

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 16, 2017

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 Addendum to Authorized Provider Agreement, R2016-1888 dated December 20, 2016, with the American National Red Cross (“Red Cross”) to allow the County to participate as one of 50 communities nationwide in the Red Cross Aquatic Centennial Initiative program to provide swimming lessons to underserved populations.

Summary: The Red Cross is celebrating 100 years of Water Safety and has set a goal to reduce the number of drownings in the United States by 50% in 50 key markets. Palm Beach County was identified by the Red Cross in 2014 as a target market for the Aquatic Centennial Initiative to reduce the number of drownings in America. This program is designed to promote awareness of and access to the Red Cross Water Safety education and training in identified communities where the drowning rate is above the national average. This First Addendum allows Palm Beach County to continue to participate in the final year of the three-year Red Cross Aquatics Centennial Initiative. Participation in this initiative will help generate and retain enrollment in our swimming lessons, provide hands-on CPR and rescue skills to parents and caregivers, and ultimately help reduce the number of drownings in our community. As a participant in the initiative, the County will receive support for program fees for participants in swimming lessons as well as lifeguard training and water safety instructor programs. The Red Cross will also provide the teaching and marketing materials at no cost to the County. Countywide (AH)

Background and Justification: The Parks and Recreation Department entered into an Authorized Provider Agreement with the American Red Cross on December 20, 2016, R2016-1888, to provide Red Cross swimming lessons at the six traditional swimming pools and two waterparks, as well as Lifeguarding, First Aid, CPR, AED, and Oxygen Administration certifications for all Aquatics staff. Palm Beach County was identified by the Red Cross in 2014 as a target market for the Aquatic Centennial Initiative to reduce the number of drownings in America. This program is designed to promote awareness of and access to the Red Cross Water Safety education and training in identified communities where the drowning rate is above the national average. This First Addendum allows Palm Beach County to continue to participate in the Red Cross Aquatics Centennial Initiative. In accordance with Chapter 2, Article III, Division 2, Part A, Section (f) of the County Code, the purchasing code shall not apply to agreements between the Board of County Commissioners and nonprofit organizations. The County has the right to terminate the Agreement for any reason upon thirty days written notice.

Attachments:

1. First Addendum to Authorized Provider Agreement
2. American Red Cross Centennial Campaign Information Sheet
3. American Red Cross Authorized Provider Agreement

Recommended by: _____

Erin Call
Department Director

4-17-17
Date

Approved by: _____

[Signature]
Deputy County Administrator

5-1-17
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------------|------------------------|-------------------|-------------------|-------------------|-------------------|
| Capital Expenditures | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| Operating Costs | <u>(1,250)</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |
| External Revenues | <u>(10,500)</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>(11,750)</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> | <u>-0-</u> |

ADDITIONAL FTE POSITIONS (Cumulative) 0

Is Item Included in Current Budget? Yes X No _____
 Budget Account No.: Fund 0001 Department 580 Unit various
 Revenue Source 4724 /Object 4909 Program _____


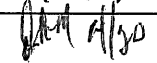
B. Recommended Sources of Funds/Summary of Fiscal Impact:

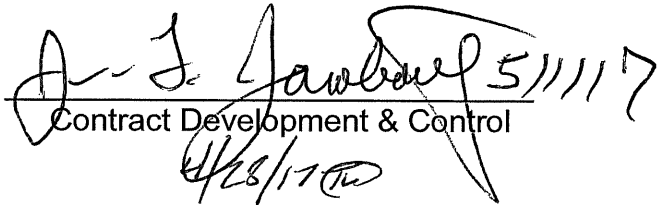
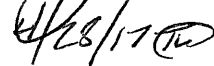
This Addendum reduces expenditures by \$1,250 for training and increases revenue due to additional swim lessons at various aquatic facilities.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 4/24/17
 OFMB 4/19 

 5/11/17
 Contract Development & Control
 4/28/17 

B. Legal Sufficiency:

 5-1-17
 Assistant County Attorney

C. Other Department Review:

 Department Director

REVISED 10/95
 ADM FORM 01

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



**American
Red Cross**

**FIRST ADDENDUM TO
LICENSED TRAINING PROVIDER AGREEMENT**

This **FIRST ADDENDUM TO LICENSED TRAINING PROVIDER AGREEMENT, R2016-1888** (“Addendum”) is effective as of the last day of signature below (“Addendum Date”) by and between The American National Red Cross (“Red Cross”) and Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners (“LTP”).

