

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 20, 2009

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 approve: First Amendment to Independent Contractor Agreement (WRI176520309530300E) with David Wright for coaching services for a USA Competitive Swimming Team at Aquacrest Pool for the period March 1, 2009, through February 28, 2010.

**Summary:** On February 18, 2009, the Parks and Recreation Department entered into an Independent Contractor Agreement with David Wright to provide coaching services for the USA Competitive Swimming Team at Aquacrest Pool. This First Amendment eliminates the Age Group Program, revises the scope of services, and reduces the not-to-exceed amount from \$60,000 to \$35,000. District 7 (AH)

**Background and Justification:** The Parks and Recreation Department offers a USA Swimming Program, which includes an Age Group Program and a Masters Program, at Aquacrest Pool. This First Amendment will remove the Age Group Program, its associated program fees, and days and hours of operation. Program fees and charges are paid by participants directly to the County, and the Independent Contractor is paid 80% of all program fees and charges collected. All other terms of the Agreement remain the same.

A resolution providing authority to execute Independent Contractor Agreements with recreation instructors and sports officials (Resolution 94-422, amended by Resolutions 02-2103 and 07-0409) 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 with recreation instructors and sports officials up to \$10,000, with contracts of \$10,000 or more requiring the County Administrator's approval. However, this resolution does not provide for any Amendments to the Independent Contractor Agreements.

This Amendment has been executed by David Wright, and now needs to be approved by the Board of County Commissioners.

**Attachments:**

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

Recommended by: \_\_\_\_\_

  
Department Director

9/29/09  
Date

Approved by: \_\_\_\_\_

  
Assistant County Administrator

10/8/09  
Date



**FIRST AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT  
BETWEEN PALM BEACH COUNTY AND DAVID WRIGHT  
FOR USA SWIMMING PROGRAM**

**THIS AMENDMENT** is entered into on \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and David Wright, an Independent Contractor, herein referred to as "Contractor".

**WITNESSETH:**

**WHEREAS**, on February 18, 2009 County entered into an Independent Contractor Agreement (WRI176520309530300E) with Contractor, hereinafter referred to as the "Agreement" to provide coaching services for a USA Competitive Swimming Team, which included an Age Group Program and a Masters Program, hereinafter referred to as the "Program"; and

**WHEREAS**, County no longer requires the Contractor's services for the Age Group Program.

**NOW THEREFORE**, the parties hereby agree as follows:

1. The second sentence of Section 2. of the Agreement is amended to read:  
"The fee(s) charged by the COUNTY for this class or activity (is) (are): \$45 per participant per month"
2. The first sentence of Section 3a. of the Agreement is amended to read: The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of thirty-five Thousand Dollars (\$35,000).
3. Section 4a. of the Agreement is amended to read: "USA Masters Swimming Program"
4. Section 4b. of the Agreement is amended to read: "Masters Swimming Program and open class USA Swimming participants age 18 & over"
5. Section 4c. of the Agreement is amended to read: Monday-Friday, Saturday
6. Section 4d. of the Agreement is amended to read: "M-F 5:30 - 8 am, Sat.7-9 am"
7. The original Scope of Services attached to the Agreement is replaced by the Scope of Services attached to this Amendment.
8. 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.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

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

**ATTEST:**  
**SHARON R. BOCK, Clerk & Comptroller**

**PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
John F. Koons, Chairman

**WITNESSES:**

**INDEPENDENT CONTRACTOR**

*[Signature]*

By: *[Signature]*  
Signature

*[Signature]*

David Wright, Swim Coach  
Name and Title

DAVID WRIGHT  
MASTERS SWIM COACH.

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND CONDITIONS**

By: \_\_\_\_\_  
County Attorney

By: *[Signature]*  
Dennis L. Eshleman, Director  
Parks and Recreation Department

## **SCOPE OF SERVICES**

### **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 supercede.

#### **A. Scope of Work**

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

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

CONTRACTOR will be required to make decisions regarding safe weather and water conditions, and will be expected to cancel or postpone practice sessions when conditions are unsafe. If chemical levels are not reading between 1.5-3.0 for chlorine and 7.2-7.6 for pH swimmers should not enter the pool. Location of the test kit, training in its use, and access to it will be made available to the CONTRACTOR. Should any safety condition exist at the facility, the CONTRACTOR will report said condition to the facility manager immediately upon the manager's arrival at the facility. If the condition creates a risk to the participants or spectators, the activity will be postponed until corrective action has been completed.

