

## AGREEMENT

Between

**Children's Services Council of Broward County**

and

**Broward County**

for

**SWIM Central**  
**PROGRAM**

**18-2500**  
**CONTRACT NUMBER**

This Agreement ("Agreement") entered into this **1st day of October 2021**, by and between the CHILDREN'S SERVICES COUNCIL OF BROWARD COUNTY, an independent special tax district of the State of Florida, hereinafter referred to as "CSC," and Broward County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY."

WHEREAS, this Agreement will enable COUNTY to provide services, not otherwise funded by any other public funding source;

WHEREAS, this community collaborative agreement is the fourth renewal of this funding relationship; and

WHEREAS, funding given to COUNTY has been found and declared to be for a public purpose.

NOW, THEREFORE, the Parties agree as follows:

### 1. TERMS OF AGREEMENT

The term of this agreement shall be for the period of **October 1, 2021**, through **September 30, 2022**. The Agreement may be renewed at the end of the term at the sole option of the CSC. This period shall be referred to as the "Agreement Term."

### 2. SCOPE OF WORK

- A. COUNTY agrees to provide the services and meet the Performance Measures set forth in Exhibit A, Scope of Work.
- B. Emergency Actions and Emergency Contract Changes: In the event of an immediate danger to public health, safety or welfare or in the event of substantial loss to CSC, the President/CEO is authorized to take such actions as the President/CEO deems reasonable or necessary in the circumstances, including without limitation, amendments, changes, waivers, suspensions, delays, terminations, etc. in then-existing awards, contracts, CSC policies and procedures, etc.; provided the circumstances of such emergency and such emergency actions are documented to the Council at the next meeting. These changes shall only be made upon agreement, in writing, with the County Administrator or designee.
- C. COUNTY agrees to attend seminars and/or training sessions as reasonably requested, by the CSC staff for the purpose of this Agreement.
- D. COUNTY agrees to comply with the Monitoring/Reporting Requirements specified in

Section 5 of this Agreement.

- E. Background Screening: COUNTY shall comply with Level 2 background screening and fingerprinting requirements in accordance with Department of Children and Families screening requirements set forth in Section 435.04, Florida Statutes, as applicable, and all applicable federal, state, county, city, and other government agency background screening requirements, as applicable.

### 3. ORDER OF PRECEDENCE

Intentionally Omitted.

### 4. FUNDING AND METHOD OF PAYMENT

- A. The annual maximum amount payable by the CSC to COUNTY for the Agreement Term, which is **FY 21/22**, under the terms of this AGREEMENT shall be **\$687,782** ("Contract Amount").
- B. COUNTY agrees to use the Contract Amount in conjunction with funds contributed by COUNTY and the School Board of Broward County totaling **\$743,646** (composed of **\$200,000** from The School Board of Broward County; and **\$552,349** from COUNTY, per Contract Year), as described in Exhibit A, Scope of Work, and Exhibit B, SWIM Central Collaborative Funders Budget.
- C. The CSC agrees to pay for units of service or other deliverables actually provided, invoiced and documented as specified in Exhibit A, Scope of Work. An original invoice, in the format prescribed by the CSC, is due on or before the tenth (10<sup>th</sup>) day of the calendar month following the month in which services were rendered. The CSC agrees to reimburse the COUNTY on a monthly billing basis before the end of each calendar month.
- D. COUNTY shall submit its final invoice for payment to the CSC no more than fifteen (15) days after this Agreement's end date. If COUNTY fails to do so, all rights to payment of such final invoice are forfeited and the CSC will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this Agreement may be withheld until all reports due from COUNTY are received by the CSC and any necessary adjustments thereto have been approved by the CSC.
- E. In the event this Agreement provides for more than one service or program, the CSC Programs Manager ("CSC Contract Manager") may shift funding between services and/or program(s) components, at any time, upon three (3) days prior written notice to COUNTY; however, the CSC Contract Manager may not increase funding in excess of the Contract Amount and the total of these adjustments shall not exceed twenty percent (20%) of the total Contract Amount.
- F. Submission of accurate, timely documentation and other requested information as required by the CSC shall be considered a factor in evaluating future funding requests. Invoices and/or documentation returned to COUNTY for corrections may not be considered as submitted and shall be cause for delay in receipt of reimbursement.
- G. COUNTY attests to the CSC that no other reimbursement is available or used for invoiced services unless expressly authorized by the CSC. This Agreement specifically excludes Medicaid covered services provided to Medicaid certified clients. COUNTY shall bill and pursue collection of third party and client payments (where applicable) for services rendered under this Agreement. In the event the CSC pays COUNTY for a service that later becomes eligible for Medicaid or other third-party

coverage, then COUNTY agrees to deduct the amount paid by the CSC on its next invoice. In the event COUNTY has submitted a final invoice, COUNTY shall reimburse the CSC in the amount received by Medicaid or other third-party payer within thirty (30) days of receipt of that Medicaid payment. COUNTY shall not be required to pay any interest on these reimbursed funds. Additionally, COUNTY must note in the client file the date when clients become eligible for Medicaid or other third-party payer. COUNTY shall keep accurate and complete records of any fees collected, reimbursement or compensation of any kind received from any client or from any client or other third party, for any service covered by this Agreement, and shall make all such records available to the CSC upon request. COUNTY shall report such fees; reimbursement, compensation, or funding to the CSC for such payments received which will be deducted from COUNTY's invoices.

