

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	May 15, 2018	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	Fire-Rescue		

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to receive and file:** fully executed standard agreements for Swimming Lessons for FY 2018 with:

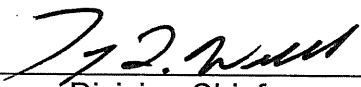
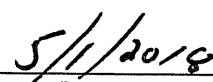
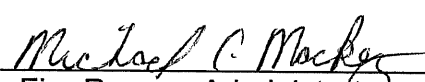
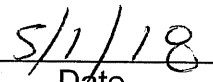
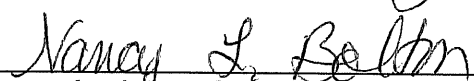
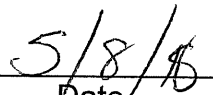
- A) City of Boynton Beach;
- B) City of Delray Beach; and
- C) Young Men's Christian Association of South Palm Beach County, Inc.

Summary: On September 27, 2005, the Board adopted Resolution Number R2005-1906 authorizing the County Administrator, or designee (the Fire Rescue Administrator), to execute standard agreements with municipalities and independent contractors to provide swimming lessons to members of the public through the Palm Beach County Drowning Prevention Coalition's Learn to Swim Program. These standard agreements have been fully executed by the Fire Rescue Administrator, and are now being submitted to the Board as a receive and file agenda item in accordance with Countywide PPM CW-O-051 for the Clerk and Comptroller's Office to receive and file. Countywide (SB)

Background and Justification: The Palm Beach County Drowning Prevention Coalition Learn to Swim Program distributes vouchers to the public, which may be redeemed for swimming lessons at designated aquatic facilities within Palm Beach County.

Attachments:

- 1) Interlocal Agreement with the City of Boynton Beach
- 2) Interlocal Agreement with the City of Delray Beach
- 3) Independent Contractor Agreement with the Young Men's Christian Association of South Palm Beach County, Inc.

Recommended by:	 Division Chief	 Date
Approved by:	 Fire Rescue Administrator	 Date
Approved by:	 Assistant County Administrator	 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

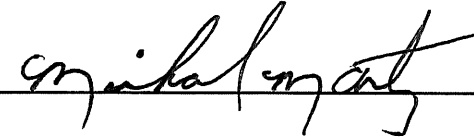
Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____*	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____0_____	_____	_____	_____	_____

Is Item Included in Proposed Budget? Yes X No _____
Does this item include the use of federal funds? Yes _____ No X

Budget Account No.: Fund 1300 Dept 440 Unit 4244 Rev Source 3401

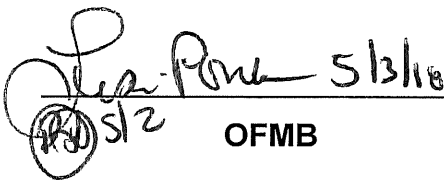
B. Recommended Sources of Funds/Summary of Fiscal Impact:

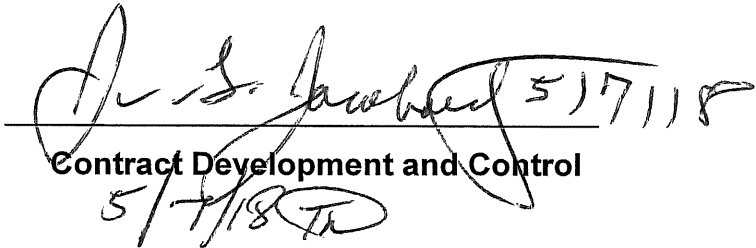
* These agreements will result in the County funding up to \$50.00 per voucher that is redeemed. However, the vouchers being issued/redeemed are limited to the available balance of funds allocated to this program and therefore, the fiscal impact is undetermined at this time.

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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


OFMB


Contract Development and Control

B. Legal Sufficiency


Assistant County Attorney

C. Other Department Review:

Department Director

**INTERLOCAL AGREEMENT
FOR SWIMMING LESSONS**

This Agreement is made as of the 10th day of April, 2018, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and the City of Boynton Beach, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter referred to as "MUNICIPALITY").

WHEREAS, COUNTY, through its Drowning Prevention Coalition's ("DPC") Learn to Swim Program, distributes vouchers to the public which may be redeemed for swimming lessons at designated aquatic facilities within Palm Beach County; and

WHEREAS, the parties desire to enter into this Agreement for MUNICIPALITY to provide swimming lessons as part of the DPC Learn to Swim Program, and to define the parties' responsibilities relating thereto.

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities.

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

ARTICLE 1 - SERVICES

MUNICIPALITY shall offer and provide swimming lesson classes to individuals who present vouchers issued by the DPC Learn to Swim Program. Each class to be offered and provided shall consist of a series of at least six swimming lessons and shall be identified in **Exhibit A**, attached hereto and incorporated herein. **Exhibit A** shall set forth the name, type, swimming level, dates, location, minimum participation requirements, if any, and MUNICIPALITY'S usual and customary fee for each class. MUNICIPALITY shall not charge voucher holders for any swim class for which MUNICIPALITY'S usual and customary fee is \$50.00 or less. If MUNICIPALITY'S usual and customary fee for a swim class is more than \$50.00, then the maximum fee that MUNICIPALITY may charge voucher holders for said class is its usual and customary fee minus \$50.00. Said classes may be open to the public and are not restricted to voucher holders.