WHEREAS, Red Cross and LTP are parties to a Licensed Training Provider Agreement, **R2016-1888** dated as of December 20, 2016 (the “Agreement”) (capitalized terms used in this Addendum and not otherwise defined herein shall have the meaning assigned to them in the Agreement);

WHEREAS, in addition to the courses LTP has historically been permitted to teach under the Agreement, LTP would now like to participate in a program in connection with the American Red Cross Aquatics Centennial celebration designed to promote awareness of and access to the American Red Cross Water Safety education and training in identified communities (“Aquatics Centennial Program”). The Aquatics Centennial Program is intended to teach people to swim in identified communities where drowning rate is above national average; motivate children and families to “come to the water” to become competent in the water and learn about water safety at a local facility; and create a sustainable ecosystem of water safety to help make communities safer.

WHEREAS, Red Cross and LTP desire to add the following terms to the Agreement in order to facilitate LTP’s participation in the Aquatics Centennial Program and to memorialize each party’s rights and responsibilities in connection therewith;

“NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement by adding the following to the Agreement:”

1. In connection with the Aquatics Centennial Program, LTP agrees that it will:
 - a. Expand its existing Learn-to-Swim program (“LTS”) and Junior Lifeguarding offerings to reach additional program participants who are not otherwise receiving aquatics lessons (“Program Participants”);
 - b. Expand its existing Water Safety Instructor and Lifeguarding training to develop the infrastructure to offer the additional LTS and Junior Lifeguarding offerings;
 - c. Provide Program Participants opportunities to take LTS courses through at least Red Cross Learn-to-Swim Level 3;
 - d. Provide opportunities for parents of Program Participants to participate in Red Cross water safety and CPR/AED training courses;
 - e. Engage in promotional and media opportunities to inform the local community of the goals of the Aquatics Centennial Program, including the importance of swimming and water safety training; provided that LTP will obtain Red Cross’s prior consent to any promotional or media opportunities involving use of the Red Cross name or emblem pursuant to Section 6 of this Addendum;
 - f. Agree to participate in, and provide information in support of, a research study to evaluate the effectiveness of the Aquatics Centennial Program education and training;
 - g. Report the progress and results of the Aquatics Centennial Program education and training courses to the Red Cross in the manner and format reasonably requested by the Red Cross; and
 - h. Provide accurate and timely documentation of costs related to the expanded programming as a result of the Aquatics Centennial Program, including providing invoices if requested by the Red Cross.

2. Red Cross agrees that it will:
 - a. Assist in offsetting additional expenses for expanded programming as a result of LTP's participation in the Aquatics Centennial Program and fulfillment of its obligations to Program Participants described in Section 1. LTP's expenses that will be funded by the Red Cross for the first year of participation in the Aquatics Centennial Program are listed on Exhibit C attached to this Addendum. The Parties will meet on at least an annual basis to mutually determine and agree upon the scope and amount of Aquatics Centennial funding assistance, if any, to be provided by the Red Cross to LTP in subsequent years;
 - b. Provide training materials required to allow Program Participants to complete the Red Cross training contemplated under this Addendum;
 - c. Provide promotional materials to inform the local community of the Aquatics Centennial Program;
 - d. Provide requirements, processes and mechanisms to report the process and results of the Aquatics Centennial Program education and training courses; and
 - e. Provide tools, resources and staff training required to implement the research study intended to evaluate the effectiveness of the Aquatics Centennial education and training.

3. Term and Termination. Unless terminated consistent with this Section 3, the term of this Addendum shall begin on the Addendum Date and shall continue until December 31, 2017. Either party may terminate this Addendum without cause upon thirty (30) calendar days advance written notice to the other party. Either party may immediately terminate this Addendum upon the other party's breach of its obligations under this Addendum. Termination of this Addendum will not automatically terminate the Agreement, but in the event the Agreement is terminated by either party, this Addendum will automatically terminate.

4. Compliance, Representations and Warranties:
 - a. The Parties will comply with all applicable laws and regulations during performance under the Agreement. Neither Party will discriminate against any employee, applicant or Program Participant in connection with this Agreement because of any characteristic protected by applicable law or regulations.
 - b. LTP represents, warrants and certifies: (i) compliance with all U.S. economic sanctions, anti-terrorism laws and anti-money laundering laws, including but not limited to the USA PATRIOT Act, the laws administered by the United States Treasury Department's Office of Foreign Assets Control, Executive Order 13224, and any local laws that apply in the jurisdiction in which LTP is operating and (ii) no child, indentured or forced labor or unauthorized workers will be used in any aspect of the provision of the Red Cross Courses or Aquatics Centennial Program hereunder.

5. Conflict of Interest; Business Ethics. LTP represents that no employee, principal, or affiliate of LTP holds any office in, or is an employee of, or is a member of the board of directors of, Red Cross or any Chapter or unit of Red Cross, except as shall have been disclosed by notice to Red Cross and for which Red Cross has waived any potential conflict of interest by notice to LTP. During the course of pursuing contracts with Red Cross and while performing services in accordance with this Addendum, LTP agrees to maintain business ethics standards which are aimed at avoiding any real or apparent improprieties or conflict of interest which could be construed to have an adverse impact on the dealing with the Red Cross. LTP shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Red Cross's best interests. These obligations shall apply to the activities of LTP's employees, agents, and subcontractors in their deadlines and relations with Red Cross' current and former employees and relatives.