- H. No capital equipment shall be purchased under this Agreement. Capital equipment is defined by the Florida Statutes, Chapter 274, as items with a value greater than \$5,000 which have a life expectancy of more than one year.
- I. COUNTY shall submit a W-9 IRS form providing the name, address, and Federal ID Number of the official payee to whom payment shall be made.
- J. It is COUNTY'S responsibility to advise the CSC Contract Manager, in writing, of changes to its address and/or telephone number.

## 5. MONITORING, REQUIRED RECORDS AND REPORTS

### A. MONITORING:

COUNTY agrees:

1. To assign appropriate staff as necessary to attend meetings with the CSC staff to discuss issues and recommendations concerning quality of service, service delivery systems, coordination of services, consumer satisfaction, records maintenance, and funding maximization.
2. To provide full access at administrative and service delivery sites to the CSC during all announced and unannounced visits, for the purpose of examination of records and data covered by this Agreement as well as observation of service delivery, and consumer/COUNTY staff interaction. The CSC and COUNTY shall maintain the confidentiality of client services and records in full accordance with any federal or state laws or regulations mandating such confidentiality.
3. To make all records and files pertaining to clients subject at all times to inspection, review, and/or audit by the CSC.

That, if documentation required by this Agreement is not readily available, then payments may be suspended until such time as COUNTY has rescheduled another monitoring appointment to occur within thirty (30) days.

4. To respond to any monitoring findings within the time frame specified therein, and that back-up documentation to be used to support the billings and outcomes provided shall be approved in writing by the CSC staff.
5. That findings of monitoring reports, responsiveness to corrective action, and all the performance requirements of this Agreement and timeliness of requested information shall be considered factors in evaluating future funding requests.
6. To provide the CSC access to records and client files developed relevant to this Agreement regarding assessment of Performance Measures beyond the

expiration of this Agreement, as applicable.

7. Any monitoring reports and/or accreditation reports from other agencies or funding sources for similar services provided shall be submitted to the CSC within thirty (30) days of receipt. Such reports shall be sent to the CSC Contract Manager.

#### B. REPORTS:

COUNTY agrees:

1. To comply and participate in any data collection as required by the CSC pertinent to the performance of the services provided in this Agreement. Also, COUNTY agrees to furnish the CSC with any and all reports required in this Agreement within the accompanying time requirements, as noted.
2. If COUNTY receives funding from another source to perform the services described in the Agreement, COUNTY will provide written notice of such funding specifics to the CSC Contract Manager.
3. Statistical Satisfaction Surveys: COUNTY agrees to maintain and report monthly (where applicable) information on client demographics which includes partial social security numbers, Broward County School's Student Identification numbers, age, gender, race, cultural influence, language spoken at home, country of birth, parental marital status, education levels and status in the CSC's Services and Activities Management Information System (SAMIS) or other format provided by, or approved in writing by, the CSC. COUNTY agrees to track overall client household income, other benefits received, types of services provided, and other information as required by the CSC. The CSC and COUNTY each agree to indemnify and hold harmless the other party against any claim against such other party for any alleged privacy violation by the indemnifying party, including, but not limited to, a violation of the Family Educational Rights and Privacy Act brought by the indemnifying party.
4. Client Satisfaction Surveys: COUNTY agrees to furnish the CSC with compiled results of any and all Client Satisfaction Surveys administered by COUNTY. Survey reports shall include the total number of surveys administered/mailed and the total number of surveys completed/returned. Upon the CSC's request, COUNTY shall submit raw data from all administered Client Satisfaction Surveys.  
  
The CSC may, at its discretion, administer or require COUNTY to administer Client Satisfaction Surveys, as deemed necessary. COUNTY shall provide necessary client information and facilitate the administration of Client Satisfaction Surveys, as directed by the CSC.
5. Client Performance Measure Data Reporting: COUNTY shall submit Client Performance Measure data, in the format provided by the CSC, within time frames set forth in Section III of Exhibit A. COUNTY shall also report any barriers experienced in outcome achievement. The report should also include any noteworthy activities that have occurred during the Agreement Term and such other information as requested.

6. Actual Expenditure Report: COUNTY shall submit to the CSC an Actual Expenditure Report which reports, by line item, actual expenditures incurred in the performance of this Agreement. The report shall be submitted in a format to be provided by the CSC. Such expenditure information will be used to compile historical unit cost data and to analyze appropriate funding levels. Significant discrepancies between budgeted and actual costs may result in recoupment of funds. A final Actual Expenditure Report shall be submitted through the SAMIS by COUNTY within sixty (60) days after the end of the Agreement Term.

C. OTHER REQUIREMENTS:

1. INTERNAL DOCUMENTATION

COUNTY agrees to maintain, in accordance with the state retention schedules, the following, as applicable: (1) Personnel files including hiring records, job descriptions, policies, evaluation procedures, and background screening results, (2) Authorized time sheets, records, and attendance sheets, (3) Daily activity log and monthly calendar, (4) Signature of person at sites authorizing presentations, (5) Training modules, (6) Pre and post session questionnaires, (7) Client information release form, (8) Community Resource Inventory Organizational Profile update, (9) Emergency Disaster Plan, and (10) Such other information as requested by the CSC for the purpose of this Agreement.