The swimming lesson classes shall be provided at MUNICIPALITY'S aquatic facility. MUNICIPALITY agrees to provide and maintain its facility in a safe, clean and hygienic manner and in accordance with all safety and health standards and all other applicable laws and regulations. MUNICIPALITY agrees to provide and maintain in proper working order all equipment necessary to provide and maintain the services and facility as provided herein. MUNICIPALITY represents and warrants that its aquatic facility is in compliance, and shall continue to be in compliance, with Section 514.031, Florida Statutes, all applicable rules and requirements of the State and County Health Departments, and all other applicable laws, rules and regulations. Prior to execution of this Agreement, MUNICIPALITY must provide to

COUNTY copies of the facility's current operating permit and most current inspection report, which must evidence a satisfactory inspection.

MUNICIPALITY shall perform the services set forth herein in accordance with all applicable laws, rules and regulations, and in a competent, professional, safe and responsible manner with full regard for the safety of the participants. MUNICIPALITY agrees and warrants that all swimming instructors utilized by MUNICIPALITY to provide lessons hereunder shall be certified as required by Section 514.071, Florida Statutes, and any other applicable laws, rules and regulations. MUNICIPALITY shall provide proof of such certifications to COUNTY'S representative upon request. MUNICIPALITY represents and warrants that it has in place, and shall continue to maintain, a drug-free workplace policy.

ARTICLE 2 – COMMENCEMENT AND TERM

This Agreement shall commence on March 1, 2018 and shall remain in effect until September 30, 2018.

ARTICLE 3 - PAYMENTS TO MUNICIPALITY

- A. For swimming classes provided by MUNICIPALITY in exchange for DPC Learn to Swim Program vouchers, COUNTY shall pay MUNICIPALITY its usual and customary fee per class as set forth in **Exhibit A** hereto, up to a maximum of \$50.00 per class series provided to a voucher holder. As provided in Resolution No. R-2005-1906, the total payments to all swimming lesson providers utilized in the DPC Learn to Swim Program for each fiscal year shall not exceed the amount budgeted by COUNTY for this purpose for said fiscal year.
- B. MUNICIPALITY shall invoice COUNTY monthly based on the number of swimming lesson classes provided hereunder. Invoices shall include a list of the names and contact information of students to whom lessons were actually provided, the name, dates, and times of the classes provided, and any other documentation deemed necessary by COUNTY to verify that services have been rendered in conformity with this Agreement and any applicable DPC Learn to Swim Program criteria, policies and procedures.

ARTICLE 4 - TERMINATION

The COUNTY may terminate this Agreement at any time upon written notice to the MUNICIPALITY with or without cause and without penalty, damages or recourse against COUNTY. MUNICIPALITY may terminate this Agreement upon thirty days (30) days' prior written notice to the COUNTY.

ARTICLE 5 - PERSONNEL

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

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

The MUNICIPALITY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 6 - SUBCONTRACTING

MUNICIPALITY may not, without written approval of COUNTY, subcontract any rights, responsibilities or obligations under this Agreement.

ARTICLE 7 - AVAILABILITY OF FUNDS

The COUNTY'S performance under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners and subject to the provisions of Palm Beach County Resolution No. R-2005-1906. The MUNICIPALITY'S performance under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by its governing body.

ARTICLE 8 - INSURANCE

Without waiving the right to sovereign immunity as provided by *s.768.28 f.s.*, MUNICIPALITY acknowledges to be self-insured for General Liability, Automobile Liability and Professional Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event MUNICIPALITY maintains third-party Commercial General Liability, Business Auto Liability and Professional Liability in lieu of exclusive reliance of self-insurance under *s.768.28 f.s.*, MUNICIPALITY shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

MUNICIPALITY agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statutes.

When requested, MUNICIPALITY shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve MUNICIPALITY of its liability and obligations under this Agreement.

ARTICLE 9 - INDEMNIFICATION

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, COUNTY shall indemnify, defend and hold harmless MUNICIPALITY against any actions, claims or damages arising out of COUNTY'S negligence in connection with this Agreement, and MUNICIPALITY shall indemnify, defend and hold harmless COUNTY against any actions,

claims, or damages arising out of MUNICIPALITY'S negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

ARTICLE 10 - SUCCESSORS AND ASSIGNS

Neither party shall assign, delegate or otherwise transfer its rights and obligations as set forth in this Agreement to any other entity without the prior written consent of the other party.

ARTICLE 11 - REMEDIES

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

No provision of this Agreement is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or MUNICIPALITY.

ARTICLE 12 - CONFLICT OF INTEREST

The MUNICIPALITY represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes and the Palm Beach County Code of Ethics. The MUNICIPALITY further represents that no person having any such conflict of interest shall be employed for said performance of services.

The MUNICIPALITY shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the MUNICIPALITY'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the MUNICIPALITY may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the MUNICIPALITY. The COUNTY agrees to notify the MUNICIPALITY of its opinion by certified mail within thirty (30) days of receipt of notification by the MUNICIPALITY. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the MUNICIPALITY, the COUNTY shall so state in the notification and the MUNICIPALITY shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the MUNICIPALITY under the terms of this Agreement.

ARTICLE 13 - EXCUSABLE DELAYS

MUNICIPALITY shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of MUNICIPALITY or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon MUNICIPALITY'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the MUNICIPALITY'S failure to perform was without its or its subcontractors fault or negligence, the Agreement schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 14 - ARREARS

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

ARTICLE 15 – PUBLIC RECORDS

The MUNICIPALITY shall comply with Florida's Public Records Law with regard to any documents or other records relating to this Agreement.