6. Intellectual Property and Data Use.
 - a. Definitions:
 - i. "Aquatics Centennial Materials" will include everything used, or provided to LTP for use by Red Cross, in connection with the Aquatics Centennial Program, including without limitation, reports, creative and other materials, manuals, photographs and all other documents or materials.

- ii. “Intellectual Property” means (i) inventions, discoveries, techniques, processes, methods, formulae, ideas, technical data and specifications, testing methods, research and development activities, computer programs and designs (including improvements and enhancements thereto and regardless of patentability), (ii) trade secrets and know-how, (iii) copyrightable material, (iv) trademarks and service marks (v) data related to the Aquatics Centennial Program, and (vi) all other forms of intellectual property. Intellectual Property may take any form, including without limitation, written, oral, electronic, digital or other form.
- iii. “LTP Marks” means LTP’s trademark and tradenames set forth on Exhibit A hereto and subject to any use guidelines contained in such Exhibit.
- iv. “Red Cross Marks” means Red Cross’s trademark and tradenames set forth on Exhibit B hereto and subject to any use guidelines contained in such Exhibit.

b. Aquatics Centennial Materials.

- i. Subject to the terms and conditions of this Addendum, LTP grants Red Cross a fully paid-up, royalty-free, non-transferable, non-exclusive right and license to use and display the LTP Marks in the United States solely on and in conjunction with the Aquatics Centennial Materials. Red Cross acknowledges that LTP is the sole owner of the LTP Marks and the goodwill associated therewith and that all rights not expressly granted herein remain the sole and exclusive property of LTP. Red Cross will not take any action inconsistent with LTP’s ownership rights and will cooperate with LTP in the protection thereof. Red Cross will use the LTP Marks in accordance with the guidelines set forth on Exhibit A.
- ii. Subject to the terms and conditions of this Addendum, Red Cross grants LTP a fully paid-up, royalty-free, non-transferable, non-exclusive right and license to use and display the Red Cross Marks in the United States solely on and in conjunction with the Aquatics Centennial Materials produced by the Red Cross. LTP acknowledges that Red Cross is the sole owner of the Red Cross Marks and the goodwill associated therewith and that all rights not expressly granted herein remain the sole and exclusive property of Red Cross. LTP will not take any action inconsistent with Red Cross’s ownership rights and will cooperate with Red Cross in the protection thereof. LTP will use the Red Cross Marks in accordance with the guidelines set forth on Exhibit B.
- iii. LTP acknowledges that all Aquatics Centennial Materials will be owned exclusively by the Red Cross. LTP will not use or allow the use of the Aquatics Centennial Materials for any purpose other than LTP’s performance under this Addendum without the prior written consent of the Red Cross. Immediately upon request, LTP will deliver to the Red Cross all Aquatics Centennial Materials.
- iv. The foregoing license shall terminate upon termination or expiration of this Addendum and unless otherwise agreed or permitted by law, a party shall cease all use of the other party’s Intellectual Property licensed hereunder upon such termination or expiration.
- v. Except as expressly provided in this Agreement, no party shall use the Intellectual Property (including, without limitation, trademarks or tradenames) of any other party in any public statements (including any promotional or media opportunities) without obtaining such other party’s prior written consent for each use.

c. Aquatics Centennial Data.

- i. With respect to any data collected in connection with the Aquatics Centennial Program (including data regarding program offerings, LTP participants, course participants and community preparedness), as well as any other research projects or assessments undertaken by the Red Cross related to the Aquatics Centennial Program, LTP hereby acknowledges and agrees that it shall not have any rights in Intellectual Property or data generated therein, nor shall it have any publication rights related to such Intellectual Property or data without the express consent of the owner of such Intellectual Property and/or data.
- ii. With respect to any evaluation efforts permitted by the Red Cross in connection with the Aquatics Centennial, the evaluator will work with an institutional review board (IRB) to ensure that the research conducted on human subjects are scientific and ethical. Data will be maintained in accordance with the IRB consent, if any.

7. Miscellaneous.

- a. The Agreement is incorporated herein by reference and, except to the extent modified by this Addendum, the Agreement remains in full force and effect.
- b. The parties specifically agree and acknowledge that the Agreement shall continue to govern all aspects of LTP's conduct of American Red Cross Courses, including any Courses offered in connection with the Aquatics Centennial.
- c. In the event of any conflict between the terms of this Addendum and the terms of the Agreement, the terms of the Agreement shall control.
- d. This Addendum is binding upon and insures to the benefit of the parties hereto and their successors and assigns. Notwithstanding the foregoing, neither party may assign its rights or obligations under this Addendum without the prior written consent of the other party.
- e. If any provision of this Addendum is held to be invalid, illegal or unenforceable, then, to the extent that such invalidity, illegality or unenforceability shall not deprive any party hereto of any material benefit intended to be provided hereby, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or remaining provisions of this Addendum, and such provision shall be deemed to be severed from this Addendum.