2. UNITS OF SERVICE

COUNTY shall document and maintain permanent client records that reflect individual beginning and ending service times, dates of services, and nature of service for all units of service provided under this Agreement.

3. TRACKING SYSTEM REQUIREMENTS

COUNTY shall comply with the SAMIS, as applicable, identifying all clients referred to and from the program(s) funded under this Agreement. This shall include, but not be limited to, client information related to client demographics, and identification, referral sources, outcome performance data, service provision data, and fiscal activities for all programs funded under this Agreement.

4. PRO CHILDREN ACT COMPLIANCE

COUNTY shall comply with Public Law 103227 Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor area routinely used or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education or library programs either directly or through State or local governments, by Federal grant, contract loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

5. REVENUE MAXIMIZATION DOCUMENTATION

COUNTY agrees to comply with any and all reporting and documentation requirements necessary for eligibility for Federal, State and other match funding opportunities to the CSC for services provided under this Agreement including, but

not limited to, Title IV-E of the Social Security Act, Temporary Assistance for Needy Families (TANF) Block Grant, and Medicaid Targeted Case Management.

COUNTY shall complete all necessary and appropriate forms for all clients served under this Agreement. This data will be used by the CSC in federal funding revenue maximization efforts. All eligibility information shall be reported to the CSC quarterly, unless otherwise specified by the CSC, and copies of all eligibility forms shall be retained in the individual client/family case files and available for unannounced review by the CSC. Such eligibility information shall not be used as a determination of client eligibility for program services funded under this Agreement.

## 6. TERMINATION OF AGREEMENT AND NOTICE

- A. It is the intent of the CSC to assure consistent and orderly delivery of children's services. It is the further intent of the CSC to terminate agreements only in those situations where such action is essential for the protection of its interest and the interests of children, as determined by the CSC.
- B. This Agreement may be terminated by COUNTY without cause upon no less than forty-five (45) days written notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- C. This Agreement may be terminated by the CSC without cause upon no less than forty-five (45) days written notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- D. This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within thirty (30) calendar days after receipt of written notice from the aggrieved party identifying the breach. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The aggrieved party, in its discretion, may waive any breach by the party in breach in writing, but such waiver shall not constitute a waiver of any further breaches, including breaches of the same type.
- E. The above provision shall not limit either Party's right to remedies at law or to damages.
- F. Notices: The place for giving notice shall remain the same as set forth herein until changed in writing. For the present, the parties designate the following:

For COUNTY: Bertha Henry, County Administrator  
Governmental Center, Room 409  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

With a copy to: Dan West, Director  
Broward County Parks and Recreation Division  
950 NW 38th Street  
Oakland Park, Florida 33309

For the CSC: Maria Juarez Stouffer, Chief Program Officer  
Children's Services Council of Broward County  
6600 West Commercial Boulevard  
Lauderhill, Florida 33319

## **7. AUDIT RIGHT AND RETENTION OF RECORDS**

The CSC shall have the right to audit the books, records, and accounts of COUNTY that are related to the Exhibit A, Scope of Work under this Agreement. The CSC shall complete any such audit within three (3) years of the expiration or earlier termination of this Agreement. COUNTY shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Exhibit A, Scope of Work under this Agreement. As defined in the Florida Single Audit Act, Section 215.97, COUNTY agrees to allow the CSC, the Comptroller, the Auditor General, or other auditing body access to its records as may be required by the Florida Single Audit Act.

COUNTY shall preserve and make available, at reasonable times for examination and audit by the CSC, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes). COUNTY shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by COUNTY. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the CSC's disallowance and recovery of any payment upon such entry.

## **8. PUBLIC RECORDS LAW COMPLIANCE**

County shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701.

## **9. OWNERSHIP OF DOCUMENTS**

Any and all reports, photographs, surveys, studies, films, books, tapes, recordings, curricula, statistical compilations, materials, presentations, media materials, pamphlets, flyers, software and any other data and documents provided or created in connection with this Agreement (herein referred to as "Documents") are and shall remain the property of the CSC. Upon expiration of the Agreement Term or earlier termination of this Agreement by either party, all Documents prepared by COUNTY, whether finished or unfinished, shall become the property of the CSC and shall be delivered by COUNTY to the CSC, at the CSC's request, within seven (7) days. COUNTY is authorized to retain a copy of all Documents for compliance with its obligations under Chapter 119, Florida Statutes. Any compensation due to COUNTY shall be withheld until all documents are received as provided herein. Neither COUNTY, nor its officials, agents, or employees shall cause the copyright or trademark of any Documents that are provided or created in connection with this Agreement without the prior written approval of the CSC, in its sole discretion.

## **10. INDEPENDENT CONTRACTOR**

COUNTY is an independent contractor under this Agreement. Services provided by COUNTY shall be by employees (or approved subcontractors) of COUNTY, and not as officers, employees, or agents of the CSC. Employee compensation, personnel policies, tax responsibilities, social security and health insurance, employee benefits, travel, per diem policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of COUNTY.