ARTICLE 16 - INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 17 - CONTINGENT FEES

The MUNICIPALITY warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the MUNICIPALITY to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the MUNICIPALITY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 18 - ACCESS AND AUDITS

The MUNICIPALITY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the MUNICIPALITY'S place of business.

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

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

ARTICLE 19 - NONDISCRIMINATION

The MUNICIPALITY 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 or expression, or genetic information.

ARTICLE 20 - AUTHORITY TO PRACTICE

The MUNICIPALITY 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 the COUNTY's representative upon request.

ARTICLE 21 - SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 22- PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the MUNICIPALITY certifies that it, its affiliates, suppliers, subcontractors and contractors 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).

ARTICLE 23 - SURVIVABILITY

Any covenant, agreement, representation, warranty or other provision of this Agreement that is of a continuing nature or which by its language or its nature imposes an obligation that extends beyond the term of this Agreement, including but not limited to representations relating to indemnification and the disclosure or ownership of documents, shall survive the expiration or early termination of this Agreement and the consummation of the transactions contemplated hereunder.

ARTICLE 24 - NOTICE

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Palm Beach County Fire-Rescue
405 Pike Road
West Palm Beach, FL 33411-3815
Attn: Fire Rescue Administrator

If sent to the MUNICIPALITY, notices shall be addressed to:

City of Boynton Beach
John H. Denson Pool
225 Northwest 12th Avenue
Boynton Beach, FL 33425
Attn: Crystal Quesada, Aquatics Supervisor

ARTICLE 25 - FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

ARTICLE 26 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the MUNICIPALITY 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 unless agreed to in writing by both parties. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns and successors in interest.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY, and MUNICIPALITY has hereunto set its hand the day and year above written.

WITNESS

Wendi Mason
Signature

Wendi Mason
Name (type or Print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Shawn Burr
County Attorney

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

By: Michael C. Mackey
Michael Mackey, Fire Rescue Administrator,
through Verdenia C. Baker, County Administrator

APPROVED AS TO TERMS
AND CONDITIONS

By: W. J. Truitt
Palm Beach County Fire Rescue

ATTEST:

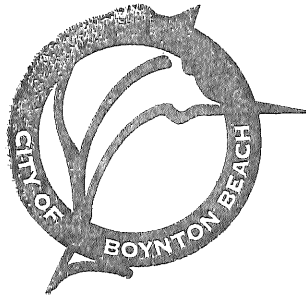
By: Judith A. Pyle
City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: [Signature]
City Attorney

CITY OF BOYNTON BEACH, FLORIDA

By: Lori LaVerriere
Lori LaVerriere, City Manager



John H. Denson Pool

225 NW 12TH Ave

Boynton Beach, FL 33435

561-742-6645

Learn to Swim

Children will learn basic water safety and swimming skills as a group. Children **MUST** be potty-trained (not including ages 6 months – 3 years in the Parent & Tot classes). Please note that there are **NO REFUNDS** and no make-up classes for classes cancelled due to inclement weather. We offer free assessment on water skills upon request.

Fees are:

\$40 Residents

\$50 Non-Resident

Parent & Tot is an introductory course for ages 6 months to 3 years, teaching swimming readiness skills. Providing safety information for parents and teaching techniques parents can use to orient their child to the water. 1:10 ratio, with 4 minimum in a class; 30 minutes. Swim diaper and swim cover is needed for class for those not toilet trained.

Preschool I is to familiarize children approximately 4 and 5 years old to the aquatic environment and help them get the basic aquatic skills. Help participants begin to develop positive attitude and safe practice in and around the water. 1:6 ratio with 4 minimum in a class; 30 minutes.

Preschool II is children approximately 4 and 5 years old and are built on improving the skills learned in Preschool I. In addition, increase knowledge of water safety topics. Prerequisites: must successfully demonstrate the Preschool 1 exit skills. 1:6 ratio with 4 minimum in a class and; 30 minutes

Level I (ages usually 6 & up) is for those who have never had lessons, cannot swim, or are not comfortable in the water. Children will learn basic water safety and swimming skills at a beginner level. In order to progress to Level II, must successfully demonstrate Level I exit skills. 1:6 ratio, with 4 minimum in a class; 30 minutes

Level II (ages usually 6 & up) is for those who have had lessons, can swim a minimum of 5 yards and float on their back. Children will develop swimming techniques and must successfully demonstrate Level II exit skills, to move to the next level. 1:6 ratio, with 4 minimum in a class; 30 minutes

Level III (ages usually 6 & up), will practice stroke refinement at an advanced level in order to advance to a Recreation Swim League or pre-competition level. Children must be able to swim

25 yards on their front and 15 yards on their back. 1:6 ratio, with 4 minimum in a class; 30 minutes

Private Swim Lessons

Children will learn basic water safety and swimming skills: 1:1 ratio. \$15R \$18 NR 30 minutes (per class)

***All dates and times are subject to change due to weather and staffing.**

Level	Day	Time
Parent & Tot	Weekday	4:00 – 4:30P
	Saturday	10:00 – 10:30A
Preschool I	Weekday	4:30 - 5:00P
	Saturday	10:00 – 10:30A
Preschool II	Weekday	4:30 - 5:00P
	Saturday	10:30 – 11:00A
Levels I	Weekdays	5:00 – 5:30P
	Saturdays	10:30 - 11:00A
Level II	Weekdays	5:00 – 5:30P
	Saturday	11:00 – 11:30a
Level III	Weekdays	5:30P – 6:00P
	Saturdays	11:00 – 11:30A
Adult	Weekdays	5:30P – 6:00P
	Saturday	11:30A – 12:00P

	T/TH	W/F	Saturday
Session 1	6/12 - 7/5	6/13 – 7/11*	7/14 – 9/1
Session 2	7/17 – 8/9	7/18 – 8/10	
Session 3	8/21 – 9/13	8/22 – 9/14	

- No class July 4th

**INTERLOCAL AGREEMENT
FOR SWIMMING LESSONS**

This Agreement is made as of the 16th day of April, 2018, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and the City of Delray Beach, a Florida municipal corporation located in Palm Beach County, Florida (hereinafter referred to as "MUNICIPALITY").

