



**City Council Meeting Agenda
Special Meeting
January 19, 2016, 6:30 pm
City Council Chambers, City Hall, Bethel, AK**

Rick Robb
Council Member
Term Expires 2017
543-1879
rrobb@cityofbethel.net

Leif Albertson
Council Member
Term Expires 2017
543-2819
labertson@cityofbethel.net

Chuck Herman
Council Member
Term Expires 2016
545-5394
cherman@cityofbethel.net

Zach Fansler
Council Member
Term Expires 2016
545-3300
zfansler@cityofbethel.net

Byron Maczynski
Council Member
Term Expires 2016
545-0970
bmaczynski@cityofbethel.net

Nikki Hoffman
Council Member
Term Expires 2017
nhoffman@cityofbethel.net

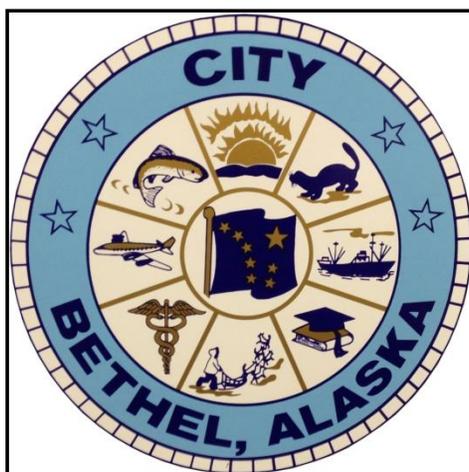
Alisha Welch
Council Member
Term Expires 2017
arwelch@cityofbethel.net

Ann Capela
City Manager
543-2047
acapela@cityofbethel.net

Lori Strickler
City Clerk
543-1384
lstrickler@cityofbethel.net

Patty Burley
City Attorney

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. PEOPLE TO BE HEARD – Five minutes per person**
- V. APPROVAL OF AGENDA**
- VI. NEW BUSINESS**
 - a) Request for Proposal Options For the Operation of the YK Fitness Center (Mayor Robb)
- VII. EXECUTIVE SESSION**
 - a) AS 44.62.310 (C) 1: Matters, The Immediate Knowledge Of Which Would Clearly Have An Adverse Effect Upon The Finances Of The Public Entity – Legal Liability For The YK Fitness Center
- VIII. ADJOURNMENT**



REQUEST FOR PROPOSALS FOR

Professional Operations and Maintenance Services

For

Yukon Kuskokwim Regional Aquatic Health and Safety Center
City of Bethel, Alaska

RELEASE DATE

January 30, 2014

PRE-PROPOSAL CONFERENCE

February 11, 2014

SUBMISSION DEADLINE

4pm Alaska Standard Time March 7, 2014

A firm that submits a proposal MUST be on the official RFP holder list. Failure of a firm to be on the list will be cause for their proposal to be deemed non-responsive. *Offeror's are responsible to verify that their firm and current contact information is on the RFP holders list.* The RFP holder list is maintained by, and questions may be addressed to:

Douglas Cobb
Project Manager
(907) 338-4053

Doug@projdevelopment.com

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

The City of Bethel (City) is requesting qualifications statements and fee proposals for the operations and maintenance of the YK Regional Aquatic Center (Facility) from firms qualified and experienced in operations and management of such facilities as described herein.

Questions relating to this request for proposals must be submitted in writing to Douglas Cobb, Project Manager, at Doug@projdevelopment.com. The following subjects are discussed in this RFP to assist you in preparing your statements.

1. Introduction
2. Scope of Services
3. Selection Criteria, Schedule, Format
4. Proposal Content
5. Submittal instructions
6. Scoring
7. General Notices
8. Attachments available at <https://app.box.com/s/mpa7cchl46ue3xoutt7e>
 - A. Facility Floor Plans
 - B. DRAFT Contract
 - C. McDowell Group Feasibility Study
 - D. Pricing Template
 - E. Swimming Pool Specifications

1. Introduction

- A. **Location:** Bethel Alaska - The City of Bethel (Bethel), Alaska is located about 75 miles inland from the Bering Sea on the Kuskokwim River. Bethel, with a population of just over 6,100 residents, is a regional hub for services for the Yukon River and Kuskokwim River delta area with an additional population of approximately 1,650 residents. Primary, year-round transportation access to Bethel is via the regional airport in Bethel with daily jet service to Anchorage, there is no road access. Cost effective shipping is via barge on the Kuskokwim River in the summer months.
- B. **Facility Description:** The Yukon Kuskokwim Regional Aquatic Center is currently under construction and is on schedule for completion in the fall of 2014 with a planned opening in November of 2014. The 21,164 sq. ft. center includes a six-lane competition size swimming pool, a slide and shallow end slide zone, a connected kiddie pool, a separate hot tub, a room for weights and exercise machines, a "fitness" room, concession area, control/entry desk and required support rooms (e.g., locker rooms, boiler room). The aquatic center has state of the art sanitation systems consisting of calcium hypochlorite supplemented with ultra violet dechloramination and disinfection systems for both the pool and spa. A 100 kW wind turbine is to be included on the 10-acre site and is anticipated to provide up to approximately 50% of the facility's energy needs. Bethel intends to fully equip the facility with furniture, fixtures, and equipment.

Attachment A includes select drawings from the construction documents.

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

Facility	Size
Pool	4,134 square feet surface area / 133,716 gallons
Spa	177 square feet surface area / 3,198 gallons
Fitness Room	1,728 square feet, accommodating up to 34 occupants
Exercise Room	1,371 square feet, accommodating up to 27 occupants

- C. **Form of Contract:** This is a Cost Plus a Fixed Fee contract.
- D. **Pricing Information:** Sufficient information is not available to create a “hard dollar” bid or a “not to exceed” annual budget at this time. Accordingly, a formal and/or complete budget estimate for the project is not required as part of the submittal. However, the City feels there is sufficient information available for Offeror’s to provide certain rates and other costs to be used in development of the eventual annual not to exceed budget. Offeror’s are advised that submitting unreasonably low cost information in an obvious attempt to game the scoring system will result in the subject proposal being declared non-responsive.

Once under contract the operator shall submit an annual budget to the City for approval. The approved annual budget establishes an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the Operator may not exceed, except at their own risk, without the approval by the City. Allowable incurred costs are those costs directly attributable to operations and maintenance of the Facility.

This information should be summarized on attachment D along with appropriate backup in detail to allow evaluation of fees and submitted with your firm’s proposal.

- i. **Fixed Fee for start-up period:** Provide lump sum a fee to cover overhead and profit only, for services rendered prior to the grand opening scheduled for November 1, 2014.
- ii. **Budget for Start-up period** – Provide a not to exceed budget for start-up services prior to the facility grand opening. Services are to include development and submittal of start-up plan, annual operating budget, policies and procedures for management of the facility, travel, mobilizing to Bethel and any and all other preparations and staffing necessary for opening the facility scheduled for November 1, 2014.

Attach a complete labor and expense detail organized to correlate to the Start-up plan with the major category headings item a through e below. Attach additional pages as necessary to attachment D, additional pages included as a part of Attachment D will not be considered in page count limit.

- a. Local staff costs, identify positions and pay rates
- b. Home office support and oversight costs over and above the fixed fee described above in paragraph i above.
- c. Travel expenses
- d. Local accommodations/lodging
- e. Identify any additional items and associated costs anticipated during the start up period.

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

iii. **Fixed Fee for operations and maintenance:** Provide a monthly fee to cover overhead and profit not directly attributable to the operations and maintenance of the facility, including but not limited to profit, home office expenses, management oversight and travel, accounting and clerical support, human resources management, payroll processing, and reporting etc.

E. **Term of Contract** – The City anticipates that this contract shall be effective as of June 2, 2014 and shall be effective until it’s expiration on June 30, 2016. At the option of the City, this contract may be extended for up to two (2), two year periods.

F. **Schedule** - The activities to be performed under contract include:

Activities	Anticipated Date
Notice to Proceed	June 2, 2014
Draft operations plan and annual budget submitted for City review and discussion	August 15, 2014
Draft policies and procedures manual submitted for City review and discussion	August 15, 2014
Operations plan and annual budget approved by City	September 1, 2014
Policies and procedures manual approved by City	September 15, 2014
Grand Opening (facility fully staffed)	November 1, 2014

2. **Scope of Services** - During the term of this contract, the City requires and authorizes the Operator to operate and maintain the facility and associated programs including the control/entry desk, pool areas, fitness room, exercise room and concessions to promote the health and safety of the community in an economical fashion. Refer to the draft operations and maintenance contract for additional information. Also note the attached McDowell Group Facility feasibility study dated April 2011 is for information only.

Once under contract the Operator shall develop, submit for City approval and execute the following plans and documents:

A. **Operations Plan** – Shall include but is not limited to:

- i. Proposed facility hours of operation.
- ii. Programs plan for pool usage including open swim, lap swim, and classes.
- iii. Proposed open use hours for the exercise and fitness rooms and various classes.
- iv. Detailed concessions operations and merchandise plan including hours of operation and items to be sold.
- v. Staffing and employee retention to support the hours of operation and programs.
- vi. Develop rates and rental fees to be charged to the public and community organizations.
- vii. Advertising and outreach including coordination with the school district and community organizations.
- viii. Purchases for operational start up, operation and maintenance of the facility.
- ix. Planning and executing a Grand Opening of an appropriate scale, recognizing individual and community contributions and promoting facility usage.

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

- B. **Initial Operating Budget** - Include labor, materials and overhead necessary to staff and maintain the facility.
- C. **Annual operations plans and budgets** – Annual plans and budgets to be submitted for approval as the City understands Operator may need to modify the Operations Plan and programs from time to time to best fit the needs and desires of the community.
- D. **Policies, Procedures and Maintenance Plan**
 - i. Maintenance, incorporating the manufacturers recommended procedure to comply with and maintain warranties of new equipment.
 - ii. Risk management including life safety, an emergency action plan, emergency closures, notifications, etc.
 - iii. Fiscal Responsibility including accounting practices, purchasing and purchasing authorizations, inventory control, cash management, and time card management.
 - iv. Reporting and documentation to Alaska Department of Environmental Conservation (ADEC) regulations
- E. **Transition Plan** - Provide for the orderly transfer of responsibilities, technical information, manuals and plans, maintenance logs, inventory and locally trained staff to a new operator upon completion of this contract.

3. Selection Criteria, Schedule, Format:

- A. **Pre-Proposal conference:** A mandatory pre-proposal conference will be held on February 11, 2014 to discuss the request for proposal format, contract and any other questions from Offerors'. Offerors' shall notify the project manager by February 5, 2014 as to whether they intend to attend in person or via teleconference. If proposer elects to attend in person, this will be at their own expense, the City will not make arrangements for Offerors' travel or reimburse for any expenses.

Pre-proposal conference to be scheduled at a mutually agreeable time and will be confirmed in writing.

- B. **Selection Criteria:** The following criteria will be the basis of evaluation of submitted qualifications. Each criterion is followed by its relative weight:

Proposal Criteria	Evaluation weight
Organization and Key Personnel	10 points
Experience <ul style="list-style-type: none"> ✓ Facility and operation start-ups ✓ Pool management and aquatic programming ✓ Fitness programs ✓ Concessions operations ✓ Maintenance ✓ Program development and administration 	35 points
Start-up Plan	20 points

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

General Programs Approach	15 points
Fees	20 points

- C. **Selection Schedule:** The following is the anticipated schedule for the Operator selection process. All dates are approximate.

Activity Description	Date
Request for proposal issued	January 30, 2014
Pre-proposal conference	February 11, 2014
Proposals due	4pm Alaska Standard Time March 7, 2014
Review of proposals complete	On or about March 21, 2014
Interviews - if requested	Week of March 31, 2014
Contract negotiations	April 1 to April 18, 2014
City Council Approval of Contract	On or about May 16, 2014
Notice to Proceed	On or about May 30, 2014

- D. **Format:** Proposals should respond directly to the evaluation criteria for this project. Responses should be in the same format and order as the criteria listed. Material other than that requested is not required or desired. Clarity and brevity are encouraged. Limit submittals as follows:

Cover Letter	2 pages maximum
Response to Criteria	20 pages maximum
Resumes	2 pages maximum each
Fee Proposal and Budget	2 page form plus attachments

One page is defined as one side of a standard 8 ½ " by 11" page. Submittals shall be presented in 8 ½ " by 11" format. A limited number of larger sheets (11"x17") may be included. Larger sheets will count as two pages. Tabs and/or divider pages and resumes do not count against the maximums. Small print should be avoided. The following addresses the specific content expected for each section.

4. Proposal Content - Response to Criteria

- A. **Cover Letter:** Briefly state your team’s understanding of the services to be performed and why your team is the best qualified to provide them. Provide the name and contact information of the individual who is authorized to make representations and commitments for your organization. Acknowledge receipt of any addenda/amendments to this RFP.
- B. **Organization and Key Personnel (Weight 10%)-** Provide your firm’s proposed organizational structure for management of the facility. Clarify what activities and responsibilities will be handled on site and what is managed by your corporate office.

List the titles, responsibilities, qualifications and authority of all staff positions. Explain your firm’s approach to employee recruitment, training, screening, performance evaluation and retention. Specifically address your approach to staffing a facility in a remote Alaskan community.

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Identify the proposed General Manager and describe her/his experience with managing similar start-ups, program operations and maintenance.

Identify if any services are anticipated to be subcontracted and include any pertinent information regarding this relationship.

- C. **Experience (Weight 35%)** – Provide a summary of past performance providing operations and maintenance services to clients/entities of similar size or scope, addressing the issues below. Rather than lengthy project lists, please elaborate on the approach your firm took and any challenges as well as successes your firm encountered and how those issues were handled.

Provide client references (phone and email) for entities which your firm is currently or has recently provided similar services.

- i. Facility and Operation Start-ups – The YK Regional Aquatic Center is a new facility, as such the local population may not be familiar with water recreation or fitness programs. Discuss any experience your firm has introducing a new facility and programs to a rural community. Describe any experience your firm has with starting new operations and facilities, commissioning systems, developing staff and inaugurating programs.
- ii. Pool management and aquatic programming - List the cities or entities, if any, with which your firm currently has contractual arrangements to provide management and programming services for public pools of similar size and capabilities. Describe your firm's approach establishing new programs to meet the specific needs and interests of the community. Elaborate on your approach to provide sufficient communication and marketing in order to inform the public of the programs and services while maintaining a high level of customer service and overall satisfaction at all times.
- iii. Fitness Programs – In addition to a swimming pool, the YK Facility will have an exercise and fitness room for group classes, weights and exercise machines. Discuss any similar facilities where both aquatic and fitness programs were developed and managed. Experience managing facilities with both aquatic and fitness programs is preferred.
- iv. Concessions operations – Discuss your firm's experience with developing a food service and efficiently managing a concession program to support activities and community events.
- v. Maintenance – Describe your firm's experience and technical competence relating to the maintenance of a facility of a similar size and with similar equipment. Experience maintaining remotely located facilities is preferred.
- vi. Program development and administration – List clients/facilities on which your firm developed new aquatic and fitness programs for a community. Discuss your firm's intent for administration, development of a fee structure and method for the public to register, pay, and receive adequate customer service in an easy and effective manner as well as providing rental space for community organizations.

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Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

- D. **Start-up Plan (weight 20%)** The Start-up period will be through October 31, 2014. The selected firm shall execute the approved start-up plan within the approved start-up budget. The start-up plan submitted with your firm's proposal will be reviewed and finalized in the contract negotiation process and will become a contract document identifying services to be performed during the execution of the contractual start up period. Start up activities include, but are not limited to, preparation and submittal to the City for approval of the initial operations plans and budgets, policy and procedures manual and maintenance plan.

The start-up plan included in your proposal should include, but is not limited to:

- i. Approach for marketing and community outreach and how to garner support for new programs.
 - ii. Approach for recruiting and developing staff for the facility.
 - iii. Approach for creating and maintaining communication between the community, the City and facility management and your firm's approach to facility oversight and conflict resolution.
 - iv. Methods for assessing and maintaining customer satisfaction.
 - v. Procedures for purchasing of operational start items such as pool chemicals, swimming and exercise aids, concessions foods and small ware, re-sale goods, rental items, uniforms and office supplies to support the operations.
 - vi. Preparation and execution of a Grand Opening on November 1, 2014 of an appropriate scale, recognizing individual and community contributions and promoting facility usage.
 - vii. List any assumptions you have made about the Yukon-Kuskokwim Regional Aquatic Center and its needs.
- E. **General Programs Approach (weight 15%)** - Explain your firm's approach to operations planning for this facility. Describe how your firm would develop and manage aquatics and fitness programs. Describe how your firm would control quality of services, collect feedback and manage change. Describe how your firm would effectively communicate with designated City staff.
- F. **Fee (weight 20%)** - Fees and estimate to be provided on the attached from, attachment D.
- i. **Fixed Fee for start-up period** - This fee to be a lump sum for overhead and profit prior to the grand opening scheduled for November 1, 2014 consistent with the start-up plan identified in paragraph 4.D, also reference paragraph 1.D above.
 - ii. **Budget for Start-up period** - Provide a not to exceed budget estimate for start-up services prior to the facility grand opening consistent with the start-up plan identified in paragraph 4.D, also reference paragraph 1.D above.

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iii. **Fixed Fee for operations and maintenance:** – Provide a monthly fee to cover overhead and profit not directly attributable to the operations and maintenance of the facility. Reference paragraph 1.D above.

G. **Resumes** - Provide resumes for key personnel who will be assigned to this project. Include references with contact information for the two most recent relevant projects for each key individual.

5. Submittal Instructions

A. To be considered, all proposals must be received by the project manager on or before the deadline.

B. Proposals shall be received by 4:00 p.m. Alaska Time, March 7, 2014.

C. Submit an electronic copy of your proposal to adobe pdf format:

D. Proposals may be sent via email or USB memory device to:
Douglas Cobb – Project Manager
Project Development Associates
5953 Muirwood Drive
Anchorage, Alaska 99502
Doug@projdevelopment.com

E. Offeror's are responsible to confirm receipt of their proposal prior to the submittal deadline.

F. Hard copies of RFP and attachments will not be provided. RFP documents to be posted at the following site: <https://app.box.com/s/mpa7cchl46ue3xoutt7e> Offeror's are responsible for checking the site and confirming receipt of all attachments and any addenda issued.

6. Scoring

A. A selection committee will evaluate the proposals and make a recommendation(s) to the City Council based on the highest scored proposal. The Evaluation Committee is interested in a straightforward exposition of factual information concerning Offeror's proposal to meet the City's needs requirements.

B. Each criteria will be scored individually on a scale of 0 to 5. A score of "0" indicates Non-responsive; "1" is the least responsive or among the least responsive; and "5" is the most responsive or among the most responsive. In regard to fees, the lowest price deemed responsive will be scored 5, the second will be scored 4, and so on. Offeror's are advised that submitting unreasonably low cost information in an obvious attempt to game the scoring system will result in the subject proposal being declared non-responsive.

The committee will use the following criteria and point system for deriving a score for each proposal:

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

Criteria	Weight
1. Organization and Key Personnel	10
2. Experience	35
3. Start-up Plan	20
4. General Programs Approach	15
5. Fees	20

- C. The Evaluation Committee will meet to discuss and score proposals, based solely on the criteria set forth. The individual ratings for each criterion will be combined and multiplied by the assigned weight for each criterion to obtain scores.

The maximum possible sum of the individual scores is 500 points, as shown in the example below:

Criteria	Weight	Score	Points
1. Organization and Key Personnel	10	5	50
2. Experience	35	5	175
3. Start-up Plan	20	5	100
4. General Programs Approach	15	5	75
5. Fees	20	5	100
Total Score			500

- D. The City of Bethel intends to negotiate with the firm submitting the highest scoring proposal or, in the event that interviews are conducted, the best responding interviewee. Should negotiations not be successful, the City will negotiate with the second highest scoring or second best responding firm and so on.
- E. Solely at the discretion of the City, interviews of respondents in Bethel Alaska may be requested. Interviews will be at Offeror's expense.

7. General Notices

- A. The City reserves the right to reject or accept any or all proposals, to waive irregularities or informalities in the statement, and to give particular attention to the qualifications of the Proposer.
- B. The City may issue written addenda to revise or clarify the RFQ, respond to questions, and/or extend or shorten the due date of the proposal. The City retains the right to cancel the request for proposal process if it is in their best interest. Any cost incurred by offerors' for the preparation and submittal of the statement is the sole responsibility of the proposer.
- C. A submittal may be corrected or withdrawn by a written request received prior to the deadline for receipt of proposals. All proposals become part of the public record and no part of any statement may be confidential.

**Professional Operations and Maintenance Services For
Yukon Kuskokwim Regional Aquatic Health And Safety Center, City of Bethel, Alaska**

- D. This RFP does not obligate the City of Bethel or Project Development Associates LLC or the selected proposer until a contract is signed and approved by all parties.
 - E. By the time of contract executions the selected firm must be in good standing with the City of Bethel, licensed to operate a business in the State of Alaska and the City of Bethel and will be responsible for collecting City Sales Tax and submitting same monthly to the City.
 - F. Questions regarding the project or this RFQ should be submitted in writing to: Douglas Cobb, Project Manager, via e-mail at Doug@projdevelopment.com. Substantive issues will be addressed in a written addenda to the RFQ.
 - G. Offeror's are responsible to verify that their firm and current contact information is on the bidders list.
8. **Attachments** - The following documents are provided for reference:
- A. Facility floorplans, Construction Documents, 8 pages
 - B. DRAFT Contract, 24 pages
 - C. McDowell Group Feasibility Study, April 2011, 58 pages
 - D. Pricing Template, 2 pages
 - E. Swimming Pool Specifications, 56 pages

End of Document

USA
MANAGEMENT

BETHEL, ALASKA PROPOSAL

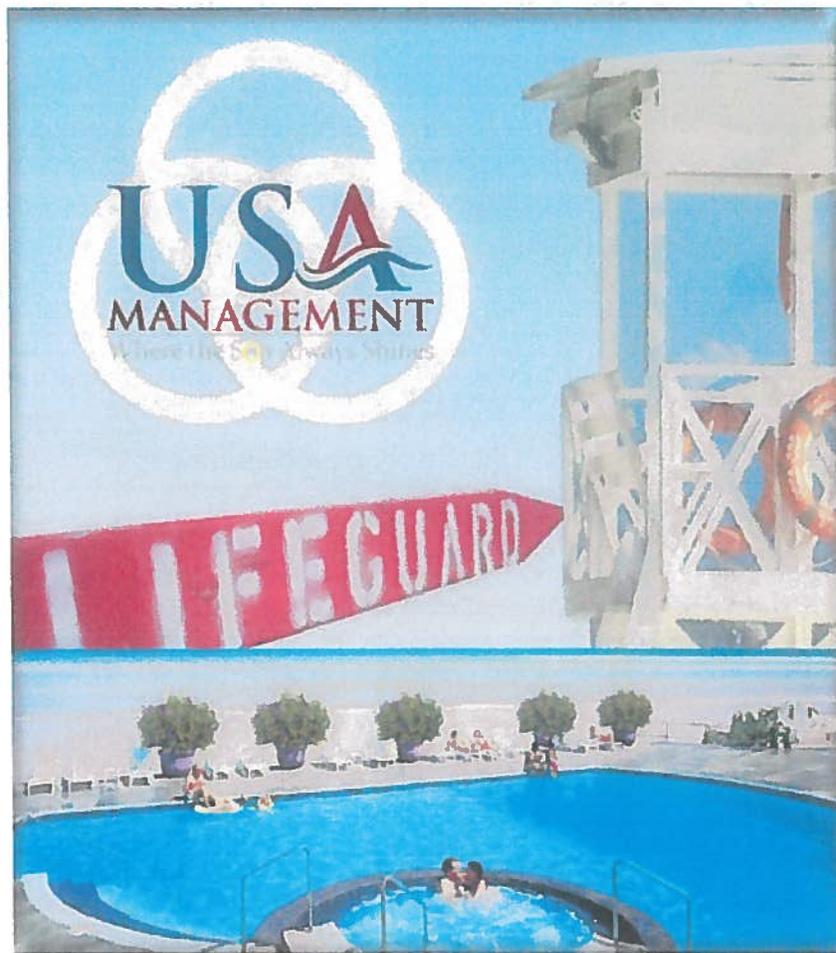


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- SECTION F: PROJECT FEE
- SECTION G: RESUME
- SECTION H: PROPOSAL

SECTION A

COVER LETTER



March 3, 2014
City of Bethel, AK
Bethel Aquatic Center

RE: Bethel, Alaska Swimming Pool Management Agreement

Dear Doug:

On behalf of USA Pools, I wish to thank you for allowing us the opportunity to bid and compete for your business. Enclosed you will find a comprehensive business plan for the management of the Bethel Aquatic Center. This letter should serve as our cover letter, letter of intent and general overview of the enclosed material.

Furthermore, We are in receipt of the RFP, Addenda 1, Addenda 2 and all other attachments posted to the drop box website.

Primarily, we would like for the City of Bethel to understand, that our primary objective is to ensure that your community enjoys a safe, family oriented environment. Our team members are placed through a stringent training program and comprehensive safety procedure courses prior to beginning work at your facility. Additionally, training and safety audits happen consistently throughout the year to ensure team members are prepared.

Our nationwide success was established 35 years ago on fresh creative dreams while implementing innovative programs to supplement existing activities. Too often facilities fall into the same day in and day out routines, which leads to decreasing satisfaction. You can be assured that when USA Pools enters the facility, our team members are trained for safety and customer service. We bring the fun back to the pool with numerous activities planned over the course of the summer.

In addition to providing an all-star team, we would like to bring the Bethel Aquatic Center into the community with a bang. Below are just some of the advantages of having USA Pools at your facility:

- Special Events:
 - ⊕ Parties during throughout the year to promote aquatics, membership and community
 - ⊕ Dive in Movies...allow the kids or adults the opportunity to bask in the pool at night and watch their favorite movies, with friends and family
 - ⊕ Meet your neighbors...an event that promotes membership, we ask that members bring a friend and a dish to share the evening function in hopes that those that attend decide this is the family environment they want their children to enjoy.
 - ⊕ Swimming Pool Summer Olympics...where every child walks away a winner
 - ⊕ Back to School Parties...who says school has to be blah...with weekend school parties, all children will look forward to school.
 - ⊕ And Much, Much More... (I mean, we can't reveal all of our trade secrets)
- At USA Pools we constantly strive for 110% customer satisfaction. This is exactly why we have created customer surveys that are distributed throughout the year, and results provided to the city. It's one of the many ways we have created a "checks and balances" system in order to continually improve upon our theater performance.
- Provides complete pre/post evaluations **FREE** to our customers eliminating surprises at the beginning or end of the season.
- The USA Team serves over 1000 customers **NATIONWIDE!**
- Can offer full time pool operations with our Lifeguard Program.
- With our systems in place, we help you grow your business by implementing new programs to supplement existing activities, thus drawing more interest and new participants.
- Can repair, design, renovate and build from the ground up with our **in-house experts!!!!**
- **Is on call for your facility 24 hours a day, 7 days a week FREE to our customers.** You will have the assurance that if a problem arises, behind the scenes we will have it fixed, **GUARANTEED!**

Of course, there is much more that we offer. For those who want to explore the ocean bottom, we offer Certified Scuba Lessons right there at the pool. For those wanting to get into shape, we offer Aqua Aerobics for a complete work out. If you have always wanted to swim, or just improve your stroke, we offer a complete line of Swim Lessons through our FISHES Program; tailored to meet your specific abilities.

Within this package, you will find the following information:

1. Our recommendations and methodology for the enclosed facility is based from our 35 years of experience and current clientele consisting of over 1000 facilities nationwide. All of our work and standards are set forth through the American Red Cross, and NSPI (National Spa and Pool Institute). Furthermore, our recommendations are simply that, recommendations. In the end, USA Pools, if awarded this bid, works for the City of Bethel. Our posture has always been, and will remain, that you are the customer, and we work for you.
2. A brochure and general overview of the company has been attached for your convenience and review.
3. Additional material is enclosed that provides a better overview of the services, and the manner in which our services are carried out. Included is a USA Pools Sales Brief, USA Pools Fun PAK, and other pertinent information for your community to make an informed decision. (not included in the RFP submittal due to conforming to specs, though can be sent upon request)

Lastly, but most importantly, we offer these services to only a select few communities each year. Our services are often sought out for our ability to turn operations into a family type environment. Generally speaking, these amazing tasks can be accomplished within the first year. In most cases, we can master this achievement while saving the community thousands of dollars off their budget. This proposal reflects our sincere interest in serving the City of Bethel and we look forward to your favorable response. Please keep in mind that this proposal for the community is only good through June 2, 2014. Please indicate your approval by executing the signed proposals and returning the "copied" proposal to our office. Upon execution of this agreement, we will begin by ordering your chemicals, arranging interviews and training for your team members. In order to answer any questions the community may have, I have listed my direct number below. Thank you in advance for your time and assistance, and we look forward to working with you soon.

With Kind Regards,



Sean Legg
General Manager
877-248-1872 x109
Sean@usapools.com
www.usapools.com

~ END OF COVER LETTER ~

SECTION B

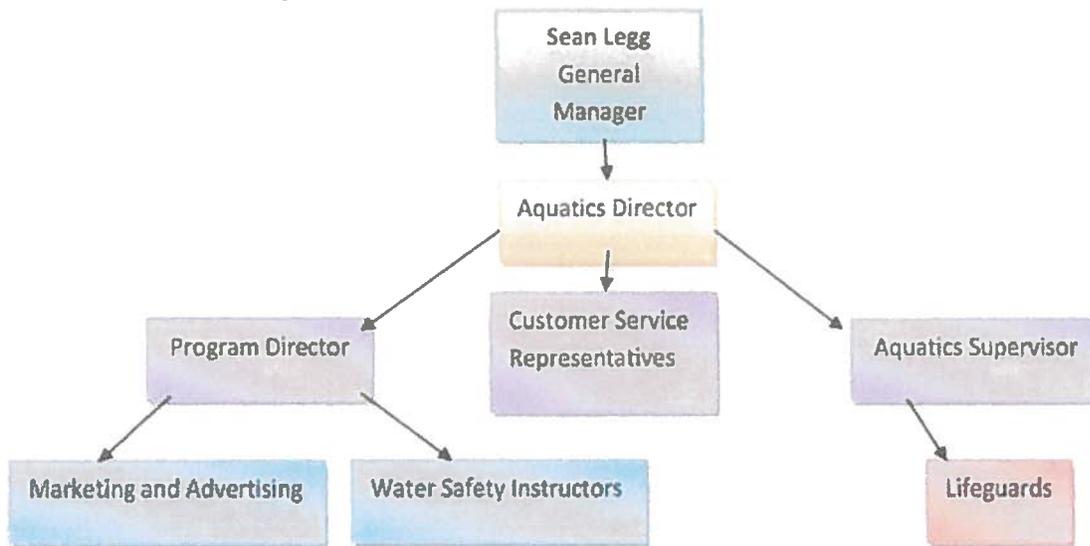
AQUATIC CENTER ORGANIZATION



- On Site:**
- Customer Service
 - Site Management
 - Routine Maintenance
 - Reservations
 - Program Sign Up
 - Marketing/Advertising
 - Training/Certifying personnel
 - Hiring/Recruiting
 - Community Outreach/Connections
 - Concessions

- Corporate Office:**
- Payroll
 - IT Support
 - Reservations
 - Management Overview
 - Purchasing
 - Technician Dispatch
 - Accounting
 - Hiring/Recruiting
 - Senior Level Training

Organizational Structure For Bethel Aquatic Center



Aquatics Director -

Responsible for total oversight of operations including but not limited to:

- Accounting questions
- Overseeing entire Aquatics operation
- Revenue Generation
- Reports directly to GM and Corporate Office
- Oversees Daily Maintenance Schedule (pool & Building)
- Certifications include CPO, AFO, LGI, WSIT, FBT
- Hiring/Discipline/Termination
- Reporting to and meeting with City Council
- Safety Audits
- Enforcing USA Pools Standards of Excellence

Program Director -

Responsible for implementing our programming and revenue generation package which includes but not limited to:

- Responsible for marketing aquatics classes
- Oversees registration of all programs
- Partners with local businesses
- Certifications include AFO, LGI, WSIT, FBT
- Works directly with CSR to generate Revenue
- Oversees Daily Maintenance Schedule (Building)
- Interacts with participants & parents in programs
- Set up facility Rentals

Aquatics Supervisor -

Responsible for overall Safety of Swimming pool area and ensures proper staffing levels and daily

Maintenance on the pool and filtration room:

- Certifications include CPO, LGT, CPR, AED, First Aide
- Writing Schedule for Aquatics Staff
- Oversees Daily Maintenance Schedule (pool area)
- Manages all Aquatics Staff
- Lifeguards

Lifeguards -

Responsible for safeguarding the water and deck area of the facility

- Lifeguards
- Apply Rescue skills when needed
- Carries out Daily Maintenance Schedule (pool area)
- Certifications include - LGT, CPR, AED, First Aide
- Interacts with Swimmers based on need

Customer Service Representative -

Responsible for front of house duties.

