

CITY OF KELLER  
**THE KELLER POINTE INSTRUCTOR**  
INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement"), dated to be effective the 1<sup>st</sup> day of September 2025, is entered into by and between the City of Keller (the "City") and:

Name Lakeside Aquatic Club ("Contractor")

Address P.O. Box 270189, Flower Mound State TX Zip Code 75028

Home/mobile number \_\_\_\_\_ Work numbers (682)239-5497

The City and Contractor agree as follows:

1. Discrimination Prohibited. The Contractor will not discriminate against anyone on the basis of race, color, national origin, age, handicap, creed, religion, sex, ancestry, or place of birth in the provision of services to the public, and will comply with all applicable provisions of TITLE IV of the Civil Rights Act of 1964 and the Rehabilitation Act of 1974.
2. Independent Contractor. Subject to the terms and conditions of this Agreement, the City hereby engages the Contractor as an independent contractor to perform the services set forth herein, and the Contractor hereby accepts such engagement.
3. Duties, Term, and Compensation. The contractor's duties, term of engagement, and provisions for payment are set forth in the attached **Exhibit A**, which may be amended from time to time. All duties performed by the Contractor under this Agreement shall be done as an independent contractor and not as an employee of the City. The contractor may not refer to himself/herself as an employee of the City. The contractor shall use his/her independent judgment and discretion in carrying out his/her duties. The contractor shall retain and exercise full control over the details and means by which he/she carries out his/her duties. The contractor agrees to comply with all applicable federal, state, and local laws, rules, and regulations in carrying out his/her duties. The contractor is permitted to provide his/her services to third parties provided such other work does not interfere with his/her duties under this Agreement. The contractor agrees to devote the necessary time, energy, attention, and abilities necessary to perform his/her duties in a timely and productive manner. The contractor agrees to make

announcements to class participants from time to time as required by the City, take attendance and prepare class attendance reports for each class taught, distribute class surveys, market City programs, and to perform such other duties as the City deems reasonable and appropriate. Contractor shall not collect any money or fees from class participants.

4. Benefits. As an independent contractor, Contractor is not entitled to benefits of any kind from the City. Contractor has no claim against the City for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability insurance or related benefits, unemployment insurance benefits, or any other type of employee benefits.
5. City Policies. Contractor agrees to comply with all City Parks and Recreation Department rules, procedures and policies governing City Recreational Programs and the City policies and procedures attached as **Exhibit B**. Policies applicable to Contractor may be amended from time to time. Contractor agrees to enforce all applicable rules, procedures and policies during the term of this Agreement.
6. Taxes. Contractor agrees and acknowledges that the City is not responsible for the withholding or the payment of any social security taxes, federal unemployment taxes, or federal income taxes. Contractor acknowledges and agrees that he/she is obligated to report to the Internal Revenue Service (IRS) all compensation he/she earns under this Agreement and to pay any and all local, state, or federal income tax due and owing on such compensation. On an annual basis, the City will prepare a Form 1099 which will reflect compensation paid to Contractor during the prior year.
7. Insurance. The contractor is required to obtain, maintain, and name the City of Keller insurance coverage in the following schedule to ensure Contractor has a verified and adequate means of managing the financial consequences of actual or alleged negligence.

#### General Provisions

The Contractor shall obtain and maintain the minimum insurance coverage set forth in this section. By requiring such minimum insurance, City shall not be deemed or construed to have assessed the risk that may or may not be applicable to the Contractor. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligation assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The insurance requirements listed below do not

replace any warranty or surety (performance, payment, or maintenance) bonds if required by preceding or subsequent sections of this contract.

Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified herein or cover such subcontractor under its insurance coverage.

The Contractor agrees that the insurance requirements specified in this section do not reduce the Liability Contractor has assumed in any indemnification/hold harmless section of this contract.

City reserves the right to approve the security of the insurance coverage provided pursuant to this section by insurers including terms, conditions and the Certificate of Insurance. Failure of the Contractor to fully comply with requirements of this section during the term of this contract will be considered a material breach of contract and will be cause for immediate termination of the contract at the option of City.

Insurance coverage required by this section shall:

Be on a primary basis, non-contributory with any other insurance coverage and/or self-insurance carried by City.

Be with an insurer possessing an A-VII A. M. Best Rating or equivalent.