WHEREAS, COUNTY, through its Drowning Prevention Coalition's ("DPC") Learn to Swim Program, distributes vouchers to the public which may be redeemed for swimming lessons at designated aquatic facilities within Palm Beach County; and

WHEREAS, the parties desire to enter into this Agreement for MUNICIPALITY to provide swimming lessons as part of the DPC Learn to Swim Program, and to define the parties' responsibilities relating thereto.

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities.

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COUNTY copies of the facility's current operating permit and most current inspection report, which must evidence a satisfactory inspection.

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This Agreement shall commence on March 1, 2018 and shall remain in effect until September 30, 2018.

ARTICLE 3 - PAYMENTS TO MUNICIPALITY

- A. For swimming classes provided by MUNICIPALITY in exchange for DPC Learn to Swim Program vouchers, COUNTY shall pay MUNICIPALITY its usual and customary fee per class as set forth in **Exhibit A** hereto, up to a maximum of \$50.00 per class series provided to a voucher holder. As provided in Resolution No. R-2005-1906, the total payments to all swimming lesson providers utilized in the DPC Learn to Swim Program for each fiscal year shall not exceed the amount budgeted by COUNTY for this purpose for said fiscal year.
- B. MUNICIPALITY shall invoice COUNTY monthly based on the number of swimming lesson classes provided hereunder. Invoices shall include a list of the names and contact information of students to whom lessons were actually provided, the name, dates, and times of the classes provided, and any other documentation deemed necessary by COUNTY to verify that services have been rendered in conformity with this Agreement and any applicable DPC Learn to Swim Program criteria, policies and procedures.

ARTICLE 4 - TERMINATION

The COUNTY may terminate this Agreement at any time upon written notice to the MUNICIPALITY with or without cause and without penalty, damages or recourse against COUNTY. MUNICIPALITY may terminate this Agreement upon thirty days (30) days' prior written notice to the COUNTY.

ARTICLE 5 - PERSONNEL

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

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

The MUNICIPALITY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 6 - SUBCONTRACTING

MUNICIPALITY may not, without written approval of COUNTY, subcontract any rights, responsibilities or obligations under this Agreement.

ARTICLE 7 - AVAILABILITY OF FUNDS

The COUNTY'S performance under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners and subject to the provisions of Palm Beach County Resolution No. R-2005-1906. The MUNICIPALITY'S performance under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by its governing body.

ARTICLE 8 - INSURANCE

Without waiving the right to sovereign immunity as provided by *s.768.28 f.s.*, MUNICIPALITY acknowledges to be self-insured for General Liability, Automobile Liability and Professional Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event MUNICIPALITY maintains third-party Commercial General Liability, Business Auto Liability and Professional Liability in lieu of exclusive reliance of self-insurance under *s.768.28 f.s.*, MUNICIPALITY shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

MUNICIPALITY agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Chapter 440, Florida Statutes.

When requested, MUNICIPALITY shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve MUNICIPALITY of its liability and obligations under this Agreement.

ARTICLE 9 - INDEMNIFICATION

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, COUNTY shall indemnify, defend and hold harmless MUNICIPALITY against any actions, claims or damages arising out of COUNTY'S negligence in connection with this Agreement, and MUNICIPALITY shall indemnify, defend and hold harmless COUNTY against any actions,

claims, or damages arising out of MUNICIPALITY'S negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

ARTICLE 10 - SUCCESSORS AND ASSIGNS

Neither party shall assign, delegate or otherwise transfer its rights and obligations as set forth in this Agreement to any other entity without the prior written consent of the other party.

ARTICLE 11 - REMEDIES

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

No provision of this Agreement is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or MUNICIPALITY.

ARTICLE 12 - CONFLICT OF INTEREST

The MUNICIPALITY represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes and the Palm Beach County Code of Ethics. The MUNICIPALITY further represents that no person having any such conflict of interest shall be employed for said performance of services.

The MUNICIPALITY shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the MUNICIPALITY'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the MUNICIPALITY may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the MUNICIPALITY. The COUNTY agrees to notify the MUNICIPALITY of its opinion by certified mail within thirty (30) days of receipt of notification by the MUNICIPALITY. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the MUNICIPALITY, the COUNTY shall so state in the notification and the MUNICIPALITY shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the MUNICIPALITY under the terms of this Agreement.

ARTICLE 13 - EXCUSABLE DELAYS

MUNICIPALITY shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of MUNICIPALITY or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon MUNICIPALITY'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the MUNICIPALITY'S failure to perform was without its or its subcontractors fault or negligence, the Agreement schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 14 - ARREARS

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

ARTICLE 15 – PUBLIC RECORDS

The MUNICIPALITY shall comply with Florida's Public Records Law with regard to any documents or other records relating to this Agreement.