- Greets all guests
- Registers members for programming
- Answers phone
- Check-ins
- Answer Questions from guests
- Concessions
- Certifications include - FBT
- Administrative Duties
- Carries out Daily Maintenance Schedule (building)

Swim Instructors -

Responsible for Carrying out all aquatics classes from learn to swim to Aqua exercise classes

- Trains all members of programming
- Interacts and answers participants questions
- Creates reports for participant review after course ends
- Certifications include WSI, LGT, CPR, AED, First Aide
- Roll-Call

USA Pools retains a commitment to excellence in every aspect of our operations. We understand that "our people" make our company. Our HR department creates unique ways for the recruitment of aquatic professionals. Our first commitment is to the community and impacting the local area with jobs. We will send out recruiters into the local schools, houses of worship and community centers advertising the available positions to the residents of Bethel. We will also, partner with local radio stations and newspapers to create ads to "get the word out". We also have two more programs that we draw staff from:

2. Engage our existing staff
3. International Program

For any individual to be considered for a position with USA Pools they must go through a rigorous hiring process which includes:

- Applying through our website
- Interviewing and being screened through our personality check list

USA Pools hires based on personality and ability to serve. With this commitment to customer service this creates work environments that contribute to creating engaging programming and customer welcomed attitudes.

- After Interview procedures and policies test

This ensures our staff is thoroughly tested prior to hire

- Purchasing of USA Pools uniform
- In-service Training
- Onsite Facility Operations Training
- Review Test prior to their second pay period

As you can see this process is above and beyond all certification and entry level training. This ensures that our product, our people, are tested and trained before they ever step foot at the facility.

USA Pools partners with the American Red Cross and the National Swimming Pool Foundation to implement all Aquatics safety training certifications.

Because of our rigid commitment to excellence and investing into our personnel, we have created the highest success rate of aquatics operations in our industry. We have a 100% save rate in every emergency our team has been a part of since our founding over 35 years ago.

Finally, USA Pools manages aquatic facilities nationwide. No other company in our industry can compete with our reach in our field as regardless of how remote the location may be. We have been managing remote aquatics locations all across the country and we have the knowledge and experience to meet the demands of the Bethel Aquatic Center.

~ END OF AQUATIC ORGANIZATION ~

SECTION C

EXPERIENCE



USA Management Aquatic Center Experience

Flushing Meadows Aquatic Center - Queens, NY

USA Pools launched this facility for the city of New York in 2007. This facility was designed for the 2012 summer Olympics and USA Pools was the operator for this facility from construction completion to current operations. From the very first day of operations, USA Pools was able to build success from the ground up. There was no previous history, records, or data to pull information from to assist in the launch, however we created the success that the facility still sees today.

Every facility implementation provides opportunities to launch diverse programming. We continually evaluate our programs to ensure that we meet the needs of the community. We create programs for the mentally & physically challenged, non-swimmers, senior citizens, non-English speaking customers, professional athletes, business professionals, low-income citizens, and everything in between. This forces our marketing and aquatics divisions to create unique approaches to enhance the users experience in the water. USA Pools implements classes such as:

- Learn to swim (fishes program)
- Aqua aerobics
- Aqua Jogging
- Swim Teams
- Stroke Technique
- Kayaking Classes
- Scuba Diving Classes
- Dive Classes/Teams
- Toddler Tots Class
- Low Impact Cross Training
- High Impact Water Lifting
- ...and the list goes on.

Though our marketing and advertising efforts, USA Pools and NYC was able to bring that facility to capacity within 8 months of operations. Through our outreach into the community we were able to generate enough revenues to pay for the operations of the swimming pool.

Laurel Natatorium - Laurel, MS

Once again, USA Pools was a pioneering partner with a city to launch a new aquatics center. The City of Laurel and USA Pools have been partners since day one of operations. The needs of the facility were greater than the knowledge base within the community, so the city reached out to USA Pools for assistance.

The largest obstacle the city had in trying to open an aquatics facility was the geographical restraints that exist in a rural community. Because Laurel is located far away from many major cities in the region, they had a hard time locating appropriate aquatics professionals to staff the natatorium. Once USA Pools took over, we were able to allocate the team and resources that was best for the facility within a 30 day period. For the past 12 years USA Pools has operated the natatorium and still maintains an effective operation for the city.

Columbus Aquatic Center - Columbus, GA

CAC is another example of USA Pools partnering with a city to bring an indoor water facility on-line. A new state of the art facility requires a business plan that will ultimately grow the business into a self sustaining operation. The importance of an experienced, trusted partner allows for the systematic growth and foundation to exceed expectations. Our commitment to every patron's aquatic needs allow our creative team of professionals to effectively implement a marketing plan that will achieve our revenue goals. Through consistent marketing efforts, we are developing unique programming for user groups from the military base, local corporations, and numerous philanthropic organizations to create a generational aquatic culture of success and safety.

City of Roswell - Roswell, NM

The city of Roswell, NM was struggling with their day to day operations and automation of reporting for their revenue generations. USA Pools was able to come in and make a positive impact in one year. The first item we partnered together to change was their current fee structure. The city was grossly undercharging for their pool memberships and programming. The City was paying more in payroll for instructors than they were collecting. Through our strategic marketing and training programs we have transformed this opportunity into sound business practices of service.

Additionally, we were able to salvage their concessions area and start selling items to the public. We worked with the local DOH to create a standard and implement a successful operation with the concessions city wide.

Kedron Aquatic Center - Peachtree City, GA

After years of managerial turnover, the City of Peachtree City needed a consistent structure to deliver a consistent product to patrons. Our implementation in 1998 created a foundation for cost controls and increased revenues that we continue to manage today. As the needs of our client has changed through economical times, USA's commitment to quality has efficiently navigated this facility to dramatic price savings and increased revenues. While facilities across the nation battles ballooning budgets and reduced service, the City of Peachtree city has enjoyed a decreasing budget since the implementation in 1998. Over this term USA pools has consistently delivered under budget with an impeccable safety record. This operation embraces change and opportunity to serve in a progressive approach that gives this city and community a great value to patrons. We appreciate the value of developing the next generation of lifeguards through our aquatic programming and meet the needs of every demographic within the city.

~ END OF EXPERIENCE ~

SECTION D

START UP PLAN



Start Up Plan Tentative Schedule:

June 9-13 - Purchasing Department to purchase all necessary chemicals for operations from November 1, 2014 through May 1, 2015.
June 16-October 31 - HR team will recruit and interview potential applicants for all positions at Bethel Aquatic Center
June 16-October 31 - Marketing Team will start advertising campaigns in the region to promote the grand opening of Bethel Aquatic Center
June 26 - Initiation of Operations Plan which includes safety plan
July 21 -July 28 - Purchasing approving shipping of chemical and goods to Bethel
August - Operations Visit to facility to walkthrough additional items needed to operate. Finalize Operations Plan/Rules and regulations for submittal to council
September - Implementation of Sr. level on site staff into Bethel Aquatic Center
October - All staff training will commence no later than October 1. Prepare for Grand Opening Ceremonies

i. USA Pools has a direct approach to marketing the programming at every facility. Since the revenue that are generated at the facility are shared among the city and the company, the team is heavily incentivized to fill the facility with revenue generators. We will go out into the market place and make sure that we are consistently reaching new users as well as creating unique programming to serve those who are already using the pool. We will work with the local school district to make sure that the students at every school are made aware of the events at the facility. Additionally, we will partner with local news outlets to advertise to a broader range of potential users.

ii. USA Pools retains a commitment to excellence in every aspect of our operations. We understand that "our people" make our company. Our HR department creates unique ways for the recruitment of aquatic professionals. Our first commitment is to the community and impacting the local area with jobs. We will send out recruiters into the local schools, houses of worship and community centers advertising the available positions to the residents of Bethel. We will also, partner with local radio stations and newspapers to create ads to "get the word out". We also have two more programs that we draw staff from:

2. Engage our existing staff
3. International Program

For any individual to be considered for a position with USA Pools they must go through a rigorous hiring process which includes:

- Applying through our website
- Interviewing and being screened through our personality check list
USA Pools hires based on personality and ability to serve. With this commitment to customer service this creates work environments that contribute to creating engaging programming and customer welcomed attitudes.
- After Interview procedures and policies test
This ensures our staff is thoroughly tested prior to hire
- Purchasing of USA Pools uniform
- In-service Training
- Onsite Facility Operations Training
- Review Test prior to their second pay period

As you can see this process is above and beyond all certification and entry level training. This ensures that our product, our people, are tested and trained before they ever step foot at the facility.

USA Pools partners with the American Red Cross and the National Swimming Pool Foundation to implement all Aquatics safety training certifications.

iii. USA Pools mission statement is:

We serve out of relationships and must all create them.

With service being the catalyst of what we are all about we will make sure that we meet with the city council on a monthly basis to provide updates on the aquatics facility. Additionally, the city will have real time access to reporting through their client portal on our website to see what revenue is being generated on a daily basis. This will ensure that you have complete access to what revenues are being taken in on an weekly, daily or even hourly basis. With this transparency in our partnership this will afford the city to allocate funds necessary to the cities growth.

Additionally, constant feedback is what all successful businesses need to stay fresh. We have "TUHWD" forms (staff & Facility evaluation) that the community is encouraged to fill out and the staff is incentivized to have filled out. All of this information will be available to the company's management team as well as the cities team to evaluate how well the facility is operating.

Also, USA Pools will send out electronic surveys to the community, while offering incentives to complete, on a monthly basis. This information will be shared with the city council to provide even further transparency into USA Pools and how well the facility is being managed.

iv. See above

v. All purchasing is completed by our purchasing department. For any items that are needed for operations, our team will submit a PO to that department so that the need is immediately met and items are shipped directly to the facility. USA Pools retains hundreds of vendors around the world to ensure that any item can be obtained instantly, regardless of the time of day.

vi. USA Pools will partner with the correct team within the cities organization to help plan, prepare and implement a Grand Opening ceremony. As with any new facility, making sure you open with a bang is paramount to future success. We want to make sure that all parties involved with the planning and construction of the Facility are involved. USA Pools will provide banners and bulletins created by our marketing team as well as event coordination to show off the facility in a GRAND CEREMONY on opening day.

vii. USA Pools knows that our partnership with the City of Bethel will be one a mutual success. We have the tools the knowledge and the ability to create a positive aquatics environment while creating gainful revenues for the city.

~ END OF START UP PLAN ~

SECTION E

GENERAL PROGRAMS APPROACH



PROGRAMMING

Three Key Points USA Management Uses for Success

- 1: Four programming pillars help create a sustainable aquatic facility.
- 2: More profitable pillars help bear the weight of less profitable pillars.
- 3: Within pillars, high price , higher level services help support community level services

Pillars

1. **Support K-12 Programming and Expansion**
2. **Current and Expanded Competitive Use**
3. **Expanded Community Programming**
4. **Aquatic Therapy and Rehabilitation Services**

USA Management and Communication

Consulting

USA's primary focus is aquatic management. We have over 4 decades and over 100 combined years of experience in this management field. We like to help "bridge the gap" between small business and technology to help clients realize measurable value from their operations. We have helped transform aquatic management with vertical industry expertise and experience while helping our clients transform their management operations.

The core element of our approach is "Growing Your Business" (GYB); a management framework for maximizing the value of your investment. The fabric of our delivery model is establishing accountability and providing client programs, technology and managers with benefits tracking and reporting capabilities.

1. Weekly e-mails
2. Personal Account representative
3. Always easily accessible

Customer Service

Commitment to Customer Service precedes all Marketing efforts- to build Customer Loyalty

The customer service standards will be of the highest quality, and staff will treat adult and youth with the same level of customer care.

1. Legendary customer service – not just the best service but world class service that exceeds expectations.
2. Staff will be friendly, knowledgeable and provide a safe environment
3. Start with an attitude of gratitude to maintain customer satisfaction and market the facility

Developing an Aquatic Plan

1. **Commitment to Customer Service precedes all Marketing efforts...to build Customer Loyalty;**
2. **Do something DIFFERENT so your customers will talk. Examples:**
 1. We offer Parties whenever you have pool time! Holiday parties
 2. Free trial classes
 3. Start a new program
3. **USA Management Creates Strategic Alliances – CAP (COMMUNITY ACTION PLAN)**
 1. Local Water Safety Groups
 2. Police/Fire Department and Emergency Services
 3. Public and Private Schools, Day Care Organizations
 4. Boys and Girls Scouts and similar Youth Groups

Other Marketing Initiatives:

1. We Create a monthly or Quarterly Newsletter
2. We Create a Website and keep it fresh (Splash Page)
3. Brochure folder with information on your referral program
4. Editorial in the newspaper
5. Business card with free trial class

Maintaining Quality

Two different and equally important ways to maintain quality; Marketing and How we Manage the Actual Facility. Maintaining a steady stream of revenue is essential. We implement the following to continue growth and quality.

- **We work to have an effective website** and/or a "Splash page"... Studies show that 70% of people will research online before buying or being a part of something. That percentage is probably higher now. A website or splash page is a must! This benefits the whole community.
- **We help you create a presentation.** You can film a demonstration/presentation and place it on YouTube and your website/splash page.
- **We leverage our workforce** to spread the word. This can be accomplished through flyers, coupons and/or magnetic signs put in strategic places.
- **We create a lead generation system** and contact users frequently. A form can be added to your website and POS system to collect names, telephone numbers and email addresses. You can provide an incentive to your prospective patrons to provide this information.
- **We target local TV advertising.** Your aquatic operation may require television advertising; if so consider using cable TV. Like conventional TV, you can probably get the cable company to create your ad at little or no cost. Then, unlike conventional TV, you can select only the zip codes in which you wish to advertise (those close to your location) thereby paying only for your geographic target market rather than a huge area like conventional TV where most of those viewing your ads are not in your geographic target market.
- **We believe in creating publicity** and press releases. You can also use local "groups" within professional social networks (MySpace, Facebook, LinkedIn, etc.) to create free publicity and drive patrons to your website and facility. Creative press releases can get you on local TV, in the paper and across the web. You can do this yourself if you have the talent or USA is here to help do it for you.
- **We track results properly** so you can save yourself time and money. This is the only way we can help you fine-tune your results to secure the biggest bang for your advertising dollar.
- **We start and maintain a database of customers/patrons.** This is your goldmine for future success. It can be as simple as an Excel spreadsheet or as elaborate as a MySQL or Microsoft SQL housed on a web server. You may only have one use for it today but as time goes by, you will begin to have many other uses and wish you had this data available to you.

Maintaining Quality at the Facility:

1. Weekly inspections
2. Certified top Lifeguards
3. Maintain water quality
4. Cleanliness of facility
5. Professional representatives hired for Customer Service, Aquatic Directors, and Regional Managers.

~ END OF GENERAL PROGRAM APPROACH ~

SECTION F

FEE



USA
MANAGEMENT
Where the Sun Always Shines

**ATTACHMENT D - Professional Operations and Maintenance Service
Fee Proposal and Budget - Revised per addenda 2**

This fee proposal and budget shall be submitted as an attachment to the proposal.

Facility:	Yukon Kuskokwim Regional Aquatic Health and Safety Center, Bethel Alaska		
Offeror:	USA Pools		
Address:	1073 Green St	Phone:	877-248-1872 x109
	Roswell GA 30075	Email:	SEAN @ USAPOOLES.COM

1. Fixed fee for start-up period overhead and profit prior to grand opening scheduled for November 1, 2014	\$ 4,850 ⁰⁰
In Words: Four Thousand Eight Hundred Fifty ⁰⁰ / ₁₀₀	

2. Not to exceed budget for start-up period prior to November 1, 2014. Attach complete labor and expense details organized to correlate to the Start up plan, with the major category heading items a through e below. Attach additional pages as necessary.	\$ 18,590 ⁰⁰
In Words: Eighteen Thousand Five Hundred Ninety ⁰⁰ / ₁₀₀	

a. Local staff costs, identify positions, labor hours and pay rates	\$ 8,640 ⁰⁰
b.	Not applicable
c. Travel expenses, list number of trips, per diem, lodging etc.	\$ 5,320 ⁰⁰
d. Local accommodations/lodging	\$ 750 ⁰⁰
e. Additional items and associated costs anticipated during the start up period. Attach detail as necessary.	\$ 3,880 ⁰⁰

3. Monthly fixed fee for operations overhead and profit subsequent to facility opening on November 1, 2014.	\$ 32,875 ⁰⁰
In Words: Thirty-Two Thousand Eight Hundred Seventy-Five ⁰⁰ / ₁₀₀	

**ATTACHMENT D - Professional Operations and Maintenance Service
Fee Proposal and Budget – Revised per addenda 2**

NON-COLLUSION AFFIDAVIT

The Undersigned declares, under penalty of perjury under the laws of the United States, that neither he nor the firm, association or corporation of which he is a member, as Offeror on this project has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in connection with this proposal. The Undersigned has read the foregoing proposal and hereby agrees to the conditions stated therein by affixing his/her signature below.

Signature	
Printed Name	SEAN LEGG
Title	GENERAL MANAGER
Phone	877-248-1872 X109

End of Document

~ END OF FEE ~

SECTION G

RESUME



USA
MANAGEMENT
Where the Fun Never Stops

Sean E. Legg

Experience

2002–Present USA Pools, Inc Roswell, GA

General Manager

- Operations Division of USA Pool Management
- Overseas 20 Regions of operations
- Project Manager for 19 new commercial swimming pool projects
- Responsible for all aspects of operations
- Responsible for government management contracts
- Oversees all government operations, construction and management

2000-2002 USA Pool Management Roswell, GA

Regional Manager

- Responsible for growth of offices outside of Georgia. We grew from 4 to 10 offices during this time
- Responsible for developing and implementing a plan for purchasing and inventory. Tracking system increased profits off additional sales by 22%
- Developed and provided oversight for a new payroll system for 400 employees.
- Project Manager for all renovations and repairs for our clients

Regional Supervisor USA Pools Roswell, GA

Region Manager

- Expanded customer base from 18 customers to 34
- Managed a staff of 280 employees
- Grossed 1 million in additional sales

Certifications

- CPO (Certified Pool Operator) NSPF
- CPOI (Certified Pool Operator Instructor) NSPF
- AFO Certified
- LGI (Lifeguard Training Instructor) American Red Cross
- WSI (Water Safety Instructor) American Red Cross

Implementations

- Flushing Meadows Aquatic Center - Queens New York 2007
- Columbus Aquatic Center - Columbus, GA 2013
- Roswell Aquatics Center - Roswell, NM 2011
- Valdosta Community Pool - Valdosta, GA 2004
- Laurel Natatorium - Laurel, MS 2005
- Orinda Park Pool - Orinda, CA 2014

Stephen DeMarcus

Experience

2003–Present USA Management, LLC Roswell, GA

Regional Manager

- Responsible for hiring 250 staff members each year.
- Establish company operations for new clients. This includes all required training for each operation and company infrastructure
- Assist accounting office with all payroll entries and paperwork related to employment.
- Provide certification training through Red Cross for LGT, CPR, and First Aid.
- Responsible for daily over site of all operations.

2002-2003 USA Pools Roswell, GA

Facility Manager

- Responsible for Opening/Closing of Facility on a daily basis.
- Responsible for scheduling of lifeguard staff of 10 each year.
- Responsible for maintaining daily paperwork at each facility.

Certifications

- EMT – 1 Certified
- AEO Certified
- LGM (Lifeguard Management Training) American Red Cross.
- LGI (Lifeguard Training Instructor) American Red Cross.
- WSI (Water Safety Instructor) American Red Cross.
- AFO Certified.
- CPO Certified.

Alexandra Zak

2013–Present USA Pools Management Roswell, GA

Director of Human Resources

Customer Service

Recruitment

Hiring

Marketing

Responsible for all documents pertaining current and future personnel

Responsible for hiring and implementing policies and procedures

Responsible for all Print and Media promotions and materials utilization

2011-2012 Mindrai Creative Atlanta, GA

Consulting Manager

Reviewed, provided commentary and correct deficiencies pertaining to Operational documents . Accounting, graphic design, customer relations including event planning and promotions.

2012-2013 Fab'rik Atlanta, GA

Personal Stylist

Highest sales personal client base

Exceeded sales quotas each month

Implemented merchandising, inventory, and styling innovations

Marketing and creating excellent client database

2008- 2011 Broadwater Arbor Management Suwanee, GA

Office Administrator

Implemented grass roots marketing

Data base management

Account management and collection

Planning and implementation of company events (+100)

Collections

Customer Service Manager

Certifications

- LGI (Lifeguard Training Instructor) American Red Cross
- CPR American Red Cross

Education

Georgia State University 2010

Psychology, Bachelor of Science

Cum Laude Graduate GPA 3.67

Dean's List

Psy Chi Honors Club

Gainesville State College 2006-2008

Psychology, Associate of Arts

Merit's List

Dean's List

Honors Graduate

Volunteerism

Fulton County Children's Services (2005- 2006)

Atlanta Humane Society (2006- 2011)

EDIN (2006-Present)

Free Fab'rik (2012-Present)

Katie Shaffer

Experience 2012–Present USA Management Roswell, GA

Human Resources Director/New Client Start up Director

- Responsible for hiring 250 staff members each year.
- Develop and implement all programs offered to customers, including, but not limited to swim lessons, water aerobics, parties, special events
- Assist accounting office with all payroll entries and paperwork related to employment
- Provide certification training for lifeguard staff in each start up operation
- Responsible for all new out of state Client start ups.

2010-2012 Deck Hand/Hostess Airlie Beach, Australia
Certified Medical Assistant

2008-2010 VIP Hostess Orlando, FL

- Customer Service
- Entertaining Guests
- Picking out talent for other Hosts/Hostess

Education 2004-2008 University of Central Florida Orlando, FL

- Hospitality/Communications/Sociology

VOLUNTEERING

- Wounded Warriors Foundation- Silent/ Live Auction & Gala
- Johnny Jams, Sponsored by the Johnny Damon Foundation
- Bay Hill Golf Tournament

~ END OF RESUME ~

SECTION H

PROPOSAL



USA
MANAGEMENT
Where the World Meets

PROPOSAL TABLE OF CONTENTS

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6.	PROPOSAL EXPIRATION OPTION.....
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41.	EXTENSIONS.....
42.	ATTORNEYS FEES.....

SWIMMING POOL MANAGEMENT AGREEMENT

THIS AGREEMENT, between USA Pools LLC (the "Company") and The City of Bethel, Alaska (the "Owner"), is to provide staff, operations and maintenance services for the management by the Company of the Owner's pool located in Bethel County, Alaska, in accordance with the specification, conditions, and terms set forth herein.

1. OPERATIONAL TIMES

DATES OF OPERATION:

Open year-round except the weeks of:

Easter Christmas
Thanksgiving New Years

HOURS OF OPERATION:

Monday – Closed
Tuesday – 10am – 8pm
Wednesday – 10am – 8pm
Thursday – 10am – 8pm
Friday – 10am – 8pm
Saturday – 10am – 8pm
Sunday - 10am – 8pm
Holidays - 10am – 8pm

2. SCOPE OF SERVICES:

- Provide Staff
- Test Water
- Skim Pool Surface
- Management of Operations
- Vacuum Pool
- Clean Filters
- Inventory & Stock Chemicals
- Clean & Straighten Deck Furniture
- County Inspections
- Permit Applications
- Hiring & Recruiting
- Bathroom Management
- Water Sampling
- 3 Personnel on Duty at all times
- Aquatics & Program Director

3. PAYMENTS: The Company hereby proposes to perform the work and services set forth above for the price of 1YR. \$394,500.00 per swim year upon specification, conditions and terms as set forth herein. Payments by Owner to Company shall be made in accordance with the following schedule:

DUE:

at Signing - \$ 78,900.00	October 1, 2015 - \$32,875.00
Nov 1, 2014 - \$29,587.50	Nov 1, 2015 - \$32,875.00
Dec 1, 2014 - \$29,587.50	Dec 1, 2015 - \$32,875.00
Jan 1, 2015 - \$29,587.50	Jan 1, 2016 - \$32,875.00
Feb 1, 2015 - \$29,587.50	Feb 1, 2016 - \$32,875.00
March 1, 2015 - \$29,587.50	March 1, 2016 - \$32,875.00
April 1, 2015 - \$29,587.50	April 1, 2016 - \$32,875.00
May 1, 2015 - \$29,587.50	May 1, 2016 - \$32,875.00
June 1, 2015 - \$29,587.50	June 1, 2016 - \$32,875.00
July 1, 2015 - \$29,587.50	July 1, 2016 - \$32,875.00
Aug 1, 2015 - \$29,587.50	August 1, 2016 - \$32,875.00
Sept 1, 2015 - \$19,725.00	September 1, 2016 - \$32,875.00

4. **PROPOSAL EXPIRATION OPTION:** This contract is void at the Company's option if not executed by the Owner and returned to the Company by June 2, 2014.

5. **ACCEPTANCE:** Acceptance of this Agreement by Owner through signatures below, and return of this Agreement along with any payments due hereunder will constitute a contract entered into in accordance with the specifications, terms and conditions and addenda attached hereto. Owner acknowledges that it owns and /or operates the pool facility and has legal capacity and authority to enter into this agreement and bind the property owner of the pool facility. Owner agrees to contract specifications SECTION 1-42 in the proceeding body Agreement. Any actual changes to this Agreement must be listed in a separate Addendum.

USA POOLS

City of Bethel, AK

By: USA Pools LLC.

By: _____

Authorized Agent - "Owner"

By: _____
Name: Contracting Department

Date: _____

By: _____

6. **EFFECTIVE DATE:** This Agreement, when executed by both parties hereto, shall become effective on date of signing, for the swim season(s) November 1, 2014 through October 31, 2016. This agreement shall then continue from year to year on the same terms and conditions set forth herein, at an amount not to exceed an increase of ten (10%) percent each swim year. In the event that Owner desires not to renew and extend this Agreement as provided herein, Owner shall provide Company with written notice by certified mail delivered to 10800 Alpharetta Hwy Suite 208-522 Roswell, GA 30076 prior to September 15, of each year.

7. **ACCESS AND UTILITIES:** The Owner agrees to permit and maintain free access to the facility site and, 60 days from the "Opening Date", as provided for in section OPERATIONALTIMES, provide three (3) sets of keys, each year, to Company to all locks required to operate the facility. Company shall keep and safeguard keys and release keys only to authorized personnel. NOTE: If locks at facility site change, three (3) sets of keys shall be supplied to Company within three (3) working days.

Owner further agrees to furnish without cost to Company:

1. Water
2. Electricity
3. 110 volt electrical outlet in pump room
4. Receptacles for trash
5. Garbage pick-up service
6. First aid kit and restock, each year.
7. Land-line Telephone (If telephone is ever out of service pool shall remain closed until repair is complete.)
8. Pool stand and umbrella for pool stand.
9. Equipment to operate pool required by local county health codes. I.e. ring buoys, rescue tubes, life jackets, test kit, chemical injection system, etc.
10. Provide a copy of any Health Department Violations Inspections/Notices upon Owners receipt.
11. Complete written copy of facility rules and water safety rules.

8. **TELEPHONE:** The Owner agrees to be responsible for and to provide an operational touch-tone telephone thirty (30) days prior to opening and accessible to personnel at pool site. Consistent with health department regulations and for safety reasons pool shall only be open when the telephone is operational. The telephone must be capable of receiving incoming calls and be a dedicated land line for communication and management purposes. The telephone cannot be cellular or portable for facility location and address will not register with Emergency Services.

9. **FIRST AID KIT:** Owner agrees to be responsible for supplying and maintaining a completely stocked first aid kit, consistent with local health department regulations thirty (45) days prior to opening date. If first aid kit is not provided for or maintained then Company shall to provide a first aid kit. Owner agrees to pay for first aid kit or supplies as provided for in section **REPAIR WORK**.

10. **OPENING:** Company shall make pool "ready to swim" by completing the following services, where applicable:

1. Clean pool
2. Clean pool decking; (no landscaping) pressure washing available for an additional charge (See **REPAIR WORK**)
3. Mount diving boards, pool stand chairs, and ladders
4. Clean bathhouse
5. Company shall supply an appropriate test kit before opening day. Owner agrees to pay for said test kit provided for by company. (See **REPAIR WORK**)
6. Fold pool cover(s)
7. Order, store, and inject all necessary chemicals to establish proper levels for:
 - A. Free chlorine
 - B. Total Alkalinity
 - C. PH
 - D. Cyanuric acid
 - E. Calcium hardness
8. Set out and clean deck furniture. (Due to aging of furniture some stains may not be removable, furniture repair is available upon request.)
9. Start up filtration system.
10. Perform requisite repair work as authorized and needed by Owner. Company shall have the option to install and/or replace pool items necessary to meet local code requirements. This service shall be made in accordance with section **REPAIR WORK**.

Note: The pool must be clean and free of algae for the initial start-up of Owners swim facility each spring. If pool is not free of algae, Owner agrees to pay additional charges for cleanup and chemical treatment of pool. This service shall be made in accordance with section **REPAIR WORK**.

11. **EARLY SWIM READY DATE:** Company shall provide an "early swim ready date" to accommodate swim team. Owner agrees to give written notice of "early swim ready date" thirty (30) days prior to first day. Additional charges for daily chemical rate and maintenance shall apply. This service shall be made in accordance with section **REPAIR WORK**.

12. **VANDALISM:** Upon authorization from Owner, the Owner agrees to pay additional reasonable charges for cleanup as the result of vandalism or acts of God, in accordance with section **PAYMENT DISCLOSURE**. The Company shall not be held liable nor assumes any responsibility for any and all damage caused by vandalism or acts of God to the facility, equipment and/or surrounding areas. Should water quality be affected by vandalism or acts of God the cost of correction shall be invoiced to the Owner. This service shall be made in accordance with section **REPAIR WORK**.

13. **PERMITS:** The Company shall assist the Owner in obtaining a swimming pool operating permit from the local health department. Company shall have the option to pay fees associated with obtaining a pool permit, as determined by the local health department. If Company pays said fees, then the Owner agrees to reimburse Company under the terms in section **PAYMENT DISCLOSURE**, the cost of the pool permit. The Company shall assist the Owner regarding necessary parts and repairs required to satisfy local health department requirements. These parts and repairs shall be made in accordance with section **REPAIR WORK**.

14. **MINIMUM SAFETY STANDARDS:** Owner agrees and acknowledges that it is Owner's responsibility and duty to operate Owner's facility within the established local health department regulations and "minimum safety standards". The National Swimming Pool Foundation (NSPF), the National Electric Code (NFPA), the CDC's Recreational Water Illness Prevention, and any and all local health and building codes shall be used as minimum standards for safety herein. The NSPF may be obtained from nspf.org or Granby Circle Colorado Springs, CO 80919; the National Electric Code is available from the nfpa.org or Batterymarch Park, Quincy, MA 02169; the CDC information is from cdc.gov or Clifton Rd, Atlanta, GA 30333; and your local health codes are available from the county environmental health department.

The Company may bring the Owner's pool into compliance with minimum standards in the following areas:

1. Tile depth markings at water line and safety warnings on pool deck
2. Safety equipment: ring buoy(s), rescue tube(s), Coast Guard approved Life Jackets, shepherd hook(s), first aid kit, safety rope with buoys.
3. GFI circuit breakers for underwater pool lights.

Payment for work and equipment to bring Owner's pool within minimum standards on the above items shall be the responsibility of the Owner in accordance with section **PAYMENT DISCLOSURE**.

Note: Company shall have the right to cancel this Agreement, if Owner elects not to have pool brought up to minimum safety standards as defined above.