[Signature Page Follows]

The parties, acting through their duly authorized officers, have executed this First Addendum to Authorized Provider Agreement, which shall come into force as of the Addendum Date.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

Paulette Burdick, Mayor

WITNESS:


THE AMERICAN NATIONAL RED CROSS


Signature

James Davis
Name (type or print)


Signature

Laurie C. Schobelock
Name (type or print)


Signature

Patrick Beason
Name (type or print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO
TERMS AND CONDITIONS

By: 
Eric Call, Director
Parks and Recreation Department

**EXHIBIT A
LTP MARKS**

Use of the Palm Beach County Logo

1. The Logo may be produced in 4-color as designed (no deviation from the color), 1-color (Pantone 327 – teal), or black as depicted below. The logo should be uniform in all applications with color and proportion remaining consistent. The minimum size the Logo must be is ½” in diameter. A separate department logo should never be more than 25% larger than the county seal.



4-Color



Black



Pantone 327-teal



Aquatics Logo

2. Any of the logos above must be used with the words “Palm Beach County Board of County Commissioners in one of the two formats shown below.



**Palm Beach County
Board of County Commissioners**



Palm Beach County Board of County Commissioners

**EXHIBIT B
RED CROSS MARKS**



To download camera-ready marks, complete the web form at redcross.org/brand.
List Connie Harvey as the Red Cross contact.

**EXHIBIT C: JANUARY - DECEMBER 2017
PALM BEACH COUNTY, FL
LTP EXPENSES FUNDED BY RED CROSS**

Annual LTS facility fees waived: 2 @\$300 - Aqua Crest, Santaluces
1 @ \$650 - Pioneer Park

Facility Staffing

| Enrollees | Course | Fees |
|-----------|--------------------------|--|
| Up to 6 | Water Safety Instructors | Books & Certification fees to be waived by Red Cross |
| Up to 6 | Lifeguards | Books & Certification fees to be waived by Red Cross |
| Up to 3 | Lifeguard Management | Online course fee to be waived by Red Cross |

Community Participants

| Enrollees | Course | Fees |
|-----------|--|--|
| Up to 600 | Learn-to-Swim enrollees through LTS Level 3 Pre-school and Adult Swim-Learning the Basics | \$155.00 WSI staff fee per class, "Not to exceed \$3,600 annually" (\$31.00 per hour) \$35.00 per hour, Administrative fee, "Not to exceed \$500.00 annually" LTS Facility fee waived at participating sites |
| Up to 200 | Scholarship Lessons for Individuals | \$30.00 paid by Red Cross, balance paid by participant |
| Up to 50 | Pediatric CPR/AED | Books & Certification fees to be waived by Red Cross |
| Up to 50 | Hands on Water Safety Education For Parents | Books & Certification fees to be waived by Red Cross |
| Up to 15 | Junior Lifeguarding | Books & Certification fees to be waived by Red Cross |



American Red Cross Centennial Campaign

Together, We Can Build an Aquatics Ecosystem That Benefits Your Facility and Your Community.

For 100 years, the American Red Cross, in partnership with facilities like yours, has been teaching people of all ages how to swim and stay safe in and around the water, and what to do in an emergency. This training seeds a lifelong passion for aquatics and helps aquatic facilities thrive. Now, we invite you to join us as we launch a new initiative designed to save lives and create stronger, safer communities.

Together, We Can Reduce Drownings

To mark 100 years of Aquatics, the Red Cross has set a goal to reduce the number of drownings in the United States by 50% in 50 key markets. Kicking off this summer, the Centennial Campaign will create an aquatics ecosystem that benefits our facility partners and the community you serve. In partnership with aquatic facilities like yours, this 3-5 year initiative will focus on 50 markets where drowning rates are higher than the national average.

It All Begins with Learn to Swim

Working in partnership with facilities like yours, the Centennial Campaign will:

- Teach 50,000 kids and adults across the country to swim who would not otherwise participate.
- Help generate and retain enrollment for your facility's swim classes.
- Teach the Circle of Drowning Prevention and Chain of Drowning Survival.
- Disseminate water safety information to parents and caregivers.
- Teach hands-on CPR and rescue skills to parents and caregivers.
- Help position your facility as an authority on learning how to swim and save lives.

Market facts:

Palm Beach County, FL
Between 2004 and 2010-

227 people died from drowning, which is a rate of 2.51 per 100,000 population.

Market Facts: National

- Approximately 10 people in the U.S. drown every day and 2 are under age 14.
- For every child who drowns, another 5 receive emergency department care for nonfatal submersion injuries.