ARTICLE 16 - INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 17 - CONTINGENT FEES

The MUNICIPALITY warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the MUNICIPALITY to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the MUNICIPALITY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 18 - ACCESS AND AUDITS

The MUNICIPALITY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the MUNICIPALITY'S place of business.

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

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

ARTICLE 19 - NONDISCRIMINATION

The MUNICIPALITY 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 or expression, or genetic information.

ARTICLE 20 - AUTHORITY TO PRACTICE

The MUNICIPALITY 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 the COUNTY's representative upon request.

ARTICLE 21 - SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 22- PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the MUNICIPALITY certifies that it, its affiliates, suppliers, subcontractors and contractors 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).

ARTICLE 23 - SURVIVABILITY

Any covenant, agreement, representation, warranty or other provision of this Agreement that is of a continuing nature or which by its language or its nature imposes an obligation that extends beyond the term of this Agreement, including but not limited to representations relating to indemnification and the disclosure or ownership of documents, shall survive the expiration or early termination of this Agreement and the consummation of the transactions contemplated hereunder.

ARTICLE 24 - NOTICE

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Palm Beach County Fire Rescue
405 Pike Road
West Palm Beach, FL 33411-3815
Attn: Fire Rescue Administrator

If sent to the MUNICIPALITY, notices shall be addressed to:

City of Delray Beach Parks and Recreation Department
50 NW 1st Avenue
Delray Beach, FL 33444
Attn: Suzanne Fisher, Director

ARTICLE 25 - FILING

A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

ARTICLE 26 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the MUNICIPALITY 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 unless agreed to in writing by both parties. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns and successors in interest.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY, and MUNICIPALITY has hereunto set its hand the day and year above written.

WITNESS


Signature

Laura A. Chan
Name (type or Print)

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

By: ~~Michael Mackey~~ Michael C. Mackey
~~Jeffrey P. Collins~~, Fire Rescue Administrator,
through Verdenia C. Baker, County Administrator

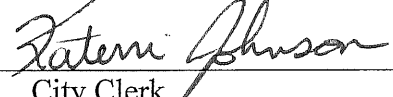
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney


APPROVED AS TO TERMS
AND CONDITIONS

By: 
Palm Beach County Fire Rescue

ATTEST:

By: 
City Clerk

CITY OF DELRAY BEACH, FLORIDA

By: 
Cary Glickstein, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 
City Attorney

Aquatics
Division

Exhibit A
Drowning Prevention Coalition of Palm Beach County

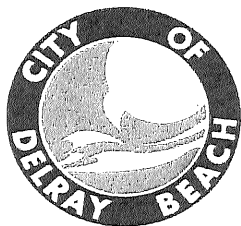
1101 NW 2nd Street
Delray Beach
Florida
33444

Phone
561. 243. 7358

Fax
561. 243. 7346

E-Mail
smithg@mydelraybeach.
com

On the Web



To: Drowning Prevention Coalition of Palm Beach County
From: Gerard Smith, Aquatic Operation Supervisor
Date: March 25, 2018 (Updated)
Details: 2018 Group Swim Lessons, Fees, Courses, Description, Instructor & Student Ratio
Locations: Delray Beach Aquatic Division
Pompey Park Pool (PP) at 1101 NW 2nd Street, Delray Beach, FL 33444
Delray Swim Club (DSC) at 2350 Jaeger Drive, Delray Beach , FL 33444
Fees: \$30.00 for Delray Beach Residents
\$40.00 for Delray Beach Non-Residents

Swim Lesson Instructed:
Spring Swim Lessons held during the month of March to June
Session I (04/10/18-04/26/18) T/TH
Session II (06/05/18-06/25/18) T/TH
Session III (06/09/18-07/14/18) Sa

Summer Swim Lesson held during the month of June to August
Session I (07/03/18-07/19/18) T/TH
Session II (07/31/18-08/16/18) T/TH
Session I (06/05/18-08/24/18) T-F (Camp Groups)

Course Descriptions/ Parent & Child 9-9:30 am & 10-10:30 am PP & DST
Number Enrolled/ Developed for children 6 months to 5 yrs. of age. American Red
Days Offered Cross standards readiness skills to move on to instruction classes and educate parents with water safety precautions
Saturday & T/TH Six session
One instructor /10 students

Level 1 Introduction to Water Skills, Level 2 Fundamental Aquatics Skills, &Level 3 Stroke Development
10-10:30a , 4-4:30p, 4:30-5pm, 5-5:30p
Introduction to Water Skills: Helps students feel comfortable in the water and enjoy with safety. Fundamental Skills start seeing children swim on the own with the guide of the instructor. Stroke Development build on to level 2 skills by providing additional guided and practice.
Saturday & T/TH Six session
One instructor/6 students LV 1/2
One instructor/10 students LV 3

Gerard A. Smith
Aquatic Operation Supervisor

INDEPENDENT CONTRACTOR AGREEMENT FOR SWIMMING LESSONS

This Agreement is made as of the 20th day of April, 2018, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and Young Men's Christian Association of South Palm Beach County, Inc., an entity authorized to do business in the State of Florida and whose Federal I.D. Number is 59-1416281 (hereinafter referred to as "CONTRACTOR").