15. **MINIMUM WATER SAFETY STANDARDS:** The Company shall maintain adequate staffing levels as provided for in section **OPERATIONAL TIMES** to meet the "10/20 Rule" and/or the "5 minute Scanning Strategy". The Company defines minimum water safety standards as "the reasonable supervision and protection afforded to swimmers in all aquatic facilities" located on the premises of an aquatic facility including recreational pools, lap pools, diving wells, lazy rivers, children's pools, waterslides and other aquatic attractions. Company shall retain personnel and staff that will meet or exceed the lifeguard certification standards set forth by the American Red Cross and the local or State Department of Public Health.

The Owner agrees, unless otherwise agreed upon, to provide all aquatic safety rescue equipment necessary to provide quality care for swimmers who patronize the swimming facility including, but not limited to, for each facility, rescue tubes, lifeguard stand/stations, spinal extrication board with head/neck stabilizing supports, supplemental oxygen, Automatic External Defibrillators (AED), seal-easy face masks, Bag Valve Masks (BVM's) (for adult/child/Infant), first aid kit, bloodborne kit, ring buoy/rope, shepherd's hook, fanny packs, surgical gloves and one V- vacuum suction device.

Company shall provide 1 unannounced safety audit per quarter per facility and report finding of the audit upon completion. The audit shall include unedited video and a written evaluation.

Company agrees to designate a representative to attend Owner's "monthly" meetings to report on swimming pool operations and maintenance. Owner agrees to provide Company a 30 day notice of Owner's scheduled "monthly" meetings.

Company shall develop and establish an Emergency Action Plan (EAP) to maintain overall safety for Owner's pool facility, which must be approved in writing by Owner. Copies of the EAP will be made available prior to the opening of the facility.

The Owner agrees, unless otherwise agreed upon, to provide on ample amount of Coast Guard Approved Life Jackets (CGLJ) for all swimmers at Owner's pool that is less than 48" (inches). This water safety equipment is necessary to provide quality care for swimmers who patronize the pool facility to ensure their water safety. Company agrees to provide proper signage and measuring instrument to standardize swimmers who are less than 48" (inches) to provide the CGLJ. Company shall provide and administer a water safety "swim test" (swim 1 length of pool and tread water for 60 seconds) for swimmers that are 48" (inches) or less to test their "basic" water safety swimming skills.

Owner's aquatic swimming facility shall be separated into "safety zone(s)". Company shall assist Owner to determine water surface square footage. Company shall recommend an adequate number of safety zones to provide the highest level of supervision and water safety based on local and state regulations, industry standards, the 10/20 rule and the 5 minute scanning strategy. Company recommends that supervision by certified personnel be required for any use of the pool. Owner agrees to indemnify and hold Company harmless for any claims arising from use of pool other than during supervised hours. Company agrees to write schedule per the conditions of this agreement except where the schedule is changed due to inclement weather, low bathing load, repairs, fecal matter contamination or the Owner's request for modification of personnel's shifts. Company shall schedule personnel to operate the pool in accordance with section OPERATIONALTIMES.

Note: If Owner elects to change the schedule in accordance with section OPERATIONALTIMES any time during this agreement, the Owner agrees to provide 7 day written notice to allow company time to accommodate schedule change.

Company may determine personnel requirements based on bathing load, pool size, established safety zone(s), 10/20 Rule and/or the 5 Minute Scanning Strategy. Company shall notify Owner of any necessary staffing increases to accommodate a higher level of security and/or a higher level for customer service. Increased staffing levels could be provided for; heavy usage, private parties or events, holidays and/or any other activity that arises that is not a "normal condition" of facility.

Once every hour, for a period of ten minutes, the pool shall be cleared of all children 17 years and younger. (Safety Break) During this period, personnel shall not be on duty and neither the personnel nor the Company shall be responsible for people using the pool during said safety break.

16. **CHILDREN'S POOL:** If children's pool is unsupervised by company personnel, the supervision and safeguarding of users of the children's pool shall be the responsibility of the parents of the children using the children's pool. Company agrees to operate the children's pool pump, filter, and chemical injection system to maintain water chemistry. Company, however, shall not be responsible, if pool is unsupervised by company personnel, for any injury or loss resulting from use of the children's pool. Owner agrees to indemnify and hold Company harmless, if pool is unsupervised by company personnel, from any and all claims for damages or injuries, or both resulting from the utilization of Owner's children's pool.

17. **PERSONNEL:** Company personnel who shall work at the Owner's pool in fulfilling the terms of this Agreement shall be personnel of the company and be directed solely by the Company.

1. The Company shall maintain at its expense a sufficient number of personnel to perform Company's responsibilities hereunder. Company shall have sole and complete authority for recruiting, hiring, training, promoting, supervising, compensating and disciplining such personnel and for establishing the terms and conditions of their work environment. Such personnel shall be under the Company's exclusive direction and control.
2. The Company shall train personnel. Personnel not performing up to the standards of the Owner will be replaced by the Company within 48 hours of receipt of written request by Owner or designated representative.
3. Personnel shall have the authority to discipline swimmers and any and all other persons within the pool facility, within their best judgment and sole discretion consistent with the published and posted rules of the Owner and minimum safety standards as established herein.
4. Personnel are not required to tolerate abusive language or physical confrontations by facilities members or guests. If either occurs, the facility owner or guest will be required to leave the active area and/or premises at the request of personnel. Should guest not comply, the local authorities shall be called. Company has authority to call the appropriate law enforcement authority for assistance and/or arrest if the Company feels necessary. Company feels this action is in the best interest of other facility members or guest and/or company personnel.
5. The Owner remains solely responsible for decisions to readmit anyone temporarily banned from Owners facility. Decisions to temporarily ban or readmit violators shall be immediately conveyed in writing between the parties to this Agreement.
6. Anyone not abiding by the rules or blatantly disregarding them shall be warned and may be asked to leave the pool and/or facility. Should any individual pose an ongoing problem, that matter will be brought to the attention of Company's office and Owner's contact person.
7. Company's full time management staff shall train personnel on independent mechanical operation of Owner's facility.
8. Company's staff shall supervise personnel.
9. Whereas, Company will invest substantial resources to train and convey information concerning operational techniques and management procedures to its personnel at Owner's facility. Owner acknowledges that such information and investment is a valuable asset of Company's business. Owner agrees not to hire or contract (without the prior written consent of Company) any personnel or former personnel of the Company directly or indirectly to work at, service, or be connected in any way with the pool named herein for a period of one (1) year from the date of expiration or cancellation of this agreement. Owner further agrees not to contract for swimming pool maintenance or services as described herein with any other company or individual who makes use of former Company's personnel to work at, service, or be connected in any way at the pool named herein for a period of one (1) year from the date of expiration or cancellation of this agreement.

18. **PERSONNEL RESPONSIBILITIES:** Personnel shall be required to be responsible for the following duties and daily on-site maintenance for the purpose of maintaining the facility to industry standards that meet or exceed the requirements published by the National Recreation and Parks Association (NRPA) Aquatic Facility Operations Manual.

1. Supervise main pool. Parent(s) should supervise children's pool.
2. Checking water chemistry and record readings.
3. Maintaining chlorine and pH balance of pool water.
4. Cleaning tiles around pool edge according to companies cleaning schedule.
5. Back washing filtration system as needed.
6. Cleaning pump system hair and lint strainer basket(s).
7. Cleaning trash in swimming pool area.
8. Vacuuming pool according to companies cleaning schedule.
9. Emptying trash receptacles.
10. Straightening deck furniture.
11. Enforcing Owner and Company's rules for the safety and convenience of Owner's patrons.
12. Assisting Owner in monitoring usage of facility.
13. Lock and secure facility upon closing.
14. Owner agrees to report and document any action that may jeopardize the spirit and content of this agreement to company's corporate office.

19. **RAIN DAY:** In the event of severe weather, Company shall temporarily close the pool whenever threatening weather approaches for the overall safety of swimmers and patrons. This shall not require any change or adjustment in any provision to this agreement.

Lightning, thunder and high winds shall constitute severe weather and are a danger to swimmers. At the first occurrence of thunder or lightning, pool shall be closed to swimmers for 30 minutes. Should thunder or lightning persist, pool shall remain closed until 30 minutes after the last occurrence of thunder or lightning. Deck area shall also be closed for 30 minutes after each occurrence of lightning.

20. REVENUE & REVENUE SHARING:

Gate Entries & Season Passes:

The Company and City shall collect, deposit and retain an accurate accounting for all profit each party generates from season passes and gate sale. The company shall retain 25 % of the profit that is collected from both entries and season passes during the facilities operation. The City shall retain 75 % of the profit that is collected from both entries and season passes during the facilities operation.

After the swim season, the Company shall prepare an accounting of all profit it collected during the swim season and submit the accounting to the City's Finance Director within 30 days of the last day of operations.

Within 15 days after the accounting is received by the City, the City shall provide a statement to the Company that:

- Accounts for the Profit the City collected during the swim season;
- Provide the total Profit generated by both parties during the swim season;
- Determine the profit-sharing due each party pursuant to the determined percentage agreed upon above;
- Include any payment due to the Company for the Company's portion of the profit-sharing.

If payment is due to the City pursuant to the determined percentage agreed upon above, the Company shall remit payment to the City within 15 days after it receives the statement from the City.

The Company and City shall split all Net Profit generated and collected from concessions sales.

Lessons & Instructional Classes:

The Company and City shall collect, deposit and retain an accurate accounting for all Profit each party generates from Rentals for the facility, Lessons and Instructional classes and Concessions. The company shall retain 75 % of the Profit that is collected from Rentals for the facility, Lessons and Instructional classes and Concessions. The City shall retain 25 % of the Profit that is collected from Rentals for the facility, Lessons and Instructional classes and Concessions.

After the completion of all the Rentals for the facility, Lessons and Instructional classes and Concessions sales, the Company shall prepare an accounting of all Profit it collected from the Lessons and Instructional classes and submit the accounting to the City's Finance Director within 30 days of the last day of all classes.

Within 15 days after the accounting is received by the City, the City shall provide a statement to the Company that:

- Provide the total Profit from Lessons and Instructional classes during the swim season;
- Determine the profit-sharing due each party pursuant to the determined percentage agreed upon above;
- Include any payment due to the Company for the Company's portion of the profit-sharing.

If payment is due to the City pursuant to the determined percentage agreed upon above, the Company shall remit payment to the City within 15 days after it receives the statement from the City.

21. **WATER QUALITY:** Company shall be responsible for maintaining the condition of the swimming pool water within the tolerances of the American Public Health Association and the local health department while Company's personnel has pool open to swimmers.

1. Free chlorine
2. PH
3. Total Alkalinity
4. Calcium Hardness
5. Cyanuric Acid

Rain, increase/decrease in bathing load, continuous sun days, human waste, mustard or black algae, vandalism, and other factors can affect water chemistry. The Company cannot control external conditions or events. Bathing load (number of people in the pool) contributes to bathing waste. Bather waste (oils, skin, hair products, bathing suit dyes, cosmetics, etc.) can seriously affect the quality of water chemistry. Company shall notify the Owner if bather wastes become an issue.

There are over 21,000 known varieties of algae. Company shall avoid all of the complication by referring to algae by the color they exhibit. Mustard, Black or Brown Algae is an algae that can be brought into a pool through storms, bathing suits, pool toys, and many other objects that has been in contact with other pool water, lakes, streams or other bodies of water that is infected with these algae's. Owner understands that normal chemical treatment to pools cannot prevent these types of algae's. If, in the event Owners pool is infected with any of the above mentioned algae's, Company shall notify Owner of said algae and chemically treat pool water upon Owners approval. If, in the discretion of the Company, it is determined that the water quality is insufficient to properly operate the pool, the Company shall have the right to close the pool for such period of time as shall be necessary to correct the water quality. This shall not require any change or adjustment in any provisions of this Agreement.

22. **UNUSUAL CONDITIONS:** Emergency Closing of pool: The Owner and/or the Company may close the pool in an emergency situation, whether the emergency is caused by a breakdown of equipment, any act of God, repairs, or by any other causes outside the control of Company. This shall not require any change or adjustment in any provisions of this agreement. Should a time lapse of more than five (5) days be necessary to perform repairs and/or restore pool to normal operation Company shall refund fifty percent (50%) of the daily operational cost to Owner until such time as the pool is reopened for normal operation.

The pool shall be closed to swimming in cases where Fecal Matter is present. To comply with national, state and local codes and recommendations, the Company shall close and treat Owners pool in the event that fecal matter, vomit, or blood should contaminate the pool. Owner agrees to pay for additional reasonable charges. The Company shall ask swimmers to exit the pool, remove matter, vacuum, brush, shock and monitor pool water. The pool shall remain closed to swimmers for up to 4 filtration circulation turnovers or until chlorine levels drop to acceptable levels after 4 turnovers. The Company shall re-open pool for swimming.

Although glass is not permitted in the pool area during operation, glass can enter the pool area due to vandalism, after hour parties or storms that blow glass top tables into pools. Generally, colored glass entering the pool can be identified and removed. Clear glass is not easily seen and it is a requirement of the health department that the pool is drained, surface scrubbed and cleaned, refilled and water rebalanced. The Owner shall be notified should glass enter the pool. Owner shall be required to sign a Waiver of Liability for clear or colored glass on behalf of the Company should Owner elect not to follow required codes to close and drain the pool.

Defects/ Problems may exist that are not evident during Company's original assessment of pool and cannot reasonably be identified without a history of events or difficulties with maintenance in the past. These defects/problems can be in underground plumbing, improperly sized plumbing of which neither can be seen, facing plumbing, defective valves and fittings, hidden electrical problems in panel or wiring, and structural components of the pool such as gunite, deck, tile and coping. Further, defects/problems can assert themselves or develop during the course of a season that requires repair in order to maintain the quality of the pool water or environment, particularly as it relates to circulation and filtration.

Water leaks in a pool can be found in structural cracks, light niches, plumbing, skimmer throats, fresh water fills, and waste lines. Leaks are not limited to those referenced herein. Company shall notify Owner if leak detection is required to identify source of a pool leak. Should Owner elect not to choose to have leak detection performed, Owner is hereby advised that increases in water bill, increases of chemical consumption and citing by Health Department may occur. Owner agrees to pay for increase chemical consumption due to pool water leaks. Leak detection and repair is not a part of this agreement.

Any work or items mentioned above performed or supplied by Company shall be subject to the conditions in the **REPAIR WORK** provision of this Agreement.

23. **CHEMICALS AND SUPPLIES:** Company agrees to supply at its expense:

1. The following chemicals for safe and clean pool water shall be provided throughout the summer;

chlorine	diatomaceous earth
calcium chloride	soda ash
sodium bicarb	pool acid
stabilizer	

Note: If additional chemicals or labor are required to maintain or correct pool water chemistry due to failure or breakdown of Owner's equipment or loss of water due to a defect in Owner's pool or recirculation system, Company shall notify Owner of such breakdown or defect, and if Owner elects not to remedy problem Owner shall pay as an additional charge, the reasonable expense of all said additional chemicals and or labor.

1. Owner agrees to supply, at its expense bathhouse supplies and retain a professional commercial cleaning service for the bathrooms. The Company agrees to perform "light" day to day cleaning of Owners bathrooms.
2. Owner agrees to be responsible for providing, with no cost to Company, the following items/equipment; water hoses, algae brushes, chemical injection systems, pool vacuum, leaf net, pool poles, water test kit/reagents, vacuum hoses, pool rules sign, trash receptacles, gas and blower, flow meters, pressure gauges, mops, toilet brush, brooms, buckets, , hazmat kit, algacides, guard umbrella, clarifiers, automatic pool fill with auto shut off, CPO Sign, operation manual, bathhouse supplies, trash can liners.

24. **REPAIR WORK:** The Company shall stand ready to perform any repair work needed during the term of this agreement. It is understood that repair work is an independent covenant of this contract and notwithstanding any alleged breach of any other covenant. The Owner remains solely responsible for all labor and parts to repair its pumps, filters, chemical injection systems, diving boards, lifeguard stands/stations, and other physical items not specifically mentioned. The Company agrees to exercise reasonable and prudent care to operate and maintain aforementioned equipment. Owner shall have the option of using another contractor for repair work. Work performed by Company shall be invoiced as follows:

1. Any work or equipment in excess of \$195.00 to be provided by Company or Company's Sub Contractors shall be undertaken only upon authorization by the designated representative of Owner. Upon authorization, Company shall perform work and invoice Owner. Owner agrees to pay repair bills and invoices in accordance with section **PAYMENT DISCLOSURE**.
2. Repair work wherein the cost does not exceed \$195.00, Company shall invoice Owner. Owner agrees to pay repair bills and invoices in accordance with section **PAYMENT DISCLOSURE**.
3. For necessary items/parts not exceeding \$195.00 per item/part, Company shall invoice Owner. Owner agrees to pay for items/parts in accordance with section **PAYMENT DISCLOSURE**.
4. The Company shall arrange for repair of plumbing or electrical equipment/services at the Owner's request. Owner agrees to pay invoice in accordance with section **PAYMENT DISCLOSURE**.
5. The Company shall assist the Owner with regards to any necessary major repairs.

25. **ADDITIONAL PERSONNEL:** The Company agrees to schedule personnel for extra hours of operation at the written request of the Owner and subject to the following:

1. Whereas the Company shall schedule personnel for extra hours of operation, the Owner agrees to be responsible for giving the Company no less than seven (7) days of prior written notice. Additional hours are subject to the availability of personnel.
2. The Company shall not schedule any personnel beyond the hour of 11:00 p.m.
3. Personnel scheduled by the Company, other than those specified in this contract, shall be at the rate of \$25.00 per hour. Amount shall be payable to the Company with the seven (7) day prior written notice. This cost is in addition to the fees as provided hereinafter.

26. **INSURANCE/LIABILITY:** The company shall maintain the following coverage:

- 1) Worker's Compensation insurance covering all persons engaged on behalf of the Company in the performance of the terms of this agreement.
- 2) General liability insurance in the amount of \$1,000,000.00
- 3) Professional liability insurance and punitive damages in the amount of \$1,000,000.00

Upon written request by Owner, Company agrees to supply copies of certificates of insurance to the Owner verifying the above-mentioned insurance coverage. Company further agrees to list Owner as an additionally insured on policy for a fee of \$200 payable in accordance with section PAYMENT DISCLOSURE. It is the responsibility of the Owner to provide all other insurance coverage.

Company assumes no liability for any damage or injury to any persons or property arising from or caused by Acts of God. Except as to the employees of the Company, Company assumes no liability for any damage or injury to persons or property arising from or caused by physical or mental incapacity, physical or mental diminution, or intoxication from alcoholic or other substances, whether legal or illegal. The Company assumes no liability for the acts of any "Good Samaritan" or "First Responders". The Company shall not be liable or responsible to any person or entity for any loss, injuries and/or damages that arise at any time, except such loss, injuries and/or damages that are the direct result of acts or omissions of the Company or its employees. The Company shall not be liable for loss of or damage to the personal property of any person or persons utilizing the pool or its facilities. The Owner further agrees to indemnify and hold the Company harmless from any and all claims (including claims of vicarious and/or joint and several liability), injuries or damages to persons or property arising from any event or circumstance occurring at the pool or its facilities except for those acknowledged by the company as, or proven in a legal proceeding to be, proximately caused by the negligence or gross negligence of the Company or its employees.

The Owner agrees to maintain and keep in full force and affect the following coverage:

1. Premises liability insurance.
2. Comprehensive general liability insurance in the amount of \$1,000,000.00 each accident/each person.

The Company shall not be liable for claims arising from defects in the Owner's premises, equipment, amenities, furniture, or recreation equipment. Owner asserts and attests that all items are in a safe and usable condition and meet any and all necessary standards for usage. Company may notify Owner of any conditions that may pose a hazard, but is not required to do so. It is the sole responsibility of the Owner to repair, remove or replace any defective items that are the property of the Owner.

Owner agrees to provide Company with proof of insurance in the form of Certificates of insurance verifying the above-mentioned insurance coverage.

27. **TRANSITION PERIOD:** Should time elapse between the end of current services and the start date of a successor agreement: the Owner agrees that an unattended aquatic facility is subject to the development of algae, chemical imbalances, accumulation of debris and leaves. The conditions that may adversely affect the filtration system and those that may contribute to the possibility of freeze damage and other conditions not specified or limited to those above will be reviewed and the conditions evidenced will be reported to the Owner for action as the Owner deems in its best interest. Should the facility require cleaning or repairs to prepare for the inspection and opening per this agreement or a successor agreement, the Owner agrees to pay the Company to remedy this condition or on a basis mutually agreeable to the parties.

28. **MISCELLANEOUS:**

1. Owner agrees to communicate any comments, suggestions, or complaints concerning the pool, pool staff, or management service directly to the Company's corporate office.
2. The Company shall not be liable for pool and damages caused by hydrostatic lifting or faulty construction.
3. When Company's personnel is not scheduled to work at Owners facility the Company shall assume no responsibility or liability at the facility before or after specified hours of operation.
4. The Company shall not be liable for any damage to the facility, equipment and surrounding areas caused by sudden storms, and/or damage from lightning, wind, hail, or heavy rains.
5. To comply with national, state and local codes and recommendations, the Company shall close and treat Owners pool in the event that fecal matter, vomit, or blood should contaminate the pool. Company shall take appropriate steps to clean and disinfect pool. An additional cost will be invoiced to Owner for this process.
6. If there is a change in local, state or federal laws concerning minimum wage, or concerning any other cost aspect relating to this proposal, the Company may present additional charges to Owner.
7. Company reserves the right to close pool if air temperature is 69 degrees or lower. This shall not require any change or adjustment in any provision to this agreement.

29. **PRE/POST WALK THROUGH:** At the Owner's request the Company shall join the Owner in a complete inspection of the Owner's facility. It is the intention of the Company to provide the Owner with a detailed and specific account of the condition, and long term as well as short term needs of the Owners pool. Upon inspection, the Company shall provide a written report sent to the Owner. At the Owners request, Company shall perform any repairs listed in the report, in accordance with section REPAIR WORK.

30. **EXTENSION OF OPERATION:** At the option of the Owner, the Company shall schedule and maintain the pool and provide all necessary services to allow swimming before or after the dates in section OPERATIONALTIMES. The Owner agrees to notify Company in writing thirty (30) days prior to the "extension of operation". The cost for "extension of operation" not covered by this agreement shall be \$65.00 for each day (including days the pool is closed) from the first day of the extension through the final day that the pool is open for swimming, plus \$28.50 per hour. An additional four (4) hour per week shall be added for pre and post operational maintenance hours. Amount shall be payable to the Company with the thirty (30) day written notice prior to the "extension of operation". This cost is in addition to the fees as provided hereinafter.

31. **CLOSING:** Unless the Owner elects section EXTENSION OF OPERATION, the pool shall be considered closed to swimmers on November 1, 2016 and the Company shall close the pool as soon after that date as Company deems possible. The Company shall complete the following services to close the pool:

- (1) Pump pool water to correct level.
- (2) Install Owner's cover. (If applicable)
- (3) Drain pumps and hair/lint strainer.
- (4) Backwash and drain filter tanks.
- (5) Open all valves to appropriate settings.
- (6) Store Owner's deck furniture onsite.
- (7) Remove and store skimmer parts.
- (8) Cover all skimmers with plastic to prevent winter rain from refilling drained skimmers.
- (9) Remove and store all moveable ladders, pool stand chairs, at Owner's written request.
- (10) Store chemical injection system.
- (11) Drain and store water hoses.
- (12) Add winterization chemicals to pool to retard algae growth, Owner to pay cost.
- (13) Prepare pool and pool plumbing lines for freeze protection; Company agrees to use common and accepted winterization techniques, but assumes no responsibility for freeze damage, Company shall inject anti-freeze in skimmers and related fixtures.
- (14) Prepare an inspection closing report.

32. **LANDSCAPING:** Company shall not be responsible for any landscaping duties. If in the opinion of the Company landscaping presents a problem to the pool and surrounding areas the Company shall notify the Owner. The following is a list of items that affect the pool environment, but are not limited to:

- (1) Leaves entering pool and pool area.
- (2) Leaves clogging skimmers and drains.
- (3) Flowering shrubs, trees and plants.
- (4) Overhanging tree branches.
- (5) Mulch blowing into pool
- (6) Hay from newly seeded grass.
- (7) Cut grass not being removed from pool area.

Landscapers using pool area, pool and/or bathrooms for cleaning equipment or tools, and storage or repotting of plants, cleaning boots off in pool, etc. creates excessive clean up conditions for Company's Personnel. The Owner contact person shall be notified if this occurs and additional charges may be incurred if clean up is required due to landscapers neglect.

33. PAYMENT DISCLOSURE: The Company hereby proposes to perform the work and services set forth above for the year upon specification, conditions and terms as set forth herein in accordance with section PAYMENTS. Payments by Owner to Company shall be made in accordance with the section PAYMENTS.

Contract Payments are due as indicated above. Any contract payment not made within five (5) days of the dates listed above shall be subject to a delinquent payment of five percent (5%) of the amount due or any portion thereof. In the event contract payment are not received within (10) days of the dates listed above, the Company shall have the right, at it's option, and within its sole discretion, to interrupt its services under this Agreement and to withdraw and remove all personnel and supplies from Owner's pool facilities without any further or additional notice to Owner. Any and all other Payments, including, but not limited to, payments for repairs, parts, equipment, or labor, not made on or before ten (10) days from the due date shall be subject to a delinquent payment of five percent (5%) of the amount due or any portion thereof. In the event payments are not received fifteen (15) days from the due date, the Company shall have the right, at it's option, and within its sole discretion, to interrupt or terminate its services under this Agreement and to withdraw and remove all personnel and any unpaid for parts, equipment, and/or supplies from Owner's pool facilities without any further or additional notice to Owner. Any such interruption or termination notwithstanding, Owner shall be fully responsible for all payments provided herein. In the event that Company is required to collect payment at Owner's establishment, Owner agrees to pay an amount not to exceed \$250.00 for courier services.

In the event that the Company elects to pursue collection of any amounts due under this Agreement, Owner shall pay all said amounts, together with the interest at the rate of 18% per annum from the date the same became due, together with any and all cost of collection, including and together with any and all reasonable litigation expenses, including reasonable attorneys fees.

34. CANCELLATION: The Owner shall have the right to cancel this Agreement based on Company's non-performance of duties and responsibilities as follows:

- (1) Owner shall notify corporate office (1073 Green Street Roswell, GA 30075) by certified mail and by phone of any problem regarding performance as detailed in the Agreement. Company shall have five (5) business days following receipt of certified notification to remedy stated violation of agreement. (the "Remedy Period")
- (2) If Company fails to remedy the violation within the "Remedy Period" as detailed in this Agreement; Owner may then cancel this Agreement by providing Company written notice of cancellation via certified mail, within ten (10) days of the end of the remedy period. This agreement shall then terminate five (5) days after the receipt thereof by the Company. (the "Termination Date")
- (3) In the event that the Owner terminates agreement by procedure stated above, the Owner shall be entitled to a refund for monies paid in advance. Refund to Owner shall be calculated as follows:

Divide the contract price by the total number of days of operation (the first day of the contracted swim season to the last day of the contracted swim season as determined in section 1 of this Agreement). This daily operation cost shall be multiplied by the number of days pool was operated under this Agreement. That amount shall be subtracted from the amount of the contract price paid to the Company by Owner as of the termination date. Company shall refund fifty percent (50%) of the remaining amount paid to the Company by Owner as of the termination date.

- (4) Refund shall be paid within fourteen (14) business days after termination.

35. OWNER CONTACT PERSON: Please direct all Company communications to the following Owner/ Representative: Owner agrees at least one of the designated "contact person(s)" below is an elected official and/or officer of the Owners organization.

<p>1st CONTACT PERSON:</p> <p>Name: _____</p> <p>Street: _____</p> <p>City: _____ St: ___ Zip: ___</p>	<p>1st CONTACT PERSON:</p> <p>Name: _____</p> <p>Street: _____</p> <p>City: _____ St: ___ Zip: ___</p>
<p>1st CONTACT PERSON:</p> <p>Name: _____</p> <p>Street: _____</p> <p>City: _____ St: ___ Zip: ___</p>	<p>1st CONTACT PERSON:</p> <p>Name: _____</p> <p>Street: _____</p> <p>City: _____ St: ___ Zip: ___</p>

36. **VENUE AND GOVERNING LAW:** This Contract shall be governed by and construed according to the Laws of the State of Georgia. Venue for any disputes arising out of this Contract shall be in the State or Superior Courts of Fulton County, Georgia.

37. **ENTIRE AGREEMENT, MODIFICATION, BINDING EFFECT:** This Agreement constitutes the entire agreement of the parties and supercedes any prior agreements, understandings or negotiations, written or oral. This Agreement may not be modified or amended except in writing, signed by both parties hereto. This Agreement shall be binding to ensure the benefit of the Owner and Company and so their respective heirs, successors and assigns.

38. **STRICT COMPLIANCE:** No failure of Company to exercise any power or right granted herein, or to insist compliance by Owner with its obligations and duty herein shall constitute a waiver of Company's right to demand strict compliance with the provisions hereof at any time.

39. **SEVERABILITY:** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law

40. **NONWAIVER:** Owner and Company agree that no failure to exercise and no delay in exercising any right, power or privilege under this Agreement on the part of either party shall operate as a waiver of any right, power, or privilege under this Agreement.

41. **EXTENSIONS:** Unless otherwise agreed to by Owner and Company in writing, the terms of this Agreement shall apply to all extensions and renewals hereof.

42. **ATTORNEYS FEES:** In the event of Owners breach of Agreement or legal action to enforce the rights of Company under the terms of this Agreement, the parties agree that the Company shall be entitled to receive as additional damages, any and all litigation expenses, including attorney's fees.

~ END OF PROPOSAL ~

Yukon Kuskokwim Regional Aquatic Health & Safety Center

City of Bethel, Alaska

Operations and Maintenance Contract

USA POOLS MANGEMENT, INC.

Covering the period between July 9, 2014 through June 30, 2016

**Operations and Maintenance Contract
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IDENTIFICATION OF THE PARTIES:

THIS CONTRACT is made and entered into by and between the City of Bethel, (hereinafter referred to as the “City”), and USA Pools Management, Inc., (hereinafter referred to as the “Operator”):

WITNESSETH:

WHEREAS, The City of Bethel has developed and owns the Yukon Kuskokwim Regional Aquatic Health and Safety Center (hereinafter the “Facility” to provide for the public health, safety and enjoyment of the residents and visitors of Bethel; and

WHEREAS, to accomplish these purposes, the City l has determined that certain services are necessary and appropriate for the public use and enjoyment of the Facility; and

WHEREAS, the City Council desires the Operator to establish and operate these services at reasonable rates under the supervision and regulation of the City Manager or their designee; and

WHEREAS, the City Council desires the Operator to conduct these visitor services in a manner that promotes health and safety, demonstrates sound environmental management, economic stewardship, and leadership;

NOW, THEREFORE, pursuant to the authority contained in the Bethel Municipal Code, Alaska State law and other laws that supplement and amend Bethel’s ordinances, the City and the Operator agree as follows:

SEC. 1. TERM OF THE CONTRACT

This contract shall be effective as of July 9, 2014 and shall be effective until it’s expiration on June 30, 2016. At the option of the City, this contract may be extended for up to two (2), two year periods. Either the City or the Operator may request an extension of this Agreement but in no event shall the request be made less than one hundred twenty (120) calendar days in advance of the expiration of the current term. The maximum period of performance under this Agreement is through June 30, 2020.

Contract extensions shall be accomplished by a contract amendment.

SEC. 2. DEFINITIONS

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

- a) City is used to mean the City of Bethel.
- b) Day is used to mean a calendar day.
- c) Facility is used to mean the Yukon Kuskokwim Regional Aquatic Health and Safety Center.

- d) Operator is the entity responsible for the operations and maintenance of the Facility.
- e) Operations means Operator activities primarily related to the provision of services in the daily management of the Facility in such a way as to positively affect the Facility's net income.
- f) Maintenance means the upkeep or preservation of the condition of the Facility, including the cost of ordinary repairs necessary and proper from time to time for that purpose.

SEC. 3. SERVICES AND OPERATIONS

a) Required and Authorized Services

During the term of this contract, the City requires and authorizes the Operator to operate and maintain the Facility and associated programs including the pool areas, fitness room, exercise room and concessions to promote the health and safety of the community in an economical fashion.

The scope of the work includes plans and other documents to be developed and submitted to the City for approval during the start-up phase of the work. Once approved by the City, Plans become property of the City and may be used and referenced by the City as deemed necessary by the City.

The City, with agreement of the Operator, may make reasonable modifications to these plans that are in the furtherance of the purposes of this Contract and are not inconsistent with the terms and conditions of the main body of this Contract. All such modifications shall be in writing and shall not be unreasonably withheld.

