

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 21, 2016

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: the following original executed First Amendment to Independent Contractor Agreement and original executed Independent Contractor Agreement:

- A) Shelly Janssen, Youth Dance Instructor, West Boynton Recreation Center, for the period October 1, 2015, through May 26, 2016; and
- B) LB2 Enterprises, Inc., d/b/a Palm Beach Masters, US Masters Swimming Coach, Lake Lytal Pool, for the period May 4, 2016, through September 30, 2016.

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 by the Board to receive and file.
Districts 2 and 3 (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 being submitted to the Board to receive and file.

Attachments:

- 1. First Amendment to Independent Contractor Agreement
- 2. Independent Contractor Agreement

Recommended by: _____


Department Director

5/25/16
Date

Approved by:  _____

Deputy County Administrator

6/14/16
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>41,200</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(52,607)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>* (11,407)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>				

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund 0001 Department 580 Unit 5252/5302
Object 3422/Revenue Source 4721/4724 Program N/A

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

Item	Contractor	Revenue	Expense
A	Shelly Janssen	\$8,857	\$6,200
B	LB2 Enterprises, Inc., d/b/a Palm Beach Masters	\$43,750	\$35,000
	Totals	\$52,607	\$41,200

*FY2016 estimated net revenue for these agreements is \$11,407. Actual Revenue and operating costs will be determined at the termination of these agreements.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

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

OFMB ^{KP} 92 ²² 5/27 5/31 6/12

J. S. Jacobson 6/10/16
Contract Development & Control
6/10/16 *TR*

B. Legal Sufficiency:

Anne Delgent 6/13/16
Assistant County Attorney

C. Other Departmental Review:

Department Director

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

**FIRST AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT
BETWEEN PALM BEACH COUNTY AND
SHELLY JANSSEN**

THIS FIRST AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT is made and entered into on 04/11/2016, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "COUNTY" and Shelly Janssen, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, on October 1, 2015, COUNTY and CONTRACTOR entered into an Agreement (R2015-1827) for the provision of a Youth Dance program at West Boynton Recreation Center, hereinafter referred to as the "Agreement"; and

WHEREAS, under the Agreement the COUNTY is to provide funding in an amount not to exceed Nineteen Thousand Seven Hundred Dollars (\$19,700) for all services and materials for the youth dance instructor's services, hereinafter referred to as the "Program"; and

WHEREAS, CONTRACTOR's fee is the sum of 70% of the paid enrollment fees for the Program; and

WHEREAS, paid enrollment fees are projected to exceed Twenty Eight Thousand One Hundred and Forty Three Dollars (\$28,143) for the Agreement period; and

WHEREAS, the total Agreement amount required to be paid to CONTRACTOR needs to be increased by Six Thousand Two Hundred dollars (\$6,200); and

WHEREAS, the Program benefits all citizens of Palm Beach County.

WHEREAS, both parties desire to amend the Agreement.

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

1. Section 3.a. of the Agreement is hereby deleted in its entirety and replaced with the following: "The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed Twenty Five Thousand Nine Hundred dollars (\$25,900)."
2. Except as provided herein, each and every other term of the Agreement shall remain in full force and effect and the Agreement is reaffirmed as modified herein.

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IN WITNESS WHEREOF, the parties, by and through their duly authorized agents, have hereunto set their hands and seals on the date indicated above.

WITNESS

Jim Henneman
Signature
JIM HENNEMAN
Name (Please Type or Print)

**CONTRACTOR –
SHELLY JANSSEN**

Shelly Janssen
Contractor Signature
Shelly Janssen
Name (Please Type or Print)
Dance Instructor
Title (Please Type or Print)

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

Veronica C. Baker
County Administrator

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

Anne Helgent
County Attorney

**APPROVED AS TO TERMS AND
CONDITIONS**

Emir Coe
Director/Assistant Director
Palm Beach County Parks and Recreation Department



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/26/2015

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

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

PRODUCER

FRANCIS L. DEAN & ASSOCIATES OF FLORIDA, LLC.