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

CONTRACTOR will work within the aquatic chain-of-command: Facility Manager, Aquatics Program Coordinator, Aquatics Supervisor and Aquatics Director. 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 be instructed in the pool rules and safety procedures to ensure that risk of injury or accidents is minimized. During facility operational hours program participants will obey all pool rules. CONTRACTOR will be certified in American Red Cross Safety Training for Swim Coaches; First Aid; CPR (equivalent or higher training) and a first aid kit will be made available at all times. Perform the services set forth herein in a competent, professional, safe and responsible manner with full regard for the safety of the participants as well as for the facility.

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

CONTRACTOR will provide the facility manager with 14 days notice of all anticipated conflicts, schedule changes, and or absences. The CONTRACTOR shall immediately notify the facility manager of any unanticipated absences. The County will provide the CONTRACTOR with 14 days notice of anticipated events that would affect the Masters scheduled practices or approved activities.

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

Adhere to all applicable COUNTY policies and procedures ([www.pbcgov.com](http://www.pbcgov.com) select Government, select policies and procedures manual).

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

CONTRACTOR will provide facility manager with daily attendance figures for each month on the last day of each month.

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

#### B. Use of Premises

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

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

Ensure proper use and care of all equipment by CONTRACTOR and program participants.

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

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

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

#### C. Personnel

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

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

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

CONTRACTOR shall indoctrinate and train all staff in the philosophies and public relations concerns of the COUNTY. CONTRACTOR's staff and pool staff will be cross 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.

#### Program Fees & Charges

The Palm Beach County Parks and Recreation Department, on behalf of the COUNTY, shall collect all program fees (\$45.00 per month per participant or the \$20.00 half month fee for new swimmers) and charges from participants. All program fee and charges payments will be made payable to: **Board of County Commissioners**. The COUNTY will provide the CONTRACTOR with bi-weekly reports updating participant's payment status. CONTRACTOR shall assist COUNTY with the collection of fees only by reminding participants when fees are due or past due.

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

#### D. 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. County payment of registration fees

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

G. Changes to existing contract

In paragraph 9a3 of initial contract: The Contractor will not provide written workouts to the County.

I. Role of Booster Club

The Booster Club is established to support the general team in all of its activities, such as hosting of swim meets, award banquets, team social outings, the purchase of team uniforms, the coordination of team travel to away meets and fundraising events. The Booster Club is governed by an elected Board of Directors. General membership to the organization is open to members of the US Masters program. The Booster Club should annually prepare a budget for general team needs and home pool team activities that benefit the team as a whole.

J. Role of the Head Coach with the Booster Club

The Head Coach is an independent contractor with Palm Beach County, and as such, is not permitted to be a member, voting or non-voting, of the Booster Club. The role of the coach is to provide training to participants, recommend equipment purchases which will enhance the program, and to recommend swim meets and other similar competitive or fund raising opportunities to the Board of Directors. The Head Coach or other coaching staff may not influence, intimidate, or compellingly request involvement with the organization through verbal or written materials.



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Palm Beach County  
Parks and Recreation Dept.  
Contract Tracking System 0000001430

DATE : 02/27/2009

**CONTRACT INFORMATION**  
Active

WRI176520309530300E

Certificate of Insurance

NAME : WRIGHT, DAVID  
VENDOR CODE: WRI17652  
INSTRUCTOR: COMPETITIVE HEAD SWIM COACH  
ACCOUNT NUMBER : 0001-580-5303-00-3422  
LOCATION: AQUA CREST POOL  
PROGRAM: SWIMMING

R2009 0586  
APR 07 2009

CONTRACT DATE : 02/18/2009  
START DATE : 03/01/2009  
END DATE : 02/28/2010

CONTRACT AMOUNT : 60,000.00 REVENUE AMOUNT: 60,000.00  
USED AMOUNT : 0.00 USED AMOUNT : 0.00  
AMOUNT LEFT : 60,000.00 AMOUNT LEFT : 60,000.00

ASSIGNED CATEGORIES:

COMPETITIVE SWIM COACH 0.80 PCT

<b>AQUATICS</b>				R 2009.0586 APR 07 2009	
ACCOUNT: 0001-580-5303-3422	VENDOR CODE:		CONTRACT:		
MC: <i>gt</i>	PS: <i>ACD</i>	FSS: <i>02</i>	CC: <i>[Signature]</i>	CA: <i>094</i>	DD: <i>DHL</i>

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

This Agreement is made as of the 18 day of Feb, 2009, by and between the Board of County Commissioners of Palm Beach County, Florida, hereinafter referred to as the "COUNTY" and David Wright, an Independent Contractor, hereinafter referred to as "CONTRACTOR".