The following table summarizes the required plans and submittals. (IAW means "in accordance with").

Description	Due Date	Reference Section
Start-Up Plan	As finalized with this contract	Exhibit B
Start-Up Budget	As finalized with this contract	Exhibit C
Operations Plans		
• Draft Initial Operations Plan	Submit for approval no later than Aug 15, 2014	In accordance with Section 3.c
• Final Initial Operations Plan	No later than Sept 15, 2014	In accordance with Section 3.c
• Subsequent Draft Annual Operations Plan	Annually, no later than February 15 th	In accordance with Section 3.d
• Subsequent Final Annual Operations Plan	Annually, no later than March 15 th	via contract amendment
Operations Budgets		
• Draft Initial Operations	Submit for approval with Initial	In accordance with

Budget	Operations Plan	Section 3.e.i
• Final Initial Operations Budget	Finalized w/Initial Operations Plan	In accordance with Section 3.e.i
• Subsequent Draft Annual Operating Budget	Submit for approval with Annual Operations Plan	In accordance with Section 3.e.ii
• Annual Final Operating Budget	Annually, with Operations Plan	via contract amendment
Policy and Procedures Manual	IAW Approved Start-up Plan	In accordance with Section 3.f
Maintenance Plan	IAW Approved Start-Up Plan	In accordance with Section Section 9.b
Transition Plan	No later than June 30, 2015	In accordance with Section 3.g

- b) Start-Up Plan** - The Start Up period covers the period of time from July 9, 2014 through October 31, 2014. The Operator shall execute the approved start up plan within the approved start-up budget. Start up activities include, but are not limited to:
- i) The preparation and submittal to the City for approval, of the following plans and documents:
 - (1) Initial Operations Plan
 - (2) Initial Operating Budget
 - (3) Policy and Procedures Manual
 - (4) Maintenance Plan
 - (5) Transition Plan
 - ii) Training and ramp up of staffing IAW Operations Plan.
 - iii) Advertising and outreach IAW Start-Up Plan to include coordination with the school district and community organizations.
 - iv) Purchases for operational start up to include: pool chemicals, pool swimming aids and small exercise aids, concessions foods and small ware, re-sale goods, rental goods, uniforms and office supplies. Purchases are to support the Operations Plan.
 - v) In close coordination with the City, prepare and execute a Grand Opening of an appropriate scale, recognizing individual and community contributions and promoting Facility usage. The opening of the Facility is projected to be November 1, 2014.
 - vi) The Operator shall operate the Facility in accordance with the approved Operations Plan, approved Budget, approved Policies and Procedures, approved Maintenance Plan, and shall provide on-going outreach and advertising.
- c) Initial Operations Plan** - The Initial Operations Plan shall cover the period from November 1, 2014 through June 30, 2016. No later than August 15, 2014, Operator shall submit a completed proposed initial operating plan, to the City for review and approval. The City will review the plan and will discuss it with

Operator prior to implementation. In any event, no later than September 15, 2014, a final and completed Initial Operations Plan shall be in place that is approved by the City. The initial operations plan shall include, at a minimum:

- ✓ Proposed Facility hours of operation.
- ✓ Programs plan for pool usage including open swim, lap swim, and classes.
- ✓ Proposed open use hours for the exercise and fitness rooms and various classes.
- ✓ Detailed concessions operations plan including hours of operation and items to be sold.
- ✓ Staffing and initial training plan, including local training and hiring program, ramp up of hiring, to support the hours of operation and programs.

d) Annual Operations Plans - The Operator shall submit an updated Annual Operations Plan covering the period beginning July 1 and ending June 30 the following year no later than February 15th each year. The City will review the plan and will discuss it with Operator prior to implementation. In any event, no later than March 15th a final and completed Initial Operations Plan shall be in place that is approved by the City.

City understands Operator may need to modify Operations Plan schedules and programs from time to time to best fit the needs and desires of the community. Modifications are to be discussed and approved in writing by the City.

e) Operating Budgets - The Operator is to prepare operating budgets to support the approved Operating Plan. The draft budgets are to be submitted to the City at the same time as the Operations Plan. The budget shall be in a form and format consistent with the Operations Plan and shall include proposed usage fees structure, estimated annual revenues, and estimated expenses in the same form or format in which costs will be invoiced.

i) **Initial Operating Budget** - The Initial Operating Budget shall cover the period from November 1, 2014 through June 30, 2016. No later than August 15, 2014, Operator shall submit a completed proposed Initial Operating Budget, to the City for review and approval. The City will review the budget and will discuss it with Operator prior to implementation. In any event, no later than September 15, 2014, a final and completed Initial Operating Budget shall be in place that is approved by the City.

ii) **Annual Operating Budgets** - The Operator shall submit an Annual Operating Budget covering the period beginning July 1 and ending June 30 the following year, no later than February 15th each year. The City will review the budget and will discuss it with Operator prior to

implementation. In any event, no later than March 15th a final and completed Initial Operations Plan shall be in place that is approved by the City. City understands Operator may need to modify the budget in concert with modifications to the Operations Plan. Any modifications are to be discussed and approved in writing by the City. The Annual Operating Budget should include projected revenue.

- f) Policy and Standard Operating Procedures Manual** - The Operator is to prepare and submit to the City for approval, a Policy and Standard Operating Procedures Manual. The Manual shall be developed and submitted during the Start-up period. The Policy and Standard Operating Procedures Manual shall include, but is not limited to:
- ✓ Maintenance, incorporating the manufacturers recommended procedure to comply with and maintain warranties of new equipment.
 - ✓ Risk management including life safety, an emergency action plan, emergency closures, notifications, etc.
 - ✓ Fiscal Responsibility including accounting practices, purchasing and purchasing authorizations, inventory control, cash management, and time card management.
 - ✓ Human Resources including local work force development, pre-employment screening, written job descriptions with certification requirements, hiring, training, and training records management, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees.
- g) Transition Plan** - Operator shall provide City with a draft transition plan, for the City's review and approval, no later than June 30, 2015. The transition plan will provide for the orderly transfer of responsibilities, technical information, manuals and plans, maintenance logs, inventory and locally trained staff to a new operator. The plan will specifically identify which records are to be retained by the current Operator.
- h) Merchandise and Services** - The City reserves the right to determine and control the nature, type and quality of the services described in this Contract, including, but not limited to, the nature, type, and quality of merchandise, if any, to be sold or provided by the Operator within the Facility.

All promotional material, regardless of media format (i.e. printed, electronic, broadcast media), provided to the public by the Operator in connection with the services provided under this Contract must be approved in writing by the City prior to use.

The Operator, where applicable, will develop and implement a plan satisfactory to the City that will assure that merchandise, if any, to be sold or provided reflects the purpose and significance of the Facility, including, but not limited to, merchandise that reflects the conservation of the City of Bethel's resources or the area's geology, wildlife, plant life, archeology, or local Native American culture.

- i) **Rates** - The Operator's rates and charges to the public must be approved by the City in accordance with the annual budget process, Applicable Laws, and through guidelines promulgated by the City from time to time. All rates and charges to the public by the Operator for services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this Contract.
- j) **Impartiality as to Rates and Services** - Subject to Section 3.i, in providing visitor services, the Operator must require its employees to observe a strict impartiality as to rates and services in all circumstances. The Operator shall comply with all Applicable Laws relating to nondiscrimination in providing services to the public.

The Operator may grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted under this Contract. However, the City reserves the right to review and modify the Operator's complimentary or reduced rate policies and practices as part of its budget approval process.

4) OPERATOR PERSONNEL

- a) **Certification:** Any employee regularly working in the pool area shall be certified as a Lifeguard by a nationally recognized certification agency. All employees assigned to the Facility must maintain CPR and First Aid certification by a nationally recognized certification agency during the term of their employment.
- b) **Staffing:** Operator is responsible for providing all necessary personnel for operating the Facility. In doing so, Operator shall comply with all applicable laws relating to employment and employment conditions. All personnel employed by the Operator in the performance of fulfilling this Contract for the operation of the Facility shall be considered employees of the Operator and not of the City.
- c) **Wages:** All personnel employed by the Operator shall be paid in accordance with the minimum Federal Wage and Hour laws. The Operator shall be responsible for the payment of all employment taxes and Social Security taxes related to the employment of said personnel including workmen's

compensation and unemployment insurance.

- d) **Policies and Procedures:** The Operator shall establish through the Policy and Standard Operating Procedures Manual pre-employment screening, hiring, training, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees.
- e) **Hiring of Employees:** The Operator shall conduct appropriate background reviews of applicants to whom an offer for employment may be extended to assure that they conform to the hiring policies established by the Operator.
- f) **Hospitality of, and Uniforms for, Employees:** The Operator shall ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Operator shall have its employees, so far as practicable; wear a uniform or badge by which they may be identified as the employees of the Operator.
- g) **Training of Employees:** The Operator shall ensure that its employees are provided the training needed to provide quality services and to maintain up-to-date job skills.
- h) **Employee Discipline:** The Operator shall review the conduct of any of its employees whose action or activities are considered by the Operator, the public or the City to be inconsistent with the proper use of the Facility and enjoyment of visitors and shall take such actions as are necessary to correct the situation.
- i) **Drug, Alcohol and Tobacco Free Workplace:** The Operator shall maintain, to the greatest extent possible, a drug free environment within and outside the Facility. The Operator shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol is prohibited in the workplace and in the Facility, and specifying the actions that will be taken against employees for violating this prohibition. In addition, the Operator shall establish a drug, alcohol and tobacco-free awareness program to inform employees about the danger of drug, alcohol and tobacco abuse in the workplace and the Facility and the Operator's policy of maintaining a drug-free environment both in the workplace and in the Area. The Operator shall take appropriate personnel action, up to and including termination for any employee that is found to be in violation of the prohibition on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol.
- j) Operator will invest substantial resources to train and convey information concerning operational techniques and management procedures to its

personnel at City's Facility. City acknowledges that such information and investment is a valuable asset of Operator's business. City agrees not to hire or contract (without the prior written consent of Operator) any management personnel or former management personnel of the Operator directly or indirectly to work at, service, or be connected in any way with the pool named herein for a period of one (1) year from the date of expiration or cancellation of this agreement. For each completed year of the Contract, Operator agrees City can retain twenty (20%) percent of the non-management personnel upon termination of the contract. For example, if the contract is terminated after one full year, the City may only retain twenty (20%) percent of the non-management staff working for Contractor at the time of termination. If the contract is terminated after two (2) full years, the City may retain forty (40%) percent of the non-management staff at the time of termination and so forth.

5) LEGAL, REGULATORY, AND POLICY COMPLIANCE

a) Legal, Regulatory and Policy Compliance - This Contract, operations thereunder by the Operator and the administration of it by the City, shall be subject to all Applicable Laws. The Operator must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Operator's sole cost and expense. Certain Applicable Laws governing protection of the environment are further described in this Contract. Certain Applicable Laws relating to nondiscrimination in employment and providing accessible facilities and services to the public are further described in this Contract.

- i) The Operator must at all times comply with the State of Alaska 18 AAC 30.500-.590 Regulations for Public Swimming Pools and Spas.
- ii) Hazardous Materials: A Hazardous Material is any substance or material identified now or in the future as hazardous under any Laws, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal, or clean-up. The Operator shall not be obligated to commence Work until all Hazardous Material discovered at the Facility has been removed, rendered, or determined to be harmless by the City as certified by an independent testing laboratory and approved by the appropriate government agency.
- iii) Operator will be working with pool chemicals which are considered hazardous materials. Operator shall be required to follow all Alaska Department of Environmental Conservation (DEC) rules and regulations regarding the proper storage, use and disposal of the pool and Facility chemicals. Any spills will be reported immediately to the City and DEC and clean-up and reporting will be undertaken as per 18 AAC 75.300, 310 and 315.

- iv) If a spill or hazardous condition is caused by, or Materially Contributed To by the Operator and/or their use of the Facility, Operator shall report such incident to the City and the proper government agency. In such situation, Operator is solely responsible for the safe clean-up and disposal of the hazardous material(s).
- v) If after commencing the Work, a different kind of Hazardous Material is discovered at the Facility, the Operator shall be entitled to immediately stop work in the affected area. The Operator shall report the condition to the City and, if required, the government agency with jurisdiction. The Operator shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement. The City shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures or remedial action. Such measures shall be the sole responsibility of the City, and shall be performed in a manner minimizing any adverse effect upon the work of the Operator. The Operator shall resume work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency or agencies with jurisdiction.
- vi) If the Operator incurs loss due to the presence or remediation of Hazardous Material, the Operator shall be entitled to an equitable adjustment in the Contract Price.

- b) Compliance with Bethel Municipal Codes:** Operator shall comply with all applicable Bethel Municipal Codes (found at www.cityofbethel.org). In particular, Operator shall:
 - i) Provide proof of a State of Alaska and City of Bethel business license prior to commencement of any work under this Contract;
 - ii) Collect and remit sales taxes to the City for all admissions, concessions, room rentals, class fees, and other sales. Sales taxes are to be remitted monthly.
- c) Notice** - The Operator shall give the City immediate written notice of any violation of Applicable Laws by the Operator, including its employees, agents or contractors, and, at its sole cost and expense, must promptly rectify any such violation.

How and Where to Send Notice - All notices required by this Contract shall be in writing and shall be served on the parties at the following addresses. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service. Notices sent to the City shall be sent to the following address:

City of Bethel
P.O. Box 1388
Bethel, AK 99559
Attention: City Manager

Notices sent to the Operator shall be sent to the following address:

USA Pools Management, Inc.
Attn: Contracting Department
1073 Green Street
Roswell, GA 30075

And

USA Pools Management, Inc.
7421 Douglas Blvd
Suite N-213
Douglasville, GA 30135

d) Audit by City - The City reserves the right to conduct an annual audit by an external expert and industry professional. The City is responsible for selection, scheduling and any and all fees related to the annual audit. The audit may include but may not be limited to:

- ✓ Contract Compliance
- ✓ Review of Financial Records
- ✓ Staff Skills Assessment
- ✓ Staff Selection and Training procedures
- ✓ Policies & Procedures Review
- ✓ Site Inspection
- ✓ Code Compliance and Record Keeping Practices
- ✓ Adherence to Aquatic Safety Standards
- ✓ Facility and equipment maintenance

In the event deficiencies are identified in the audit, the Operator will be required to make corrections in a timely manner, to be determined at the time of the findings, based on severity of the hazard and other factors.

6) ENVIRONMENTAL MANAGEMENT

The Operator shall meet the following environmental management objectives in the conduct of its operations under this Contract:

The Operator, including its employees, agents and contractors, shall comply with all Applicable Laws pertaining to the protection of human health and the environment.

The Operator shall incorporate Best Management Practices (BMPs) in its operation, construction, maintenance, acquisition, provision of services, and other activities under this Contract.

7) FACILITIES USED IN OPERATION BY THE OPERATOR

- a) Assignment of Facilities** - The City hereby assigns the Facilities to the Operator for the purposes of this Contract. The Facilities are further described and are as set forth in Exhibit A – Assigned Land, Real Property Improvements and Equipment. The City and Operator shall from time to time amend Exhibit A to reflect changes in the Facilities assigned to the Operator, including, without limitation, amending Exhibit A to reflect the addition of real property improvements completed in accordance with the terms and conditions of this Contract and to reflect the withdrawal of facilities as set forth below.

- b) Facilities Withdrawals** - The City may withdraw all or portions of these Facilities assignments at any time during the term of this Contract if:
 - i. The withdrawal is necessary for the purpose of protecting the public safety or to protect, conserve and preserve the Facility;
 - ii. The operations utilizing the assigned Facilities have been terminated or suspended by the City; or
 - iii. Land or real property improvements assigned to the Operator are no longer necessary for the operation.

- c) Effect of Withdrawal** - Any permanent withdrawal of assigned Facilities which the City or the Operator considers to be essential for the Operator to provide the services required by this Contract will be treated as a termination of this Contract pursuant to Section 13. The Operator will be compensated pursuant to Section 14 for the value of any allowable incurred costs up to the date of the withdrawal. No other compensation is due the Operator in these circumstances.

- d) Right of Entry** - The City shall have the right at any time to enter upon or into the Facilities assigned to the Operator under this Contract for any purpose it may deem necessary for the administration of this contract.

- e) Personal Property**
 - 1) The City will provide certain items of personal property, including without limitation removable equipment, furniture and goods, for the Operator's use in the performance of this Contract. The City hereby assigns personal property listed in Exhibit A – Assigned Land, Real Property Improvements and Equipment.

 - 2) Personal Property Provided by the Operator. The Operator shall provide all personal property, including without limitation removable equipment, furniture and goods, necessary for its operations under this Contract,

unless such personal property is provided by the City as set forth above.

- f) Condition of Facilities** - The Operator has inspected the Facilities and assigned personal property, is thoroughly acquainted with their condition, and accepts the Facilities, and any assigned government personal property, "as is." Upon termination of this Contract, the City and the Operator will inspect all property listed under Exhibit A. All property shall be accounted for and in good and operating condition, less reasonable wear and tear. The City shall give written notice of any defects in the condition of any of the equipment or property. Operator will be responsible for replacing any damaged property.
- g) Utilities Provided by the City** - The City will provide the following utilities to the Operator for use in connection with the operations required or authorized hereunder:
- ✓ Electricity
 - ✓ Water
 - ✓ Sewer
 - ✓ Fuel Oil
 - ✓ Internet
- h) Utilities Not Provided by the City**- The following utilities are not provided by the City and are to be procured, managed and paid for by the Operator:
- ✓ Telephone
 - ✓ Solid Waste Disposal
 - ✓ Cable (if desired by Contractor and submitted in the approved budget)
 - ✓ Hazardous Material Waste Disposal (defined as the containers for the pool chemicals)

8) CONSTRUCTION OR INSTALLATION OF REAL PROPERTY IMPROVEMENTS

- a) Construction of Real Property Improvements** - The Operator may construct or install real property improvements that are determined by the City to be necessary and appropriate for conduct of services authorized under this contract. Construction or installation of real property improvements may occur only after the written approval by the City of their location, plans, and specifications. All real property improvements immediately become the property of the City.
- b) Removal of Real Property Improvements** - The Operator may not remove, dismantle or demolish real property improvements. In the event a real property improvement is removed, dismantled or demolished without approval by the City, the Operator shall promptly, at the request of the City, restore the Facility as nearly as practicable to its original condition at Operator's sole expense.

- c) **Facilities Improvement Program** - The Operator is encouraged to suggest to the City Facility improvements that will economize the cost of operations, reduce energy consumption, promote safety, enhance programs or are required for regulatory compliance. It is preferred that any suggestions for facilities improvements be included in the annual operating submittal. However, suggestions may be proffered at any time.

9) MAINTENANCE

- a) **Maintenance Obligation** - The Operator shall be solely responsible for maintenance, preventative maintenance, repairs, housekeeping, and grounds keeping of the Facility to the satisfaction of the City and in accordance with the approved Maintenance Plan. The City will provide snow plowing of the parking lot and maintain the wind turbine. The City does not intend to provide any other maintenance.

Operator provided maintenance includes, but is not limited to, all surfaces, systems and furniture, fixtures and equipment. This includes pool systems, data and information technology systems, fitness and exercise equipment, concessions equipment, HVAC systems, electrical systems, and fire and life safety systems.

The Operator shall provide the City advance notice of any maintenance related closures. The Operator will take necessary and appropriate steps to notify the Public of closures. The Facility cannot be closed for longer than 24 hours under normal circumstances. Extraordinary circumstances will be considered on a case-by-case basis.

- b) **Maintenance Plan** - The Operator shall prepare the Maintenance Plan and submit it for approval during the Start Up period. The Maintenance Plan shall include routine and preventative maintenance developed in accordance with manufacturers' recommendations. The Maintenance Plan shall include the data and information provided by the construction contractor during the turnover and commissioning of the Facility. The City may make reasonable modifications from time to time after consultation with the Operator. Such modifications shall be in furtherance of the purposes of this Contract and shall not be inconsistent with the terms and conditions of the main body of the contract.
- c) **Maintenance Records and Logs** - The Operator shall maintain maintenance records and logs. At minimum, these records shall include:
 - i. Demonstrated compliance with current Alaska Department of Environmental Conservation (ADEC) regulations including, but not limited to, the recording of the following information for each day that the pool is open to the public and kept on file for three years:

- ✓ the hours of operation;
 - ✓ the length of time that the pumps and filters are in operation, and the rate of pressure, vacuum, and rate of flow readings;
 - ✓ the date that each filter is backwashed or cleaned;
 - ✓ the frequency and results of alkalinity and hardness tests;
 - ✓ the frequency and results of pH and disinfectant tests; pH and disinfectant tests must be made two or more times, and depending upon chlorine or bromine demand;
 - ✓ the amount of water and chemicals added to maintain water quality; and
 - ✓ any equipment failure, any gross water contamination, for example, vomiting, feces, etc., or repair while the pool is in operation.
- ii. The Operator shall submit duplicate records noted in section 12, on a monthly basis to the ADEC while the establishment is in operation.
 - iii. Check lists for routine maintenance, preventative maintenance, and janitorial duties (Daily, Weekly, Monthly, Quarterly, Bi-annual, and Annual).
 - iv. Equipment Logs for each piece of major equipment with the maintenance schedule, maintenance contracts, record of work or repairs conducted, manufacturer guidelines, and specifications
 - v. Confined space entry equipment (as specified by manufacturer).
 - vi. Equipment Logs for each piece of major equipment with the maintenance schedule, maintenance contracts, record of work or repairs conducted, manufacturer guidelines, and specifications.

d) Critical Spare Parts - The Operator shall maintain on site and readily available, an inventory of spare parts critical to the on-going operations of the Facility.

e) Repair and Replacement Reserve - The Initial and Annual budget shall include an un-programmed repair and replacement reserve. The budget item will be used for items that are non-recurring within an annual timeframe and require prior written approval of the City. Repair and replacement reserves shall not be used for routine operational maintenance of facilities or housekeeping or grounds keeping activities. Repairs and replacements estimated to cost in excess of \$25,000 shall be deferred to the City for execution.

f) Inspections - Notwithstanding the City's Right of Entry described in Section 7.d, at the City's discretion or at the Operator's request, the City may conduct regular inspections of the Facility to verify the proper execution of the Maintenance Plan.

At the request of the City, the Operator will assist the City with up to two Facility warranty inspections for the purposes of protecting the City's interest in the Facility and closing out the Construction Contractor's Obligations. These

inspections are estimated to occur in the early fall of 2015 and early fall of 2016.

10) IDEMNIFICATION AND INSURANCE

a) Indemnification

- i. The Operator shall indemnify, hold harmless, and defend the City of Bethel and its agents and employees from any and all claims or actions for injuries or damages whatsoever sustained by any person or property that arise from or relate to, directly or indirectly, the Operator's performance of the Contract; however, this provision has no effect if, but only if, the sole proximate cause of the injury or damage is the City's negligence.
- ii. This Contract does not create a third party benefit to the public or any member of the public, nor does it authorize any person or entity not a party to this Contract to maintain a suit based on this Contract or any term or provision of the Contract, whether for personal injuries, property damage, or any other claim or cause of action.

b) Required Insurance - Operator shall maintain the following noted insurance during the duration of the Contract as evidenced by the filing of insurance binders annually (no later than June 1 of each year) and naming the City of Bethel as additional insured's:

- i. **Workers' Compensation:** as required by AS 23.30.045, for all employees of the Operator engaged in work under this Contract. The Operator shall be responsible for Workers' Compensation Insurance for any subcontractor who performs work under this Contract. The contractor shall submit copies of all subcontractor's workmen's' compensation insurance. The coverage shall include:
 - a) Waiver of subrogation against the City;
 - b) Employer's Liability Protection at \$500,000 each accident/each employee and \$500,000 policy limit;
 - c) "Other States" endorsement if the Operator directly utilizes labor outside of the State of Alaska;
- ii. **Commercial General Liability:** on an occurrence policy form covering all operations with combined single limits not less than:
 - a) \$1,000,000 Each Occurrence;
 - b) \$1,000,000 Personal Injury;
 - c) \$2,000,000 General Aggregate; and
 - d) \$2,000,000 Products-Completed Operations Aggregate.

- iii. **Automobile Liability:** covering all vehicles used in Contract work, with combined single limits not less than \$1,000,000 each occurrence.
- iv. **Umbrella Coverage:** not less than \$5,000,000 umbrella or excess liability. Umbrella or excess policy shall include products liability completed operations coverage and may be subject to \$5,000,000 aggregate limits. Further, the umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
- v. The City shall be named as an additional insured on policies required by paragraphs 10.b.i thru iv above. All of the above insurance coverage's shall be considered to be primary and non-contributory to any other insurance carried by the City of Bethel, whether through self-insurance or otherwise.

In any contract or agreement with subcontractors performing work, the Operator shall require that all indemnities and waivers of subrogation it obtains, and any stipulation to be named as an additional insured it obtains, shall also be extended to waive rights of subrogation against the City of Bethel and to add the City of Bethel as an additional named indemnity and as an additional insured.

c) Certificate of Insurance - The Operator shall furnish evidence of insurance to the City before June 1 annually. The evidence shall be issued to the City and shall be either a certificate of insurance or the policy declaration page with all required endorsements attached and must:

- i. Denote the type, amount, and class of operations covered;
- ii. Show the effective (and retroactive) dates of the policy;
- iii. Show the expiration date of the policy;
- iv. Include all required endorsements;
- v. Be executed by the carrier's representative; and
- vi. If a certificate of insurance, include the following statement:

"This is to certify that the policies described herein comply with all aspects of the insurance requirements of Yukon Kuskokwim Regional Aquatic Health and Safety Center. The insurance carrier agrees that it shall notify the City, in writing, at least 30 days before cancellation of any coverage or reduction in any limits of liability."

The City's acceptance of deficient evidence of insurance does not constitute a waiver of Contract requirements.

Failure to maintain the specified insurance or to provide substitute insurance if an insurance carrier becomes insolvent, is placed in receivership, declares bankruptcy, or cancels a policy may be grounds for withholding Contract

payments until substitute insurance is obtained, and may, in the City's discretion, be sufficient grounds for declaring the Operator in default.

11) BONDS

- a) **FIDELITY BOND** – In addition, for the duration of this Agreement, Operator shall show evidence of, and maintain in force the following:
- i. An employee's blanket fidelity bond which provides coverage for Honesty; and Loss from fraudulent or dishonest acts by employees.
 - ii) Computer fraud fidelity bond, which provides coverage for the fraudulent transfer by computer causing wrongful abstraction of money, securities or other property.

The two items above (i) and (ii) may be separate or combined into one form of bond in an amount not less than Two Hundred Fifty-Thousand (\$250,000) Dollars.

12) ACCOUNTING RECORDS AND REPORTS

- a) **Accounting System** - The Operator shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this Contract, including but not limited to the Operator's repair and maintenance obligations. The Operator's system of accounts classification shall be directly related to the Operator's annual budget, monthly and annual financial reports and invoicing.
- b) **Monthly Reports** - The Operator shall submit a monthly financial report to the City. The report shall be in narrative and numerical and accounting format and include copies of any approvals provided by the City the previous month.
- i. The narrative report shall clearly state if the overall operations, both revenue and expenses, are over or under budget for the month and the year, identify specifically what cost areas are over budget or revenue areas are under budget, provide an explanation as to the deviation and explain what corrective actions are required, if any.
 - ii. The numerical accounting report shall provide actual costs and revenues versus budgeted amounts for each category of accounts classification, reported for the specific month and cumulative for the year. Deviations from the operations plan, annual budget, or maintenance plan require written approval from the City. The monthly report shall provide a record of all such approvals provided by the City the previous month.

- iii. The monthly report shall be certified as true and correct by an officer of the Operator and submitted with the monthly invoice.
 - iv. In addition to the monthly financial reports, the Operator shall provide a monthly statistical and narrative report on the usage of the Facility. The report shall be in a form and format as approved by the City. The report shall be submitted monthly with the invoices and annually with the other annual reports.
 - v. **Miscellaneous Reports and Data:** The City from time to time may require the Operator to submit other reports and data regarding its performance under the Contract or otherwise, including, but not limited to, operational information. This may include presentations to the City Council and discussing such things as programs, and local hire and training.
- c) Annual Financial Report** - The Operator shall submit an annual financial report in the same form and format as the monthly reports. The narrative report shall summarize the year's significant cost and revenues deviations from the annual budget. The monthly report shall be certified as true and correct by an officer of the Operator and submitted with the final invoice for that budget year.
- d) Inventory** - The Operator shall perform an annual inventory of the real property as set forth in Exhibit A – Assigned Land, Real Property Improvements and Equipment. The inventory report shall be certified as true and correct by an officer of the Operator and submitted either before or along with the final invoice for that budget year.
- e) Accounting Records** - For all expenditures made for the operations and maintenance of the Facility, the Operator shall maintain auditable records including invoices, billings, canceled checks, and other documentation satisfactory to the City. The original records shall be maintained in accordance with the City of Bethel's retention schedule (attached as Exhibit D) and be reasonably available for an independent audit. If the City has reasonable cause to believe that any information on the monthly or annual financial report is not accurate, the City may audit the books and/or estimate the figures based on any information available.
- i. The City shall notify the Operator in writing that the City has estimated the amount of sales and revenue, stating the estimated amount. The City shall serve the notice on the Operator by delivering the notice to the Operator as per the notice section in this Contract.
 - ii. The City's estimate shall become a final determination unless:
 - a) The Operator, within thirty (30) days after service of notice of the estimate, files a formal appeal to the City Manager; or

- b) The Operator files a complete and accurate financial statement indicating the figures in question and explaining them to the satisfaction of the City.
 - c) In either event above, Operator consents to an independent audit and agrees to cooperate fully with the audit process.
 - iii. The City may request, and the Operator must furnish, any additional information deemed necessary for a correct evaluation of the finances of the Facility.
 - iv. The City has the right to demand an audit at any time for any reason. For purposes of an audit, the Operator agrees to cooperate by providing, upon reasonable notice, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the request by the finance director.
- f) **Sales Tax Records** –Operator shall familiarize themselves with, at a minimum, that portion of the Bethel Municipal Code (hereinafter “Code”) which deals with Sales Tax and shall file and remit taxes as per the Code and any subsequent amendments thereto.

13) **SUSPENSION, TERMINATION OR EXPIRATION**

- a) **Suspension** - In the event of a danger to life or property, the City may temporarily suspend operations under this Contract in whole or in part. As soon as practicable, the City will give notice to the Operator and will determine a re-open plan.
- b) **Termination**
 - i. In the event of a breach of the Contract, the City will provide the Operator an opportunity to cure by providing written notice to the Operator of the breach. The Operator will have ten (10) days in which to either cure the breach or present an acceptable correction plan to the City with an approved timeline. In the event of a monetary breach, the City will give the Operator a fifteen (15) day period to cure the breach. If a breach is not cured within the specified period of time, the City may terminate the Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period. If the breach endangers the Facility, the employees or the public, the City may suspend the Operator's operations as appropriate while still giving time for the Operator to cure the breach.
 - ii. The City may terminate this Contract if the City determines that the Operator has materially breached any requirement of this Contract, including, but not limited to, the requirement to maintain and operate the Facility to the satisfaction of the City, the requirement to provide only those services required or authorized by the City pursuant to this Contract, the requirement to prepare and submit reports and the requirement to comply with Applicable Laws.

- iii. The City may terminate this Contract upon the filing or the execution of a petition in bankruptcy by or against the Operator, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Operator for the benefit of creditors, a petition or other proceeding against the Operator for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. The City may terminate this Contract if the City determines that the Operator is unable to perform the terms of Contract due to bankruptcy or insolvency.
- iv. Termination of this Contract for any reason shall be by written notice to the Operator.

c) Notice of Bankruptcy or Insolvency - The Operator must give the City immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Operator must also give the City immediate notice of any petition or other proceeding against the Operator for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity.

d) Requirements in the Event of Termination or Expiration

- i. In the event of termination of this Contract for breach the total compensation due the Operator for such termination shall be calculated based on work completed, less loss to the City for a replacement Operator, as described in Section 13.b of this Contract. No other compensation of any nature shall be due the Operator in the event of a termination of this Contract, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.
- ii. Upon expiration of this Contract, the total compensation due the Operator shall be calculated as described in Section XX of this Contract. No other compensation of any nature shall be due the Operator.
- iii. Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Operator shall, at the Operator's expense, promptly vacate the , remove all of the Operator's personal property, repair any injury occasioned by installation or removal of such property, and ensure that facilities are in at least as good condition as they were at the beginning of the term of this Contract, reasonable wear and tear excepted. The removal of such personal property must occur within thirty (30) days after the termination of this Contract (unless the City in particular circumstances requires immediate removal).