6027 SW 54TH ST STE 200

OCALA, FL 34474-5547

www.fdeanfl.com

(877) 671-3326

CONTACT NAME:

PHONE (A/C, No, Ext): (877) 671-3326

FAX (A/C, No): (352) 854-6380

E-MAIL ADDRESS: infofl@fdean.com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	United States Fire Insurance	21113
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED

SPORTS AND RECREATION PROVIDERS ASSOCIATION (PURCHASING GROUP) AND ITS PARTICIPATING MEMBERS:

Shelly M. Janssen

7798 Belmont DR

Lake Worth, FL 33467

COVERAGES

CERTIFICATE NUMBER: USP190869

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS				
A	GENERAL LIABILITY			SRPGP-101-0715	08/11/2015 12:01 AM	08/11/2016 12:01 AM	GENERAL AGGREGATE	\$2,000,000.00			
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						PRODUCTS - COMP/OP AGG	\$2,000,000.00			
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						PERSONAL & ADV INJURY	\$1,000,000.00			
							EACH OCCURRENCE	\$1,000,000.00			
							FIRE DAMAGE (Any one fire)	\$300,000.00			
							MED EXP (Any one person)	\$5,000.00			
	GEN'L AGGREGATE LIMIT APPLIES PER:										
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC										
	AUTOMOBILE LIABILITY									COMBINED SINGLE LIMIT (Ex accident)	\$
	<input type="checkbox"/> ANY AUTO									BODILY INJURY (Per person)	\$
<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$				
<input type="checkbox"/> HIRED AUTO	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$				
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR					EACH OCCURRENCE	\$			
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$			
	DED	RETENTION \$									
							EACH OCCURRENCE	\$			
							GENERAL AGGREGATE	\$			
							EACH OCCURRENCE	\$			
							GENERAL AGGREGATE	\$			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The Certificate holder is added as an additional insured but only with respect to liability arising out of operations of the named insured during the policy period.

Covered Activity: Dance Activities

CERTIFICATE HOLDER

CANCELLATION

Palm Beach County Board of County Commissioners

2700 6th Ave

Lake Worth, FL 33461

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

AUTHORIZED REPRESENTATIVE

Francis L. Dean

DIVISION: AQUATICS		VENDOR CODE:	DOCUMENT NUMBER:
REVENUE ACCOUNT: 0001-580- 5302 -472405		VC0000124047	KP0580050416X489
EXPENSE ACCOUNT: 0001-580- 5302 -3422			
M/C:	PS:		DD:

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

THIS INDEPENDENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on 05/04/2016, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as "COUNTY," and LB2 Enterprises, Inc., d/b/a Palm Beach Masters, an Independent Contractor, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

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

WHEREAS, it is the intent of the Department to organize and make available a certain program / class / lesson referred to as US Masters Swimming Program, hereinafter referred to as "activity"; and

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

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

- Term:** This Agreement is effective May 4, 2016, and will terminate September 30, 2016, and is not subject to extension or renewal.
- Fees and Charges:** The fee charged to participate in this activity is \$ 25 to 50 per month. The collection of such fees is the responsibility of the Department.

Additional charges, if any, assessed to the participants of the activity are limited to: _____.

- Payments To Contractor:**
 - The total amount payable by COUNTY under this Agreement for the services to be performed hereunder is not to exceed Thirty-five thousand dollars (\$ 35,000.00).
 - Payments to CONTRACTOR will be \$ _____ per _____ (paid participant / class / lesson)

OR

80 % of the total participation fees paid.

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

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

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

4. **Specific Details:**

- a. Instructor: LB2 Enterprises, Inc., d/b/a Palm Beach Masters
- b. Type of service / Name of activity: United States Masters Swimming Program
- c. Day(s)/Date(s) Scheduled: Monday - Friday
- d. Time Scheduled: Summer Months; (Mon-Fri 5:15a-6:30a, Mon & Wed 6:30p-7:45p) School Year; (add Mon-Fri 6:30a-7:45a session)
- e. Activity area / Location: Lake Lytal Pool, 3645 Gun Club Road, WPB, FL 33406
- f. A minimum of 10 and a maximum of 90 paid participants must be received by the Department prior to commencement of the activity. The Department reserves the right to cancel the activity in the event that the specified minimum number of participants have not registered and paid.

- 5. **Independent Contractor Relationship:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

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

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

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

- 7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and CONTRACTOR may terminate this Agreement by providing thirty (30) business days advance written notice to the COUNTY. Such notice to be delivered to the Department's authorized representative.

8. **Subcontracting:** CONTRACTOR may not, without the advance written consent of the Department, subcontract or assign any rights, responsibilities or obligations under this Agreement.

