



THE SCHOOL DISTRICT OF PALM BEACH COUNTY
**Agreement between the
 School Board of Palm Beach County
 and Michael J. Winters**

9010/0008

AGENDA ITEM NUMBER	BOARD MEETING DATE		
CONTACT	Vicky Long	PX	50929
SCHOOL / DEPARTMENT Safe Schools			

THIS AGREEMENT is entered into this 15th day of August 2005 by and between the SCHOOL BOARD OF PALM BEACH COUNTY, hereinafter referred to as "Board" and Michael J. Winters, hereinafter referred to as "Consultant".

WHEREAS, the Board desires to enter into this Agreement with the Consultant, providing, among other things, for the Consultant's services to the Board; and

WHEREAS, the Consultant desires to enter into this Agreement with respect to his/her (hereinafter his) services to the Board, upon the terms and conditions hereinafter set forth.

WHEREAS, the Consultant is specially trained and possesses the necessary skills, experience, education and competency, and licenses or credentials to perform the required services.

NOW, THEREFORE, the Board and the Consultant agree as follows:

1. TERM

The term of this Agreement shall commence on August 18, 2005 and shall end on June 30, 2006.

2. RESPONSIBILITIES OF CONSULTANT

A. The Consultant shall perform the following services:

Consultant will instruct students in the fundamentals of performing a variety of magic tricks using everyday objects such as: coins, cards, dollar bills, paper clips and pencils. The emphasis is on having fun and developing an ability to entertain family and friends. Consultant also performs a magic show with student participation.

B. Time, date, and location of services:

August 15, 2005, through June 30, 2006, at various times in the Middle School After-School Programs. This program is funded entirely by the Palm Beach County Parks and Recreation Department.

3. CONSULTANT BACKGROUND INFORMATION

Education Attended two years at the University of Florida.

Position and Address Consultant - 2207 N.E. 17th Avenue, Wilton Manors, FL 33305

Target Group/School/Department Middle school students attending the Middle School After-School Programs

Approximate Number to be Served 20 to 100 students depending on the activity

4. EVALUATION/FOLLOW-UP METHOD

Evaluation of the Consultant shall be provided by Alison Adler, Chief, Safety and Learning Environment
TITLE OF THE CONSULTANT SUPERVISOR
 of the District at regular intervals and in accordance with the attached evaluation tool, Exhibit "A".

FINANCIAL IMPACT

The financial impact is \$34,000.00 The source of funds is Parks & Recreation through Dept. of Safe Schools

IA	FUND	FUNCTION	OBJECT	LOCATION	PROJECT	PROGRAM	GL
	100	9110	3936	9010	9313		

5. COMPLIANCE WITH POLICIES AND LAWS

The Consultant shall comply with all current School Board of Palm Beach County's Policies. The School Board's policies are located at <http://www.palmbeach.k12.fl.us/> or www.schoolboardpolicies.com and are incorporated herein. It shall be the Consultant's responsibility to comply with all School Board Policies as they may be modified from time to time during the term of this Agreement. The Consultant shall abide by all applicable federal, state and local laws.

6. COMPENSATION

A. The School Board shall pay the Consultant the maximum sum of *(write out amount)*

Thirty -two thousand dollars

(\$ 32,000.00), for a maximum of Magic Show: \$250 hours which is based upon the following rate schedule. Magic Instruction: \$145 per session

Daily Rate: _____ Half Day Rate: _____ Hourly Rate: _____ Flat Rate: \$32,000.00

I grant permission for any or all parts of this presentation to be videotaped. Yes No

B. No payment shall be made unless and until the Board verifies that all services for which payment is requested have been fully and satisfactorily performed. The Consultant shall submit to the Board any documentation necessary to substantiate the full and satisfactory performance of the services for which payment is requested. The administrator who will verify the services have been performed and approve the invoice is:

Alison Adler, Chief, Safety and Learning Environment

7. CONFIDENTIALITY OF STUDENT RECORDS

The Consultant is subject to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, the Consultant acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.