- iv. To avoid interruption of services to the public upon termination of this Contract for any reason, or upon its expiration, the Operator shall consent and make available all inventories invoiced to the City including but not limited to, concessions food, kitchen small ware, chemicals, and maintenance spares.
- v. Prior to and upon the expiration or termination of this Contract for any reason, and, in the event that the Operator is not to continue the operations authorized under this Contract after its expiration or termination, the Operator shall comply with all applicable requirements of the transition plan. All documents, manuals, logs and other records prepared by Operator during the operation of the Facility are the sole property of the City and must be turned over to the City at the termination or expiration of this Contract.

14) COMPENSATION

- a) **Cost plus Fixed Fee Type Contract** - This is a Cost Plus a Fixed Fee type contract. This contract provides for the reimbursement of allowable incurred costs in excess of revenue generated by the Facility, to the extent prescribed in this contract. The approved annual budget establishes an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the Operator may not exceed (except at their own risk) without the approval of the City. Allowable incurred costs are those costs directly attributable to operations and maintenance of the Facility. For the purposes of this contract, allowable incurred costs are those defined in the approved annual budget, are reasonable and prudent, and conform to generally accepted accounting practices.

Operator is expected to handle all revenue generated from Operation of the Facility and use that revenue to offset the costs to operate the Facility. Such revenue will be a projection in each Budget and the budget shall be amended annually to reflect the previous year's revenue. Revenue derived from Operation of the Pool is the property of the City and not compensation to the Operator.

- b) **Fixed Fee** - The Fixed Fee is \$140,200.08 per year and shall be pro-rated monthly. The Fixed Fee includes profit and indirect costs that are not directly attributable to the operations and maintenance of the Facility, are generally considered to be overhead and are generally provided off-site. The fixed fee includes, but is not limited to proportionate share of home office expenses, management oversight and travel, accounting and clerical personnel, human resources management, payroll processing, invoicing and required reporting.

c) **Invoicing -**

- (1) **Fixed Fee:** The Operator shall invoice their fixed fee in advance. For example, the fixed fee for July shall be billed in June. City shall have thirty (30) days from receipt of the invoice to submit payment to Operator.
- (2) **Costs:** Operator shall bill the City no more than one-time per week for incurred costs for operating the pool. Such costs shall be in accordance with the approved budget. The City shall have thirty (30) days from receipt of the invoice to submit payment to Operator. In the event of a dispute regarding any invoice submitted by Operator, City shall provide written notice of the dispute within ten (10) days of receipt of the invoice. City shall pay all undisputed portions of the invoice in accordance with the terms of this Contract.
- (3) **Late Payments:** Payments not submitted in a timely manner (within 30 days of receipt) shall incur a five (5%) penalty. If for any reason not the fault of the Operator, the Operator does not receive payment from the City within thirty-five (35) days after the time such payment is due, then the Operator shall assess a five (5%) percent finance charge to the charge invoice. If payment is not received within 30 days the operator has the right to send written notice to the city, alerting them of a 14 day remedy period. If payment is not received after that 14 day remedy period the Operator shall have the right, at its option, and within its sole discretion, to interrupt its personnel and supplies from Owner's pool facilities without any further or additional notice to Owner.
- (4) **Disputed Invoices:** In the event of a dispute regarding an invoice or part of an invoice, the City shall provide the Operator written notice of the dispute within ten (10) days of receipt of the invoice. Operator and City agree to work cooperatively to resolve the matter. City will pay the disputed portion of the invoice within the timeframe allowed for under this Contract. City's payment of the disputed portion of the invoice shall not be construed to waive any rights City has to collect or enforce its right to pursue the dispute. Should the parties be unable to resolve the dispute within thirty (30) days after written notice, the parties agree to follow the dispute process laid out in this contract.

d) **Compensation for Personal Property -** No compensation is due the Operator from the City or a successor operator for the Operator's personal property used in operations under this Contract. However, the City or a successor operator may purchase such personal property from the Operator subject to mutually agreed upon terms. Personal property not removed from the Facility by the Operator in accordance with the terms of this Contract shall be considered abandoned property subject to disposition by the City, at full cost and expense of the Operator, in accordance with Applicable Laws. Any cost or expense incurred by the City as a result of such disposition may be offset from any amounts owed to the Operator by the City to the extent consistent with Applicable Laws.

- e) **Operator's Employee Incentive Program** – City and Operator agree to revisit and review Operator's Employee Incentive Program at contract renewal.

15) DISPUTE RESOLUTION

The parties agree to work cooperatively to resolve all issues.

- 1) Should an issue arise, the party believing itself to be aggrieved shall provide written notice to the other party within ten (10) days of the alleged grievance.
- 2) Upon receipt of the grievance, the parties will schedule a teleconference to attempt to resolve the issue. The teleconference shall occur within fourteen (14) days of the grievance occurring.
- 3) If the parties are unable to resolve the matter during the teleconference, they shall schedule a face-to-face meeting. Said meeting shall be attended by those persons from City and Operator empowered to resolve the matter. The meeting shall occur within thirty (30) days from the date the grievance occurred unless otherwise extended by mutual consent of the parties. Such consent shall not be unreasonably withheld.
- 4) Should the face-to-face meeting fail to resolve the matter; the parties agree to submit the matter to mediation in Anchorage. The matter will be referred to a professional mediation service who shall submit a list of five (5) qualified mediators. The party filing the grievance shall have the right to strike one name, and then the other party shall have the right to strike one name, and so forth until one remains to mediate the dispute.

16) GENERAL PROVISIONS

- a) The City, or any of their duly authorized representatives, shall have reasonable access to the records of the Operator as provided by the terms of this contract.
- b) All information required to be submitted to the City by the Operator pursuant to this Contract is subject to public release by the City.
- c) Sub concession or other third party agreements, including management agreements, for the provision of services required and/or authorized under this Contract are generally not permitted. Specialty maintenance contracts for specialty systems are permissible with advance written notice and consent by the City which consent shall not be unreasonably withheld.
- d) Any and all taxes or assessments of any nature that may be lawfully imposed by the State or the City of Bethel upon the business, including sales taxes, shall be collected and paid promptly by the Operator.
- e) This document, the proposal selected for contract, and the Request for Proposals comprise the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the

execution of this Contract. This Contract shall not be altered, amended or modified except by writing signed by City and Operator. No verbal agreement or conversation with any official, officer, agent or employee of City, either before, during or after the execution of this Contract, shall affect or modify any of the terms or conditions contained in this Contract, nor shall any such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Contract.

- f) This Contract may be extended, renewed or amended only when agreed to in writing by the City and the Operator.
- g) This Contract does not grant rights or benefits of any nature to any third party.
- h) The invalidity of a specific provision of this Contract shall not affect the validity of the remaining provisions of this Contract.
- i) Waiver by the City or the Operator of any breach of any of the terms of this Contract by the other party shall not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract shall not be deemed to be a waiver of any preceding breach of any term of the Contract.
- j) Claims against the City arising from this Contract shall be forfeited to the City by any person who corruptly practices or attempts to practice any fraud against the City in the proof, statement, establishment, or allowance thereof.
- k) Nothing contained in this Contract shall be construed as binding the City to expend, in any fiscal year, any sum in excess of the appropriation made by the City for that fiscal year or administratively allocated for the subject matter of this Contract, or to involve the City in any contract or other obligation for the future expenditure of money in excess of such appropriations.
- l) All provisions of this Contract including exhibits, Proposal submitted by Operator and Request for Proposal, are essential parts of this Contract and are intended to be cooperative, provide for the operation of the Facility, and describing the respective rights and obligations of the City and Operator. In case of a discrepancy, written dimensions govern over scaled dimensions unless obviously incorrect.
- m) **GOVERNING LAW.** This Contract shall be deemed to have been entered into in Bethel, Alaska. All questions regarding the validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by Alaska law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in the Bethel Superior Court. If any claim, at law or otherwise, is made by either

either party to enforce any of the terms of this Contract shall be filed in the Bethel Superior Court. If any claim, at law or otherwise, is made by either party to this Contract, the prevailing party shall be entitled to its costs and reasonable attorneys fees.

- n) SEVERABILITY. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.
- o) TITLES AND GROUPINGS. The title given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.
- p) JOINT DRAFTING. The Parties expressly agree that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.
- q) RIGHTS AND REMEDIES. The Parties' rights, liabilities, responsibilities, and remedies with respect to this Agreement, whether in contract, tort, negligence, or otherwise, shall be exclusively those expressly set forth in this Agreement.

Operator:

By:  SEAN LEGG
Title: President Date: 6/9/2014

CITY: CITY OF BETHEL

By: 
Title: Interim City Manager Date: 7/9/14

END OF DOCUMENT

City of Douglas, Wyoming
Municipal Pool Operator
2015 Season
Request for Proposal (RFP)

I. OVERVIEW OF WORK

The City of Douglas, hereinafter referred to as “City”, is seeking proposals from qualified individuals or firms to provide start up activities, hire seasonal employees, operate the municipal pool and concession stand on a daily basis. The City will provide a pool license from the State of Wyoming, as well as major facility maintenance and general liability coverage; day to day cleaning of pool and facilities and all other operational activities will be undertaken by the qualified firm/individual per a Services Agreement.

The successful proposal will provide for operations of the Municipal Pool and concession stand for the 2015 Season from May 22nd, 2015, to August 16th, 2015, hereinafter referred to as “2015 Season”.

A. Operations of the Municipal Pool

- 1. Hiring and Management of Employees:** The successful firm or individual will be responsible for the recruitment and, if necessary, training of qualified staff for the pool. At a minimum, the Pool will require a Certified Pool Operator, Senior Lifeguards, Lifeguards, and personnel to operate the concession stands and cash registers. The proposal should include a timeline for recruitment and training of individual employees as well as training criteria/certifications.

- 2. Potential Revenues:** The prices for admission to the Pool are set by the Douglas City Council. The successful individual or firm would be responsible for charging all admission fees to the Pool as well as the sale of season passes. No fees in excess of those provided for by Council may be charged except as stated herein:
 - a. City shall retain all admission revenues and season pass revenues. Collection and accounting for such revenues shall be done by pool operator and shall be remitted to the City weekly.
 - b. Operator will retain all revenues from pool parties, classes, lessons, and other aquatic related activities conducted outside of normal operating hours. No such classes or activities are allowed during normal operating hours.
 - c. There are no restrictions on the prices charged at the concession stand. Operator shall retain all concession revenues.
 - d. The fee schedule for the Pool shall reflect what has been set by Council at the time of the signing of the Contract.

- 3. Hours and Dates of Operation:** The Pool will be required to be open a minimum of seven (7) days per week during the 2015 Season closing only for inclement weather.

 - a. General open swimming will be conducted from 12:00 p.m. to 5:00 p.m., with activities such as swimming lessons, lap swim, and club activities taking place prior to 12:00 p.m.
 - b. During the month of July, the Pool will be open for family evening swimming from 6:00 p.m. to 8:00 p.m., seven days per week.
 - c. Private pool parties and classes may be, at operator's discretion, conducted outside of normal operating hours.
 - d. The hour and dates of private parties are at the discretion of the Operator. However, pool parties shall not exceed the amount as set per City Council per Resolution. Parties shall not be conducted during regular operation of the pool as denoted herein.
 - e. Operator may conduct or allow to be conducted swim lessons, swim team practices, and other water related activities at times other than normal operating hours as denoted in the pool contract.
- 4. Concessions:** Operator shall provide for concessions and all concession expenses, necessary licenses for concessions, all applicable insurances, and equipment for concession sales, and shall retain all concession revenues.
- 5. Training:** Operator shall conduct all required staff trainings and certifications as necessary to maintain certifications of staff, and shall keep records of all training documentation and certifications of any staff or employee associated with pool operations other than City of Douglas personnel.
- 6. Responsibility for IT Issues with the Exception of Telephone Services:** The City will provide long-distance restricted telephone connections to the phones at the Pool. City shall also provide internet hook-up but Operator shall be responsible for all computers and electronic equipment and shall keep all equipment in working order at all times. Items necessary for operations may include:

 - a. Laptop or personal computer;
 - b. Cash registers and bookkeeping materials;
 - c. Credit card machine
- 7. Coordination with Parks Department:** The City Parks Department will provide support for major maintenance issues, including the boiler system, heating elements, pool filtration system, slide and water features maintenance, etc. The City will pay the utilities for the Pool as follows: water, sewer, sanitation, landfill, electricity, and

gas. The proposal shall include an understanding of the following coordination and maintenance items for the Pool Operator:

- a. Requirements for maintenance of Pool infrastructure;
- b. Coordination with Parks Dept. for chemical ordering and usage;
- c. All responsibilities per contract, including but not limited to:
 1. Obtaining a food license from the State of Wyoming for operation of the concession stand;
 2. All recruitment, hiring, training, supervision, and payment of Pool staff;
 3. Workers Compensation and Employers Liability Insurance, including “Stop Gap” coverage;
 4. Comprehensive General Liability Insurance;
 5. Proof of Wyoming Sales Tax license;
 6. Purchase of all operational and cleaning supplies during the season;
 7. Cleaning and maintenance of the Pool and Pool area and facility, including but not limited to trash removal, pool furniture, and deck area;
 8. Perform necessary back flushing and filter maintenance of the Pool.
 9. Payment of all applicable taxes with the exception of property taxes.

8. Independent Contractor: The successful respondent to the RFP will be an independent contractor and will sign a contract for services for the 2015 Season. No employees of the Pool be considered employees of the City of Douglas. The successful respondent must meet all requirements of the attached contract.

9. Non-Compete Clauses: Non-compete clauses or any similar agreements shall not be allowed in any way between the City and Operator or Operator and pool staff.

10. Compliance with Regulations: The Pool must be operated in compliance with the Wyoming Swimming Pool and Safety Act, 35-28-101 and the Wyoming Regulations for Swimming Pools, Spas, & Similar Installations, Chapter 6 in particular, which is attached herein as “Attachment A”. At a minimum, the Pool Operator must have the required State Certifications and be a Certified Pool Operator. All State and local regulations must be strictly adhered to.

11. Documentation: The successful applicant shall provide documentation of pool usage on a weekly basis and as provided by the associated contract.

II. PROPOSAL REQUIREMENTS

The information set forth in the paragraphs below must be included with all proposals. Failure to provide any of the information requested by these paragraphs is grounds for the City to reject a proposal and the City reserves the right to accept or reject any or all proposals with or without cause.

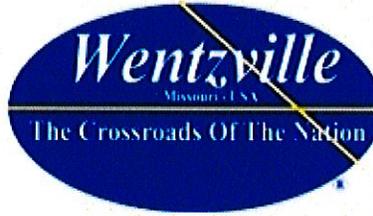
A. Format and Required Responses

1. **Letter of Transmittal/Offer Sheet:** An introduction letter/offer sheet must be completed and returned with the proposal. The letter of transmittal must be submitted with the proposal. The letter must include:
 - a. A statement of understanding of the services required by the Request for Proposal listed in the scope of work;
 - b. A statement agreeing to comply with the contract as provided.
 - c. The names of persons who are authorized to make representations on behalf of the firm or individual, including titles, addresses, telephone and fax numbers, and email addresses. If a business, legal documents showing formation of the business and officers authorized to sign on behalf of the business.
 - d. A statement that the individual who signs the transmittal letter is authorized to bind the Contractor with the City in a contract agreement.
 - e. Proposed timeline for starting pool operations, including a hiring process, Itemized costs for salaries, Workers Compensation, Unemployment benefits, liability insurance, supplies, and any other anticipated and included cost.
 - f. Time frame for completing the Season and providing post-season closure information;

2. **Firm Overview:** An Overview of the firm or individual must be provided outlining the firm's or individual's past experience with similar projects, including the size and location where the work was completed. In addition, documentation must be provided indicating that the firm or individual is familiar with the applicable Federal and State laws.

3. **Disclosures:** The following disclosures must be provided:
 - a. Disclose any professional or personal financial interest that is or could be a conflict of interest in representing the City, including but not limited to any arrangements to derive additional compensation from various investment and reinvestment projects, including financial contracts.

- b. Certify if the firm or any of the owners or principals is subject to any pending or threatened litigation and/or sanctions. The certified statement should cover the size and scope of any pending litigation and/or sanctions. If no litigation is pending, include a statement to that effect.
4. **References:** Include the name, address, and telephone number of any clients for whom the same or similar services have been provided over the last five (5) years. References must be current, and should be relevant to the required services.
5. **Proposed Firm and Fixed Price:** A firm and fixed price shall be submitted that indicates the proposed amount to be paid for the services of Pool Operation for the 2015 Season. The offer shall represent the lump sum payment by the City for operation of the pool during the 2015 Season. No variations to the payment structure shall be allowed.
6. **Insurance requirements:** A statement denoting understanding and willingness to comply with all insurance requirements as denoted in this RFP and attached contract.
7. The Douglas City Council reserves the right to accept or reject any and all bids as it deems is in the best interest of the City.



NOTICE OF REQUEST FOR PROPOSAL
REQUEST FOR PROPOSAL NO. B13WZ028
POOL MANAGEMENT SERVICES

RFP Due: April 9, 2013, 2:00 PM local time

Location: Procurement Department, 310 West Pearce Blvd
Wentzville, MO 63385

Buyer: Alice Winkelman, Procurement Specialist
Phone: 636-639-2026 e-mail: alice.winkelman@wentzvillemo.org

Proposals will be received by the Procurement Department at the specified location until the time and date cited above. Only proposals received by the correct time and date will be recorded.

Proposals must be submitted in a sealed envelope with the Request for Proposal number and the Vendor's name and address clearly indicated on the envelope. All proposals must be completed in ink or typewritten and submitted by the time and date above.

Proposers are strongly encouraged to carefully read the entire Request for Proposal.

March 15, 2013
Issue Date

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STANDARD INSTRUCTIONS WITH TERMS AND CONDITIONS

1. PREPARATION OF PROPOSALS

- A. Proposers are expected to examine the scope of services, delivery schedule, requirements and all instructions of the Request for Proposal. Failure to do so will be at Proposer's risk. In case of a mistake in extension, the unit price(s) will govern.
- B. Unless otherwise indicated prices quoted shall be firm for acceptance for ninety (90) days from proposal opening and for the specified contract period.
- C. The City of Wentzville does not pay federal excise and State of Missouri sales tax on direct purchases of tangible personal property. Exemption number 1249411.

2. SUBMISSION OF PROPOSALS

- A. A proposal submitted by a Proposer must (1) be manually signed by the Proposer on their transmittal letter; (2) contain all information required by the Request for Proposal; (3) be priced as required; (4) be sealed in an envelope or container; (5) be attached to a security deposit if required; and (6) be delivered to the Procurement Department and officially clocked in no later than the exact time and date specified on the Request for Proposal.
- B. The sealed envelope or container containing a proposal should be clearly marked on the outside left corner with (1) the official Request for Proposal number and (2) the official closing date and time.
- C. Do not submit proposals in response to other solicitations in the same sealed envelope. If more than one proposal is submitted in the same container, your proposal may be rejected as non-responsive.

3. MODIFICATION OR WITHDRAWALS OF PROPOSALS

- A. Proposals may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. A proposal may also be withdrawn or modified in person by the Proposer or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.

- B. After the official closing date and time, no proposal may be modified or withdrawn.
- C. The proposal is firm for acceptance for ninety (90) days after proposal opening.

4. PROPOSAL OPENING

Proposal openings shall be public on the date and at the time specified on the proposal form. It is the Proposer's responsibility to assure that his proposal is delivered at the proper time and place of the proposed opening. Proposals which for any reason are not so delivered will not be considered. Offers by telegram, telephone, or facsimile will not be accepted, unless specifically authorized by the Request for Proposal. Proposal files may be examined during normal working hours by appointment.

5. AWARDS

- A. As the best interest of the City may require, the right is reserved to make awards; to reject any and all proposals or waive any minor irregularity of technicality in proposals received.
- B. Awards will be made to the Proposer whose proposal (1) meets the specifications and all other requirements of the Request for Proposal and (2) is the best proposal, considering price, responsibility of the Proposer and all other relevant factors in the criteria for award.
- C. Each proposal is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the Proposer and the City; and shall bind the Proposer to furnish and deliver at the price, and in accordance with the conditions of said accepted proposal and detailed specifications.

6. OPEN COMPETITION

It is the intent and purpose of the Procurement Department that the Request for Proposal permits free and open competition. However, it shall be the Proposer's responsibility to advise the Procurement Department if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a proposal. The notification should be received by the Procurement Department at least ten days prior to the Request for Proposal closing date and time. The Proposer may submit a notification after the proposal closing provided sufficient time is permitted for a thorough review by the Procurement Department and its decision will be final.

PART ONE

1.0 GENERAL INFORMATION

- 1.1 As required by Resolution 11-400, Purchasing Policy of the City Regulations, the City of Wentzville, Missouri, is soliciting proposals for Pool Management Services from Firms that are eligible and licensed. This Request for Proposal (RFP) (hereinafter referred to as RFP) covers Pool Management Services.
- 1.2 This section sets forth the minimum requirements to be met by the Firms in completion of the Pool Management Services for the contract period. The pool management firms shall provide at least the minimum services described herein, but the services provided by the pool management firms shall include all services offered by the Firm in its proposal and shall not be limited by this Scope of Services.
- 1.3 It is the desire of the City to award an exclusive Agreement to one Contractor for the right to manage and operate the facility.
- 1.4 The City encourages all eligible and qualified representatives to examine the RFP carefully. Qualified Firms are requested to submit proposal to provide Pool Management Services as defined in this RFP. The City expects the selected Firm to be experienced in providing qualified lifeguards with background cleared staff and expects these services to be of the highest quality. This RFP, including the exhibits, is available in electronic format on the City's website at www.wentzvillemo.org/bidding-opportunities.aspx
- 1.5 **Schedule:** The following schedule of events is anticipated by the City. The City may, at its' discretion, revise the schedule of events at any time as may be in the best interests of the City.
- | | |
|----------------------------------|----------------|
| Publish the Request for Proposal | March 15, 2013 |
| Final Questions from proposers | April 1, 2013 |
| City's Response to Questions | April 4, 2013 |
| Proposals Due Date | April 9, 2013 |
- 1.6 **Execution of Agreement:** It is anticipated the selection of a firm will be completed as quickly as possible. The successful proposer shall, within twenty-one (21) calendar days after Notice of Award is issued by the City of Wentzville Procurement Department, enter into a contract with the City for the performance of work awarded to him/her and shall simultaneously provide any required bonds, indemnities and insurance certificates. A copy of the sample agreement is attached. Failure to comply within the established deadline for submittal of required documents may be grounds for cancellation of the award.
- 1.7 **Questions Regarding Specifications or Proposal Process:** To ensure fair consideration for all proposers, the City prohibits communication to or with any department, board members, or employee during the submission process, except as provided below. Additionally, the City prohibits communications initiated by a proposer to the City official(s) or employee(s) evaluating or considering the

proposals prior to the time an award decision is made. Any communication between proposer and the City will be initiated by the appropriate City Official(s) or employee(s) in order to obtain information or clarification needed to develop a proper, accurate evaluation of the proposal. Such communications initiated by a proposer may be grounds for disqualifying the offending proposer from consideration for award of the proposal and/or any future proposal(s).

- 1.8 Any questions relative to interpretation of specifications or the proposal process shall be addressed to the City Procurement Department (See Contact, Page 1) in writing, in ample time, before the period set for the receipt and opening of proposals. No inquiries, if received within five (5) days of the date set for receipt of proposals may be given any consideration. Any interpretation made to prospective proposers will be expressed in the form of an addendum to the RFP, which, if issued, will be posted in writing on the City's Website by visiting www.wentzvillemo.org/bidding-opportunities.aspx.
- 1.9 **Proposers are responsible for checking the City's website for the issuance of any amendments.** The Bidding Opportunities website shall be the official site for RFP information as related to this RFP. Any documentation posted elsewhere will not be applicable should a Proposer use the information as related to a contract protest. Please visit this site periodically to check for any additional information.
- 1.10 **Insurance:** The successful contractor will be required to provide certificate(s) of insurance in the amounts stated in the attached Consultant/Professional Services Agreement.
- 1.11 **Execution of Agreement:** It is anticipated the selection of a firm will be completed as quickly as possible. The successful proposer shall, within twenty-one (21) calendar days after Notice of Award is issued by the City of Wentzville Procurement Department, enter into a contract with the City for the performance of work awarded to him/her and shall simultaneously provide any required bonds, indemnities and insurance certificates. A copy of the sample agreement is attached. Failure to comply within the established deadline for submittal of required documents may be grounds for cancellation of the award.
- 1.12 **CITY SEAL, FLAG AND LOGO:** In accordance with City of Wentzville Ordinance No. 2633, the City of Wentzville logo is a registered trademark. The City logo is not to be used in proposal submissions or advertisements. The City shall reserve the right to prosecute violations of the trademark laws and unauthorized uses of the City's logo. An infringement or unauthorized use of the City's logo shall be a violation of the Wentzville Municipal Code as well as all other penalties and remedies including injunctive relief allowed by state statutes (Reference Section 100.183 Enforcement, of Ordinance 2633.).

PART TWO

2.0 CITY INFORMATION AND MINIMUM QUALIFICATIONS

2.1 **Contract.** The City of Wentzville is currently operating without a contract for Pool Management Services.

2.2 **Responsive Proposal** – The Proposer to have a responsive proposal submission must complete and submit the documents herein. **The City will use the following Mandatory Requirements to determine whether proposals are responsive or non-responsive.**

- a. Affidavit of Participation in Federal Work Authorization Program
- b. E-Verify with Memorandum of Understanding and Electronic Signature Page from the U.S. Department of Homeland Security.
- c. Affidavit of Verification of Proof of Citizenship - Public Benefits
- d. Non-Collusive Affidavit of Prime Bidder
- e. Documentation of CPO/AFO certification
- f. Fee Schedule
- g. Disclosure And Conflict Of Interest
- h. Representations And Certifications
- i. References

2.3 **Delivery Performance:**

The contractor shall deliver services in accordance with the contracted delivery specified. Noncompliance with this specification may be viewed as noncompliance with the bid specifications.

2.4 **E-Verify and Proof of Citizenship.** Any response to a City solicitation for services that is equal to or exceeds five thousand dollars, \$5,000.00, is to be accompanied by an affidavit containing the following:

- A copy of their Memorandum of Understanding (first page only) along with electronic signature page acknowledging the firm is enrolled in and is currently participating in E-Verify, a federal work authorization program by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA);
- Complete the Affidavit of Participation in Federal Work Authorization Program and that by completing the form is affirming the fact are true, correct and understands that false statements made in this filing are subject to penalties provided under Section 575.040 RSM0.
- Complete the Affidavit of Verification of Proof of Citizenship – Public Benefits stating they are a citizen of the United States or a lawful permanent resident. That the company uses E-Verify to hire new employees and that all employees are authorized to work in the United States.

2.5 **Equal Employment Opportunity.** The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment; advertising;

layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or disability. The Contractor shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for work performed under the terms and conditions of this Contract. A breach of this provision may be grounds for termination of this Contract.

PART THREE

3.0 SCOPE OF SERVICES

3.1 Overview

- a. Qualified pool management companies are invited to submit sealed bids to provide pool management services at two City of Wentzville's sites, Splash Station Aquatic Center and Progress Park Pool, in accordance with the specifications contained herein. The Pool Management Contractor who operates the pool shall possess municipal aquatic center management skills and experience with swimming facilities similar in size and nature, and the ability to perform quality work, as solely determined by the City of Wentzville, which qualifies it to operate the Splash Station Aquatic Center and the Progress Park Pool as detailed and specified.
- b. Copies of facility diagrams are included at the end of this document as Exhibit C for bidder information.
- c. **Term: The term of this contract shall be from Date of Award through December 31, 2016.**

3.2 Hours Of Operation

Contractor shall provide for management services of the Progress Park Pool and Splash Station Aquatic Center (Splash Station Aquatic Center to open 2014).

Normal Hours of Operation:

Splash Station Aquatic Center: Noon – 8 p.m.

Progress Park Pool: Noon – 7 p.m.

Pools are open seven (7) days a week from just prior to Memorial Day through the day after Labor Day with the following exceptions:

When Wentzville School District is in session:

Monday – Thursday: closed

Fridays: open 4:00 p.m. – 7:00 p.m. (Progress Park)

4:00 p.m. – 8:00 p.m. (Splash Station Aquatic Center)

Saturdays, Sundays and Labor Day open: Noon to 7:00 p.m. (Progress Park)

Noon. – 8:00 p.m. (Splash Station Aquatic Center)

Additional exceptions include additional rentals while School District is in session or pool utilization by Wentzville School District Swim Team.

In addition to operation for public swimming, the Contractor shall provide for adequate staff for special programming. The Contractor shall also be responsible for season opening and closing operations for Splash Station Aquatic Center and Progress Park Pool at the beginning and end of the swimming season as herein specified and shall perform and furnish the following services:

3.3 Pre-Opening Operations

Access to the facilities for this preparation work is to be coordinated with the Director of Parks and Recreation.

- a. Setup and prepare for usage of all movable equipment, including tables, chairs, lounges, lifeguard chairs, diving boards, etc.
- b. Clean, inspect and prepare vacuuming equipment.
- c. Inspect and prepare all hoses.
- d. Check and clean all gutters and drains.
- e. Drain and acid wash pools.
- f. Fill pools.
- g. Check diving boards and ladders, clean and place lifeguard chairs and lounge furniture. Clean all lockers inside and out.
- h. Check, charge, clean and place handicap lift.
- i. Check all pumps, motors and test equipment, i.e. chemical feeders, etc.
- j. Clean pool area within the pool enclosure.
- k. Circulate water through filtration system.
- l. Furnish, store, and inject necessary chemicals for operation of the pools.
- m. Prepare filter system and check for any problems.
- n. Have pools ready for operation at least ten (10) days before opening day.
- o. Report to City all operating deficiencies.
- p. Other items as assigned by the City.

3.4 Operational Management

Contractor will use reasonable care and diligence to provide the following services for the actual operation of the Splash Station Aquatic Center and Progress Park Pool:

- a. Complete a daily documented, (written) safety check of entire complex, including the bathhouse, wading pool, spray pad, main pool, slides, water features, deck and office area.
- b. Check and test all safety equipment.
- c. Clean the entire complex, including: guard and manager office areas, bathhouse, all areas within the fencing, restrooms, landscaped beds, and the premises within twenty-five (25) feet of facility's exterior by the proper collection of waste, garbage, and all other debris. Cleaning to be completed prior to operating hours to present a positive image to the public. Cleaning must also occur throughout the day to provide a safe, healthy and aesthetically pleasing environment for patrons. At the end of the day and end of after-hours event, the Contractor must straighten deck furniture, close the umbrellas, empty trash receptacles and take trash to dumpster, in preparation for the next shift.
- d. Enforce all rules and regulations stipulated by the City and suggest and advise with regard to additional rules and regulations for the operation of Splash Station Aquatic Center and Progress Park Pool.
- e. Maintain tests and records as required by State, St. Charles County, and City of Wentzville and meet all requirements for such. Copies must be kept on site, i.e. cleaning records, chemical testing, backwash, etc.
- f. Maintain accident and incident reports and notify the Director of Parks and Recreation immediately after occurrence. Contractor staff is prohibited from speaking to the media regarding accidents and incidents at the aquatic facilities. All inquiries must be directed to the Director of Parks and Recreation.
- g. Furnish and supply first aid kits adequate to the size and operation of the swimming pool. The first aid kit should carry supplies for a minimum of 100 persons and at minimum include: adhesive bandages, sterile pads, gauze pads, eye pads, tape, dressings, elastic bandage, antiseptic, ammonia inhalants, rescue blanket, scissors, tweezers, latex gloves,

- clean wipes, eye wash, elastic gauze, butterfly closure, large bandage patch. First aid kit should also include a pocket mask with a one way valve, and a bodily fluid exposure kit. The contractor shall also provide first responder first aid kits, including rubber gloves and pocket mask with one way valve, for all of the Contractor's on-duty personnel.
- h. Maintain and operate the filter equipment in accordance with St. Charles County Health Department requirements as stated in the St. Charles County Aquatic and Recreational Facilities Code.
 - i. Pools must be vacuumed daily and be free of all debris when the aquatic facilities are open to the public.
 - j. Back-wash filter system as required.
 - k. All trash receptacles must be emptied a minimum of once every day, or more frequently as needed to keep area as clean as possible and to reduce problems with bees and insects. Trash must be taken to the dumpster each day to eliminate problems with rodents.
 - l. Contractor must clean the hair and lint strainers on all pumps and associated filtering devices. This should be done on an as needed basis.
 - m. Contractor must retain a record of all problems, complaints and suggestions brought to their attention. Complaints and suggestions should be handled immediately by staff when possible and realistic. All suggestions and complaints should be reported to the Director of Parks and Recreation.
 - n. Contractor must conduct in-service training as per guidelines of a nationally recognized organization such as Ellis, Star Aquatics, or Red Cross.
 - o. A representative from the Management Company (Contractor) and its pool manager will meet with the Director of Parks and Recreation and designee on a weekly basis to address issues regarding the pool operation.
 - p. Contractor must keep detailed records of any rescues describing the circumstances surrounding the incident and denoting the specific location of the rescue. This information must be provided to the Director of Parks and Recreation within one day or immediately dependent upon severity.