**WITNESSETH:**

**WHEREAS**, the COUNTY desires to make available (a) (an) USA Swimming program, and desires to contract with CONTRACTOR to provide a specific service for that program; and

**WHEREAS**, the COUNTY and CONTRACTOR desire to clarify and define their responsibilities with regard to providing said program.

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

1. **Term:** The class, activity or service will begin on March 1, 2009 and will meet thereafter with the termination date of this agreement being February 28, 2010.
2. **Fees:** Palm Beach County Parks and Recreation Department, on behalf of COUNTY, shall collect all fees and charges from participants. The fee(s) charged by the COUNTY for this class or activity (is) (are): \$45.00-\$85.00 per participant per month Revenue Account No. 0001-580-5303-4724-92 04/05
3. **Payments To Contractor:**
  - a. The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of Sixty Thousand Dollars (\$60,000). The CONTRACTOR shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONTRACTOR will bill the COUNTY on a bi-weekly basis per the attached schedule of payments, or as otherwise provided in Exhibit "B" for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.
  - b. The CONTRACTOR's fee shall be the sum of \$ N/A or 80 % of the paid enrollment fees for the class or activity.

**4. Specific Details:**

- a. Type of service/instructor: USA Competitive Head Swim Coach
- b. Name of class or activity: USA Competitive Swimming Team & Masters Swimming Program
- c. Day(s)/Date(s) Scheduled: Monday-Friday, Saturday, Sunday
- d. Time Scheduled: M-F 5:30-8:00am, 4:00-7:00pm, Sat. 7:00-10:00am, 4:00-6:00pm, Sun. 10:00am-12:00pm
- e. Location: Aqua Crest Pool
- f. A minimum of 10 and a maximum of 150 paid enrollments must be received by the COUNTY prior to commencement of the class or activity. COUNTY reserves the right to cancel each class or

**received**  
2/17/09 *[Signature]*

activity which does not have the specified minimum number of participants registered.

5. **Independent Contractor Status:** It is specifically understood that the CONTRACTOR is an independent contractor and not an employee of the COUNTY. The COUNTY and CONTRACTOR agree that this Agreement is not a contract of employment and that no relationship of Employer/Employee or Principal/Agent is or shall be created hereby nor shall hereafter exist by reason of the performance of the services herein specified.
6. **Taxes:** It is acknowledged and agreed by the COUNTY and CONTRACTOR that the service herein provided by the CONTRACTOR is a professional service and that the COUNTY is neither paying Social Security benefits nor withholding taxes from the CONTRACTOR's compensation for said service. The CONTRACTOR assumes all liability and responsibility for payment of his/her own FICA and Social Security benefits with respect to this Agreement.
7. **Termination:** The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR and the CONTRACTOR may terminate this Agreement upon written notice mailed to the COUNTY at least thirty (30) working days prior to the CONTRACTOR's departure date.
8. **Subcontracting:** The CONTRACTOR may not, without written approval of the COUNTY, 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 as well as the facility.
    2. No person other than the CONTRACTOR or a qualified employee of the CONTRACTOR shall be engaged to provide the services provided for in this Agreement.
    3. Provide written activity plans for each class or activity for which the CONTRACTOR is responsible.
    4. Provide and maintain, in proper working order, all necessary equipment specified to conduct the services provided for in this agreement.
    5. Inspect the activity site prior to beginning each class or activity in accordance with safety standards as explained in the CONTRACTOR's orientation program. Should a safety condition exist at a facility, CONTRACTOR should report said condition immediately to the County Representative and postpone said class or activity until the condition is addressed.
    6. Inspect the activity site after the class or activity is concluded to assure that the facility is left in the condition in which it was found.
    7. Utilize his or her own methods and procedures toward a result which shall be in accordance with the purposes, intent and objectives of the COUNTY in providing such recreational class or activity.
    8. Provide the County Representative with 10 days notice of all schedule conflicts/changes.
    9. CONTRACTOR shall immediately notify the County Representative of any unanticipated absences such as personal/family illnesses.
  - b. COUNTY agrees to:
    1. Maintain the facilities in proper working order.
    2. Conduct registration, collect participation fees and process class transfers or refunds for any and all programs and registrants.
    3. Provide class/activity rosters to the CONTRACTOR for distribution.