Source: CDC

American Red Cross

100 YEARS
OF WATER SAFETY

What We'll Provide

At no cost to your facility, the Red Cross will help your facility reach underserved populations by providing such resources as:

- Facility and participant packages to promote the program at your location and generate excitement among those taking lessons.
- Support for program fees for participants in Learn-to-Swim, lifeguard training and water safety instructor courses.
- Teaching and marketing materials, including an online toolkit of resources.
- National and local promotion from traditional media relations to social media that will help drive enrollment.

Facility Training Block

Over a 3 year period, we strive to enable access to life saving training to the following:

Facility Staffing

| Enrollees | Course |
|-----------|--------------------------------|
| 10 | Water Safety instructors |
| 10 | Lifeguards |
| 5 | Lifeguard Management enrollees |

Community Participants

| Enrollees | Course |
|-----------|---|
| 500 | Learn-To-Swim enrollees through LTS Level 3 |
| 75 | Pediatric CPR/AED |
| 75 | Hands-On Water Safety Education for Parents |
| 30 | Junior Lifeguarding |

Join us!

Make this the safest summer ever! Let's talk about how your facility, staff and community will benefit from your partnership in the Centennial Campaign. To learn more, contact:

Connie Harvey
Director of Centennial Initiatives
connie.harvey@redcross.org
703-894-8033

American Red Cross





Licensed Training Provider Agreement DEC 20 2016

This Licensed Training Provider Agreement ("Agreement") is by and between The American National Red Cross ("Red Cross") and Palm Beach County Board of County Commissioners (the "LTP") (each a "Party" and together the "Parties"), effective as of the last date of signature ("Effective Date"), in order to permit the LTP's associated Red Cross certified instructors in good standing ("Instructors") to license Red Cross training materials for the LTP's use in the instruction of Red Cross training courses specified on Appendix B ("Courses") within the jurisdictions listed in Appendix C.

- 1. LTP Responsibilities.** In connection with offering the Courses, LTP agrees that it will:
 - 1.1. Require its Instructors to maintain Red Cross certifications appropriate for the Courses they will be teaching.
 - 1.2. Notify Red Cross within ten (10) business days of any additions, deletions, or changes to Instructors permitted by LTP to teach on its behalf during the term of this Agreement.
 - 1.3. Obtain Red Cross confirmation of the certification and authorization status of new LTP Instructors before permitting such Instructors to teach a Course.
 - 1.4. Be responsible for the oversight of LTP's Instructors and require that they teach Courses using Red Cross course materials ("Course Materials"), and offer Courses in accordance with the current Red Cross LTP Resource Guide, policies and procedures (collectively, the "Policies").
 - 1.5. Herein understand and acknowledge that the Red Cross is only permitted to solicit, deliver services and provide program support within the jurisdiction of the United States and its territories ("U.S."), and LTP agrees to only teach Courses and otherwise perform under this Agreement in the U.S.
 - 1.6. Permit Red Cross to perform random observations of LTP's Courses.
 - 1.7. Permit Red Cross, in its sole discretion, to post LTP's contact and course information on its website to allow potential course participants to search and locate them regarding Course availability.
 - 1.8. Enter training records ("Course Records") with payment (credit card or invoice, if approved) and other required information into the Learning Management System ("LMS") or any applicable successive Red Cross electronic records system within five (5) calendar days of Course completion, and comply with all terms and conditions of such system during such use.
 - 1.9. Timely payment of the required fees in connection with this Agreement.
 - 1.10. Recognize its responsibility for all liabilities arising out of LTP's performance under this Agreement. LTP understands and acknowledges it is the responsibility of the LTP to obtain adequate insurance to cover its performance, and the performance of its employees and contractors, under this Agreement, as Red Cross insurance does not extend to LTP or its Instructors or other subcontractors.
 - 1.11. Maintain a relevant, valid business license for the term of this Agreement.
 - 1.12. Offer and teach the Courses exclusively in accordance with Sections 6.3 and 6.4 of this Agreement.
- 2. Red Cross Responsibilities.** To facilitate LTP's Course offerings, Red Cross agrees that it will:
 - 2.1. Make Red Cross training content and Course Materials available to LTP's Instructors through a limited and non-exclusive license to use the Course Materials solely in connection with this Agreement, which such license may not be assigned or sub-licensed.
 - 2.2. Approve properly submitted Course Records and provide digital certifications for Course participants, if applicable.
 - 2.3. Provide LTP with access to Red Cross electronic resources allowing LTP to enter Course Records and print Course certificates.



3. Term and Termination.

- 3.1 This Agreement will be effective as of the Effective Date and ends on the day before the thirty-six (36) month anniversary thereof, unless earlier terminated as provided below.
- 3.2 Either Party may terminate this Agreement with thirty (30) calendar days advance written notice to the other Party.
- 3.3 Red Cross reserves the right to immediately terminate this Agreement if LTP does not abide by the terms of this Agreement or the Policies.
- 3.4 The following provisions of this Agreement, which by their very nature are incapable of being fully performed or enforced prior to expiration or termination, shall survive any such expiration or termination of this Agreement.