3.5 Fall Closing / Winterizing

At the end of the swimming season, as herein specified or as extended by mutual agreement between the parties, Contractor will winterize and close the pools and perform and furnish the following services. The Contractor will coordinate with the Director of Parks and Recreation prior to the services being performed.

- a. Inspect pumps and motors and notify City of any malfunctioning equipment.
- b. Remove and store movable equipment.
- c. Drain and store all hoses.
- d. Drain filtration system.
- e. Remove and store all plugs from plumbing.
- f. Backwash filters and inspect for any defects. Clean elements, check for any defects.
- g. Drain and re-lubricate chemical feeders.
- h. Leave all valves at appropriate settings.
- i. Store all equipment in clean condition and organized.
- j. Check all pool plumbing and electrical systems; notify the City of any problems.
- k. Clean bathhouse areas, restrooms, lifeguard area, front entrance, deck area, storage areas, fence line, etc.
- l. Drain all pools and all plumbing, blow all lines free of water.
- m. Clean lint traps
- n. Winterize all slides and play elements in splash pad and main pool.
- o. Put away all moveable furniture and equipment as specified by the Director of Parks and

Recreation.

- p. Complete an end of the season inspection and a written report be provided to the Director of Parks and Recreation. The contractor shall perform reasonable inspections of all pool machinery and equipment and advise the Owner of needed repairs and/or replacement of defective, worn, or damaged equipment in the year-end written report. At the City's request, the contractor shall provide specifications for the repairs and/or replacement and present to the City.
- q. The contractor shall also be responsible for inspecting pool signage and shall advise the City of any needed replacements to ensure safe pool operations. This year end report to be turned in to the Director of Parks and Recreation by Oct. 31, of the operating year.
- r. Guarantee winterization of pools against pipe breakage for the next season start up.

3.6 Maintenance and Replacement of City Owned Equipment.

a. City Responsibilities:

- Contractor will hire the lifeguards who have already been hired by the City for the 2013 season. See Exhibit E for the City's seasonal job rates.
- The City will be responsible for the maintenance and replacement of the buildings, structures, utilities, and surrounding areas including shrubbery, except policing for trash, waste, garbage, and other debris, except as described in "Contractor's Responsibilities" below.

b. Contractor Responsibilities:

- Contractor will be responsible for the care and repair of City-owned property used for the operation of the swimming pool. Any said equipment shall be returned to the City at the end of the season in the same condition as received, reasonable wear and tear expected.
- The Contractor will be held accountable for those losses and damages to buildings and City-owned property due to theft, abuse or negligence during the hours of operation of Splash Station and Progress Park Pool.
- The Contractor will try to prevent losses and damages to City-owned property during hours of operation. Damaged or malfunctioning equipment should be reported immediately to the Director of Parks and Recreation. If not reported, Contractor will be responsible for damages or replacement, beyond normal wear and tear.

3.7 Personnel.

- a. THE CITY REQUIRES ALL CONTRACTOR PERSONNEL TO BE AT LEAST SIXTEEN (16) YEARS OF AGE. The Contractor shall furnish sufficient personnel for the operation of safe and sanitary sites at Splash Station and Progress Park Pool. All lifeguards will hold a minimum qualification of an advanced lifeguard certificate from a nationally recognized organization such as Red Cross, Star Aquatics, Ellis or other approved. Said personnel will be furnished in a manner to operate the municipal pool in the safest manner possible and in the best interest of the City. The City reserves the right to approve or disapprove any of the Contractor's proposed staff members or schedule. All personnel must be uniformly identified at all times in order for the public to recognize them as staff. All personnel employed by the contractor in the performance of fulfilling a contract for the operation of Splash Station and Progress Park Pool shall be considered employees of the Contractor and not of the City.
Proposal is to describe the lifeguard certification program the Contractor will use.
- b. BACKGROUND CHECKS: Contractor's staff working at Splash Station Aquatic Center or Progress Park must submit paperwork to Wentzville Parks & Recreation, no later than 2 weeks

prior to the event for a background check. Background checks are conducted through the City's contractor, Southeastern Security Consultants, Inc, at the expense of the Contractor. Cost of the background check is approximately \$20 for each of the Contractor's personnel, payable to the City.

- c. **DRUG FREE WORKPLACE:** Contractor agrees to comply with the requirements of Federal law and regulations related to the Drug Free Work Place Act of 1988 and ensures all staff will be required to complete applicable drug testing prior to being placed onsite at City of Wentzville facilities. The contractor further agrees to conduct random drug and alcohol screenings every 30 days during the season.
- d. All personnel employed by the Contractor shall be paid in accordance with the minimum Federal Wage and Hour Laws. The Contractor shall be responsible for the payment of all employment taxes and Social Security taxes related to the employment of said personnel. The City shall have the right to request replacement immediately should the situation warrant it, of any of the Contractor's staff whose conduct, character, or performance is detrimental to the best interest of the City at the City's sole discretion, and the Contractor agrees to make such replacement within seven (7) days. The City reserves the right to approve or disapprove any proposed staffing schedule.
- e. The contractor shall provide to the City a complete list of personnel ten (10) days prior to the beginning of the season. This list shall include the names, addresses and phone numbers of each of the Contractor's staff. Additions to this list will be made at the time additional personnel are hired. Contractor will also provide a 24-hour contact number for the Pool Manager and the Contractor's contact representative to the City.
- f. The Contractor will provide the City each week a detailed breakdown of managerial and lifeguard hours. Copies of personnel timecards shall be included for reported pay period.
- g. For informational purposes, bidders must submit a sample invoice format with their proposal submission. Contractor's invoice format shall be pre-approved by the City prior to use.

3.8 Staffing / Hours of Operation.

- a. A manager or assistant manager is required to be on duty at all times with 12 lifeguards or number as required for the safe operation of Splash Station and 7 life guards at Progress Park Pool during normal operating hours. If the facility is not busy and can be operated safely with fewer lifeguards, the pool management company must have fewer guards on duty and notify the Director of Parks and Recreation of the change in staffing. No area of the facility should be closed to the public without prior approval from the Director of Parks and Recreation.
- b. The Contractor shall have the authority to close the pool during inclement weather with approval from the Director of Parks and Recreation or designee (below 72 degrees, heavy rain, high wind or lightning) and shall be prepared to reopen when the weather permits. The Contractor shall have the personnel available seven (7) days per week, twenty-four (24) hours per day to handle any problems that may arise. If the facility is to be closed for the day, there will be a mutual agreement by the Contractor and the City to close to the public.

3.9 Operational Supplies/Utilities.

Contractor shall furnish all chemicals, first-aid supplies and housekeeping supplies required for pool operation during the season (See Exhibit D). This includes, but is not limited to, janitorial supplies such as paper towels, hand soap, feminine supplies, trash bags, toilet paper, glass cleaner, and bathroom cleansers. City shall furnish water, telephone, electricity, gas and pay for the same. City shall provide two (2) sets of keys for locks that access the pool, bathhouse and equipment areas. Keys shall not be duplicated and shall be returned at the closing of the pool. Should the two sets of keys not be returned in their entirety, the Contractor shall reimburse the City for the re-keying of locksets as necessary. Contractor shall reimburse all direct costs (locksmith costs and staff member time)

3.10 Recreation Programs

a. Swim Lessons

- It is the intent of the City of Wentzville to have the pool management contractor provides lifeguards as swim lesson instructors for the swim lesson program. In the 2013 pool season, the Contractor will follow the City's existing swim lesson program. In subsequent seasons, the Contractor will work in coordination with the City to develop a swim lesson program. The Contractor will be responsible for planning, hiring, scheduling, training and providing supervision for the swim lesson program and the staff as directed by the City.
- The City would advertise, pay for advertising cost, and handle the registrations for the swim lessons.

b. Rentals and Other Programs

It is the intent of the City of Wentzville to have the pool management contractor provide lifeguards to guard the water for private parties, swim team practices, etc. It is the intent of the City to work with the Contractor to determine the number of guards and practice hours needed based on the size of the swim team(s).

3.11 Licenses And Permits

The Contractor shall be responsible for obtaining all necessary County permits and licenses required by any applicable laws, rules and/or regulations for the operation of the facilities. Contractor is responsible for permit and license fees.

Permit: St. Charles County Health & Safety Services (Aquatic & Recreational Facilities Code)

Licenses: Lifeguard certification

Certified Pool Operator / Aquatic Facility Operator

3.12 Health And Safety Standards

- a. The Contractor shall meet or exceed all Health and Safety Standards regulations set forth by City of Wentzville Resolution 10-296 and the most current addition of the St. Charles County Aquatic and Recreational Facilities Code. Both the Splash Station Aquatic Center and the Progress Park Pool facilities will be maintained in a clean manner at all times, and all safety precautions shall be taken by the Contractor. The Contractor shall be responsible for maintaining the condition of the pool water in conformity with the standards specified by the American National Standards Institute / Association of Pool & Spa Professionals "American National Standard for Water Quality in Public Pools and Spas (ANSI/APSP-11 2009 or most current), and the operation shall be in accordance with all the rules and regulations of the most current edition of the Missouri Department of Health's "Swimming Pool and Spa Water Chemistry". The Contractor shall maintain the pool enclosure in a clean and safe condition at all times.

- b. The Contractor will be required to participate in a complete aquatic review program as provided by an outside agency such as the Red Cross, Star Aquatics, or Ellis and Associates. The costs to participate in such programs shall be borne by the Contractor. The proposer is to describe the aquatic review program in their proposal.

3.13 Contractor's Books and Records

The Contractor shall keep and maintain proper and adequate books, records and accounts which accurately reflect daily usage, financial data, chemical levels, injuries, staff dialogue of daily occurrences, maintenance information, payroll records, and all necessary data to properly manage the facility. All daily information, as well as a year-end report is to be provided to the Director of Parks and Recreation of the City of Wentzville no later than October 31 following each season.

PART FOUR SUBMISSION AND INSTRUCTIONS

4.0 GENERAL INSTRUCTIONS: In order for the Committee to adequately compare proposals and evaluate them uniformly and objectively, all proposals shall be submitted in accordance with this format. The proposal should be prepared simply and economically, providing straightforward and concise information as requested.

4.1 The Proposer is strongly encouraged to thoroughly review the entire Request for Proposal. Failure to do so could result in improper submittal and rejection of offer. All proposals will be reviewed for compliance with the submission requirements contained in this section and responsiveness to the mandatory requirements in paragraph 4.4 Section VIII below.

4.2 **Proposal Due Date:** Sealed proposals with one (1) original, and three (3) complete copies, shall be received at Wentzville City Hall, 310 W. Pearce Blvd. Wentzville, MO 63385 on April 9, 2013 at 2:00 p.m.. Proposals will not be accepted after this time. Proposals shall be addressed as follows:

For U.S. Mail or Hand Delivery:

**City of Wentzville
310 West Pearce Blvd.
Wentzville, MO 63385**

Submitted envelopes should be marked:
**"REQUEST FOR PROPOSAL #B13WZ028"
Pool Management Services**

4.3 **Addenda:** If it becomes necessary to revise or amend any part of this Request for Proposal, the Procurement Department will post the revision by written Addendum to the Request for Proposal on the City's website www.wentzvillemo.org/bidding-opportunities.aspx. It is the Bidder's responsibility to check for any issued addendums prior to submitting their proposal.

4.4 **Proposal Format:**

- I. **Title Page:** Title page showing the Request for Proposal's subject, the firm's complete legal name; the name, address and telephone number of a contact person, and the date of the proposal.
- II. Location of the office that would service the City's account.
- III. **Transmittal Letter:** A signed letter of transmittal briefly stating the Proposer's understanding of the work to be done, acceptance of all terms and conditions specified in the Request for Proposal (any terms and conditions not accepted must be specifically identified in the transmittal letter), a commitment to perform the work within the time period, and a statement that the proposal is a firm and irrevocable offer for ninety (90) days after the date and time set for receipt.

IV. Technical Proposal - Format:

- a. Proposer to present a simple proposal that demonstrates their experience and ability to perform the required services and lists tasks necessary to accomplish the required services including (but not limited to) elements outlined in the Scope of Services and Performance Requirements, and any requested deviations.
- b. Proposal should address bidder's ability to recruit and train quality staff; and discuss the depth of organization and ability to respond to all anticipated needs.
- c. Proposal to list the number of Contractor's staff who will render services to the City listing the specific responsibilities of each.
- d. Previous experience in operating and managing a municipal aquatic center. Bidders must have at least five (5) consecutive years of experience in pool management services. Private clubs, condominiums, hotels or apartment complexes are not acceptable.
- e. Proposal should address the bidder's municipal aquatic center management skills and experience with swimming facilities similar in size and nature, and the ability to perform quality work which qualifies it to operate the Splash Station Aquatic Center and the Progress Park Pool as detailed and specified in this RFP.
- f. Proposal is to include description of the lifeguard certification program the Contractor will use.
- g. Proposal is to include description of the aquatic review program the Contractor will use.
- h. Documentation of CPO/AFO certification.
- i. Narrative for Recreation Programs including, but not limited to, the proposed swim lesson program.
 - Describe the swim lesson program you would propose for the City of Wentzville for the 2014-2016 seasons. Please include information about group and private lessons, class levels offered, program supervision including coordination with the City, and instructor training.
- j. Any additional information the Bidder believes may be pertinent to the evaluation of its bid.
- k. Sample invoice format

V. References - submit 3 references within the past 5 consecutive years of contracts similar in size and nature to this RFP. None of the references can be City of Wentzville.

VI. Disclosure and Conflict of Interest (Exhibit A) – The Proposer to provide the information as outlined in Exhibit A.

VII. Representations and Certifications (Exhibit B) – The Proposer to provide the information as outlined in Exhibit B.

VIII. Responsive Proposal – The Proposer to have a responsive proposal submission must complete and submit the documents herein. **The City will use the following Mandatory Requirements to determine whether proposals are responsive or non-responsive.**

- a. Affidavit of Participation in Federal Work Authorization Program
- b. E-Verify with Memorandum of Understanding and Electronic Signature Page from the U.S. Department of Homeland Security.
- c. Affidavit of Verification of Proof of Citizenship - Public Benefits
- d. Non-Collusive Affidavit of Prime Bidder
- e. Documentation of CPO/AFO certification
- f. Fee Schedule
- g. Disclosure and Conflict Of Interest
- h. Representations and Certifications
- i. References

PART FIVE

EVALUATION PROCESS

5.0 PROPOSAL EVALUATION PROCESS: The steps and activities in the proposal process will include the following:

- 5.1 A Selection Committee consisting of at least three (3) members will be established to review and evaluate all proposals submitted in response to this Request for Proposal (RFP). The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided and other evaluation criteria as set forth in this Request for Proposal or as reasonably determined by the Committee.
- 5.2 **Criteria for Award:** The evaluation committee will evaluate the proposals. Each proposal will be evaluated for full compliance with the RFP instructions to the Proposer and mandatory terms and conditions set forth in the RFP. The objective of the evaluation will be to select a firm that is most responsive to the described needs of the City. Proposals which are responsive to the Request for Proposal will be evaluated based on, but not limited to the following criteria:

Points	Criteria
35	Fixed Fee (with maximum 35 points to Lowest Bid; 32 points to next lowest; and so forth.)
25	Overall responsiveness and quality of the proposal that clearly demonstrates an understanding of the Scope of Services to be performed.
20	Ability of the proposer to perform the required services and consideration of the proposer's capacity, structure, stability, and including Experience, Qualifications, References.
10	Sub-contracting any portion of the business services with a City of Wentzville Business holding a City License that is not directly affiliated with the Prime Proposer. The Sub-Contractor dollar value must equal 10% of total amount to receive the full 10 points; 9% = 9 points and so forth. Total of 10 points is the maximum number of points for this category.
10	Location of Proposer City of Wentzville - 10 Points St Charles County - 6 Points State of Missouri - 3 Points Out of State - 0 Points
100	Maximum Points

For evaluation purposes the formula for calculating Total Fee will be the sum for four years, of the Total Management Fee for both locations; plus the staff hourly rate for each position multiplied by one hour, for each year.

5.3 Submission of all documentation outlined in the Proposal Format.

- 5.4 **Short List:** Proposals will then be evaluated and rated in accordance with the evaluation criteria. A short list may be developed listing the highest ranked proposals.
- 5.4.1 The City Procurement Department will confer with all responsible proposers who have been short-listed and may arrange, if necessary, for interviews/presentations by the short-listed firms.
- 5.4.2 The City reserves the right to conduct pre-award discussions and/or pre-contract negotiations with any or all responsive and responsible proposers who submit proposals determined to be reasonably acceptable of being selected for award. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission of proposals and prior to award of a contract.
- 5.5 The City reserves the right to reject any and all proposals and to waive minor irregularities. The City further reserves the right to seek new proposals when such a procedure is reasonable and in the best interests of the City to do so.

FEE SCHEDULE

The undersigned has thoroughly examined the entire Request for Proposal (RFP), including all addenda thereto, hereby offers to furnish all services in accordance with the requirements of the Request for Proposal, as described in the proposal attached hereto and incorporated herein.

Management fee, covers total costs for pre-season opening and post-season closing procedures and does include chemicals to operate facility throughout the season, insurance, administrative fees, overhead, profit, and any other incidental costs not covered in hourly rates for staffing.

Bid	2013	2014	2015	2016
Total Management Fee SPLASH STATION AQUATIC CENTER				
Total Management Fee PROGRESS PARK POOL				
TOTAL				

For Proposal Evaluation purposes, one (1) hour will be used for each position for each year in order to calculate a total.

Programs/Special Events not included above:	2013 (hourly rate)	2014 (hourly rate)	2015 (hourly rate)	2016 (hourly rate)
Manager				
Assistant Manager				
Lifeguard				
Private Rentals				
Manager				
Assistant Manager				
Lifeguard				

Company Legal Name: _____

State in which bidding company is incorporated: State of _____ and the

State Registration Number: _____ (mandatory)

Signature: _____

Print Name: _____

Email Address: _____

Telephone: _____

Fax: _____

Per Part Five, paragraph .5.2, provide legal name of subcontractor (City of Wentzville business): _____

Dollar value of goods/services to be purchased through subcontractor: \$ _____

QUALIFICATIONS AND REFERENCES

All questions must be answered and the data given must be clear and comprehensive. If necessary, question may be answered on separate attached sheets. The Bidder may submit any additional information he/she desires.

Company Legal Name	
When organized?	
If a corporation, where incorporated?	
Number of years in business? (List other names if more than one name)	

Pool management service contracts with the dates under contract. Failure to provide references may be cause for rejection of bid. None of the references can be City of Wentzville and/or a City employee or City elected official.

Owner / Facility Name	Owners Representative	Contact information Phone and E-mail	Contract Dates
Have you ever failed to complete any work awarded to you and have you ever defaulted on a contract? If so, when and why?			
What other experience qualifies you for this project?			



**CITY OF WENTZVILLE
VERIFICATION OF PROOF OF CITIZENSHIP - PUBLIC BENEFITS
(REVISED 6/16/09)**

Name: Last	First	Middle Initial	Maiden Name
Address (Street Name & Number)		Apt #	Date of Birth
City		State	Zip Code

- (Check all that apply to signer and company):
- A Citizen of the United States
 - A Lawful Permanent Resident
 - Company uses e-Verify to Hire New Employees
 - All Employees are authorized to work in U.S.

Signature	Date (M/D/YY)
-----------	---------------

VERIFICATION: *To be completed by City Staff.* Please record the title and expiration date of either: one document from Column A *or* a Missouri driver's license (Column B) *or* one document from Column C as listed in the Notice to Applicants for Public Benefits and attach a copy of the documentation.

A - MoDOR Accepted Documentation	or	B - MO Driver's License	Or	C - Other Federal Documentation
Document title: _____		Missouri Driver's License <input type="checkbox"/>		Document title: _____
Expiration Date (if any) _____		Expiration Date _____		Expiration Date (if any) _____

CERTIFICATION: I certify that I have examined the document(s) regarding citizenship or residency presented by the above-named applicant.*

Signature of City Staff Person:	Print Name:	Date:
---------------------------------	-------------	-------

***NOTE TO CITY STAFF:** If sufficient documentation was not presented, **do not sign** the certification above. Instead, please give applicant a copy of the Affidavit of Citizenship for Eligibility for Public Benefits form and attach any completed Affidavit to this document.

Penalties under state law for fraudulently obtaining public assistance benefits may include, but are not limited to, imprisonment, fines, and discontinuation of benefits and recovery of benefits fraudulently obtained.

**PROOF OF E-VERIFICATION WITH U.S. DEPARTMENT OF HOMELAND
SECURITY**

**Attach Memorandum of Understanding
With Electronic Signature Page**

EXHIBIT A

DISCLOSURE AND CONFLICT OF INTEREST

It is the City's policy to prevent actual, potential, or perceived conflicts of interest with its current and prospective vendors on behalf of its participants. In furtherance of this policy Bidders are required to disclose:

1. Political Contribution Disclosure

All bidders submitting a quote to this RFP must provide a written disclosure of all political contributions made during the preceding three (3) years to the Mayor and/or Board of Aldermen member's Campaign Committee.

2. Non-Political Disclosures

- a. Bidder is to disclose the relationship to anyone (spouse, father, mother, son, daughter, or immediate family) holding an elective office within the City of Wentzville government; and/or a member of City Staff holding a position within the City's Finance Department, or holding the position of City Administrator or Director.

The failure to provide written disclosures of political contributions or solicitations may result in the disqualification of a Bidder.

Bidder is to provide any disclosures as a separate attachment.

If Bidder has no political contributions to report, indicate that Bidder has no disclosures to report in an attachment.

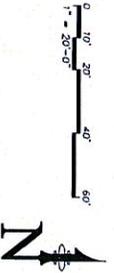
These disclosures are not intended to prohibit or prevent any contract. The disclosures are used to fully and publicly disclose any potential conflict of interests.

EXHIBIT B

REPRESENTATIONS AND CERTIFICATIONS

- 1) If the Firm retains any subcontractors to perform any portion of the services hereunder, then the Firm shall promptly provide notification, in writing, to the City's authorized representative. The Firm shall also disclose the names and addresses of all subcontractors and the expected amount of money each subcontractor will receive under the contract.
- 2) The firm acknowledges that a description of this Agreement shall be posted on the City's website, City Contracts, including the name of the firm, the total amount applicable to the Agreement, the total fees paid or to be paid under the Agreement and a disclosure, submitted to the Board of Alderman describing the factors that contributed to the selection of the Firm.
- 3) The firm agrees to provide a full disclosure of direct and indirect fees, commissions, penalties, and other compensation, including reimbursement for expenses, which may be paid by or on behalf of the firm in connection with the provisions of this RFP.

EXHIBIT C
SPLASH STATION AQUATIC CENTER
AND
PROGRESS PARK POOL FACILITY



Rec Pool	4,233	S.F.
Lazy River	5,301	S.F.
Plunge Area	727	S.F.
Diving Area	1,321	S.F.
Total Water Surface Area	11,582	S.F.
Lazy River Length	400	L.F.
Concrete Deck Area	28,292	S.F.
Grass Deck Area	6,980	S.F.

- | | |
|---------------------------------------|-----------------------------------|
| 1 Zero Depth Entry | 17 Plunge Area |
| 2 Underwater Bubbles* | 18 Open Body Water Slide |
| 3 Water Bench under Sunshade | 19 Non-adjustable Basketball Goal |
| 4 Silly Shower* | 20 Dining Area |
| 5 Rec Pool | 21 1 Water Diving Stand |
| 6 ADA Pool Steps | 22 3 Water Diving Platform |
| 7 Bulkhead | 23 Lamer's Platform |
| 8 2 Lane 60 Feet Lap Area | 24 Tube Storage |
| 9 Therapy Water Seat | 25 Sunshade |
| 10 Adjustable Basketball Goal | 26 Stamped Pool Deck |
| 11 Aquatic Play Unit with SplashDome* | 27 Lazy River Bridge and Landing |
| 12 Spray Zone | 28 ADA Deck Ramp |
| 13 ADA Pool Ramp | 29 Grass Deck Area |
| 14 Lazy River | 30 Concessions Area |
| 15 Pool Steps | 31 Bathhouse |
| 16 Pony Tail Wall Sprays | 32 Filtr Area |
| | 33 159 Car Parking |

Splash Station
Aquatic Center
Wentzville, Missouri



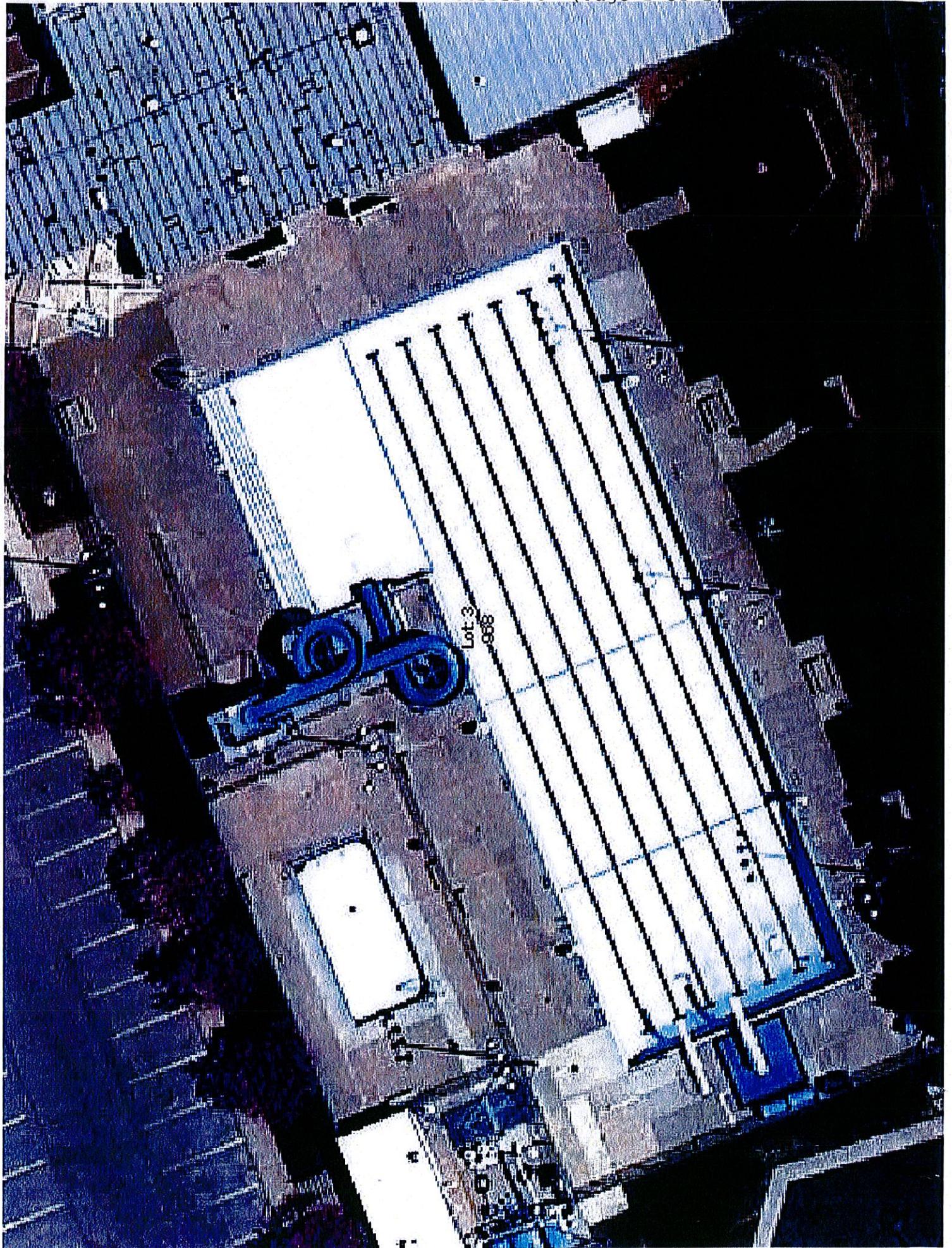


EXHIBIT D
LIST OF POOL CHEMICALS

Calcium Chloride Flake
Calcium Hypochlorite
Diatomaceous Earth
Foam Out
Granular Chloride
Hydrochloric Acid
Monopersulfate
Muriatic Acid
Omni Bromine Tablets
Pulsar Power Shock
Pulsar Plus Briquettes
Soda Ash
Sodium Bicarbonate
Sodium Hypochlorite
Sodium Thiosulfate
Stabilizer (Cyanuric Acid)
Trichlor Tablets

EXHIBIT E
LIFEGUARD 2013 WAGE RATES AS PAID BY CITY

Seasonal Positions		
Position	Grade	Code
Pool Manager	S11	POOLMG
Assistant Pool Manager	S3	APLMGR
Head Lifeguard	S2	HDLIFE
Lifeguard	S1	LIFEGD

CITY OF WENTZVILLE SEASONAL PARK POSITIONS - WAGES							
Annual ADJ.	GRADES	RATE	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6
0.2814	S0	7.350	7.631	7.913	8.194	8.476	8.757
0.3040	S1	7.601	7.905	8.209	8.513	8.817	9.121
0.3284	S2	8.209	8.537	8.866	9.194	9.523	9.851
0.3546	S3	8.866	9.221	9.575	9.930	10.284	10.639
0.3830	S4	9.575	9.958	10.341	10.724	11.107	11.490
0.40642	S5	10.160	10.566	10.972	11.379	11.785	12.192
0.4318	S6	10.793	11.225	11.657	12.089	12.521	12.952
0.45718	S7	11.427	11.884	12.342	12.799	13.256	13.713
0.48256	S8	12.061	12.544	13.026	13.509	13.991	14.474
0.5079	S9	12.695	13.203	13.711	14.219	14.727	15.235
0.53332	S10	13.329	13.862	14.396	14.929	15.462	15.996
0.5587	S11	13.963	14.522	15.080	15.639	16.198	16.756

**CITY OF WENTZVILLE
STATEMENT OF NO PROPOSAL**

WE, THE UNDERSIGNED, HAVE DECLINED TO BID ON YOUR RFP NO. B13WZ028 FOR POOL MANAGEMENT SERVICES FOR THE FOLLOWING REASON(S):

_____ SPECIFICATIONS ARE TOO "TIGHT", I.E. GEARED TOWARD ONE BRAND OR MANUFACTURER ONLY (PLEASE EXPLAIN REASON BELOW.)

_____ INSUFFICIENT TIME TO RESPOND TO REQUEST FOR PROPOSAL

_____ WE DO NOT OFFER THIS PRODUCT(S) OR EQUIVALENT.

_____ REMOVE US FROM YOUR BIDDERS' LIST FOR THIS COMMODITY OR SERVICE.

_____ OUR PRODUCT SCHEDULE WOULD NOT PERMIT US TO PERFORM.

_____ UNABLE TO MEET SPECIFICATIONS

_____ UNABLE TO MEET INSURANCE REQUIREMENTS

_____ SPECIFICATIONS UNCLEAR (PLEASE EXPLAIN BELOW.)

_____ OTHER (PLEASE SPECIFY BELOW.)

REMARKS:

COMPANY NAME _____

ADDRESS _____

SIGNATURE AND TITLE _____



CONTRACT NO. _____

Presented as Sample Enclosure
CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
POOL MANAGEMENT SERVICES
GENERAL CONDITIONS

THIS CONSULTANT/PROFESSIONAL SERVICES AGREEMENT (this "Agreement"), is made and entered into as of this ____ day of _____ (month), 2013, by and between _____, a _____ having a principal office at _____ (the "Consultant"), and the City of Wentzville, a Missouri municipal corporation located in St. Charles County (the "City"). *All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Contract Documents (as hereinafter defined).*

RECITALS

- A. In response to RFP B13WZ028 of the City requesting bid proposals for Pool Management Services, the Contractor has submitted a certain Bid Proposal in accordance with the Bid Documents to perform the Services.
- B. After due consideration, the City has accepted the Bid Proposal of the Consultant and the parties hereto desire to enter into this Agreement whereby the Consultant shall undertake the performance of the Services in accordance with the Contract Documents and the City shall pay the Consultant as hereinafter specified.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth the City and the Consultant hereby agree as follows:

- 1. **Contract Documents.** This Agreement shall consist of: (i) RFP B13WZ028 including, without limitation:
 - 1. Bid Notice
 - 2. Request for Proposal
 - 3. Bid Proposal and Fee Schedule (executed by Consultant)
 - 4. Affidavit of Non-Collusion (executed by Consultant)
 - 5. General Information for Bidders
 - 6. Executed Consultant/Professional Services Agreement (executed by City and Consultant)
 - 7. Verification of Proof of Citizenship (executed by Consultant)
 - 8. Affidavit of Participation in Federal Work Authorization Program Form (executed by Consultant)
 - 9. E-Verify Memorandum of Understanding with Electronic Signatures
 - 10. State Charter Number
 - 11. Qualifications and References Form
 - 12. Documentation of CPO/AFO certification
 - 13. General Conditions
 - 14. Scope of Services
 - 15. Disclosure and Conflict of Interest Form

- 16. Representations and Certifications
- 17. References
- 18. Notice of Award (issued by City and receipt acknowledged by Consultant)

and shall also include any Exhibits to the above documents, any Addenda issued prior to receipt of bid proposals, any duly-issued Modifications, and all other documents contained or specified within the specifications, details or job special provisions, as such may be on file in the office of the Procurement Department and Office of the City Clerk of Wentzville, Missouri (all of the foregoing collectively referred to as the "Contract Documents" are hereby incorporated in this Agreement by reference).