#### Minimum Insurance Coverage & Limits

Commercial General Liability. The contractor shall maintain commercial general liability and, if necessary, commercial umbrella or excess liability (umbrella or excess liability should be provided on follow-form policy).

Commercial general liability insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent Contractors and or subcontractors, product-completed operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

City shall be included as an additional insured under the commercial general liability using ISO additional insured endorsement CG 20 10 07 04 and CG 20 37 07 04 or their equivalent, including coverage for City with respect to liability arising out of the completed operations of Contractor.

Limits of Insurance

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for:  Premises/Operations Products/Completed Operations Independent Contractors Personal Liability Contractual Liability	\$1,000,000 each occurrence  \$2,000,000 general aggregate  \$2,000,000 Umbrella/ Excess Liability (follow-form)	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage.
2. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	City to be provided a waiver of subrogation

8. Subcontractors & Instructors. The contractor may not subcontract any portion of this agreement. All instructors must be employees of the contractor and covered by the contractors Workers' Compensation and/or Employer's Liability Insurance policy. Per the terms and conditions herein, the City must be shown as additional insured and a Waiver of Subrogation for Workers' Compensation and/or Employer's Liability provided.

All contractors are required to conduct the appropriate pre-employment national criminal history and sex offender background checks, and a 10-panel non-DOT drug screen and breathe alcohol testing at their own expense prior to any fulfillment of this contract, to include the use of sub-contractors.

9. Indemnity. Contractor agrees to indemnify and hold the City harmless from and against any and all claims, actions, damages, liabilities, losses, costs, or expenses (including without limitation, attorneys' fees, court costs, back taxes, penalties and interest) arising out of Contractor's performance of his/her duties under this Agreement.

10. Instructional Materials and Expenses. Some courses taught by City Contractors involve the use of instructional supplies or other materials. The Contractor is responsible for obtaining and distributing all required materials and supplies. **The City and Contractor must agree in advance on the materials to be used, which will be listed by the Contractor on Exhibit A-1; and the cost for such materials will be incorporated into the class fee.**
11. Absences and Tardiness. Contractor is expected to be present at The Keller Pointe (or other class location) at least 15 minutes prior to the scheduled start time of each class. Contractor must sign in at the front desk upon his/her arrival, and sign out upon his/her departure. Contractor agrees that he/she will not be absent or tardy except in a case of extreme and unanticipated emergency. In the event of such an emergency, Contractor must notify the Keller Pointe On-Duty Supervisor (phone no. 817-743-4386) as far in advance of the scheduled class time as possible. In the event of such an emergency, Contractor is also responsible for contacting each of the participants per their roster, as may be updated by the City from time to time, and arranging for one of the approved substitute instructors to fill in for Contractor during his/her absence or tardy. If Contractor is unable to arrange for an approved substitute instructor to fill-in for him/her during an absence or tardy, Contractor must contact the Program Supervisor as far in advance as possible.
12. Class Audits and Evaluations. Contractor agrees to allow City staff members to observe Contractor's classes as deemed necessary by the City in order to audit the classes' operation, to check attendance and to verify Contractor's adherence to curriculum, rules, policies and procedures. Staff members who attend a class as part of their duties and responsibilities as a City employee or representative are not considered class participants for purposes of determining Contractor's compensation. Contractor may not allow anyone else to observe the class without the City's prior authorization. Contractor may, at City's request, be required to administer a class evaluation and submit the results to the City.
13. Termination.
- a. This agreement shall remain in effect until the date of expiration. This agreement may be terminated by either party with a thirty (30) day written notice to the other party. If terminated by Contractor, Contractor must state therein the reasons for such cancellation. Upon delivery of such notice, Contractor shall discontinue all services in connection with the performance of this agreement and shall proceed to immediately cancel all existing orders and contracts insofar as such orders or contracts are chargeable to this agreement. As soon as practical after receipt of notice of termination,

the Contractor shall submit a statement to the City for payment of that portion of the agreement successfully performed.

