y/ N	Ì	- 1				OTHER	L	
J	OFFICER / MEMBER	- 1	- 1	N/A			E.L. EACH ACCIDENT	T T	
ı	(Mandatory in NH)	]	- 1				EL DIOEAGE EA FOLDI GLEE	├	
	If yes, describe under DESCRIPTION OF OPERATIONS below		- [				E.L. DISEASE - EA EOMPLOYEE	ļ	
	PARTICIDANT ACCIDENT						E.L. DISEASE - POLICY LIMIT	L	
	PARTICIPANT ACCIDENT		J	XS0000025702600- A	12:53PM ET 09/03/2013	12:01AM ET 09/03/2014	EXCESS MEDICAL AD&D	\$100,000	
	PTION OF OPERATIONS / LOCATIONS / V OVERED Sports Officials - Accident	EHICLES & Gene	S (Attach A	CORD 101, Additional Remarks			AD&D	\$5,000	
fficial oward chwar thon ports hiroproperth ports	cials Names: Marc Altman, Mark Badovi, Barry Kahn, Mike Kess, Bill Kyrko tz, Ted Task, Bob Thomas, Gerald y Mancino, Russ Romano, Dave Fo Officials Accident Only: \$100,000 E actic Visits - 5 Visits Maximum @ \$ esia And Assistant Surgeon - Maxim Officials General Liability as Part of the Participant Accident policy, if include icate holder is added as an additional insure	ck, Jim stas, M Zahn, E uquart, excess 50 Per num of t	Brass, Marty LaV Denny Za Mark Tr Medical; Visit; Ho 25% Sur ge: \$2,0	Marshall Brownson, Larry C falley, Jay Lugo, Rick Malo askey, Neal Bluestein, Car udel, Roger Bloat, Gino Di \$5,000 Accidental Death of spitalization - Inpatient & C geon's Benefits; Emergen 00,000 Each Occurrence;	ine, Jay Oberfield, I Mohsinger, Loren ietrick, Hector Rom or Dismembermen Outpatient - \$1,000 cy Room - \$500 Ma \$2,000,000 Particij	Carrado Padula, P Schumansky, Ricl ian t; \$500 per claim do Maximum; Surgeo aximum; Physician pant Legal Liability;	eter Rozynski, Brian Sander, Ai	rnie Cassiere, ;	
ERTIF	ICATE HOLDER			CANCELLATION		100 BLOVE,			
	TIONSHIP: rty Owner/ Lessor			SHOULD ANY OF T	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.				
	Beach Board of County Con	amm!	elono-	AUTHORIZED REPRE			DANCE WITH THE POLICY PRO	VISIONS.	
alm									
Olitic	al Subdivision of the State of icers, Employees, and Ager	of Flo	rida,	AUTHORIZED REPRES	CEAUTATH IE				

Coverage is only extended to U.S. events and activities
\*\* NOTICE TO TEXAS INSUREDS: The Insurer for the purchasing group may not be subject to all the insurance laws and regulations of the State of Texas.

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