## **11. SUBCONTRACTING**

COUNTY shall not assign the responsibility of this Agreement to another party or subcontract for any of the work contemplated under this Agreement, without prior written approval of the CSC's Contract Manager. No such approval by the CSC Contract Manager shall be deemed in any event

or in any manner to provide for the incurrence of any obligation by the CSC in addition to the stated Contract Amount. All such assignments or subcontracts shall be subject to the conditions of this Agreement and to any conditions of approval that the CSC shall deem necessary.

## **12. FINANCIAL STATEMENTS**

- A. Within one hundred and eighty (180) days of the close of its fiscal year, COUNTY agrees to submit to the CSC a certified independent fiscal audit of all its corporate activities and any accompanying management report(s) issued in conjunction with the audited financial statements. This audit shall be conducted in accordance with auditing standards generally accepted in the United States of America (GAAS). If COUNTY is subject to an audit under the guidelines consistent with: 1.) Government Auditing Standards (GAS), issued by the Comptroller General of the United States; 2.) Office of Management and Budget (OMB) Circular A-133, Audit of States, Local Governments and Non-Profit Organizations; when and to the extent such OMB Circular A-133 is superseded, the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"; or 3.) The Florida Single Audit Act, Florida Statute 215.97, and rules of the Auditor General of Florida, then a single bound report of same is to be provided to the CSC. Audit extensions may be granted in writing by the CSC Contract Manager upon receipt in writing of such request with appropriate justification by COUNTY.
- B. Supplanting: COUNTY shall not use funds provided by the CSC to replace funds from other funding sources.

## **13. BOARD MEMBERS AND MEETINGS**

Within thirty (30) days of the effective date of this Agreement, COUNTY will submit to the CSC a calendar of its scheduled Board meetings for the current fiscal year and an updated list of Board Members.

## **14. PUBLICIZING CSC SUPPORT**

In applicable publications by the Broward County Parks and Recreation Division, COUNTY shall identify the CSC's support on agency newsletter, reports, and any other printed materials, display the CSC support through banners and flyers, and utilize appropriate opportunities to publicize the funding received from the CSC for the programs addressed by the Agreement. The CSC agrees to provide COUNTY with a camera-ready logo for such use.

## **15. PUBLICATIONS**

COUNTY agrees to supply the CSC, without charge, up to three (3) copies of any publication developed in connection with implementation of programs addressed by this Agreement. Such publications will state that the program is supported by the CSC. COUNTY agrees that the CSC will have unlimited use of copyrighted materials developed under this Agreement.

## **16. CONFIDENTIAL INFORMATION**

The COUNTY, its agents, employees or subgrantees will not use or disclose any information concerning a recipient of services ("participant") under this Agreement for any purpose not in conformity with state statutes and any applicable federal regulations (45 CFR, Part 205.50) except upon written consent of the recipient, or his/her custodial parent or legal guardian when authorized by law, or when required to be disclosed in a judicial or administrative proceeding, or otherwise required to be disclosed by law or regulation.

Written Statement of Purpose(s) for Collection of Partial Social Security Numbers:

In accordance with Florida Law, COUNTY shall inform all the CSC-funded program participants and their parents/guardians, in writing, of the purpose(s) for which the CSC collects and uses partial social security numbers (last four digits) from its participants and the parents/guardians of such participants. The CSC-funded programs shall provide all individuals from whom it collects a partial social security numbers with a copy of a written statement that includes the following:

“The Children’s Services Council of Broward County (“CSC”) collects and uses partial social security numbers (last four digits) of participants of CSC-funded programs and the parents/guardians of such participants so that CSC may collect and use data from other agencies for comparison purposes in order for CSC to track and measure the impact of CSC-funded programs and services and to assist CSC with maintaining and improving successful programs and services. All individual information will be safeguarded and will not be disclosed. CSC’S collection of the partial social security numbers from its participants and the parents/guardians of such participants is imperative for the performance of CSC’S duties and responsibilities as prescribed by law. The partial social security numbers collected by CSC shall not be used by CSC for any purpose other than the purpose provided in this written statement.”

**17. NOTIFICATION FOR USE OF PARTICIPANT DATA**

COUNTY agrees to inform recipients of services (“participants”) of the myriad uses of data by the CSC by complying with the following:

Written Statement of Purpose for Authorizing Collection of Data for Research:

COUNTY shall inform all CSC-funded program participants and their parents/guardians, in writing, of the purpose(s) for which the CSC collects and uses data from its participants and the parents/guardians of such participants. COUNTY shall also request parental consent for the CSC and/or COUNTY to obtain education records for the purpose of research (20 U.S.C. Section 1232g(a)(4)(8)(iv); U.S.C. Section 1232(b)). The CSC-funded programs shall provide all individuals enrolled in their programs with a copy of a written statement that includes the following:

“In order to continue funding programs like this one, Children’s Services Council of Broward County (“CSC”) and authorized users conducts research, evaluation and care coordination to see how participants do while in the program, as well as after they leave the program. In addition to performance measurement data collected from participants in their program, CSC research staff may give participants additional surveys and assessments. CSC may also collect information on participants after they complete the program. The information collected after participants leave the program will come from county and state public databases like the Florida Department of Education, the Florida Department of Juvenile Justice, etc. CSC has created many safeguards to protect participants’ privacy and to prevent unauthorized use or access to it. CSC is not allowed to release any of participants’ personal information (Open Government Sunset Review Act; Section 119.15, F.S.).

