


# Memorandum



**To:** Mike Geisel, City Administrator  
**From:**  Tom McCarthy  
Director of Parks, Recreation and Arts  
**Date:** 9/4/2018  
**Re:** Pool Management and Maintenance Contract

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As we are about to end our second year of a three year contract with Lifeguards Unlimited, we have come to the conclusion, as a department, that we need to terminate our contract with Lifeguards Unlimited. The first year of the three year pool contract was in 2017. There were numerous issues with the overall day to day operations of the pool and the pool maintenance. First and foremost the safety of the facility was a daily concern due to the lack of guards they were able to employ and retain. We often were forced to close features and areas of the pool due to a lack of lifeguards. The guards were on the stands too long without breaks and the overall resident experience was diminished by the lack of cleanliness and professionalism throughout the entire operation. We had to have one manager released from his duties last year because he did not have the professionalism we require to be part of our operations, even if they are contracted out.

Although we committed significant resources in an effort to improve performance to an acceptable level, we remain unimpressed with their contract performance and have come to the belief that they are either incapable or lack the commitment to satisfy our contract expectations. The guard situation has been a continuous major issue from week one and they have only had a minimal amount of guards present the entire summer. We had to have guards removed from employment due to lack of professionalism and not clearly understanding what was acceptable behavior. The cleanliness of the pool and locker rooms has been an ongoing issue along with the overall maintenance of the pool mechanics, filtration and water quality.

My lack of confidence that LGU can turn things around the way they need to for the 2019 season is just not there. I am proposing that we take the step to bring the pool operations in-house to ensure a professionally run pool operation as the residents of Chesterfield deserve and expect. This is a large undertaking and we will need to get started in October to get everything in order. With eighteen years of managing pools from training guards and lesson instructors to sitting on the stand in the crunch time, opening pools for the summer and closing them for the winter and everything else that goes with the mechanics, filtration and maintenance of a pool operation, I have no doubt that our team can do an exceptional job in 2019 and deliver a quality pool experience to our residents and guests.

The 2019 aquatic services contract includes \$60,000 for contractual management and maintenance fees and an additional \$195,500 allocated for lifeguards, managers, swim lesson instructors, swim coaches, cashiers and janitorial staff for a complete pool budget of \$255,500.

I propose that we take a financially neutral action by bringing the complete pool operation in-house. This would require that we hire one full time Recreation Manager and a part time seasonal maintenance person, which would be included in the total budget number of \$255,000. Superintendent, Kari Johnson will continue to oversee the pool operations and be involved on a daily basis with the management and Assistant Director Steve Jarvis will take over the maintenance and mechanics of the pool operations along with the opening and closing for the pool season.

Obviously this is a very sensitive. I would like to bring this forward to the Parks, Recreation and Arts Committee of Council if this meets with your approval. I would like to discuss this recommendation as soon as possible. The contract allows us to terminate the contract as LGU has not been delivering the required level of service.

I have attached the current contract we have with LGU for your review.

Please forward to  
PRCA for concurrence

- NO Financial impact
- Bring operation in-house  
to improve quality &  
control

me  
9/6/2017



**CHESTERFIELD  
FAMILY AQUATIC CENTER  
Management and Maintenance Operations  
2017**

**April 2017  
Parks, Recreation & Arts Department  
City of Chesterfield, Missouri**

**1. BASIC SERVICES**

**1.1 Operation and Maintenance**

Contractor shall provide for the operation of the Chesterfield Family Aquatic Center from the Saturday preceeding Memorial Day through the Day after Labor Day, during the following hours of operation:

Monday, Tuesday, Wednesday, Thursday and Friday	12:00 P.M. – 7:30P.M.
Saturday, Sunday and Holidays	11:00 A.M. – 7:30 P.M.
Day after Labor Day (special event)	TBD

**Seasonal Schedule (three weeks prior to Labor Day)**

Monday, Tuesday, Wednesday, Thursday	Closed
Friday	4:00 P.M. – 7:30P.M.
Saturday, Sunday and Holidays	10:00 A.M. – 8:00 P.M.