WHEREAS, COUNTY, through its Drowning Prevention Coalition's ("DPC") Learn to Swim Program, distributes vouchers to the public which may be redeemed for swimming lessons at designated aquatic facilities within Palm Beach County; and

WHEREAS, the parties desire to enter into this Agreement for CONTRACTOR to provide swimming lessons as part of the DPC Learn to Swim Program, and to define the parties' responsibilities relating thereto.

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

ARTICLE 1 - SERVICES

CONTRACTOR shall offer and provide swimming lesson classes to individuals who present vouchers issued by the DPC Learn to Swim Program. Each class to be offered and provided shall consist of a series of at least six swimming lessons and shall be as identified in **Exhibit A**, attached hereto and incorporated herein. **Exhibit A** shall set forth the name, type, swimming level, dates, location, minimum participation requirements, if any, and CONTRACTOR'S usual and customary fee for each class. CONTRACTOR shall not charge voucher holders for any swim class for which CONTRACTOR'S usual and customary fee is \$50.00 or less. If CONTRACTOR'S usual and customary fee for a swim class is more than \$50.00, then the maximum fee that CONTRACTOR may charge voucher holders for said class is its usual and customary fee, minus \$50.00. Said classes may be open to the public and are not restricted to voucher holders.

The swimming lesson classes shall be provided at CONTRACTOR'S aquatic facility. CONTRACTOR agrees to provide and maintain its facility in a safe, clean and hygienic manner and in accordance with all safety and health standards and all other applicable laws and regulations. CONTRACTOR agrees to provide and maintain in proper working order all equipment necessary to provide and maintain the services and facility as provided herein. CONTRACTOR represents and warrants that its aquatic facility is in compliance, and shall continue to be in compliance, with Section 514.031, Florida Statutes, all applicable rules and requirements of the State and County Health Departments, and all other applicable laws, rules and regulations. Prior to execution of this Agreement, CONTRACTOR must provide to COUNTY copies of the facility's current operating permit and most current inspection report, which must evidence a satisfactory inspection.

CONTRACTOR shall perform the services set forth herein in accordance with all applicable laws, rules and regulations, and in a competent, professional, safe and responsible manner with full regard for the safety of the participants. CONTRACTOR agrees and warrants that all

swimming instructors utilized by CONTRACTOR to provide lessons hereunder shall be certified as required by Section 514.071, Florida Statutes, and any other applicable laws, rules and regulations. CONTRACTOR shall provide proof of such certifications to COUNTY'S representative upon request. CONTRACTOR represents and warrants that it has in place, and shall continue to maintain, a drug-free workplace policy.

ARTICLE 2 – COMMENCEMENT AND TERM

This Agreement shall commence on March 1, 2018 and shall remain in effect until September 30, 2018.

ARTICLE 3 - PAYMENTS TO CONTRACTOR

- A. For swimming classes provided by CONTRACTOR in exchange for DPC Learn to Swim Program vouchers, COUNTY shall pay CONTRACTOR its usual and customary fee per class as set forth in **Exhibit A** hereto, up to a maximum of \$50.00 per class series provided to a voucher holder. As provided in Resolution No. R-2005-1906, the total payments to all swimming lesson providers utilized in the DPC Learn to Swim Program for each fiscal year shall not exceed the amount budgeted by COUNTY for this purpose for said fiscal year.
- B. CONTRACTOR shall invoice COUNTY monthly based on the number of swimming lesson classes provided hereunder. Invoices shall include a list of the names and contact information of students to whom lessons were actually provided, the name, dates, and times of the classes provided, and any other documentation deemed necessary by COUNTY to verify that services have been rendered in conformity with this Agreement and any applicable DPC Learn to Swim Program criteria, policies and procedures.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by the CONTRACTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside contractors. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

The COUNTY may terminate this Agreement at any time upon written notice to the CONTRACTOR with or without cause and without penalty, damages or recourse against COUNTY. CONTRACTOR may terminate this Agreement upon thirty days (30) days' prior written notice to the COUNTY.

ARTICLE 6 - PERSONNEL

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

All of the services required hereunder 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 and permitted under state and local law to perform such services.

The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 7 - SUBCONTRACTING

CONTRACTOR may not, without written approval of COUNTY, subcontract any rights, responsibilities or obligations under this Agreement.

ARTICLE 8 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

ARTICLE 9 - AVAILABILITY OF FUNDS

The COUNTY'S performance under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners and subject to the provisions of Palm Beach County Resolution No. R-2005-1906.

ARTICLE 10 - INSURANCE

CONTRACTOR shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under this Agreement.

Commercial General Liability CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by COUNTY'S Risk Management Department. CONTRACTOR shall provide this coverage on a primary basis.

Worker's Compensation Insurance & Employers Liability CONTRACTOR shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONTRACTOR shall provide this coverage on a primary basis.

Professional Liability CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than 3 years. CONTRACTOR shall provide this coverage on a primary basis.

Additional Insured CONTRACTOR shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONTRACTOR shall provide the Additional Insured endorsements coverage on a primary basis.

Waiver of Subrogation CONTRACTOR hereby waives any and all rights of Subrogation against COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance Prior to execution of this Agreement, CONTRACTOR shall deliver to the COUNTY a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.

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

ARTICLE 11 - INDEMNIFICATION

CONTRACTOR shall protect, defend, reimburse, indemnify and hold harmless COUNTY, its agents, employees and elected officers from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of CONTRACTOR, including but not limited to claims of negligent maintenance, negligent instruction or negligent supervision.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

Neither party shall assign, delegate or otherwise transfer its rights and obligations as set forth in this Agreement to any other entity without the prior written consent of the other party.