**18. SECURITY OBLIGATIONS**

COUNTY shall maintain an appropriate level of data security for the information the COUNTY collects or uses in the performance of this Agreement. This includes, but is not limited to, approving and tracking all COUNTY employees that request system or information access and ensuring that user access has been removed from all terminated COUNTY employees.

## **19. CLIENT RISK PREVENTION AND INCIDENT REPORTING**

- A. COUNTY shall immediately report knowledge or reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult to the Florida Abuse Hotline on the statewide toll-free telephone number (1-800-96ABUSE). As required by Chapters 39 and 415, FLORIDA STATUTES, this is binding upon both the COUNTY and its employees.
- B. In the event of critical incidents such as serious client accident, injury or death, COUNTY shall advise the CSC Programs Manager immediately by phone and in writing within twenty-four (24) hours. All pertinent information such as Agency Incident Reports, Police Reports, actions taken, etc., shall be furnished by the COUNTY to the CSC Director of Program Services within twenty-four (24) hours of the incident, or receipt of such information.

## **20. NONDISCRIMINATION**

Agencies receiving funding from the CSC shall not discriminate against an employee, volunteer, or participant of COUNTY on the basis of race, color, gender, sexual orientation, religion, national origin, citizenship, disability, or age except that programs may target services for specific participant groups as defined in the application. Additionally, agencies receiving funds shall demonstrate the standards, policies, and practices necessary to render services in a manner that respects the worth of the individual and protects and preserves the dignity of people of diverse cultures, classes, races, religions, sexual orientation, and ethnic backgrounds. The parties shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by the CSC, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, the parties shall take affirmative steps to ensure nondiscrimination in employment of persons with disabilities.

## **21. LIABILITY**

COUNTY is a state agency or subdivision, as defined in Section 768.28, Florida Statutes, and agrees to be fully responsible for its acts of negligence, or its agents' acts of negligence when acting within the scope of their employment or agency and agrees to be liable for any damages resulting from said negligence to the extent required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by COUNTY to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract or under this Agreement.

## **22. INTELLECTUAL PROPERTY RIGHTS**

COUNTY will, to the extent permitted by law, indemnify and hold harmless, the CSC from liability of any nature or kind, including costs and expenses for or on account of any improper use of any copyrighted, service marked, trademarked, patented or unpatented invention, process, article or work manufactured or used by COUNTY in the performance of this Agreement, including its use by the CSC. If COUNTY uses any design, device, materials, or works covered by any letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exception that the proposal prices will include all royalties of costs arising from the use of such design, device, or materials in any way involved in the work.

This section will survive the termination of this Agreement with the CSC.

## **23. INSURANCE**

Notwithstanding anything to the contrary herein, the Parties acknowledge that COUNTY is a self-insured governmental entity subject to the limitations of Section 768.28, Florida Statutes, as amended from time to time. COUNTY maintains a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provisions of Section 768.28, Florida Statutes. COUNTY's Workers' Compensation and Employers Liability programs comply with Chapter 440, Florida Statutes. COUNTY is fully self-insured and self-administered for Auto, General Liability, and Workers' Compensations coverage pursuant Section 627.4137, Florida Statutes. Nothing herein is intended to serve as a waiver of the CSC's or COUNTY's sovereign immunity. COUNTY will provide written verification of liability protection prior to final execution of this Agreement upon request of the CSC.

## **24. AMENDMENTS: ASSIGNMENTS**

- A. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. However, the CSC Contract Manager may sign a modification, amendment or alteration to the terms and conditions of this Agreement where there is a change to Exhibit A, Scope of Work, to reduce the Contract Amount, or to change Performance Measures.
- B. This contract or agreement is personal to the parties herein and may not be assigned, in whole or in part, by the proposer without prior written consent of the CSC. COUNTY herein shall not assign payments under this contract or agreement without the prior written consent of the CSC.

## **25. WAIVER OR BREACH**

A waiver of any breach of a provision of this Agreement shall not be deemed to be a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the waiving Party.

## **26. DEFAULT**

If either party breaches this Agreement, the non-breaching party reserves the right to seek remedies in law or in equity.

## **27. REPRESENTATIONS AND ACKNOWLEDGMENTS**

- A. COUNTY represents to the CSC, to the best of COUNTY's knowledge and belief that, upon the execution of this Agreement and continuing throughout the Agreement Term, the following representations are true and correct. In the event that any of the following representations become at any time not true, COUNTY shall provide written notice of same to the CSC Contract Manager within seven (7) days after discovery that a representation is no longer true.
  - 1. COUNTY has committed no violations of laws or regulations the effects of which should be considered by the CSC.
  - 2. There are no material transactions relating to this Agreement that have not been properly recorded, documented, or disclosed.

3. Related party transactions as defined by generally accepted account principles and related amounts receivable or payable have been properly recorded or disclosed.
4. COUNTY maintains appropriate active license(s), which are all in good standing and have not been revoked or suspended, where COUNTY is operating a facility or providing a service where any type of licensure is required, including, but not limited to federal, state, county, and local law.
5. COUNTY represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Exhibit A, Scope of Work and to provide and perform such services to the CSC's satisfaction for the agreed compensation.
6. COUNTY shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of COUNTY's performance and all interim and final product(s) provided to or on behalf of the CSC shall be comparable to local state and national best practice standards.