2. Term The term of this contract shall be from date of award through December 31, 2016.

3. Scope of Services

Consultant services are necessary for Pool Management Services as set forth in the Scope of Services, Part Three of the Request for Proposal (the "Services").

Except as expressly specified herein, Consultant hereby agrees to provide all of the supervision, labor, technical services, materials, tools, and equipment, and to perform all the services necessary for the proper completion of the pool management services as set forth in the Scope of Services, Part Three of the Request for Proposal. All Services shall be in conformance with all applicable policies of the City, and laws of Missouri applicable to 4th class cities, all federal laws and requirements and all rules and regulations.

The above described Services shall be provided by the Consultant in accordance with all the provisions of this Agreement, City policies and attached City of Wentzville General Conditions for the Services, attached to the Request for Proposal and incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment.

4. Contractor's Liability Insurance The Contractor shall maintain general liability insurance and automotive liability insurance listing the City of Wentzville as an additional insured and an endorsement from the carrier stating such must be attached. The insurance shall cover any vehicle while in tow or storage, and shall cover all activities required by this contract. The Contractor further agrees that the minimum insurance coverage shall be as follows:

<u>Insurance Type</u>	<u>Amount</u>
Workers Compensation	An amount and type in full compliance with Statutory requirements of Federal and State Of Missouri law and Employees Liability Coverage.
Comprehensive General Liability	\$1,000,000 each occurrence \$2,000,000 aggregate
Comprehensive Auto Liability	\$1,000,000 per occurrence

Notwithstanding the above, the coverage amount shall be automatically increased to equal at all times an amount and type in full compliance with statutory requirements of Federal and State of

Missouri law and Employees Liability coverage in an amount equal to the sovereign immunity limits for Missouri public entities as calculated by the department and published annually in the Missouri Register per Section 537.610 RSMo.

Policy shall name the City as the additional insured. Certificates evidencing such insurance shall be furnished to the City prior to Contractor commencing the services as outlined in the request for proposal. The certificates must state, "The City of Wentzville is an additional insured", with endorsement. Certificate Holder shall be listed as "City of Wentzville, Attention City Clerk, 310 W Pearce Blvd., Wentzville, MO 63385."

5. Indemnification

To the fullest extent permitted by law, the Contractor agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suit, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or money damages, or trespass, or any other circumstances, sustained by the City or others, arising from the Contractor's breach of the Contract or out of services or products provided by the Contractor or its subcontractors under the terms of this agreement. The Contractor shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required to enforce this provision, the Contractor agrees that this indemnification requires the Contractor to obtain insurance in amounts specified in the Contract Documents and that the Contractor has had the opportunity to recover the costs of such insurance in the compensation set forth in this Agreement.

In any and all claims against the City or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

6. Compensation

The City hereby agrees to pay the Consultant, as full compensation for the complete and satisfactory performance of this Agreement:

Such amount as is set forth in the attached Offer and Schedule of Professional Fees submitted by Consultant ("Annual Flat Fee" and/or Hourly Fees) that is incorporated herein in its entirety and subject to any such limits as established herein or therein and in approving authorization by the City. Reimbursable expenses shall not be applicable to this Agreement.

7. Time and Manner of Payments

All invoices complete with necessary support documentation shall be submitted to the City and payment shall be made by City within thirty (30) days of receipt of an invoice received after satisfactory performance of the Services.

8. Compliance with Federal, State and Local Law. The Contractor shall comply with all applicable federal, state and local law requirements for performance under this Agreement. The Contractor shall abide by all health and environmental requirements imposed by law in performance of its duties.

9. Taxes. The City is exempt from federal excise tax and Missouri sales tax and the Contractor shall not charge the same to the City and shall comply in all respects with the Special Sales Tax Provisions of the General Conditions.

10. Attorney Fees' and Costs. The Consultant shall reimburse to the City any costs and attorneys' fees that the City may reasonably incur in pursuit of any remedies at law or equity or enforcement of any rights established in this Agreement, which may result from the Consultant's breach of the Agreement, the Consultant's failure to perform any obligation or requirement contained herein, or the City's enforcement of this Agreement.

11. Other Representations, Warranties and Other Covenants by the Consultant. The Consultant represents and warrants that the Consultant has been engaged in such work as is required for the Services and has provided services such as the ones to be performed under this Agreement to other municipalities and/or private enterprises and that the Consultant has sufficient expertise, knowledge, information and data, and engages sufficient personnel to perform the Consultant's obligations under this Agreement. The Consultant further represents and warrants that the Consultant is an equal opportunity employer. The Consultant agrees that the Consultant shall not use in any form or medium the name of the City for any advertising unless the Consultant receives the prior written consent of the City.

12. Amendment; Waiver. No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing signed by an authorized representative of the party against whom such provision as amended or modified or such waiver is sought to be enforced. Failure to insist upon strict compliance with any of the terms or conditions of the Agreement shall not be deemed a waiver of such term or condition.

13. Compliance With Laws: Contractor shall comply with all applicable City ordinances and other laws and regulations, Federal, State, County, and any political subdivision thereof, including but not limited to, unemployment and workers compensation, occupational safety, equal employment and action and wage and price laws insofar as applicable to the performance of the Contract.

14. Choice of Law This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws.

15. Headings The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

16. Severability The invalidity or unenforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision of this Agreement, which shall remain in full force and effect to the maximum extent permitted by law.

17. Counterparts This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CONTRACTOR

CITY OF WENTZVILLE, MISSOURI

By: _____
Signature

By: _____
Nickolas Guccione, Mayor

Printed Name and Title

Address

City, State, Zip

Date: _____

Date: _____

ATTESTED:

By: _____

Approved as to Form:

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT
Pool Management Services
GENERAL CONDITIONS

Independent Consultant. The Consultant shall be and operate as an independent Consultant in the performance of this Agreement. The Consultant shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Consultant shall be employees of said Consultant and not employees of the City in any respect.

Compliance with Laws. The Consultant shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of this Agreement. In the event of a conflict between laws, codes and regulations of various governmental entities having jurisdiction over the Services, the Consultant shall notify the City of the nature and impact of such conflict. The City agrees to cooperate with the Consultant in an effort to resolve any such conflict.

Federal Wage and Hour Laws: All personnel employed by the Contractor shall be paid in accordance with the minimum Federal Wage and Hour Laws. The Contractor shall be responsible for the payment of all employment taxes and Social Security taxes related to the employment of said personnel.

Subcontracts. The Consultant shall not subcontract any of the Services to be performed by it hereunder without the express written consent of the City, except as provided herein. In the event Consultant utilizes a subcontractor, Consultant shall ensure that any agreement between Consultant and such subcontractor complies with all requirement imposed for such agreement by federal, state, and local law. In addition, this Agreement shall not be assigned by the Consultant.

If Consultant submits invoices to the City which include payments to be made on account of work performed by a subcontractor, such payments shall be conditioned upon submission by the Consultant of waiver of liens, or such other documents satisfactory to the City to protect the City's title to land, buildings, or improvements or to otherwise protect the City's interest. By submitting an invoice to the City, the Consultant warrants and guarantees that title to all land, buildings or improvements which may be subject to a lien under 429.015 RSMo., upon the receipt of such payment by the Consultant, will not be subject to a lien under 429.015 RSMo.

Indemnification. To the fullest extent permitted by law, Consultant agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from breach of this Agreement or out of services negligently performed hereunder by the Consultant, or claims relating thereto, and including but not limited to the City's reliance on or use of the services or products provided by the Consultant under the terms of this agreement. The Consultant shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Consultant agrees that this indemnification requires Consultant to obtain insurance in amounts specified herein and that Consultant has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Agreement.

No Aldermen, officer, administrator, director, board member, or employee of the City shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement. Consultant shall look solely to the City for the satisfaction of any claims Consultant may have arising under this Agreement.

Insurance. Consultant shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts required by the City, if any, but in no event less than the maximum amounts of liability set forth in Chapter 537.610 RSMo., as amended, applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. In addition to the foregoing, the Consultant shall maintain Professional Liability "errors and omissions" insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, but in no event less than the maximum amounts of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions unless otherwise approved by the City. The City, and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Consultant's Services, as determined by the City, shall be named as additional insured with duty of defense on all insurance policies required hereunder. The City and Consultant waive all rights against each other for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance; provided that nothing herein shall be deemed a waiver of the City's sovereign immunity relative to any claim against the City.

Nondisclosure/Confidentiality. The Consultant agrees that it will preserve the confidentiality of all City data and account information and will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement.

Changes. No change in this Agreement shall be made except in writing prior to the change in Services or terms being performed. The Consultant shall make any and all changes in the Services without invalidating this Agreement when specifically ordered to do so in writing by the City. Consultant, prior to the commencement of such changed or revised Services, shall submit promptly to the City, a written cost or credit proposal for such revised Services. If the City and Consultant shall not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of Consultant, upon written notice from the City, to immediately proceed with such alteration or change, and Consultant shall be compensated the reasonable value of such Services. **No work or change shall be undertaken or compensated for without prior written authorization from the City and shall be subject to any required approval from state or federal departments or agencies.**

Termination. The City shall have the right to terminate this Agreement at any time for any reason by giving the Consultant written notice to such effect. The City shall pay to the Consultant in full satisfaction and discharge of all amounts owing to the Consultant under this Agreement an amount equal to the cost of all Services performed by the Consultant up to such termination date, less all amounts previously paid to the Consultant on account of this Agreement Price. The Consultant shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Consultant for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services. This Agreement shall be subject to termination by the City in the event of sale or destruction of the facilities or because of misfeasance or non-misfeasance by the operator. The City may also terminate this Agreement for repeated non-compliance with the requirements as set forth in these specifications. The City reserves the right to terminate the contract for any reason with a 30 day written notice.

Multi-year contracts; Non-appropriation. Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "**Event of Nonappropriation**"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

Accounting. During the period of this Agreement, the Consultant shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Consultant.

Other Consultants. The City reserves the right to employ other consultants in connection with the Services.

Request for Proposals. If the City issued a request for proposals in connection with the Services, such request for proposals and the proposal of the Consultant in response thereto are incorporated herein by reference and made a part of this Agreement. In case of any conflicts between the request for proposals and the executed Consultant/Services Agreement or proposal of the Consultant, the requirements of the City's Request for Proposal and this executed Consultant/Professional Services Agreement shall control and supersede unless a change thereto is specifically stated in this Agreement.

Work Records and Work Product. The Consultant shall provide the City with copies of all documents pertinent to the Services which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Consultant created in performance of or relating to this Agreement. Consultant agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product. Upon termination of this Agreement, Consultant shall promptly deliver to CITY any documents, whether printed or electronic, of the inspections

Personnel. The Services shall be performed exclusively by the personnel of the Consultant identified in the Consultant's proposal and no other personnel of the Consultant shall perform any of the Services without the express written approval of the City.

Compliance with State Immigration Statutes. As a condition for the award of this Agreement, the Consultant shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Services. The Consultant shall also sign an (Affidavit of Participation in Federal Work Authorization Program) affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Services. The Consultant shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.

Pursuant to Section 208.009 R.S.Mo., the Consultant shall provide affirmative proof that the Applicant for the Consultant is a citizen or a permanent resident of the United States or is lawfully present in the United States (Verification of Proof of Citizenship). The applicant for the Consultant (or "**Applicant**") shall be the person authorized to prepare, submit and sign contract documents on behalf of the Consultant and shall be eighteen years of age or older. Such affirmative proof shall include documentary evidence recognized by the Missouri Department of Revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.

An Applicant who cannot provide the proof required under Section 208.009 R.S.Mo. at the time of submission of any bid may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence. The affidavit shall be on or consistent with forms prepared by the City, which shall be available from the City Clerk if needed. Any Applicant who signed an above-described affidavit must provide proof of lawful presence within the time provided in Subsection 208.009.5 R.S.Mo. for temporary public benefits and failure to provide such proof within such time may result in the City rescinding and voiding any contract awarded to the Consultant.

Representations. Consultant covenants, represents and warrants the following: (a) Consultant is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization; (b) Consultant has the power and authority to enter into this Agreement and to carry out its obligations hereunder and the execution of this Agreement has been duly authorized by Consultant and no other proceedings on the part of Consultant are necessary to authorize this Agreement; (c) neither the execution of this Agreement, nor the acts contemplated hereby, nor compliance by Consultant with any provisions of this Agreement, will violate any charter document, contract, agreement, law, or any judgment, decree, order, regulation or rule of any court or governmental authority with jurisdiction over Consultant; (d) Consultant has completed, obtained and performed all registrations, filings, approvals, licenses, authorizations, consents or examinations required by any government or governmental authority for entry into the Agreement and performance of its acts contemplated by this Agreement, and Consultant shall maintain proper authorizations during the term of the Agreement; (e) the personnel of Consultant responsible for discharging Consultant's duties and obligations under this Agreement are individuals experienced in the matters set forth herein and Consultant will notify the City in the event that there is a proposed change in the status of Consultant's key investment professionals, including but not limited to those working on the City's funds, and/or any key personnel who have obligations arising under or related to this Agreement or the City's assets, and shall immediately notify the City of any change in such staff (if prior notice was for any reason not given) and in any event such notice shall be provided within three days of any such change; (f) Consultant shall carry out its duties and obligations in accordance with the provisions of all applicable ordinances, regulations and laws of all governmental entities with jurisdiction over the transactions contemplated; (g) Consultant shall notify the City of any material change in the organizational structure and/or ownership of Consultant within a reasonable period of time following such a change; and (h) Consultant shall promptly notify the City orally and/or in writing if any of the representations and warranties of Consultant set forth in this Agreement, including but not limited to those set forth below, shall cease to be true at any time during the term of this Agreement.

Neither Consultant nor, to its knowledge, any of its officers or directors, nor any of its affiliates, has ever been (i) convicted or pleaded guilty or nolo contendere to a felony or misdemeanor involving (1) an insurance or insurance related business, (2) fraud, false statements or omissions, or (3) the wrongful taking of property, bribery, forgery, counterfeiting or extortion; or (ii) found by a court or administrative agency to be in violation of any federal or state insurance or insurance-related statute or regulation.

Consultant shall not make or receive any gift, emolument or benefit by reason of any business which it may get from or give to any person or broker growing out of service rendered hereunder, including the City, and hereby represents that it has complied with and will comply with any and all relevant Federal and State laws.

All representations, warranties and covenants made in or pursuant to this Agreement shall survive its termination.

Consultant agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree this Agreement represents the entire agreement between the parties.

Governing/Choice of Law. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws. Venue shall be in St. Charles County, Missouri.

Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.



REQUEST FOR PROPOSALS

FOR THE

MANAGEMENT AND OPERATION OF THE

TIPPECANOE FAMILY AQUATIC CENTER



ISSUED: 9/16/2015

PROPOSALS DUE: 10/9/2015

CONTACT PERSON: John H Donnelly
Director of Municipal Services & Engineering
donnelyj@tippcity.net
937-667-6305

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REQUEST FOR PROPOSALS (RFP)
FOR THE
MANAGEMENT AND OPERATION OF
THE TIPPECANOE FAMILY AQUATIC CENTER

1. **INTRODUCTION** – The City of Tipp City is seeking proposals from qualified service providers to manage and operate its \$4.0 million outdoor aquatic center during its 2016, 2017 and 2018 seasons. Three additional one-year contract extensions may be executed at the exclusive option of the City of Tipp City. The successful firm will be required to do all things necessary to open the facility, maintain, manage, operate staff, and to prepare the aquatic center for the winter while at all times utilizing qualified professional staff.

2. **GENERAL OVERVIEW AND PROVISIONS**

The following sections describe the basic rules governing the Request for Proposal (RFP) process.

2.1 Purpose of this Request for Proposal

The purpose of this Request for Proposal is to seek proposals which meet the specifications listed in Section 4 of this RFP. It is the City of Tipp City's intention to select the proposal which best meets its anticipated needs at the lowest cost. All proposals will be evaluated in accordance with the criteria listed in Section 3, Paragraph 3.10 of this RFP.

2.2 Scope of the RFP

This RFP is not an offer to purchase, but a request to receive proposals. It contains instructions for venter responses and requirements that must be met for vendors' eligibility. The City of Tipp City reserves the right to accept or reject any or all proposals and award the contract that is in the best interest of the city. Although the vendor must submit a proposal for the entire RFP, City of Tipp City reserves the right to accept or reject any part or segment of the total proposal. Vendors may be excluded from further considerations for failure to fully comply with the specifications of this RFP. It is each Vendor's responsibility to read the entire RFP, submit all questions prior to or at the pre-proposal Vendor's conference, and submit completed RFP responses by the required dates indicated in Section 2, Paragraph 2.4 of this Document.

2.3 Laws

- 2.3.1 All laws of the United States, and the State of Ohio, as well as the charter and ordinances of the City of Tipp City, Ohio, insofar as they apply are made a part of hereof.
- 2.3.2 This RFP, and any subsequent contract as a result of this RFP, will be governed by and construed in accordance with the Laws of the State of Ohio. The site of any legal action, or dispute pursuant to this RFP or subsequent contract(s) shall be in Miami County, Ohio.
- 2.3.3 Except to the extent that the provisions of this RFP or contract(s) are clearly inconsistent therewith, this RFP or contract(s) shall be governed by the applicable provisions of the Uniform Commercial Code as adopted by the State of Ohio. To the extent that this RFP or subsequent contract(s) entails delivery or performance of services, such services will be deemed “Goods” within the meaning of the Uniform Commercial Code.
- 2.3.4 Vendors must also provide a disclosure of any pending or threatened court actions and/or claims against the firm, parent company or subsidiaries. This information will not necessarily be cause for rejection of the proposal; however, withholding the information may be cause to reject the proposal.

2.4 Project Schedule

The City of Tipp City anticipates adhering to the following RFP schedule. This schedule may be modified by the City of Tipp City, at its sole discretion. The City of Tipp City will attempt to inform interested firms of any changes in the schedule.

ACTION	DATE
1. RFP issued and advertised	9/16/15
2. Mandatory Pre-Bid Meeting & Facility Tour	9/24/15
3. Inquiry deadline	10/5/15
4. Proposals due	10/9/15
5. Vendor Interviews	10/19/15
6. Contract Award – Notice of Intent	10/26/15
7. City Council Resolution	11/2/15
8. Contract sign-off	11/13/15

3. THE RFP PROCESS

This section provides particular instructions for various steps in the RFP process. All firms should pay particular attention to Section 3, Paragraphs 3.5: Submitting Proposals, 3.6: Proposal Format, 3.10: Evaluation Criteria, and Section 4, the Specifications. All firms must write a business plan explaining how they will provide the services set out in the Specifications. The business plan will be judged according to the Evaluation Criteria stated in Section 3, Paragraph 3.6.6.

3.1 Responsibilities

3.1.1 All proposing firms are responsible for being thoroughly familiar with all provisions of this RFP, any subsequent addenda, the facilities involved and the specifications contained herein. The failure of any firm to do the foregoing does not relieve the firm from any obligation with respect to the proposal submitted.

3.1.2 All firms or persons considering the submission of a proposal are obligated to provide an Executive Summary in accordance with Section 3, Paragraph 3.6.3, with their current address, telephone number and facsimile number upon receipt of this RFP.

3.1.3 A mandatory pre-bid meeting is required prior to bid opening. Any firm who want consideration is required to attend the pre-bid meeting. Pre-bid meeting is listed in Section 2, Paragraph 2.4 under Project Schedule.

3.2 Proposal Inquiries

3.2.1 All inquiries concerning this RFP, the facilities involved or the specifications should be submitted in writing or faxed to:

John H Donnelly
Director of Municipal Services & Engineering
City of Tipp City
260 S. Garber Drive
Tipp City, Ohio 45371
donnellyj@tippcity.net
Phone: 937-667-6305
Fax: 937-667-2231

No oral questions will be entertained by the City of Tipp City. Any firm attempting to

contact any City of Tipp City official or employee other than the above referenced individual, in writing, may result in proposal rejection. Any verbal statements made by any employee of the city, shall not be legally binding.

3.2.2 Inquiries should make reference to specific section numbers and paragraphs of this RFP. Any questions which arise prior to the Pre-Proposal Conference and Tour shall be addressed in writing under this section. All inquiries shall be made no later than four (4) days before the proposal due date. Answers to the questions proposed by any firm will be communicated to all firms requesting this RFP via a written addendum.

3.3 Mandatory Pre-Bid Meeting & Tour

3.3.1 A Mandatory Pre-Bid Meeting and Tour will be held on September 24, 2015 at 10:00 a.m. at the Tipp City Government Center, 260 S Garber Dr, Tipp City, Ohio, 45371. The pre-bid meeting will be held to familiarize interested firms with the City of Tipp City's intent in seeking proposals as well as to familiarize all firms with any City of Tipp City facilities which may be involved. An opportunity will be provided to meet with City of Tipp City representatives. All questions which arise during the pre-bid meeting and Tour shall be reduced to writing by the City of Tipp City's representatives and answered with an addenda issued in accordance with Section 3, Paragraph 3.4 of this document so that the City of Tipp City can research the question and respond accurately. If questions arise during the pre-bid meeting/tour that are not answered by the addenda following the meeting, the question shall be submitted as provided for in Section 3, Paragraph 3.2.2.

3.3.2 Proposing firms shall tour the Facility. Questions arising during this tour will be addressed as determined by the City of Tipp City.

3.3.3 Please contact John Donnelly at 937-667-6305 or donnellyj@tippcity.net to confirm your attendance to the pre-bid meeting and Tour.

3.4 Addenda

In the event that modifications, clarifications, or additions to the RFP become necessary, all firms will be notified and will receive, in writing, the addenda. The addenda will be initially faxed and subsequently sent by ordinary U.S. mail to all persons, firms or corporation receiving the documents. The firm shall acknowledge receipt of all addenda on their Proposal Form, attached hereto as Appendix "B". In the

unlikely event that emergency addenda by telephone inquiry are necessary, the City of Tipp City will be responsible for contacting only those firms requesting this RFP from the City of Tipp City.

3.5 Submitting Proposals

3.5.1 All proposals must be complete, including cost information and signatures by a firm's representative authorized to bind the firm, corporation or partnership or other business entity. Any exceptions or proposal to offer an alternative to meet the requirement must be noted and explained as to how the alternative offered will meet the intent of the RFP. Any proposal which is incomplete, conditional, contingent, obscure, or which contains irregularities of any kind, may be rejected. Similarly, the City reserves the right to waive any irregularities and award the bid that is in the best interest of the city. Proposals not received by the specific date described in Section 2, Paragraph 2.4 of this document may be rejected.

3.5.2 No person, firm or corporation shall be allowed to make, file or to be interested in more than one (1) proposal for the same work, unless alternate proposals are called for. A person, firm or corporation who has submitted a sub proposal to a proposing firm, or who has quoted prices on materials to a firm, is not hereby disqualified from submitting a sub proposal or quoting prices to other proposing firm.

3.5.3 In submitting a proposal, the firm affirms that the proposal is genuine and not collusive or a sham and that the firm is not financially interested in, or otherwise affiliated in a business way with any other firm on the same contract.

3.5.4 In submitting a proposal, each firm shall affirm that all statements contained in the proposal are true and accurate.

3.5.5 Facsimiles of proposals will NOT be accepted.

3.5.6 Preparation of Proposal

The preparation of a proposal must not deviate from the noted requirements and should provide clear and concise information to satisfy the requirements.

3.5.7 Proposal Cost – Costs incurred developing proposals are to be entirely borne by the proposing firms and will not be reimbursed under any circumstances. All supporting

documentation and manuals submitted with this proposal will become the property of the City of Tipp City. All proposals and associated documents are public records.

3.5.8 Number of Copies – One (1) signed original and two (2) copies of sealed written proposals must be received in the office of the Director of Municipal Services & Engineering of the City of Tipp City, 260 South Garber Drive, Tipp City, Ohio 45371 up to the hour of 10:00 a.m. on October 9, 2015.

3.5.9 Authorized Recipient of Proposal – Send all proposal materials to:

Department of Municipal Services & Engineering
City of Tipp City
260 South Garber Drive
Tipp City, OH 45371

Envelopes should be clearly marked as follows:

**PROPOSAL FOR THE MANAGEMENT AND
OPERATION OF THE
TIPPECANOE FAMILY AQUATIC CENTER**

The submission date/time is stated in Section 2, Paragraph 2.4 of this Document. Any proposal received after that will be considered late and may be rejected. A proposal can be withdrawn at any time if requested, in writing, and delivered to John Donnelly, City of Tipp City, 260 South Garber Drive, Tipp City, Ohio 45371 24 hours prior to the bid opening, at which time the proposal will be considered firm.

3.6 Proposal Format - Proposals must be formatted in accordance with this section. Any proposal submitted in a format other than that specified herein may not be considered for contract award. If for any reason the proposal is incomplete or questions are unanswered, the proposal may be rejected. Proposals will be considered incomplete if they do not bear the signature of an agent of the firm who is in a position to bind the firm to a contract. The proposal must include all costs associated with providing the services and/or equipment identified in this RFP. The proposal shall consist of a transmittal letter and five (5) sections plus the applicable forms in the appendix. See Section 3, Paragraphs 3.6.1, 3.6.2, 3.6.3, 3.6.4, 3.6.5, and 3.6.6 for section descriptions and requirements.

3.6.1 Letter of Transmittal

Each proposal must include a letter of transmittal that includes the signature of an authorized representative of the proposing firm and also includes the names of individuals authorized to negotiate with the City of Tipp City.

3.6.2 Section One – Table of Contents

Section One should be a Table of Contents indicating on which page each of the following sections begins.

3.6.3 Section Two – Executive Summary

The Executive Summary should be a succinct document which describes the major features of the proposal, including specific costs and services. The Executive Summary should not exceed five (5) pages in length.

3.6.4 Section Three – Responsible Party

This Section should supply the name, address, phone and fax numbers of the company or individual submitting the proposal. Include the name of the person who can be contacted and is authorized to answer questions regarding the proposal.

3.6.5 Section Four – Ownership Information

This Section should identify how the company is owned, the year the company was established and the former name(s) of the firm, if applicable. Also, identify the state in which the company is incorporated, if applicable.

3.6.6 Section Five – Business Plan

The Business Plan must identify the nature of the services being proposed. The Business Plan is not to exceed 25 pages in length, excluding any exhibits or appendices the firm may choose to submit. At a minimum, it must address each of the City of Tipp City's specifications listed in Section 4 of this RFP.

3.7 Questions During Selection Period

If questions arise regarding clarification of a proposal during the proposal evaluation process, the City of Tipp City will contact the designated proposing firm's representative. All expenses incurred to answer these questions will be the responsibility of the proposing firm.

3.8 Awarding of Contract

3.8.1 A contract will be awarded by the City of Tipp City on the basis of the Lowest and Best Responsible Proposal. The City of Tipp City reserves the right, in its discretion, to accept the lowest and best proposal which may or may not necessarily be the lowest cost proposal. The criteria for awarding a contract is outlined in Section 3, Paragraph 3.10 of this document. The schedule for awarding the Contract is outlined in Section 2, Paragraph 2.4 of this Document.

3.8.2 The City of Tipp City may make all investigations it deems necessary to determine the ability of the firm to provide the goods or services required by this RFP. The firm shall furnish to the City of Tipp City all such information and data for this purpose as the City of Tipp City may request. The City of Tipp City reserves the right in determining the lowest and best proposal, the degree to which the evidence submitted by, or investigations of, such firm satisfies the City of Tipp City that such firm is properly qualified to perform the obligations required by this RFP.

3.9 Identification of RFP Terms

City of Tipp City reserves the right to waive any informality or other matters which, in City of Tipp City's opinion, do not affect the competitiveness of the proposal. However, a failure to comply with the terms of the RFP may be considered by the City of Tipp City in determining whether a proposal is the "lowest and best."

3.10 Evaluation Criteria

The purpose of this RFP is to indicate certain minimum requirements. It is intended that the City of Tipp City will select the proposal which BEST meets its anticipated needs at the lowest cost. In making the award of any contract, the City of Tipp City's evaluation of the lowest and best firm will include, but will not be limited to, the following criteria:

3.10.1 Overall responsiveness, viability and completeness of the proposal as well as the likelihood that, in the City of Tipp City's discretion, the proposal BEST meets or exceeds

the City of Tipp City's specifications

3.10.2 Firms demonstrated experience with similar operations and references

3.10.3 Proposal cost in relation to services provided

3.10.4 Firm's financial ability to provide the requested services

3.10.5 Firm's litigation and claim history whether from the operation of a pool or other operations of the firm.

3.10.6 Any other factors considered relevant by the City of Tipp City and demonstrated by the proposal or investigation by the City of Tipp City.

3.11 Bonds

3.11.1 Surety

Each proposal must be accompanied by a bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association in the amount of **five percent (5%)** of the gross bid amount (3 year total) and payable to the City of Tipp City.

This bond guarantees that the firm whose proposal is accepted will enter into and execute a contract in conformity to the RFP and the proposal.

If a selected firm fails to properly enter into and execute a contract, the bond, certified check, cashier's check or money order submitted with the proposal shall be forfeited to and become the property of the City of Tipp City. All bond guarantees will be returned to all unsuccessful firms upon award of the contract.

3.11.2 Performance Bond

If awarded a contract, the successful firm must submit, with the signed contract, a surety bond to secure the faithful performance by the firm in accordance with RC 153.57. The City of Tipp City shall have the right to approve the form of the Bond and to approve the surety issuing the Bond. The Bond shall be in the sum of **twenty percent (20%)** of the gross amount of the 3-year proposal. The failure to provide an acceptable Bond to the City of Tipp City shall be deemed a refusal by the firm to enter into a contract secured by the Bond as provided for in Section 3, Paragraph 3.11.1.

3.12 Consideration

The consideration to be paid by the City of Tipp City for the goods or services set out in the specifications and the RFP will not be paid by the City of Tipp City until the goods and services are delivered to the City of Tipp City, at the location specified in the RFP, have been accepted by the authorized City of Tipp City authority and all titles, licensing, or other evidence of ownership has been provided to the City of Tipp City.

4. Specifications

4.1 Operations

4.1.1 Pre-season duties

Start-up - operator is to specify what steps will be taken in preparing the facility.