- b. The City shall at all times have the right to immediately terminate this Agreement for cause as reasonably determined by the City. Cause will include, but is not limited to, Contractor's arrest or conviction, being charged with a felony or Class A misdemeanor, excessive absences or tardies, failure or refusal to comply with the written policies or directive of the City, misconduct, or breach of this Agreement. Any accrued compensation owing to Contractor through the date of termination shall be paid to Contractor in full and final satisfaction of this Agreement.
  - c. In the event of Contractor's death or disability, this Agreement will terminate. Any accrued compensation owing to Contractor through the date of termination will be paid by the City to Contractor (or his/her estate) in full and final satisfaction of this Agreement. The term "disability" means a Contractor's substantial inability, either mental or physical, to perform his/her duties under this Agreement as determined by the City.
14. Confidential Information. During the term of this Agreement, Contractor may have access to and become familiar with certain confidential information. Contractor agrees that any confidential information so obtained, including without limitation, any and all documents, memoranda, correspondence, notes, specifications, plans, policies and procedures, computer programs, software, and other proprietary data of whatever type of nature, is confidential information in the nature of a trade secret, and is the exclusive property of the City. Contractor covenants and agrees that he/she will not directly or indirectly, during or after termination of this Agreement, use for his/her own benefit, use to the detriment of the City, or divulge to persons other than authorized officers of the City, any confidential information of the City. Upon termination of this Agreement, all confidential information shall be left with or returned to the City. Contractor agrees that his/her obligations under this paragraph survive the expiration and/or termination of this Agreement.
15. Code of Ethics. Contractor must exercise due care to understand and adhere to the professional obligations stated herein. Contractor shall demonstrate a commitment to the preservation of the City of Keller's core values including excellence, integrity, service, creativity and communication. Treat participants, staff, and others in a respectful and honest manner. Avoid conflicts of interest or the appearance of conflicts of interest, and avoid misrepresenting your opinions as positions of the City of Keller, The Keller Pointe or others. Disclose conflicts to those affected and take due care to manage these conflicts to preserve the objectivity of your work. Exercise due care to use The Keller Pointe procedures as they are described in documents or disseminated through correspondence, and

act in a manner consistent with the intent of these procedures and materials to preserve the validity and consistency of Keller Pointe services.

16. Equitable Relief. Contractor acknowledges that irreparable injury will result to the City in the event of Contractor's breach of any of the provisions herein. Consequently, in addition to any other rights or remedies available to the City for breach of this Agreement by Contractor, the City shall be entitled to enforcement by preliminary restraining order and injunction. The rights and remedies of the City under this Agreement (or otherwise) are cumulative, and no one of them is exclusive of any other or of any right or remedy allowed by law.

17. Miscellaneous.

- a. Any notice required herein must be in writing, and may be given by hand, by overnight carrier, or by certified mail, return receipt requested. If by hand or via overnight carrier, notice is deemed to have been given when delivered. If mailed, the notice shall be deemed given on the third business day after depositing such notice in the United States mail, provided that postage was prepaid and the notice was properly addressed. Such notice shall be given to the parties at the addresses set forth under their names on the signature page of this Agreement. Parties may designate a different address by giving ten (10) days' prior written notice to the other party.
- b. If any term, covenant, or condition of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
- c. No change or modification of this Agreement will be valid or binding upon the parties, nor shall any waiver of any term or condition in the future be so binding, unless such change or modification or waiver is in writing and signed by the parties.
- d. This Agreement contains the entire understanding between the parties concerning the services to be provided hereunder. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed herein.
- e. Contractor may not assign this Agreement without obtaining the City's prior written consent.
- f. This Agreement, and the rights and obligations of the parties, shall be governed and construed in accordance with the laws of the State of Texas.

- g. If any legal action by the City is necessary to enforce the terms of this Agreement, the City shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which it may be entitled.
- h. The waiver by the City of a breach of any provision of this Agreement by Contractor shall not operate or be construed as a waiver of any subsequent breach by Contractor. IN WITNESS WHEREOF, the parties have executed this Independent Contractor Agreement effective as of the day and year first above written.

THE CITY OF KELLER

By \_\_\_\_\_

Michael Beaver, The Keller Pointe Manager  
(Printed name and title)

CONTRACTOR:

By \_\_\_\_\_

\_\_\_\_\_  
(Printed name and title)

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**Exhibit A  
Duties, Term, Compensation and Expense Reimbursement**

1. Duties. Contractor is engaged by the City as an instructor to teach the following class or classes, if instructing multiple classes each class must be listed separately.