B. COUNTY acknowledges that:

1. COUNTY will provide written verification of liability protection prior to final execution of this Agreement, upon request of the CSC.
2. Information, guidance and technical assistance offered by the CSC Contract Manager, or any other staff, whether written or verbal, in no way constitutes a guarantee of execution of this Agreement by the CSC and should not be relied upon as a basis for doing business, delivering service, expending financial resources or expectation of receipt of payment.

## **28. PUBLIC ENTITIES CRIMES ACT**

COUNTY represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to the CSC, may not submit a bid on a contract with the CSC for the construction or repair of a public building or public work, may not submit bids on leases of real property to the CSC, may not be awarded or perform work as a contractor supplier, subcontractor, or consultant under a contract with the CSC, and may not transact any business with the CSC in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from the CSC's competitive procurement activities.

## **29. GOVERNING LAW AND VENUE**

This Agreement shall be governed, construed, and controlled according to the laws of the State of Florida without regard to its conflict of laws' provisions. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated exclusively in the Seventeenth Judicial Court in and for Broward County, Florida. BY ENTERING INTO THIS AGREEMENT, THE CSC AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

### **30. COMPLIANCE WITH LAWS**

The Parties shall comply with all federal, state, and local government laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations applicable to the performance of their respective obligations in this Agreement.

### **31. SEVERABILITY**

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the CSC or COUNTY elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after final court action, including all available appeals.

### **32. CIRCULARS, STATUTES, AND COMMON RULES**

The source of the CSC'S funding is local dollars; therefore, COUNTY does not need to conduct a separate single audit under this Agreement. COUNTY shall use the following as a guideline for managing the CSC'S funding:

- A. Administrative Requirements and Allowable Costs: The Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance").
- B. Florida Statutes 215.97, Florida Single Audit Act.

### **33. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

The Parties agree to satisfy the standard for personal health information contained in the federal and state statutes and regulations, including, without limitation, any regulations promulgated under HIPAA, as applicable. It is expressly understood by the parties that where the CSC is funding services, the CSC personnel and/or its agents shall have access to protected health information (hereinafter known as PHI) for the purposes of compliance monitoring, quality assurance activities, and auditing. These provisions do not preclude the CSC from disclosing protected health information to report unlawful conduct in accordance with 45 CFR Part 164.5020), as may be amended from time to time.

Where required, COUNTY shall handle and secure such PHI in compliance with HIPAA and its related regulations and, if required by HIPAA or other laws, include in its "Notice of Privacy Practices" notice of COUNTY and/or the CSC's uses of client's PHI. The requirements to comply with this provision and HIPAA shall survive the expiration or earlier termination of this Agreement. The Parties do not believe that a business associate or trading partner relationship HIPAA exists between COUNTY and the CSC with regard to this Agreement; however, if COUNTY or the CSC Contract Manager subsequently determines that such a relationship exists, the parties agree to enter into an appropriate agreement using the form of such agreement to be agreed by COUNTY and the CSC.

### **34. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail, pdf or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 or the Florida Uniform Electronic Transaction Act, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and to be valid and effective for all

purposes. Each person executing and delivering this Agreement for a Party hereby represents and warrants that they have been authorized by such Party, and that they have the full power and authority, to execute and deliver this Agreement for such Party and that they personally have executed and delivered this Agreement (whether manually or electronically as stated above) for their respective Party.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as evidenced by each signature.

This 20-page contract, inclusive of Exhibit A, Scope of Work, and Exhibit B, SWIM Central Collaborative Funders Budget, is hereby executed as follows:

Approved as to form by:

JOHN MILLEDGE, ESQ.  
200 Las Olas Office Building  
200 SW First Avenue, Suite 800  
Ft. Lauderdale, FL 33301

\_\_\_\_\_  
John Milledge, Esq.

In accordance with Florida Statutes Section 448.095, the undersigned contractor/COUNTY swears and affirms that it has read the following statement and that it is true:

- (a) Contractor/COUNTY uses, and will use, the E-Verify system to verify the work authorization status of all newly hired employees and of all employees working on "federal contracts;"
- (b) Contractor/COUNTY does not, and will not, employ an unauthorized alien;
- (c) Contractor/COUNTY requires its contractors to comply with the applicable requirements of Florida Statutes Section 448.095.