9. **Performance:**

a. CONTRACTOR agrees to:

1. perform the services set forth herein in accordance with all applicable association/governing body rules and regulations, and in a competent, professional, safe, and responsible manner with full regard for the safety of the participants and the facility;
2. assure that no person other than CONTRACTOR or a qualified employee of CONTRACTOR is engaged in the provision of the services required to be performed hereunder;
3. provide and maintain, in proper working order and condition, all equipment and materials necessary to conduct the services to be performed hereunder;
4. inspect the activity area prior to beginning each activity to assure safety standards. In the event of a safety concern, CONTRACTOR is to report such concern immediately to the authorized Department representative and postpone the activity until the Department's representative determines that the concern has been addressed;
5. inspect the activity area following each activity to assure that the area remains in good condition and order;
6. utilize instructional methods and procedures conducive with the Department's purpose, intent, and objective in providing the recreational activity;
7. provide the Department's authorized representative five (5) business days advance notice of all schedule conflicts/changes;
8. immediately notify the Department's authorized representative of any unanticipated absences such as personal/family illnesses; and
9. adhere to applicable Department policies and procedures and 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. **Exhibits:** CONTRACTOR's Scope of Service is included as Exhibit "A" to this Agreement. Any and all other applicable Exhibits hereto are attached and incorporated herein.

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

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

Name: Olivia Dugan, Facility Manager 1 Phone Number: (561) 233-1484

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: Aquatic Programs Coordinator
2700 6th Avenue South
Lake Worth, Florida 33461

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

LB2 Enterprises, Inc., d/b/a Palm Beach Masters
115 Still Lake Drive
Jupiter, FL 33458
Phone: 561-373-1140

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 a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

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

17. **Availability of Funds:** COUNTY's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

18. **Arrears:** CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
19. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
20. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this Agreement to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.
21. **Severability:** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
22. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

23. **Entirety of Contractual Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

24. **Nondiscrimination:** CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to COUNTY a copy of its non-discrimination policy which is consistent with the above, as contained in Resolution R2014-1421, as amended, or in the alternative, if CONTRACTOR does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to COUNTY affirming their non-discrimination policy conforms to R2014-1421, as amended.

25. **Regulation; Licensing Requirements:** CONTRACTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR is presumed to be familiar with all federal, state, and local laws, ordinances, codes and regulations that may in any way affect the services offered.

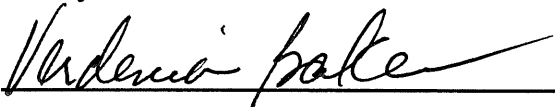
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

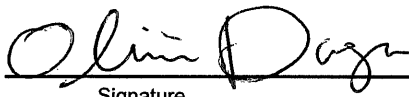
**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

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

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

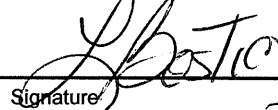
County Administrator –


WITNESS –


Signature
Olivia Dugan
Print

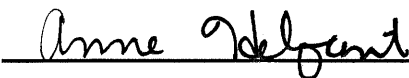
CONTRACTOR –

LB2 Enterprises, Inc., d/b/a Palm Beach Mas

By: 
Signature
Linda Bostic
Print
President
Title

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

County Attorney –



CONTRACTOR NAME: LB2 Enterprises, Inc., d/b/a Palm Beach Masters	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KPO580050416-489
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EXHIBIT “A”
Scope of Service

The basic requirements for the Head 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 fitness and open water swimming events. CONTRACTOR will be responsible for organizing and supervising a US Masters Swimming program in accordance with US Masters Swimming standards and the approved US Masters Swimming rule book. CONTRACTOR is responsible for daily training. Participants will be supervised during a variety of exercises, swimming drills, and instructional sessions.

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

Immediately upon arrival at Lake Lytal Family Aquatic Center, 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 or by phone, email or text in the event the Manager is not present 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. If PBC pool staff are not present at the Facility during a scheduled practice, swim meet or any other special event which requires the use of the pool or training on deck, the CONTRACTOR must immediately contact the Facility Manager by phone, email, or text and wait to enter the water or begin deck training until PBC pool staff arrive and confirms that the Facility is safe for usage.

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

CONTRACTOR will work within the aquatic chain-of-command: Facility Manager I, Aquatic Programs 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 5 days notice of all anticipated conflicts, schedule changes, and or absences. CONTRACTOR must obtain written approval (email) from the Facility Manager prior to notifying the team participants of schedule changes. 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 USA Swimming and US Masters Swimming scheduled practices or approved

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EXHIBIT “A”
Scope of Service

activities.

CONTRACTOR will provide copies of any literature pertaining to the US Masters 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.

CONTRACTOR will provide the Facility Manager a monthly list with registered 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. CONTRACTOR will be responsible for providing volunteers/staff to take care of the restrooms and trash during swim meets.

B. Use of Premises

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

CONTRACTOR will submit written requests for lane space to the Facility Manager on an annual basis. Said requests shall be reviewed by the facility manager and request for said usage shall not be unreasonably withheld. At a minimum, submit to the Facility Manager quarterly, proposed pool needs and activity schedules. The Facility manager will review said schedule and after considering the needs of the general public and other program offerings at the Facility make reasonable changes thereto, or agree to the schedule as proposed.