4. Publicize the class or activity through the Leisure Times and public service announcements.

10. **Exhibits:** If any additional provisions are applicable to the class or activity as provided for herein, CONTRACTOR and COUNTY may attach applicable Exhibit(s). If any additional requirements such as specialty certifications, licenses and/or memberships applicable to the class or activity are required CONTRACTOR and COUNTY may attach applicable Exhibit(s). The CONTRACTOR's proposal should also be included as an Exhibit to this Agreement. All Exhibits shall be incorporated into and made a part hereof.

11. **County Representative:** The County Representative for this CONTRACT is:

Michelle Lawrence, Facility Manager PH: 561-278-7104

12. **Indemnification:** The CONTRACTOR shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, servants, employees and elected officers harmless from and against any and all claims, liability, losses, expense, cost, damages and/or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, which may arise from any and all acts or omissions of the CONTRACTOR during the performance of the CONTRACTOR's service under this Agreement.

13. **Notices:** All notices required in this Agreement shall be hand delivered or sent by certified mail, return receipt requested, if sent to the COUNTY shall be mailed to:

Director of Aquatics  
Palm Beach County Parks and Recreation Department  
2700 Sixth Avenue South  
Lake Worth, FL 33461

and if sent to the CONTRACTOR shall be mailed to:

CONTRACTOR'S Name: David Wright

CONTRACTOR'S Address: 755 Dotterel Road, Apt. 1209  
Delray Beach FL 33444

CONTRACTOR'S Phone No. 561-703-2858

14. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce this Agreement shall be held in Palm Beach County. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, or shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

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

16. **Arrears:** The 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. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

17. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the 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).

18. **Criminal History Records Check:** The CONTRACTOR shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), 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 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 records check, the CONTRACTOR shall be solely

responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

19. **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.

20. **Entirety of Contractual Agreement:** The COUNTY and the 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.

IN WITNESS WHEREOF, the parties have set their hands and seals in the date first above written.

R 2009.0586 APR 7 2009

**PALM BEACH COUNTY WITNESS**

**PALM BEACH COUNTY**

Louise Kelly  
SIGNATURE

Devin E. Baker  
DEPARTMENT DIRECTOR/ASSISTANT DIRECTOR

LOUISE KELLY  
NAME (TYPE OR PRINT)

W Baker  
COUNTY ADMINISTRATOR (If contract value exceeds \$10,000.)

**CONTRACTOR WITNESS**

**INDEPENDENT CONTRACTOR**

Jennifer Anglin  
SIGNATURE

[Signature]  
SIGNATURE

Jennifer Anglin  
NAME (TYPE OR PRINT)

HEAD COACH AQUACREST  
NAME & TITLE (TYPE OR PRINT)

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

Anne Helgert  
COUNTY ATTORNEY

## **SCOPE OF SERVICES**

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

### **A. Scope of Work**

The CONTRACTOR has the responsibility of training swimmers in preparation for competitive swim programs. CONTRACTOR must organize and supervise the competitive swim program as well as instruct and train the participants in competitive swimming. CONTRACTOR is responsible for the preparation and administration of training schedules, registering team and individuals with USA Swimming; and technical instruction of competitive swimmers. Participants will be supervised during a variety of exercises, swimming drills, and instructional sessions. CONTRACTOR will supervise swimmers at practices and meets; will oversee the entry of swimmers in sanctioned USA competition and represent the team as a delegate to the Florida Gold Coast Association of United States Swimming. The COUNTY will pay for the annual membership to USA swimming upon receipt of the invoice sixty days prior to due date.

Palm Beach County Parks and Recreation Department desires to serve all constituents of the public by providing programming for all ages and skills levels. Therefore, the contractor is expected to provide a program that will do so.

Perform the services set forth herein in a competent, professional, safe and responsible manner with full regard for the safety of the participants as well as for the facility.

Immediately upon arrival at the facility, inspect the site prior to beginning any activity. Prior to swimmers entering the water perform a water test with the facility's test kit to check chemical levels in the water, if chemical levels are not reading between 1.5-3.0 for chlorine and 7.2-7.6 for pH, swimmers should not enter the pool. Should any other safety condition exist at the facility, the CONTRACTOR will report said condition to the facility manager immediately. If the condition creates a risk to the participants or spectators, the activity will be postponed until corrective action has been completed.