**COUNTY:**  
**Broward County, by and through its Board of County Commissioners**

**CHILDREN'S SERVICES COUNCIL OF BROWARD COUNTY:**

**SIGNED BY:** \_\_\_\_\_

**SIGNED BY:** \_\_\_\_\_

**NAME:** Steven Geller

**NAME:** Dawn Liberta

**TITLE:** Mayor

**TITLE:** Chair

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
**Broward County Administrator**  
**As ex officio Clerk of the Broward County Board of County Commissioners**

**Approved as to form by**  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 S. Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By:  \_\_\_\_\_ 9-2-2021  
Amanda Tolbert (Date)  
Assistant County Attorney

By: \_\_\_\_\_ (Date)  
Rene D. Harrod  
Deputy County Attorney

**COUNTY Federal Identification #: 59-6000531**  
**Attachments A and B**

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**EXHIBIT A**  
**SCOPE OF WORK**

**Agency Name:** Broward County  
**Program Name:** SWIM Central  
**Contract #:** #18-2500

**I. METHOD OF SERVICE DELIVERY**

COUNTY, through its Parks and Recreation Division, SWIM Central section shall provide a program ("Program") consisting of water safety instruction/education including safe practices. The Program primarily targets children, and provides water safety lessons at parks, municipal pools, and private agency pools. The Program shall include the following components:

- A. A minimum of six (6) and a maximum of ten (10) water safety lessons to participating children at least six (6) months of age and up to sixteen (16) years of age. The Program may serve children who are older, up to twenty-two (22) years of age if they have been identified as having special needs.
- B. A minimum of twenty-five (25) minutes of water safety instruction or education per class with a maximum instructor to child ratio of one to ten (1:10).
- C. Provide a water safety education presentation (i.e. Whales Tales) to organizations, child-care facilities, not-for-profits entities, and governmental entities that serve children. Presentations shall include age appropriate materials that educate children in water safety methods and procedures.
- D. SWIM Central shall maintain collaborative agreements with providers of children's water safety instruction/education, hereinafter referred to as "SUBCONTRACTOR" OR SUBCONTRACTORS," who will employ instructors authorized in one of the seven state approved programs: Red Cross, YMCA, Jeff Ellis & Associates, Starfish Aquatics Institute, Baby Otter Swimming Inc., Infant Swimming Research Inc., or Swim America. Instructors shall be trained and certified by approved instructor trainers in their respective programs.
- E. SUBCONTRACTORS shall use the instructor to child ratio according to their program curriculums, consistent with requirements under Section B above, and may also use instructor aides to maximize class size with prior approval of SWIM Central. SWIM Central is responsible for ensuring staff qualifications and that staff to children ratios are appropriate.
- F. SUBCONTRACTORS shall use the CSC's sliding fee scale when assigning the cost of the water safety instruction lessons to a family who is referred by the Broward Sheriff's Office, Child Protective Investigators, CSC-funded Family Support Services Providers, and Water Smart Babies Prescription Program. SWIM Central is responsible for ensuring the Sliding Fee Scale is used appropriately.

## **DESIRED POPULATIONS**

- A. Water safety instruction, in pool group lessons, will be delivered to:
1. A minimum of **twenty-four thousand seven hundred (24,700)** Broward County children, including the CSC-funded Maximizing Out-of-School Time (MOST), Positive Youth Development, SBBC 21<sup>st</sup> Century Learning Programs and Summer BreakSpot participants. The number served is representative of the collaborative effort between the CSC, SWIM Central, and the School Board of Broward County.
  2. A minimum of **two thousand five hundred (2,500)** voucher/coupons will be distributed to families of Broward County children, ages six (6) months to eight (8) years of age, who are not enrolled in a SWIM Central water safety instruction course. Children three (3) years and younger are provided parent/child lessons. Children four (4) years and older participate in pool group lessons. A second voucher/coupon will be distributed to children immediately following redemption of their first coupon, thus allowing the child to continue their learning. This desired population has been identified as at the highest risk for drowning. These children are referred by the Broward County Sheriff's Office, Child Protective Investigators, CSC-funded Family Support Services Providers, the Water Smart Babies Prescription Program, and the general public.
  3. A minimum of **one thousand (1,000)** voucher/coupons will be distributed to the caregivers of children who redeem a coupon for their child. This will add an additional layer of protection for children in this vulnerable age group.
- B. Organizations, child-care facilities, not-for-profit entities, and governmental entities shall be provided with water safety education presentations. Presentations can be made by either SWIM Central staff or its SUBCONTRACTORS. The Department of Health's Drowning Prevention Program, funded by the CSC, will collaboratively share responsibility for these county-wide presentations.

## **II. GENERAL OPERATING INFORMATION**

Important Note: This Agreement is written based upon the assumption that at some time during the duration of the Agreement, it will be possible for COUNTY to resume "normal" pre-COVID-19 operations. However, for the duration of the COVID-19 health emergency, CSC reserves the right to approve COUNTY using alternate methods of service delivery, such as virtual programming and/or hybrid programming (a combination of direct services and virtual services), and to revise COUNTY reporting requirements (i.e. invoicing, performance measures) accordingly. Number of children/youth to be served and unit costs are also subject to change based upon any such changes.

## **III. BACKGROUND SCREENING/AFFIDAVIT OF CRIMINAL BACKGROUND SCREENING**

SUBCONTRACTORS' program staff personnel files shall reflect that a screening result was received and reviewed by the SUBCONTRACTOR to determine employment eligibility prior to employment working in direct contact with children. An attestation on the SUBCONTRACTORS' letterhead or an "Affidavit of Criminal Background Screening" for all SUBCONTRACTORS will be

submitted to SWIM Central. SWIM Central is responsible for requesting and maintaining this documentation annually.