Ensure proper use and care of the Facility and 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 and deck 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. The CONTRACTOR shall assist Facility staff with lane lines if they are required to be changed from long course to short course and/or short course to long course.

CONTRACTOR will inform the Facility Manager immediately via e-mail, telephone or in person of any equipment malfunction or failure.

CONTRACTOR will recognize and abide by the terms of any Agreements between the COUNTY and the School Board of Palm Beach County for the Mutual Use of Recreation Facilities.

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EXHIBIT "A"
Scope of Service

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

C. Personnel

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

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

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

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 charge 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

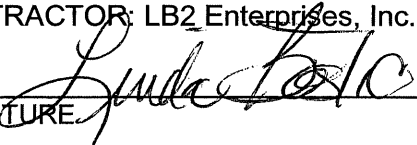
Lane Lines, Time Clock, Kick Boards, Pull Buoys

Are participants being transported as part of the Scope of Service?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
According to Florida Statute Chapter 440, are you required to maintain Workers' Compensation and Employer Liability coverage?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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EXHIBIT "A"
Scope of Service

CONTRACTOR: LB2 Enterprises, Inc., d/b/a Palm Beach Masters


SIGNATURE

Linda Bostic
NAME (TYPE OR PRINT)

Head Coach
TITLE (TYPE OR PRINT)

CONTRACTOR NAME: LB2 Enterprises, Inc., d/b/a Palm Beach Masters	VENDOR CODE: VC0000124047	CONTRACT NUMBER: KPO580050416X489
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EXHIBIT "B"
Insurance Requirements

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

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

- ☐ **No Insurance Required:** Based on scope of services, CONTRACTOR shall not be required to provide insurance.
- ☒ **Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- ☐ **Auto Liability:** CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.
- ☐ **Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.
- ☐ **Professional Liability:** CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims – made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

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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.”
- ☒

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

Umbrella or Excess Liability: If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer’s Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest “Each Occurrence” limit for Commercial General Liability, Business Auto Liability, or Employer’s Liability. The COUNTY shall be specifically endorsed as an “Additional Insured” on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.
- ☒

Right to Revise or Reject: COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

CERTIFICATE OF INSURANCE		DATE: 4/15/2016			
		CERTIFICATE NUMBER: 20160415412254			
AGENCY:					
ESIX 3 LLC d/b/a Entertainment & Sports Insurance eXperts (ESIX) d/b/a Entertainment and Sports Insurance Agency (California) 2727 Paces Ferry Road, Building Two, Suite 1500 Atlanta, GA 30339 678-324-3300 (Telephone) 678-324-3303 (Facsimile)		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
NAMED INSURED:		INSURERS AFFORDING COVERAGE:			
United States Masters Swimming, Inc. 1751 Mound Street Suite 201 Sarasota FL 34236		Palm Beach Masters (50-PBM) - LB2 Enterprises Inc INSURER A: Everest National Insurance Company INSURER B: Everest National Insurance Company			
EVENT INFORMATION:					
USMS Registered Club Workouts (-)					
POLICY/COVERAGE INFORMATION:					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INS	TYPE OF INSURANCE:	POLICY NUMBER(S):	EFFECTIVE:	EXPIRES:	LIMITS:
A	GENERAL LIABILITY				
	X COMMERCIAL GENERAL LIABILITY	SI8ML00043-151	10/1/2015 12:01 AM	10/1/2016 12:01 AM	GENERAL AGGREGATE (Applies Per Event) \$5,000,000
	X Occurrence				EACH OCCURRENCE \$1,000,000
	X Participant Legal Liability				DAMAGE TO RENTED PREMISES (Each Occ.) \$1,000,000
					MEDICAL EXPENSE (Any one person) \$5,000
					PERSONAL & ADV INJURY \$1,000,000
					PRODUCTS-COMP/OP AGG \$2,000,000
B	UMBRELLA/EXCESS LIABILITY				
	X Occurrence	SI8EX00028-1151	10/1/2015 12:01 AM	10/1/2016 12:01 AM	EACH OCCURRENCE \$9,000,000
					AGGREGATE \$18,000,000
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS:					
The certificate holder is an Additional Insured per the following endorsement: Additional Insured - Designated Person or Organization (Form CG 20 26). Abuse or Molestation coverage is included per form ECG 04 558 12 04; \$1,000,000 each Incident, \$5,000,000 Aggregate					
CERTIFICATE HOLDER:			NOTICE OF CANCELLATION:		
Palm Beach County Board of County Commissioners c/o Parks and Recreation Department 2700 Sixth Avenue South Lake Worth FL 33461			Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.		
			AUTHORIZED REPRESENTATIVE:		
					