- Consultant will not receive student information.
- Consultant will receive student information and *Release or Transfer of Student Information* (PBSD 0313) will be completed prior to Consultant receiving student information.
- Consultant will receive student information. Since parental consent will not be obtained and Consultant has legitimate educational interests in the information, Consultant shall hereby be deemed an "other school official" in accordance with School Board Policy 5.50 and shall enter into the Addendum concerning student information (Exhibit C) which is attached hereto and incorporated herein.

8. BACKGROUND CHECKS/FINGERPRINTING

The School District shall screen applicants and shall be governed by Fl. Stat. § 1012.32(2)(a) [§ 231.02(2)(a)]. The Consultant agrees to submit to a background check and fingerprinting by the School District's Police Department at the sole cost of the Consultant. The Consultant shall not begin providing services contemplated by this Agreement until clearance by the School District. The School Board shall not be liable for rejection of the Consultant on the basis of these compliance obligations. The Consultant agrees that neither the Consultant, nor any employee, agent or representative of the Consultant who has been convicted or who is currently under investigation for a crime against children in accordance with § 435.04, Florida Statutes will enter onto any school site.

9. INDEPENDENT CONTRACTOR

The Consultant is, for all purposes arising under this Agreement, an independent contractor. the Consultant and its officers, agents or employees may not, under any circumstances, hold themselves out to anyone as being officers, agents or employees of the Board. No officer, agent or employee of the Consultant or Board shall be deemed an officer, agent or employee of the other party. Neither the Consultant nor Board, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers compensation benefits, injury leave, or other leave benefits.

10. OWNERSHIP

- A. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and other materials produced by the Consultant under this Agreement shall be the sole and exclusive property of Board. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright or patent right by the Consultant in the United States or in any other country without the express written consent of Board.
- B. Board shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent any such materials produced by the Consultant under this Agreement.

11. INDEMNIFICATION/HOLD HARMLESS

The Consultant shall, in addition to any other obligation to indemnify the Palm Beach County School Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the Consultant, or anyone

directly or indirectly employed by them, or of anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule or regulation in the performance of the work; claims or actions made by the Consultant or other party performing the work. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for Consultant under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees, incurred by the Palm Beach County School District to enforce this agreement shall be borne by the Consultant. The Consultant recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Agreement.

12. TRAVEL

Travel is is not allowable for this contract. Estimated travel expense is not to exceed \$2,000.00 for the term of the contract. The Consultant agrees to submit all necessary documentation and proof of expenses in accordance with F. S. § 12.061 and School Board Policy #6.01. The Consultant further agrees that reimbursement for travel must be submitted on travel reimbursement forms with the rates determined by F.S. § 112.061 and School Board Policy 6.01 and must be authorized by the appropriate administrator(s).

13. AMENDMENT

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the School Board.

14. ASSIGNMENT

Neither the Consultant nor the Board may assign or transfer any interest in this Agreement without the prior written consent of the other party.

15. GOVERNING LAW AND VENUE

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to ~~this Agreement is subject to the laws of Florida, venue in Palm Beach County, Florida. The prevailing party shall be~~ entitled to attorney's fees and costs incurred as a result of any action or proceeding under this agreement. Each Party shall be responsible for its own attorney's fees.

16. TERMINATION

The Board reserves the right to terminate this contract at any time and for any reason, upon giving thirty (30) days notice to the other party. If said contract should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said contract and the Board will only be required to pay that amount of the contract actually performed to the date of termination with no payment due for unperformed work or lost profits. In the event School Board determines that the Consultant's services are not being performed as agreed upon, the Consultant shall be deemed to be in default and the School Board reserves the right to cancel this contract with five (5) days notice and to withhold all monies due the Consultant until such time as the Board, in its sole discretion shall determine whether to have the contract services completed by others or to cease obtaining the services. In the event that the Board determines to have the contract completed by others, the Consultant shall be liable for any costs of completion in excess of that called for in this contract. In the event that the Board determines not to have the contract completed by others, the Consultant shall be paid for the services that it satisfactorily performed prior to the termination but, in no event, shall the Consultant be paid for any work not actually performed or for lost profits.