ARTICLE 13 - REMEDIES

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

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

ARTICLE 14 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes and the Palm Beach County Code of Ethics. The CONTRACTOR further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONTRACTOR shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgement or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall,

at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Agreement.

ARTICLE 15 - EXCUSABLE DELAYS

CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONTRACTOR'S failure to perform was without its or its subcontractors fault or negligence, the Agreement schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 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, judgement, 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.

ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Agreement.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Agreement for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP

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

relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

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

ARTICLE 19 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 20 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR'S place of business.

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

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

ARTICLE 21 - NONDISCRIMINATION

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

ARTICLE 22 - AUTHORITY TO PRACTICE

The CONTRACTOR 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 the COUNTY'S representative upon request.

ARTICLE 23 - 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.

ARTICLE 24- 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 contractors 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).

ARTICLE 25 – PUBLIC RECORDS

CONTRACTOR shall comply with Florida's Public Records Law with regard to any documents or other records relating to this Agreement.

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if CONTRACTOR: (i) provides a service; and (ii) acts on behalf of the COUNTY as provided under Section 119.011(2) F.S., CONTRACTOR shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. CONTRACTOR is specifically required to:

1. Keep and maintain public records required by the COUNTY to perform the service.
2. Upon request from the COUNTY's Custodian of Public Records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. CONTRACTOR further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
3. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of this Agreement if CONTRACTOR does not transfer the records to the COUNTY.
4. Upon completion of this Agreement, CONTRACTOR shall transfer, at no cost, to the COUNTY, all public records in possession of CONTRACTOR unless notified by COUNTY's representative/liaison, on behalf of the COUNTY's Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If CONTRACTOR transfers all public records to the COUNTY upon completion of this Agreement, CONTRACTOR shall destroy any duplicate public

records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically by CONTRACTOR must be provided to the COUNTY, upon request of the COUNTY's Custodian of Public Records, in a format that is compatible with the information technology systems of the COUNTY, at no cost to the COUNTY.

Failure of CONTRACTOR to comply with the requirements of this subsection shall be a material breach of this Agreement. The COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. CONTRACTOR acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

ARTICLE 26 - SURVIVABILITY

Any covenant, agreement, representation, warranty or other provision of this Agreement that is of a continuing nature or which by its language or its nature imposes an obligation that extends beyond the term of this Agreement, including but not limited to representations relating to indemnification and the disclosure or ownership of documents, shall survive the expiration or early termination of this Agreement and the consummation of the transactions contemplated hereunder.

ARTICLE 27 - NOTICE

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Palm Beach County Fire-Rescue
405 Pike Road
West Palm Beach, FL 33411
Attn: Fire-Rescue Administrator

If sent to the CONTRACTOR, notices shall be addressed to:

DeVos-Blum Family YMCA of Boynton Beach
9600 South Military Trail
Boynton Beach, FL 33436
Attn: Cindy Dube, Aquatics Director

ARTICLE 28 - 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 unless agreed to in writing by both parties. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns and successors in interest.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY, and CONTRACTOR has hereunto set its hand the day and year above written.

WITNESS

ckopelakis
Signature
CARRIE-ANN KOPELAKIS
Name (type or Print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: John Burr
County Attorney

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

By: Michael Mackey Michael C. Mackey
~~Jeffrey P. Collins~~, Fire-Rescue Administrator,
through Verdenia C. Baker, County Administrator

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
Palm Beach County Fire-Rescue

WITNESS

C. Duke
Signature
Cindy Duke
Name (type or print)

YOUNG MEN'S CHRISTIAN ASSOCIATION
OF SOUTH PALM BEACH COUNTY, INC.

By: [Signature]
Signature
JASON Hagensick
Name (type or print)
PRESIDENT AND CEO
Title (type or print)

WITNESS

[Signature]
Signature
Steven Stankovic
Name (type or print)

YOUTH DEVELOPMENT

SWIM, SPORTS & PLAY

SWIMMING LESSONS

Everyday at the YMCA, children are learning valuable lessons in swimming and enhancing their skills with the Y's progressive swim lessons. Our kids are having fun, being healthy, learning safety and building confidence all at the same time. The Y ensures a low instructor-to-student ratio to make sure our kids get plenty of personal attention. And with our wide selection of classes and schedules, you're sure to find one that fits your child's needs and your schedule.

- * Pre-registration is required for all swim programs. Class space is limited.
- * A minimum of three (3) participants must be registered in a program in order for the YMCA to run a class. Credits or refunds will be issued when a class does meet the minimum enrollment.
- * Registration must be cancelled prior to the session start date to receive a full refund or credit.
- * Inclement weather, which prohibits students to enter the water will result in cancelled lessons. We guarantee 7 out of 8 classes. If more than 1 lesson is cancelled by the YMCA for any reason make ups or credits will be given.
- * NO refunds, credits, make-ups will be issued for missed classes such as vacations or other prior engagements. Credits may be issued for medical reasons only with a physician's note and be approved by the Aquatics Director.
- * Registration for classes does not automatically repeat. Parents must register for each session.