4. Fees and Invoicing.

- 4.1 LTP will remit payment by credit card or will be invoiced, if approved.
- 4.2 Fees are set forth on Appendix B.
- 4.3 Customers who are approved will receive an invoice following the class. Payment in full is due thirty (30) days from the date of the invoice. Payment of invoice is accepted by credit card or check only. Past due amounts shall be subject to collections actions and may be referred to an external collections agency which will result in the Customer's invoicing privileges being terminated. Credit card payment will be required if invoicing privileges are suspended or terminated.
- 4.4 To make a payment by credit card, call 888-284-0607. To pay an invoice by check, include the remittance advice showing the customer account name, number and invoice number and send to:
American Red Cross - Health & Safety Services
25688 Network Place
Chicago, IL 60673-1256
- 4.5 For questions or concerns about your invoice, please email billing@redcross.org or call the number listed on the invoice.
- 4.6 Red Cross reserves the right to change its fees and related policies in its sole discretion upon thirty (30) days advance notice of such changes. If the LTP does not agree to such changes, it has the right to terminate this Agreement as of the date of such change.
- 4.7 If the Red Cross determines that any course offered by the LTP and/or its Instructors is not taught in accordance with Red Cross Policies, the LTP will be responsible for any costs associated with the re-training of course participants. Red Cross, in its sole discretion, will determine the appropriate party to conduct the re-training, which may include the LTP or any Red Cross employee, volunteer, or Licensed Training Provider.

5. Notices. Each Party's contact for notices under this Agreement is listed on Appendix A.

6. Confidentiality and Intellectual Property.

- 6.1 Except as required by applicable law or otherwise provided herein, each Party shall maintain the confidentiality of all provisions of this Agreement or other confidential information, documents and materials received for the purposes of this Agreement.
- 6.2 Red Cross is the owner of various trade names, trademarks, Course Materials and other copyrighted and proprietary content ("Red Cross IP"). Subject to the terms and conditions of this Agreement, Red Cross hereby grants LTP a limited and non-exclusive license to use the Red Cross IP solely in connection with this Agreement and such license may not be assigned or sub-licensed. Course Materials may be downloaded, reused or purchased; however, LTP agrees not to revise,



edit or create derivative works of any Course Materials or Red Cross proprietary content, in whole or in part, unless specifically approved in writing by the Red Cross. LTP acknowledges and agrees that (1) the Red Cross IP is a valuable asset of Red Cross and substantial recognition and goodwill are associated with the Red Cross IP, (2) the license granted hereunder does not constitute a transfer to LTP of any ownership rights in the Red Cross Marks, and (3) LTP's use of the Red Cross IP shall inure solely to the benefit of Red Cross. Upon conclusion of this Agreement, any and all licenses granted to use the Red Cross IP will terminate immediately.

- 6.3 During the term of this Agreement, until the voluntary or involuntary termination thereof for any reason whatsoever, LTP will not for any Course specified on Appendix B, directly or indirectly, teach, perform services, provide consultation or solicit any business on behalf of any of the Red Cross competitors listed in Appendix C (the "Red Cross Competitors").
- 6.4 Upon the termination of this Agreement for any reason whatsoever, whether voluntary or involuntary, LTP agrees that for a period of one (1) year after the termination of this Agreement, LTP will not (a) participate, personally or financially, directly or indirectly, in competition with the Red Cross in the business of offering any Course listed in Appendix B within the jurisdictions specified on Appendix C, (b) accept employment with any of the Red Cross Competitors identified on Appendix C, or (c) solicit, induce, or attempt to induce any of LTP's past or current Course participants (i) to cease doing business in whole or in part with or through the Red Cross, or (ii) to do business with any other person, firm, partnership, corporation, or other entity which performs services materially similar to or competitive with those provided by the Red Cross within the jurisdiction specified on Appendix C.