**Monday/Wednesday Group Swim Lessons**

<b>Session</b>	2025.F.1.M	2025.F.2.M	2025.F.3.M	2025.F.4.M
<b>Start Date</b>	09/08/2025	10/06/2025	11/03/2025	12/01/2025
<b>End Date</b>	10/01/2025	10/29/2025	11/19/2025	12/17/2025
<b>Registration Start Date</b>	07/07/2025	07/07/2025	07/07/2025	07/07/2025
<b>Registration End Date</b>	09/08/2025	10/06/2025	11/03/2025	12/01/2025
<b>Member/Non-Member</b>	\$185/\$210	\$185/\$210	140/165	140/165
<b>Time Slots</b>	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm
<b>Min/Max</b>	3/12	3/12	3/8	3/8
<b>Total Classes</b>	8	8	6	6
<b>Notes</b>	4 weeks	4 weeks	3 weeks	3 weeks

Tuesday/Thursday Group Swim Lessons

<b>Session</b>	2025.F.1.T	2025.F.2.T	2025.F.3.T	2025.F.4.T
<b>Start Date</b>	09/09/2025	10/01/2025	11/04/2025	12/02/2025
<b>End Date</b>	10/02/2025	10/30/2025	11/20/2025	12/18/2025
<b>Registration Start Date</b>	07/07/2025	07/07/2025	07/07/2025	07/07/2025
<b>Registration End Date</b>	09/08/2025	10/06/2025	11/03/2025	12/01/2025
<b>Member/Non-Member</b>	\$185/\$210	\$185/\$210	140/165	140/165
<b>Time Slots</b>	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm	4:30pm, 5:10pm, 5:50pm, 6:30pm
<b>Min/Max</b>	3/12	3/12	3/8	3/8
<b>Total Classes</b>	8	8	6	6
<b>Notes</b>	4 weeks	4 weeks	3 weeks	3 weeks

Private Swim Lesson

<b>Session</b>	2025.F.1.P	2025.F.2.P	2025.F.3.P	2025.F.4.P
<b>Start Date*</b>	9/6/2025	10/3/2025	11/7/2025	12/5/2025
<b>End Date</b>	9/27/2025	10/24/2025	11/21/2025	12/19/2025
<b>Registration Start Date</b>	Tentative	Tentative	Tentative	Tentative
<b>Registration End Date</b>	09/06/2025	10/03/2025	11/07/2025	12/05/2025
<b>Member/Non-Member</b>	\$200/\$225	\$200/\$225	\$150/\$175	\$150/\$175
<b>Time Slots</b>	10:30am, 11:00am, 11:30am	10:30am, 11:00am, 11:30am	10:30am, 11:00am, 11:30am	10:30am, 11:00am, 11:30am
<b>Min/Max</b>	1/2	1/2	1/2	1/2
<b>Total Classes</b>	4	4	3	3
<b>Notes</b>	4 weeks	4 weeks	4 weeks	4 weeks

\*Pending contractor staff is available to conduct the lessons



- Contractor must personally check any City owned items out before class and in at the end of class. By signing the Agreement, Contractor agrees that he/she is responsible for any and all equipment or other items checked-out to him/her and will be responsible for any losses incurred by the City in connection with Contractor's use of such equipment.
- Contractor authorizes the City to deduct from the Contractor's compensation any amount necessary to cover any losses incurred by the City for damaged, lost, stolen, or otherwise unreturned equipment or which Contractor is responsible.
- The City is not responsible for storage, repair, replacement, or maintenance of any personal equipment or other items used by Contractor.

5. Service Expectation. The Contractor agrees to meet the following course/instructional standards.

- Provide all programs in a safe, wholesome and competent manner.
- Arrive early for setup of all necessary equipment and allow time to clean up class area upon the finish of the day. Specifically, the Contractor may come in 30 minutes prior to class time to set up and allow for 30 minutes after the class time for clean-up. The Keller Pointe may not be used outside of pre-approved class or program times.
- Contractors will not be allowed to have someone else teach for them.
- Other than *Pointes of Interest* promotion, the Contractor will be responsible for marketing and advertising classes. The contractor must obtain approval from The Keller Pointe Manager or his/her designee before distributing any flyers, posters, advertisement, etc.