In the event that it is determined that a termination for cause was unjustified, the termination shall be deemed a termination for convenience and the Consultant shall be entitled to payment only for work actually performed prior to the termination and to any additional sums.

17. MINORITY STATUS

The School District strongly encourages active minority/women business enterprise participation with all professional services. The Consultant certifies that:

This business is minority owned and operated (minimum 51%) Yes No
If a consultant not representing a firm, I am a minority. Yes No

If either statement above was checked yes, please indicate minority group.

Black or African American Asian Native Hawaiian or Other Pacific Islander Hispanic or Latino
 American Indian or Alaskan Native Disabled White Female Other

18. LEGAL REVIEW

The parties hereto represent that they have reviewed the Agreement and have sought legal advice concerning the legal significance and ramifications of the provisions contained herein.

19. NOTICES

Any notice *permitted or required* under this Agreement shall be in writing and signed by the party giving or serving the same, and shall be served either by personal delivery or *certified* mail to the following persons and at the following addresses:

Consultant: (Add Consultant's address)

Michael J. Winters
 2207 N.E. 17th Avenue
 Wilton Manors, FL 33305

SCHOOL BOARD OF PALM BEACH
 COUNTY, FLORIDA
 Purchasing Department
 3300 Forest Hill Boulevard, Suite A 323
 West Palm Beach, Florida 33406

20. MANDATORY CONTRACT DOCUMENTS

This Agreement includes the terms and conditions set forth in this document, and set forth in the following additional documents attached hereto and incorporate herein: (approval will not be granted without these **mandatory** attachments)

- "Exhibit A" - Provide consultant evaluation
- "Exhibit B" - Beneficial Interest and Disclosure of Ownership Affidavit (PBSD 1997)

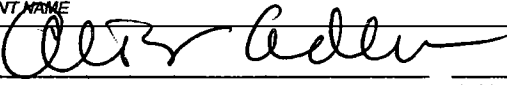
NOW, THEREFORE, the parties hereto have affixed their signatures on the day and year first above written. This contract was recommended for approval by:

 SIGNATURE OF LEGAL SERVICES DESIGNEE DATE

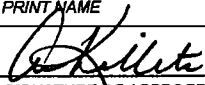
 SIGNATURE OF PRINCIPAL / DIRECTOR DATE

 PRINT NAME

 PRINT NAME



 SIGNATURE OF CHIEF OFFICER DATE

 7-20-05

 SIGNATURE OF APPROPRIATE ASSOCIATE / AREA / ASSISTANT SUPERINTENDENT DATE

Adler
 Alison Adler, Chief, Safety and Learning Environment

 PRINT NAME

Ann Killets, Chief Academic Officer

 PRINT NAME

**The School Board of
 Palm Beach County, Florida**

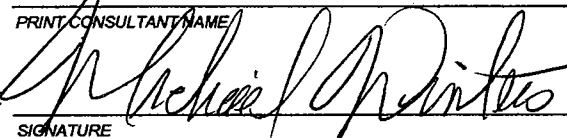
Consultant

By: _____
 THOMAS E. LYNCH
 CHAIRMAN

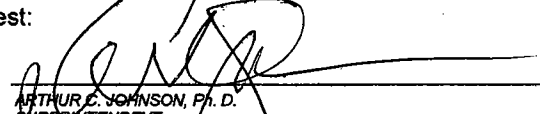
Michael J. Winters

 PRINT CONSULTANT NAME /

DATE _____

By: 

 SIGNATURE

Attest: 
 By: _____
 ARTHUR C. JOHNSON, Ph. D.
 SUPERINTENDENT

DATE 5/1/05

DATE July 25 2005

Michael J. Winters

 PRINT NAME

Witnesses: (Two are required)

Witnesses: (Two are required)

 SIGNATURE

 SIGNATURE

 PRINT NAME

 PRINT NAME

 SIGNATURE

 SIGNATURE

 PRINT NAME

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