7. Miscellaneous.

- 7.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and undertakings, both written and oral, between the Parties.
- 7.2 **Amendments.** This Agreement may only be amended or modified by the Parties in writing.
- 7.3 **Severability.** In the event any provision of this Agreement is held invalid, illegal or unenforceable (any such provision, an "Invalid Provision") in any jurisdiction, the Red Cross and the LTP shall promptly negotiate in good faith a lawful, valid and enforceable provision that is as similar in terms to such Invalid Provision as may be possible while giving effect to the future benefits and burdens accruing to the Parties hereunder. But, in no way shall the Invalid Provision affect the validity or enforceability of any other portion or provision of this Agreement, regardless of the ability of the Parties to negotiate a new provision.
- 7.4 **Independent Contractors.** Each Party shall furnish its services hereunder as an independent contractor, and nothing herein shall create any association, partnership or joint venture between the Parties or an employer-employee relationship. No agent, employee or servant of any Party shall be, or shall be deemed to be, the employee, agent or servant of the other Party, and each Party shall be solely and entirely responsible for its acts and the acts of its agents, employees and servants.
- 7.5 **Assignment.** This Agreement shall not be assigned in whole or in part without the prior written consent of the other Party.
- 7.6 **Entire Agreement, Amendments and Assignments.** Concerning the subject matter here of, this Agreement and the Policies referenced herein constitute the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties. This Agreement shall not be amended, modified or assigned unless both Parties agree in writing.
- 7.7 **Availability of Funds.** LTP's performance and obligation to pay under this Agreement for subsequent fiscal years following the Effective Date of this Agreement is contingent upon annual appropriations for its purpose by the Board of County Commissioners.



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- 7.8 **Remedies.** 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.
- 7.9 **Nondiscrimination.** Red Cross 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. Red Cross has submitted to LTP a copy of its non-discrimination policy, which is consistent with the above sentence, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Red Cross does not have a written non-discrimination policy or one that conforms to LTP's policy, it has acknowledged through a signed statement provided to LTP that Red Cross will conform to LTP's non-discrimination policy as provided in R-2014-1421, as amended.
- 7.10 **Authority to Practice.** Red Cross hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to LTP's representative upon reasonable request. LTP understands, however, that Red Cross is a federal instrumentality and as such, certain licenses and approvals may not be applicable.
- 7.11 **Regulations; Licensing Requirements.** Red Cross shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. Red Cross is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the obligation Red Cross hereunder.
- 7.12 **Inspector General.** 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 Red Cross, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements relation to the Agreement and detect corruption and fraud. Failure to reasonably cooperate with the Inspector General or interfering with or impeding any investigation shall be in the 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.
- 7.13 **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 LTP or Red Cross.

The Parties, acting through their duly authorized officers, have executed this Agreement, which shall come into force as of the Effective Date. Execution of this Agreement confirms LTP's receipt of the LTP Resource Guide, which may be updated from time to time.

| | |
|---|--|
| Customer Name: Palm Beach County Board of County Commissioners | The American National Red Cross |
| Customer Signature: <i>Paulette Burdick</i> | Red Cross Signature: <i>Patrick Beason</i> |
| Name: Paulette Burdick, Mayor | Name: Patrick Beason |
| Title: | Title: Territory Aquatics Specialist, Florida |
| Date: DEC 20 2016 | Date: 11/16/16 |



Preparedness and Health and Safety Services
Licensed Training Provider Agreement

| |
|---------------------|
| Customer Signature: |
| Name: |
| Title: |
| Date: |
| Customer Signature: |
| Name: |
| Title: |
| Date: |
| Customer Signature: |
| Name: |
| Title: |
| Date: |

APPROVED AS TO TERMS

AND CONDITIONS

By Eric Call
Eric Call, Director
Parks & Recreation Department

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Anne Helgert
COUNTY ATTORNEY

Sharon R. Bock, Clerk & Comptroller
Palm Beach County
By Sharon R. Bock
Deputy Clerk





**Licensed Training Provider Agreement
Appendix A – Contact Information**

Customer Information

Customer: **Palm Beach County Board of County Commissioners**

Customer Address: **2700 6th Avenue South** Customer Fax: _____
Lake Worth, FL 33461
US

Organization ID: **10228PBCPARKS**

Customer Contact: **Laurie Schobelock**

Customer Contact Email: **lschobel@pbcgov.org**

Customer Contact Phone: **(561) 966-6629** Extension: _____

Billing Contact Name: **Fawna Gallant**

Billing Contact Phone: **(561) 966-6630** Extension: _____

Billing Contact Email: **fgallant@pbcgov.org**

Customer Billing Address : **2700 6th Avenue South**
Lake Worth, FL 33461
US

Red Cross Contact Information

Name: **Patrick Beason**

Phone: **(954) 797-3833** Ext.: _____ Email: **patrick.beason@redcross.org**

Legal Notice to be delivered to your Red Cross Representative with a copy to The American National Red Cross, Office of the General Counsel at 431 18th St NW, Washington, DC 20006.



Preparedness and Health and Safety Services

Appendix B – Courses, Equipment, Materials, and Fees

| Product Code | Service | Quantity | Sales Price |
|--------------|-------------------------------------|----------|-------------|
| AP-HSSAQU803 | AP-Lifeguarding Instructor | 10.00 | \$35.00 |
| HSSAQU402 | Lifeguarding | 50.00 | \$35.00 |
| HSSAQU808 | Water Safety Instructor Course (AP) | 20.00 | \$35.00 |

*Note: Quantities are estimates. Additional classes can be added as needed. Please contact your Red Cross representative as listed on page 4 of the agreement.