CONTRACTOR will be required to make judgments regarding safe weather and water conditions, and will be expected to cancel or postpone practice sessions when conditions are unsafe or as directed by the Facility Manager or designee.

CONTRACTOR shall follow the facility's established CRITICAL INCIDENT PROCEDURES/ EMERGENCY ACTION PLAN should a serious injury or incident occur at the facility.

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

CONTRACTOR will ensure that all participants are instructed in the pool rules and safety procedures to ensure that risk of injury or accidents is minimized. During facility operational hours, program participants will obey all pool rules. CONTRACTOR and all personnel on site will be certified in American Red Cross Safety Training for Swim Coaches (or Lifeguard Training); First Aid/CPR (equivalent or higher training) and must have access to a first aid kit at all times.

Contractor will conduct team practices only with the supervision of Palm Beach County Pool Lifeguards on stand.

Contractor will adhere to the practice schedule agreed upon in advance by the Facility Manager unless arrangements have been made for special needs or events.

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

CONTRACTOR will provide the facility manager with 14 days notice of all anticipated conflicts, schedule changes,

and or absences. The CONTRACTOR shall immediately notify the facility manager of any unanticipated absences.

CONTRACTOR will work with and maintain open dialogue with the facility manager, liaison and/or parent organization (if applicable) regarding program needs, program changes, additions or removals, or problems with the facility or equipment, by attending scheduled meetings with the manager monthly, and quarterly with Aquatic Program Coordinator, Aquatic Supervisor and Manager.

CONTRACTOR will provide copies of any team newsletters, calendars and handbooks to the facility manager and obtain approval from the facility manager for all activities other than permitted practice times.

CONTRACTOR will adhere to all applicable COUNTY policies and procedures.

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

CONTRACTOR will provide the facility manager with a list of registered USA Swimming members containing the following information: first name; last name; age; sex; their assigned skill group and what monthly fees are to be assessed that swimmer. 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 bi-weekly attendance figures on the first and third Tuesday of each month. The COUNTY will provide assistance in collecting delinquent payments from participants.

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

CONTRACTOR will recognize and abide by the terms of the Agreement between the COUNTY and the School Board of Palm Beach County for the Mutual Use of Recreation Facilities. (R-2008-2241)

#### B. Use of Premises

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

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

Ensure proper use and care of all equipment by CONTRACTOR, CONTRACTOR'S staff, and program participants.

Ensure that the facility is utilized properly and as scheduled, left clean and that opening and closing procedures are followed. It is the CONTRACTOR'S responsibility to maintain clean and orderly office and storage areas that have been allocated for the competitive swimming program. The CONTRACTOR shall open the facility each morning in conjunction with scheduled facility staff for the USA Swimming competitive 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 Parks and Recreation Department will provide a work area for the Head Coach to utilize during USA Swimming program hours.

CONTRACTOR will inform the facility manager immediately of any equipment malfunction or failure.

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

C. Personnel

The CONTRACTOR will secure at its own expense, all necessary personnel required to perform the services under this 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. Such personnel will be required to complete and sign a form giving the County permission to conduct a background check.

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

CONTRACTOR shall indoctrinate and train all staff in the philosophies and public relations concerns of the COUNTY. CONTRACTOR'S staff and pool staff will be crossed trained to be knowledgeable of each others programs. CONTRACTOR shall cooperate with facility management and staff, contributing to the harmony and productivity of the unit.

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

Any and all monthly program rate change 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 services, there will be no advanced payment of services.

F. Role of Parents' Organization

The Parents' Organization is established to support the general swim team in all its activities, such as the hosting of swim meets, award banquets, team social outings, the purchase of team uniforms, the coordination of team travel to away meets and fundraising events. The Parents' Organization is governed by an elected Board of Directors. General membership to the organization is open to parents of age-group participants in the swim program. The Parents' Organization should annually prepare a budget for general team needs and home pool team activities that benefit the team as a whole.

G. Role of Head Coach with Parents' Organization

The Head Coach is an independent contractor with Palm Beach County, and as such, is not permitted to be a member, voting or non-voting, of the Parents' Organization. The role of the coach is to provide training to participants, recommend equipment purchases which will enhance the program, and to recommend swim meets and other similar competitive or fund raising opportunities to the Board of Directors. The Head coach or other coaching staff may not influence, intimidate, or compellingly request involvement with the organization through verbal or written materials.