**IV. PERFORMANCE MEASURES**

COUNTY is required to submit participant performance measure data in the SAMIS Performance Measure (PM) Module within the time frames specified by the CSC. COUNTY shall also report any barriers and/or noteworthy activities experienced in performance measure achievement occurring during the term of this Agreement, as required. COUNTY will use the SAMIS Admin Point Board to ensure administration points are completed and service components are attached on time. Performance measures and related processes are subject to change at the discretion of the CSC in response to changes in service delivery (e.g., response to natural disasters or events that impact typical service provision).

**DESIRED RESULT: Children are physically and mentally healthy.**

Results based accountability utilizes data to improve performance outcome measures to achieve the desired customer result. When applied, performance measurement answers the following key questions:

Key Question	Performance	Council Goal	Evaluation Tool	Admin Schedule
How Much Did We Do?	# of unduplicated school aged participants served	24,700	SWIM Central outcome report	Quarterly
	# of vouchers distributed to parents of children under school age and not enrolled in SWIM Central water safety instruction courses.	Baseline to be established	SWIM Central outcome report	Quarterly
	# of vouchers redeemed by SWIM Central that resulted in water safety education classes being provided.	Baseline to be established	SWIM Central outcome report	Quarterly
How Well Did We Do It?	% of participants fully tested	50%	SWIM Central outcome report	Quarterly
	Level of satisfaction for school teachers involved	95%	SWIM Central outcome report	Quarterly
Is Anybody Better Off?	% of the participating children completing between 3 and 6 lessons shall demonstrate an improvement of one level on the Water Safety Skills Checklist.	60%	SWIM Central outcome report	Quarterly
	% of the participating children completing a minimum of 7 or more lessons shall demonstrate an improvement of one level on the Water Safety Skills Checklist.	80%	SWIM Central outcome report	Quarterly
	% of the participating children completing a minimum of 7 or more lessons shall demonstrate an improvement of two or more levels on the Water Safety Skills Checklist.	25%	SWIM Central outcome report	Quarterly

	100% of Children who participated in the swim program and have not drowned 3 years after program completion.	100%	SWIM Central outcome report	Quarterly
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SWIM Central shall ensure pre and post-testing is administered at the appropriate times using the approved tools, as described above. Failure to conduct pre and post-testing and/or provide subsequent outcome data may result in a moratorium on the CSC funding for a period of 12 months.

Upon the CSC's request, SWIM Central shall also report, in narrative form via email, the reasons for non-acceptance of any participant into the Program, drop-outs, and failures to achieve the outcomes, as well as describing any factors that affected outcome achievement or measurement during the previous trimester.

**V. METHOD OF PAYMENT**

All payments shall be requested by COUNTY in the format prescribed by the CSC. The CSC's payment will be on a monthly basis, derived from COUNTY invoices reflecting services delivered in accordance with the contract. Agencies will not be paid for clients who do not attend sessions. Payment is contingent upon submittal of complete and accurate data in accordance with the CSC requirements for e reporting of client and service data information. No invoices will be processed for payment if required backup documentation has not been provided in a complete and accurate manner in accordance with CSC Provider Guidelines. If the contract is with an agency which is subcontracting delivery of services to other PROVIDERS, the lead agency will be responsible for compiling all data necessary to submit a consolidated monthly invoice and required reports.

- A. Other Reimbursement (#8050):** Other Reimbursement expenditures shall be on a cost reimbursement basis. The CSC will pay COUNTY for allowable other reimbursement expenditures in accordance with the CSC Provider Guidelines and the approved other reimbursement budget and other reimbursement budget narrative, hereby incorporated by reference. Only other reimbursement expenditures incurred on or after the contract effective date and or prior to the termination date of the contract are eligible for payment. Reimbursement shall be made for actual costs incurred by COUNTY, substantiated by actual cost documentation. The total maximum amount to be paid under this contract for other reimbursement shall not exceed: **\$687,782.**

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## EXHIBIT B

## SWIM CENTRAL COLLABORATIVE FUNDERS BUDGET

	CSC	County	School Board	Total
Program Director	0	\$58,272	0	\$58,272
Data Analysis (including temps)	0	\$118,848	0	\$118,848
Program Coordinator	0	\$77,174	0	\$77,174
Administrative Aide	0	\$74,405	0	\$74,405
Fringe Benefits	0	0	0	0
Transportation	0	0	\$200,000	\$200,000
Auto Allowance	0	\$1,780	0	\$1,780
External Printing	0	\$4,690	0	\$4,690
Internal Printing	0	\$4,360	0	\$4,360
Promotions	0	\$47,940	0	\$47,940
Office Supplies	0	\$5,020	0	\$5,020
Misc. Expense	0	\$2,280	0	\$2,280
Other Expenses	0	\$22,360	0	\$22,360
Water Safety Instruction (Pool Group Lessons)	\$487,782	\$128,720	0	\$616,502
Water Safety Instruction (Parent/Child Lessons)	\$200,000	0	0	\$200,000
Water Smart Broward Presentations	0	\$1,500	0	\$1,500
Whales Tales	0	\$5,000	0	\$5,000
<b>TOTAL</b>	<b>\$687,782</b>	<b>\$552,349</b>	<b>\$200,000</b>	<b>\$1,440,131</b>

**NOTE: CSC allocation supports pool costs associated with water safety instruction at local pools throughout Broward County.**