Session Dates:

Monday/Wednesday & Tuesday/
Thursday
4 Week Sessions:

April 30 - May 31, 2018 *Memorial Day make up 5/18
June 4 - 28, 2018

July 4 - 26, 2018 *July 4th make up 7/13/18

August 1 - 30, 2018

September 3 - 7 CLOSED FOR MAINTENANCE

Contact:

Nicole Leno

561-395-9622

nleno@ymcaspbc.org

6631 Palmetto Circle South

Boca Raton, FL 33433

*All dates are subject to change

Saturday Classes 8 week session Swim Lesson Class Ratio:
May 5 - June 30, 2018 3-5 years: Pre School Age - 6:1
July 7 - August 25, 2018 12 years & up: Youth Age - 8/10:1

Class
Preschool Age Lessons
Stage 1 & 2
30 Min class

Weekdays:
4:00 PM
4:30 PM
5:00 PM
5:30 PM

Saturdays:
9:00 AM
10:00 AM
11:00 AM

Times
Youth Age Lessons
Stage 1 & 2
45 Min Class

Weekdays:
4:00 PM
5:00 PM
6:00 PM

Saturdays:
9:00 AM
10:00 AM
11:00 AM

Swim Lesson Rates:
\$65- Member per session
\$145 - Non Member per session
\$15 - DPC Vouchers Participants

YOUTH DEVELOPMENT

SWIM, SPORTS & PLAY

SWIMMING LESSONS

Everyday at the YMCA, children are learning valuable lessons in swimming and enhancing their skills with the Y's progressive swim lessons. Our kids are having fun, being healthy, learning safety and building confidence all at the same time. The Y ensures a low instructor-to-student ratio to make sure our kids get plenty of personal attention. And with our wide selection of classes and schedules, you're sure to find one that fits your child's needs and your schedule.

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Session Dates:

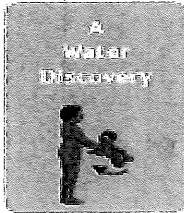

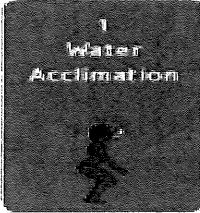
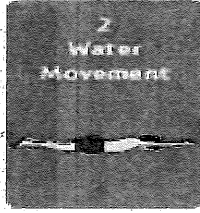
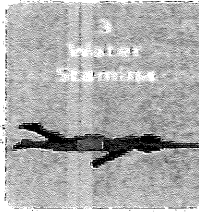
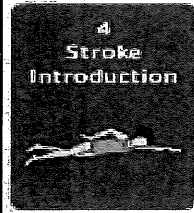
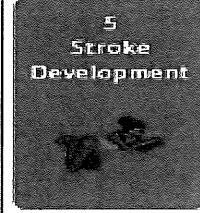
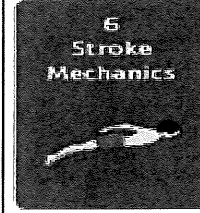
Monday/Wednesday & Tuesday/Thursday
4 Week Sessions: April 30 - May 31, 2018 *Memorial Day make up 5/18
Saturday Classes 8 week sessions: May 5 - June 30, 2018
Swim Lesson Class Ratio:
3-5 years: Pre School Age - 6:1
12 years & up: Youth Age - 8/10:1

		Class	Times	Swim Lesson Rates:
June 4 - 28, 2018		Preschool Age Lessons	Youth Age Lessons	\$65- Member per session
July 4 - 26, 2018 *July 4th make up 7/13/18		Stage 1 & 2	Stage 1 & 2	\$145 - Non Member per session
August 1 - 30, 2018		30 Min class	45 Min Class	\$15 - DPC Vouchers Participants
September 3 - 7 CLOSED FOR MAINTENANCE		Weekdays:	Weekdays:	
Contact:		4:00 PM	4:00 PM	
Cindy Dube		4:30 PM	5:00 PM	
561-738-9622		5:00 PM	6:00 PM	
cdube@ymcaspb.org		5:30 PM		
9600 S. Military Trail		Saturdays:	Saturdays:	
Boynton Beach, FL 33436		9:00 AM	9:00 AM	
		10:00 AM	10:00 AM	
		11:00 AM	11:00 AM	
*All dates are subject to change				



Y Swim Lessons Stage Description

Swim Starters: 6 months to 2 years old
Preschool Age Groups: Stages 1 thru 4: 3 yrs to 5 yrs old
Youth Age Group: Stages 1 thru 6: 6 yrs to 11yrs

Swim Starters		Swim Basics			Swim Strokes		
 <p>A Water Discovery</p>	 <p>B Water Exploration</p>	 <p>1 Water Acclimation</p>	 <p>2 Water Movement</p>	 <p>3 Water Stamina</p>	 <p>4 Stroke Introduction</p>	 <p>5 Stroke Development</p>	 <p>6 Stroke Mechanics</p>
<p>Parents accompany children in this stage, which introduces infants and toddlers to the aquatic environment through exploration and encourages them to enjoy themselves while learning about the water.</p>		<p>Increases comfort with Underwater exploration and introduces basic self-rescue skills performed with assistance.</p>			<p>Introduces basic stroke technique in front crawl and reinforces water safety through treading water and elementary backstroke.</p>		
<p>Parents work with their children to explore body positions, floating, blowing bubbles, and fundamental safety skills.</p>		<p>Encourages forward movement in water and basic self-rescue skills performed independently.</p>			<p>Introduces breaststroke and butterfly and reinforces water safety through treading water and sidestroke.</p>		
		<p>Developes intermediate self-rescue skills performed at longer distances than in previous stages.</p>			<p>Refines stroke technique on all major competitive strokes and encourages swimming as part of a healthy lifestyle.</p>		