Duties will include, but not limited to: clean bathhouse including scrubbing all floors with appropriate cleaners, washing down walls, cleaning all toilet facilities, waxing all porcelain with a paste wax, waxing the slide, "dewinterizing" facility, i.e., toilets, showers, spa, pump room. All cleaning supplies are to be provided by the operator.

Concession stands shall be fully stocked and ready prior to opening weekend.

Chemicals - operator shall be responsible for ordering and stocking adequate quality and quantity of pool water sanitation chemicals, for the entire pool season(s) and facility, at its cost.

4.1.2 Operational dates and times for the 2016 season will be Memorial Day weekend through August 19, 2016 from noon to 8 p.m. Sunday-Thursday, 11 a.m to 7 p.m. Friday & Saturday. The City, at its sole discretion, may choose to keep the pool in operation on weekends after August 19, 2016 through Labor Day 2016, per the costs outlined in Appendix "B". The 2017 & 2018 schedule will be determined at a later date.

Swimming Team:

Operator will work with Swim Team on special hours and needs, as required. Swim team practices start the first weekday once school is out M-R 7-10 p.m. There are also three home meets. Operator shall staff and operate concessions during swim meets. Season concludes second week of July

Swimming Lessons:

Operator is to propose and provide a full program plan or supplemental programs. Swim Lessons must follow the Red Cross Swimming Levels. See Appendix C “Red Cross Swimming Levels” for a details on the levels.

Special Events & Programs:

Operator is to propose and provide a full program plan, i.e., special events, July 4, opening weekend, doggie day, DJ activities at the pool.

4.1.3 Recruiting and Training Personnel.

- a. All persons employed by the Successful proposing firm and the Successful firm itself must be licensed to do the work being performed in accordance with all federal, state and local laws and regulations.
- b. The Successful firm must explain the steps to be taken by them as well as those licenses held by the Successful firm to assure that only properly qualified and licensed persons perform services under the terms of this contract.
- c. A policy of employing only those who possess the required skills and experience for the job classification shall be implemented.
- d. Written, personnel policies governing behavior, substance abuse and relations with persons using the pool shall be provided and approved by the City Manager of the City of Tipp City.
- e. The Successful firm’s employees shall wear appropriate uniforms provided by the operator. If employees are observed by the City not wearing their required uniform during working hours a monetary deduction of twenty-five dollars (\$25.00) per employee per day will be applied to the contract.
- f. The successful firm must propose a procedure to resolve complaints concerning the conduct of its employees by persons using the pool. The City

Manager of the City of Tipp City shall have authority to request that the successful firm resolve any dispute which arises concerning employee conduct or request that the successful firm remove an employee from his or her position at the Tippecanoe Family Aquatic Center if a dispute is not adequately resolved to the satisfaction of the City Manager.

g. Background checks required of any employee hired by the firm.

- 4.1.4 Concessions –Successful firm shall maintain a work force of sufficient size to handle the contract and meet the demands of the patrons of the facility. Operator shall be responsible for purchasing all food and drink products and accessories necessary for the successful operation of the concession stand. The City shall reimburse operator its direct cost (no markup) of food and drink products and accessories. Provide menu of items to be sold at the concession stand.
- 4.1.5 Contract Term – The length of performance under this contract shall run on or about October, 2018. Should weather conditions prevent these starting and ending dates, adjustment can be made with the approval of the City of Tipp City. This contract term will run yearly.
- 4.1.6 Personnel are employees of the selected firm, not the City of Tipp City, but this firm shall provide the pay rate (hourly) ranges, by position, for each year of the contract term. The amount of the contract will be adjusted by the number of guards hired in each category. Firm shall propose the process of how employees receive performance raises, i.e., during the season and/or after the season and/or rehiring for the following season, WSI certificate. If Federal Law raises minimum wage during the period of the contract, firm shall propose, if necessary, revised process of position wages and performance raises.
- 4.1.7 All money collected from pool operation will be deposited with the City of Tipp City within twenty-four (24) hours of receipt by successful firm, except weekends. All money collected on weekends shall be deposited with the City of Tipp City on the following business day. The chosen firm will be compensated solely by invoices paid by City of Tipp City under terms and conditions of the contract. Successful firm, will use a method devised by City of Tipp City to keep track of daily attendance. Successful firm shall have experience with RecTrac software.
- 4.1.8 Daily Duties in Opening and Closing the Facilities

A daily schedule for cleaning, opening, and closing the pool and pool grounds shall be proposed by the successful firm. The Successful firm shall remove daily all trash, garbage and debris from the swimming pool/concession area. Successful firm will be responsible for placing all trash, garbage and debris generated by the operation in a designated trash container for pick-up and disposal by the Parks Department. The entire area shall be kept, at all times, clean and neat in appearance.

4.1.9 The successful firm shall have the responsibility for ensuring that high standards of sanitation, cleanliness and safety exist at all times (i.e cleaning bathrooms, cleaning up soda spills, picking up trash, etc). The successful firm shall adhere to all applicable City, County, State and Federal laws concerning sanitation, water quality, cleanliness and safety. A representative of the Miami County Health Department will be an authorized inspector of the successful firm's responsible area regarding the cleanliness and safety of the overall operation. They will report the results of their inspection to the Director of Municipal Services & Engineering or Parks Superintendent who will initiate the appropriate action. The successful firm will submit a detailed monthly report to the Parks Department. The report will include, but not limited to, problems that developed and how they were solved and any suggestions that may help in the operation of the pool.

4.1.10 Number of Personnel on Duty/Manager on Duty

Successful firm shall maintain a work force of sufficient size to handle the contract, and meet the required Department of Health minimum lifeguard standards, including reserve personnel to fill vacancies during absences because of illness, vacations and holidays. A pool manager or assistant pool manager shall be on duty at all times. The square footage (s.f.) figures for the facility are as follows: swimming pool, 11,125.8 s.f.

4.1.11 Swim lessons - who teaches - when offered -size of class- number of sessions - age divisions ability levels - See 2016 schedule - Appendix "A".

4.1.12 Swim Team Exclusion for Coaches/Inclusion for Event staffing.

There will usually be up to three (3) home swim meets during the season. Public swimming, on swim meet dates, will end no earlier than one hour before each meet. The successful firm will be responsible for preparing the pool area for each meet. The pool area must be ready for regular operations at the opening of the next day by the successful firm. Maintenance of a work force of sufficient size must be scheduled

during swim meets.

4.1.13 Close of season duties

Entire cleaning of bath house, mechanical rooms and storage areas; police grounds for leftover litter; secure/store chairs, guard chairs, ladders, tables, umbrellas, all circulation equipment; winterize pools and all components at swimming pool, i.e., toilets/showers/spa/wading pool, drinking fountains, wash basins, hot water heaters, pool heater (boiler) in cooperation with the City Parks Department; and remove all chemicals, and waxing the slide.

4.2 Repair / Maintenance

4.2.1 Successful firm will be responsible for the reimbursement, repair or replacement and restoration of any damaged area by careless or accidental use of equipment or machinery. Successful firm will be responsible to repair or replace site amenities such as but not limited to, fences, signs and/or appurtenances, i.e., toilets, damaged or destroyed by careless labor or careless or accidental use of equipment or machinery in the performance of the contract, to the satisfaction of the City.

4.2.2 Maintenance to be performed by Successful firm

Successful firm shall be responsible for all cleaning and/or minor repair(s) (labor and costs, approximate 2016 yearly costs, \$1400 of pool(s), deck, building (bathhouse) appurtenances, i.e., toilets, shower heads, urinals, and for proper use and care of circulation/filtration systems. For the purposes of this article, minor repairs shall be defined as those individual repairs costing \$500 or less.

4.2.3 Repairs to be performed by City of Tipp City (Employees)

The City of Tipp City will be responsible for major repair(s) to structure, plumbing, electrical, glass, filtration and chlorination systems. Major repairs shall mean those in excess of \$500 in cost.

4.2.4 Repairs to be performed by experts hired by the City of Tipp City

In case of an emergency repair, operator must contact the Parks Superintendent of the City of Tipp City Parks Department. If an employee of the City of Tipp City cannot make proper repair, the City of Tipp City will hire experts to repair the problem.

5. **Contract Terms and Conditions**

The commitments set forth in the selected proposal shall be considered obligations of the selected firm. The terms of the RFP, other applicable addenda, and the proposal shall be incorporated into the final contract documents. The terms and conditions are outlined in this section. The City of Tipp City reserves the right, in its sole discretion, to amend/modify the terms and conditions of the contract. The Specifications set forth in Section 4 of this RFP will not be modified. The OPERATOR shall not have complete, unhindered access to the facility. If usage for the facility, other than what is described in this contract, is requested by the operator, the City of Tipp City, first, must grant such approval.

5.1 Scope of Services

OPERATOR shall provide all necessary labor, materials, supervision, administration, financing, insurance and all other services required by the CONTRACT DOCUMENTS and perform, on behalf of the City of Tipp City, all services necessary for the efficient and economical operation and management of the Tippecanoe Family Aquatic Center. The term CONTRACT DOCUMENTS as used in this Contract refers to the written agreement between the operator and the City of Tipp City, the request for proposal issued and prepared by City of Tipp City, which OPERATOR acknowledges having received, together with all addenda thereto, if any, along with OPERATOR'S written proposal, including any written addendum thereto, and OPERATOR'S Affidavit as to delinquent personal property tax, a copy of which is attached hereto as Exhibit C. These CONTRACT DOCUMENTS are hereby incorporated in and made a part of this Contract as if they were specifically set forth herein. In the event of any conflict in the terms of City of Tipp City's request for proposal and OPERATOR'S written proposal, the terms of City of Tipp City's request for proposals prevail. However, in the event of any conflict in the terms of the CONTRACT DOCUMENTS with this document, the terms of this document prevail.

5.2 Term of Agreement

Performance under this agreement shall commence on December 1, 2015, December 1, 2016, and December 1, 2017. Unless terminated earlier or a contract extension is granted in accordance with the terms hereof, this contact term shall end on November 1, 2018.

5.3 Compensation

5.3.1 City of Tipp City agrees to pay OPERATOR in accordance with the contract documents. Operator must submit to the Director of Municipal Services & Engineering, monthly, a numbered invoice(s) specifying:

A) the dates of service and,

B) the service rendered and supporting documentation

Payment will result from this monthly billing. Payment will be made within thirty (30) days of receipt of a proper invoice (including substantiating documentation). The date the City of Tipp City issues the warrant for payment of an invoice will be considered the date payment is made.

5.4 Payments to OPERATOR

City of Tipp City shall reimburse OPERATOR for approved repair and other expenses. Repair and other expenses shall refer to all direct costs incurred by OPERATOR, and approved by the City of Tipp City Superintendent of Parks, in connection with the OPERATOR's management of the Tippecanoe Family Aquatic Center. In general, repair and other expenses shall include costs incurred in the management of the Tippecanoe Family Aquatic Center as identified or as provided in the CONTRACT DOCUMENTS.

5.5 Insurance

5.5.1 General

OPERATOR shall comply with the laws of the State of Ohio relating to insurance coverage and shall carry and keep in force during the performance of this Agreement workers' compensation insurance for its employees. OPERATOR agrees to maintain liability insurance at all times throughout the contract period. OPERATOR's liability insurance shall name "City of Tipp City and its employees" as an additional insured.

5.5.2 Comprehensive General Liability Insurance

OPERATOR shall carry and keep in full force during the performance of this Agreement a per occurrence comprehensive general liability insurance policy, including public liability insurance and property damage insurance, in the minimum amount two million

dollars (\$2,000,000) per claim and five million dollars (\$5,000,000) annual aggregate, with "City of Tipp City its agents, officers, and employees" named as an additional insured.

5.5.3 Evidence of Coverage

OPERATOR shall furnish to City of Tipp City, a Certificate of Insurance certifying the type and minimum amounts of insurance. Said Certificate shall include a Notice of Cancellation clause with notification being sent thirty (30) days before cancellation to the City Manager, City of Tipp City, 260 S. Garber Dr., Tipp City, Ohio 45371. Cancellation of Insurance will constitute a default which, if not remedied within the thirty (30) day notification period, shall be cause for termination of the Agreement by City of Tipp City

5.5.4 Insurance for Subcontractors

OPERATOR shall require that its subcontractors purchase and maintain insurance in amounts and coverage substantially similar to those described in this Section. OPERATOR shall require each subcontractor to name "City of Tipp City, its agents, officers, and employees" as additional insureds.

5.5 Indemnification

5.5.1 Indemnification from General Liability

OPERATOR agrees to protect, defend, indemnify and hold harmless City of Tipp City and its officers, employees and agents from and against any and all claims, suits, demands or actions arising out of or in connection with any negligent or intentional acts or omissions of OPERATOR and its employees, its officers, agents, or independent Successful firms. OPERATOR agrees to indemnify City of Tipp City and its officers, employees and agents against any judgment (including attorneys' fees), award, or amount paid in settlement, applicable court costs and witness fees arising from such claim, suit, demand or action. In the event that OPERATOR fails to defend City of Tipp City and its officers, employees and agents as set forth in this paragraph, such parties shall defend themselves and OPERATOR shall pay all costs for such defense including, but not limited to, judgments, awards, amounts paid in settlement, applicable court costs, witness fees and attorneys' fees. The respective rights and obligation of the parties under this paragraph shall survive the expiration or termination of this Agreement for any reason.

5.6 Assignment

The parties expressly agree that neither this Agreement nor any part thereof shall not be assigned by OPERATOR without the prior written approval of City of Tipp City.

5.7 Subcontractor

Notwithstanding any other provision in this Agreement to the contrary, the performance of any duty, responsibility, or function which is the obligation of OPERATOR hereunder may be delegated or subcontracted by OPERATOR to any agent or subcontractor of OPERATOR, provided (a) that OPERATOR has obtained the prior written consent of City of Tipp City for that delegation or subcontract; and (b) OPERATOR remains responsible for purposes of this Agreement for ensuring that the duties, responsibilities, or functions so delegated or subcontracted are performed in accordance with the provisions and standards of this Agreement; and (C) that the actions and omissions of any such agent or subcontract shall be deemed to be the actions and omissions of OPERATOR for purposes of this Agreement.

5.8 Termination/Breach

5.8.1 Termination for Cause

5.8.1.1 General Breach. In the event of a Material Breach of this Agreement by OPERATOR, City of Tipp City may terminate the Agreement with respect to OPERATOR and itself, upon thirty (30) days prior written notice to OPERATOR specifying the nature of the breach; provided, however, that OPERATOR shall have the opportunity to cure such breach within the thirty (30) day notice period. OPERATOR agrees that, if it breached the Agreement, City of Tipp City may pay any monies due OPERATOR into an escrow account, and that City of Tipp City may recover any monies erroneously paid under this Agreement. In the event of a Material Breach of this Agreement by City of Tipp City, OPERATOR may terminate the Agreement upon sixty (60) days prior written notice to City of Tipp City specifying the nature of the breach; provided, however, that the City of Tipp City shall have the opportunity to cure such breach within thirty (30) days of receiving such notice. "Material Breach" shall mean an act or omission by a party which violates or contravenes an obligation required of the party under this Agreement and which, by itself or together with one or more other "breach(es)," has a substantial negative effect on, or thwarts, the purpose of this Agreement. "Material Breach" shall not include an act or omission which is merely a technical or immaterial variation from the form of the Agreement, or which has a trivial or negligible effect on price, quality,

quantity, or delivery of the goods or services to be provided under this Agreement, to the extent that in the opinion of the non-breaching party such "technical or immaterial variation" does not rise to the level of a "Material Breach" when viewed in light of the breaching party's overall conduct under this Agreement.

5.8.1.2 Other Causes for Termination by City of Tipp City. City of Tipp City shall have the right to terminate this Agreement with respect to OPERATOR and itself, by providing thirty (30) days prior written notice of termination to OPERATOR, should any of the following events occur:

a) OPERATOR fails to obtain within the time frame established by the parties and/or fails to maintain any license, certification and/or other credential necessary for it to perform its obligations under this Agreement;

b) OPERATOR is not willing or able to make reasonable changes to the management services to be provided as requested by City of Tipp City and when required under the terms of the Agreement;

c) OPERATOR does not have or maintain sufficient resources and capacity to meet all of the needs of City of Tipp City;

d) City of Tipp City discovers that a conflict of interest exists on the part of OPERATOR or an officer or employee thereof which, if left uncured or if incurable, prevents this Agreement from being carried out.

e) City of Tipp City reserves the right to determine the performance of the facility manager and, if deemed necessary or in the best interests of the operation of the facility, to have the facility manager removed and replaced by Operator. The City of Tipp City agrees to make such requests in good faith and only after providing Operator with the opportunity to address performance deficiencies.

5.8.1.3 Other Causes for Termination by Operator. OPERATOR shall have the right to terminate this Agreement with respect to City of Tipp City, by providing sixty (60) days prior written notice of termination to City of Tipp City, should OPERATOR discover that a conflict of interest exists on the part of City of Tipp City or an officer or employee thereof which, if left uncured or if incurable, prevents this Agreement from being carried out.

5.8.1.4 Force Majeure. If by reason of force majeure, the parties are unable in whole or in part to act in accordance with this Agreement, the parties shall not be deemed in default during the continuance of such inability; provided, however, that OPERATOR shall only be entitled to the benefit of this paragraph for fourteen (14) days. After fourteen (14) days, City of Tipp City may declare OPERATOR in default and terminate this Agreement. The term "Force Majeure", as used herein shall mean without limitations: acts of God; strikes or lockouts; acts of public enemies; insurrections; riots; epidemics; lightning; earthquakes; fires; storms; flood; washout; droughts; arrests; restraint of government and people; civil disturbances; and explosion. OPERATOR shall, however, remedy with all reasonable dispatch any such cause to the extent within its reasonable control which prevents OPERATOR from carrying out its obligations contained herein.

5.8.2 Termination Without Cause

5.8.2.1 Availability of Funds. This Agreement is conditioned upon the availability of federal, state or local funds which are appropriated or allocated for payment of this Agreement. In the event City of Tipp City no longer has funds available for purposes of this Agreement, City of Tipp City may terminate this Agreement by providing thirty (30) days prior written notice of termination to OPERATOR.

5.8.3 Mutual Termination

OPERATOR and City of Tipp City may mutually agree to terminate this Agreement at any time.

5.8.4 Termination after First Year of Contract

On or before November 1, 2016, and November 1, 2017 either party hereto may cancel the second and third terms of performance of this contract without penalty by notification of the termination as provided in paragraph 5.15 of this contract.

5.8.5 Continuing Obligations

5.8.5.1 Operator's Continuing Obligations.

Upon termination of this Agreement for any reason, including for cause, OPERATOR shall cooperate in transitioning its responsibilities to City of Tipp City and/or any other person or entity selected by them to assume administration of such responsibilities. Also, OPERATOR shall assign to the extent possible to City of Tipp City all agreements

that OPERATOR has at the time of termination as selected by City of Tipp City.

5.8.5.2 City of Tipp City's Continuing Obligations.

Unless this Agreement is terminated by City of Tipp City under paragraphs 5.8.1.1, 5.8.1.2 or 5.8.2, City of Tipp City, upon receipt of a final invoice, shall pay OPERATOR the outstanding fees and expenses incurred by OPERATOR, as permitted by the Project Budget, for the services the OPERATOR performed under this Agreement prior to the termination thereof.

5.9 Waiver

Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition.

5.10 Amendment

All Amendments shall be in writing and executed by both parties. All amendments and changes shall be dated and become part of the original Agreement.

5.11 Non-Discrimination

OPERATOR certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including but not limited to Title VII, of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act as amended, the Ohio Civil Rights Law and the Omnibus Budget Reconciliation Act of 1981.

During the performance of this Agreement, OPERATOR will not discriminate against any employee, contract worker, or applicant for employment or contract work because of race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. OPERATOR will take affirmative action to ensure that all employees and contract workers are treated during employment without regard to race, color, religion, sex, national origin, ancestry, handicap, age, political belief or place of birth. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment, advertising; layoff or

termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Furthermore, OPERATOR agrees to maximize the number of Tipp City residents employed in the operation of the facility.

OPERATOR or any person claiming through OPERATOR, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any Successful firms or sub-Successful firms of OPERATOR.

5.12 Applicable Law

The validity, interpretation and performance of this Agreement and any modifications, amendments, or alterations, shall be governed, construed, and enforced in accordance with the laws of the State of Ohio. The parties agree to submit to the jurisdiction of the courts of the State of Ohio for any disputes arising under this Agreement.

5.13 Independent Status of Operator

Nothing in this Agreement is intended to or shall be deemed to constitute a partnership, association, or joint venture between City of Tipp City and OPERATOR in the conduct of the provisions of this Agreement. OPERATOR shall at all times have the status of an independent contractor without the rights or authority to impose torts, contractual or any other liability on City of Tipp City.

5.14 Compliance

Notwithstanding any other provision in this Agreement, OPERATOR agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. OPERATOR accepts full responsibility for payment of any and all unemployment compensation premiums, all income tax deductions, pension deductions, and any and all other taxes or payroll deductions required for the performance of the work.

5.15 Notice

All notices provided for herein shall be in writing and shall be deemed given when sent either by (a) facsimile transmission using equipment that provides automatic verification of transmission to the receiving party's facsimile equipment, or (b)

certified or registered mail, postage prepaid, return receipt requested, to the other party at its respective address stated on the signature page to this Agreement, or at such other address as the other party may designate in writing from time to time.

5.16 Integration

This instrument, including attachments and exhibits, embodies the entire Agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or Agreements, either written or oral, between the parties to this Agreement.

5.17 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 term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this contract shall be valid and enforced to the fullest extent permitted by law.

5.18 Conflict of Interest

Under this Agreement, OPERATOR may obtain and work under contractual arrangements with parties other than City of Tipp City, provided that such other arrangements do not impede OPERATOR's ability to perform its obligations under this Agreement.

OPERATOR and City of Tipp City warrant that, as of the time they enter into this Agreement, they have no interest in and thereafter will not acquire an interest in any agreement or arrangement that will impede their ability to perform their obligations under this Agreement. OPERATOR and City of Tipp City warrant further that none of their respective officers or employees has any financial interest in this Agreement, and that they do not know of any other conflict of interest. OPERATOR and City of Tipp City will report the discovery of any potential conflict of interest to all other parties hereto. If a conflict of interest does arise, the aggrieved party shall have the option of terminating this Agreement or of requiring the breaching party to terminate any relationship which gives rise to the conflict in question.

5.19 Warranties

5.19.1 OPERATOR warrants that services hereunder shall be performed in a professional and workman-like manner in accordance with applicable professional standards and best management practices. In the event OPERATOR is notified in writing within ten (10) days of performance of a service that such performance is not in compliance with this warranty, OPERATOR shall perform again any such service.

5.19.2 OPERATOR warrants that it is qualified to provide the management services hereunder and has obtained or will obtain and maintain all certifications and licenses, to the extent such certifications and/or licenses are necessary and required by law for any of the services it provides under this Agreement.

5.19.3 OPERATOR warrants that it is financially solvent.

5.19.4 OPERATOR warrants that it has the capacity and capability to meet City of Tipp City's current and future needs as described in this Agreement.

5.20 Tax exempt status

Ohio Sales Taxes are not applicable to City of Tipp City purchases. City of Tipp City will provide evidence of state sales tax exemption upon request.

5.21 Successors and Assigns

OPERATOR and City of Tipp City each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement.

5.22 Liquidated Damages

In the event that Operator breaches this agreement the amount of two hundred and fifty dollars (\$250.00) shall be assessed against operator for each day that the facility is not available for use by the City of Tipp City or persons permitted by the City to use the facility. In the event that the operator does not have the required staffing levels, the amount of two hundred and fifty dollars (\$250.00) shall be assessed against the operator for each day that this occurs.

6. **Appendices**

Appendix "A" - Description of 2016 programs provided

Appendix "B" - Proposal Form

Appendix "C" - Red Cross Swim Lessons

Appendix A

2016 HOURS OF OPERATION

May 23-27 Photo ID's taken at pool 5:00 p.m. – 7:00 p.m.

Opening Weekend

Saturday, May 28th 11:00 a.m. – 7:00 p.m.

Sunday, May 29th 12:00 noon – 8:00 p.m.

Monday, May 30th 12:00 noon – 8:00 p.m.

Regular Season

May 30th – August 19

Sunday – Thursday 12:00 noon – 8:00 p.m.

Friday and Saturday 11:00 a.m. – 7:00 p.m.

CITY OF TIPP CITY PROPOSAL - Appendix "B"

NAME OF COMPANY _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE # _____ FAX # _____

EMAIL _____ REPRESENTATIVE _____

The following itemized costs are estimates upon which the fixed price of the proposal is prepared. They will be used for comparison with others received to determine completeness of the proposal presented.

Site: Tipp City

<u>Family Aquatic Center</u>	<u>Hourly/Salary</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
	<u>Wages</u>			
<u>ITEM</u>		<u>COST</u>	<u>COST</u>	<u>COST</u>
Start up		_____	_____	_____
Close down		_____	_____	_____
Pool Manager	_____	_____	_____	_____
Assistant Pool Manager	_____	_____	_____	_____
Head Lifeguard	_____	_____	_____	_____
Lifeguard Salaries	_____	_____	_____	_____
Front Entrance Personnel-Admissions	_____	_____	_____	_____
Pool Attendants – Pool and Grounds	_____	_____	_____	_____
Concession Attendants	_____	_____	_____	_____
Concession Supervisors	_____	_____	_____	_____
Swimming Instruction/Program		_____	_____	_____
Swim Team Practice and Meets		_____	_____	_____
Uniforms for estimated employee's		_____	_____	_____
Lifeguard Training		_____	_____	_____
Special Events and Programs		_____	_____	_____
Insurance		_____	_____	_____

	<u>2016</u>	<u>2017</u>	<u>2018</u>
Administrative Fees/Overhead	_____	_____	_____
Minor Repair Costs	_____	_____	_____
Chemicals	_____	_____	_____

The undersigned proposes to furnish MANAGEMENT OF POOL OPERATIONS AT THE TIPPECANOE FAMILY AQUATIC CENTER, in accordance with the specifications attached hereto and to be considered a part hereof, at the following fixed price:

GRAND TOTAL COST

2016 \$ _____ 2017 \$ _____ 2018 \$ _____

CITY OF TIPP CITY
PROPOSAL - Appendix "B"

Hourly Adjustment rate should **Tipp City** choose \$ _____ (16)
to extend hours or days of operation. Example: a special \$ _____ (17)
event at the Aquatic Center extends beyond normal hours \$ _____ (18)
of operation or keeping the Aquatic Center open on
weekends after school is in session

Hourly Adjustment rate should Operator \$ _____ (16)
shorten/reduce hours on any particular day. Example: \$ _____ (17)
low or no attendance at the pool or "cool/inclement" \$ _____ (18)
weather in the area.

Addenda received:

First addendum:	Date Received: _____	Initial: _____
Second addendum:	Date Received: _____	Initial: _____
Third addendum:	Date Received: _____	Initial: _____
Fourth addendum:	Date Received: _____	Initial: _____

I hereby certify that I am fully authorized to bind the above named firm to the terms and conditions contain in the Request for Proposals at the above price.

Signature of Representative _____
Name of Representative _____
Title of Representative _____

Any exceptions, substitutions or deviations from the City RFP and this proposal must be stated below and reason for, and are integral parts of this proposal. Exceptions to Section 4 of the RFP are not allowed and must be addressed in writing prior to the proposal submission.

IMPORTANT: All City of Tipp City purchases will require a MATERIAL SAFETY DATA SHEET, where applicable, in compliance with the OSHA "Right to Know" Law.

RED CROSS SWIMMING LEVELS

LEVEL ONE: WATER EXPLORATION

The objective of Level One is to help students feel comfortable in the water and to enjoy the water safely. Students will learn elementary water skills which they can build on as they progress through the various levels.

- 1 - Become oriented to aquatic environment
- 2 - Fully submerge face (3 seconds)
- 3 - Experience buoyancy (bob 10 times)
- 4 - Supported float on front/back
- 5 - Basic breath control (bubble blowing)
- 6 - Enter and exit water independently
- 7 - Move through water comfortably
- 8 - Supported kicking on front/back
- 9 - Introduction to alternating arm action
- 10- Familiarize with getting help
- 11- Reaching assists without equipment
- 12- Learn how to release a cramp
- 13- Wear life jacket and enter shallow water

LEVEL TWO: PRIMARY SKILLS

Level Two is to give students success with fundamental skills and learn to float without support. Learn basic self-help rescue skills.

- 1 - Fully submerge head (hold 3 seconds)
- 2 - Retrieve objects in chest deep water
- 3 - Orientation to deep water with support
- 4 - Front and back float unsupported
- 5 - Unsupported back float or glide (5 sec.)
- 6 - Leveling off from a vertical position
- 7 - Rhythmic breathing (bob 10 times)
- 8 - Step-in entry and side exit
- 9- Flutter kick on front/back
- 10- Back crawl arm action
- 11- Combined stroke front/back using kick/arm movements (5 yards)
- 12- Turning over front/back, back/front
- 13- Become familiar with rescue breathing
- 14- Perform reaching & extension assist from deck
- 15- Float in life jacket (1 min, face out of water)
- 16- Assist non-swimmers to feet

LEVEL THREE: STROKE READINESS

Students learn to coordinate front and back crawl. Introduce elementary backstroke and the fundamentals of treading water.

- 1 - Retrieve object, eye open, no support
- 2 - Bob and submerge head completely
- 3 - Bob in water slightly over head to travel to safe area
- 4 - Jump into deep water from side of pool
- 5 - Kneeling dive and compact dive from side of pool
- 6 - Front/Back glide w/ push off (2 body lengths)
- 7 - Coordinate arm stroke for crawl with breathing to side
- 8 - Coordinate back crawl
- 9 - Elementary back stroke (10 yards)
- 10- Reverse direction while swimming on front/back
- 11- Tread water
- 12- Jump into deep water wearing life jacket
- 13- Learn how to open airway for rescue breathing
- 14- H.E.L.P. position (1 minute)
- 15- Huddle position in groups of 3 (1 min.)

LEVEL FOUR: STROKE DEVELOPMENT

Level Four develops confidence in strokes learned thus far and to improve other aquatic skills. Introduce breaststroke, sidestroke and wall turns.

- 1 - Deep water bobbing
- 2 - Experiment with buoyancy and floating position
- 3 - Rotary breathing
- 4 - Stride dive from side of pool from a standing position
- 5 - Elementary backstroke (10 yards)
- 6 - Sculling on back (5 yards)
- 7 - Front/back crawl (25 yards)
- 8 - Basics of Breaststroke (10 yards)
- 9 - Basics of Sidestroke (10 yards)
- 10- Turning at the wall
- 11- Tread water with modified scissors and rotary kicks
- 12- Learn rescue breathing techniques
- 13- Become familiar with CPR

LEVEL FIVE: STROKE REFINEMENT

Coordination and refinement of key strokes. Introduce the butterfly, open turns, feet-first surface dives. Increase swim distances.

- 1 - Alternate breathing
- 2 - Stride jump entry
- 3 - Beginning diving progression
- 4 - Long shallow dive
- 5 - Breaststroke (10 yards)
- 6 - Sidestroke (10 yards)
- 7 - Underwater swimming (3 body lengths)
- 8 - Elementary backstroke (15 yards)
- 9 - Butterfly Dolphin Kick (10 yards)
- 10- Front/back crawl (50 yards)
- 11- Open turn on front/back
- 12- Recognition of spinal injury
- 13- Hip/shoulder support
- 14- Feet first surface dive
- 15- Tread water (2 min., 2 different strokes)

LEVEL SIX: SKILL PROFICIENCY

The objective of Level Six is to polish strokes so students swim with more ease, efficiency, power, and smoothness over greater distances.

- 1 - Approach and hurdle
- 2 - Jump tuck diving
- 3 - Front/back crawl (100 yards one turn minimum at wall)
- 4 - Breaststroke (25 yards)
- 5 - Sidestroke (25 yards)
- 6 - Butterfly (10 yards)
- 7 - Approach stroke (25 yards)
- 8 - Breaststroke turn
- 9 - Sidestroke turn
- 10- Speed turn and pull-out for breaststroke
- 11- Flip turn for front crawl
- 12- Pike/tuck surface dive
- 13- Alternate kicks for treading water (3 min., 1 minute - no hands)
- 14- Throwing rescue
- 15- Roll spinal injury victim

Other forms with hard copy mailing.