Learn to Swim Facility Fee - per pool

| Annual Volume of Enrollees | Facilities that offer Red Cross Lifeguarding | Facilities that <u>do not</u> offer Red Cross Lifeguarding | Completion Cards Included |
|--|--|--|---------------------------|
| Learn-to-Swim Facility Fee (required to teach Learn-to-Swim Program) | | | |
| 0-75 | \$200 | \$240 | 75 |
| 76-500 | \$300 | \$360 | 500 |
| 501-999 | \$650 | \$780 | 1000 |
| 1000+ | \$975 | \$1,170 | 1500 |

Returning Learn to Swim customers may register for Learn-to-Swim and pay Learn-to-Swim facility fee by going to <https://classes.redcross.org/instructor/authentication/login.html?feeOption=Facility-fee>

New Learn-to-Swim customers can opt in to the Learn-to-Swim program by visiting www.redcross.org/LTSenroll

Equipment and Materials

Training equipment, materials and other supplies may be purchased through your Sales Representative or www.RedCrossStore.org

Method of Payment

Preferred Payment type

Credit/Debit Card



Licensed Training Provider Agreement

Appendix C – Entities/Locations Covered by Agreement

Please provide information regarding any additional entities/locations covered by this Agreement, if applicable.

All Domestic Locations (additional legal entity names must be listed)

Entities/locations listed below

| Affiliated Entity/Location Name and Contact Information | Relationship to Signatory Entity | Affiliated Entity Org ID |
|---|----------------------------------|-------------------------------|
| Example: Name: ABC Mid Atlantic Address: 2025 E ST NW Washington, DC 20006 Contact: Sally Safety Email: sally.safety@abc.com Phone: 800-555-1212 | Regional Distribution Center | ABC1231542 |
| Name: North County Aquatic Complex Address: 861 Toney Penna Drive, Jupiter FL 33458 Contact: Kamar Williams Email: kwilliams@pbcgov.org Phone: 561-745-0241 | Relationship: Sub-Org | Organization ID: 10228NCAQC |
| Name: Lake Lytal Family Aquatic Center Address: 3645 Gun Club Road, West Palm Beach FL 33406 Contact: Olivia Dugan Email: odugan@pbcgov.org Phone: 561-233-1426 | Relationship: Sub-Org | Organization ID: 10228LLFAC |
| Name: Santaluces Aquatic Complex Address: 6750 Lawrence Road, Lantana FL 33462 Contact: Jimmy Davis Email: jrdavis@pbcgov.org Phone: 561-966-6630 | Relationship: Sub-Org | Organization ID: 10228SAQU |
| Name: Aqua Crest Pool Address: 2503 Seacrest Blvd, Delray Beach FL 33444 Contact: Alex Caliendo Email: acalidendo@pbcgov.org Phone: 561-278-7104 | Relationship: Sub-Org | Organization ID: 10228AQCP |
| Name: Pioneer Park Aquatic Center Address: 866 SR 715 | Relationship: Sub-Org | Organization ID: 10228PIONEER |



| | | |
|---|-----------------------|----------------------------|
| Belle Glade FL 33430 Contact: Jimmy Davis Email: jrdavis@pbcgov.org Phone: 561-966-6630 | | |
| Name: Calypso Bay Waterpark Address: 151 Lamstein Lane, Royal Palm Beach FL 33411 Contact: Diana Rodriguez Email: DSrodrig@pbcgov.org Phone: 561-790-6160 | Relationship: Sub-Org | Organization ID: 10228CB |
| Name: Coconut Cove Waterpark Address: 20130 Regional Park Drive, Boca Raton FL 33498 Contact: Andrea Walsh Email: AWalsh@pbcgov.org Phone: 561- 629-8840 | Relationship: Sub-Org | Organization ID: 10228CCWP |

| 5. Jurisdictions Where LTP is Authorized to Offer Courses | |
|---|----|
| 1. Palm Beach County | 4. |
| 2. Florida | 5. |
| 3. United States | 6. |

| 6. Red Cross Competitors With Which LTP is Affiliated (Listed alphabetically and in no order of importance) | |
|---|--|
| <input type="checkbox"/> American Heart Association (AHA) | <input type="checkbox"/> National Aquatic Safety Company (NASCO) |
| <input type="checkbox"/> American Safety & Health Institute (ASHI) | <input type="checkbox"/> National Safety Council |
| <input type="checkbox"/> Ellis and Associates | <input type="checkbox"/> Starfish Aquatics Institute |
| <input type="checkbox"/> Emergency Care and Safety Institute (ECSI) | <input type="checkbox"/> SwimAmerica |
| <input type="checkbox"/> Health and Safety Institute (includes ASHI and Medic First Aid) | <input type="checkbox"/> Young Mens Christian Association (YMCA) |