The facility shall be made available during the morning hours from 6:30 A.M. until the start of recreation swim, for organized activities to include, but not be limited to, team sports and swimming lessons.

**1.2 Additional Service**

The facility shall also be available upon request to and approval by the City from 7:30 P.M. to 11:00 P.M. Friday through Sunday and Holidays for use by private groups. Contractor shall provide sufficient staff as outlined in exhibit A. The City shall be responsible for payment to the Contractor in an amount equal to the hourly fee for lifeguards or staff provided for private functions, as set out in the bid.

**1.3 Closing of Pool**

1. The Contractor shall have the authority to temporarily close the pool during inclement weather (below 72 degrees, heavy rain, high winds or lightning). Pool shall remain closed for a period of at least thirty (30) minutes after the last sight of lightning. Contractor shall re-open the pool when the weather conditions permit. Staff shall remain at the pool for two (2) hours during temporary closing to re-open the pool, unless it is within one (1) hour before regular closing time. The Contractor shall provide the emergency contact number for the personnel that are to be available seven (7) days per week, twenty-four (24) hours per day to attend to any problems that may arise.

Contractor shall gain approval from the City’s Supervisor on duty before cutting back on guards or closing the facility for the day.

2. In the event the pool is closed during the season for any reason, not due to the fault or negligence of the Contractor and not under the control of the Contractor, the Contract shall remain in full force and effect. Should such closure continue for a period in excess of one (1) week, the City shall be entitled to a refund of any management fee expenses not incurred by the Contractor as a result of the close down.

#### **1.4 Start Up and Shut Down of Facility**

The Contractor shall be responsible for the startup and shut down of the facility at the beginning and end of the swimming season, as herein specified, or as extended by mutual agreement between the Contractor and the City, and shall perform and furnish the following services:

##### **A. Opening of the Facility**

Contractor shall prepare to Start up (open) the Family Aquatic Center by completing the following services:

1. Check inventory and provide a written inventory report to City.
2. Clean all pool areas within enclosure, power wash decking, slide towers, features, entry way and concession areas.
3. Place pool furniture, guard chairs, funbrellas, ADA chairs, ADA ladder, and other movable equipment on deck area.
4. Open, clean and prepare facility for operation (Locker rooms, office, Lifeguard Room, decks, trash cans, picnic tables, lounge chairs, etc.).
5. Vacuum all swimming pools, lazy river, etc.
6. Have Family Aquatic Center ready for operation at least ten (10) days before opening date.
7. Report to City all operational deficiencies.
8. Provide office supplies (pens, paper, stamps, staples etc.) and Janitorial Supplies (toilet paper, paper towels, hand soap, body soap, etc.)
9. Furnish, store and inject necessary chemicals for operation of the pools. City will provide a certificate of sales tax exemption.

##### **B. Closing of the Facility**

Contractor shall prepare to close the Family Aquatic Center by completing the following services:

1. Clean and remove pool furniture, guard chairs, funbrellas, ADA chairs, ADA ladder and other movable equipment as needed and store on premises.
2. Drain hoses and store on premises.
3. Store all first-aid equipment.
4. Clean locker rooms, manager's office, lifeguard room and storage room, power wash breezeway, deck areas, concession area, slides, and play features, etc.
5. Prepare an inventory for City.

6. Contractor shall furnish City with a letter, no later than October 31 following close of season, stating that the Family Aquatic Center has been winterized in accordance with the Agreement.
7. An end of season inspection shall be conducted immediately upon conclusion of the season, and a written report turned into the Superintendent of Recreation Operations. The Contractor shall perform reasonable inspections of all equipment and advise the City 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.

### **1.5 Daily Operations**

The management of the operation shall include but not limited to the Managers, Cashiers, lifeguards, swim and dive team, swim lessons. Functions of the management of operations shall include but not limited to:

1. Clean the entire Family Aquatic Center, including guard and manager office areas, bathhouse, all areas within the fencing, restrooms, and the premise within twenty-five (25) feet of facility in a clean and orderly condition by the proper collection of waste, garbage, and all other debris. To be completed following the daily closing of the Family Aquatic Center to the public.
2. Enforce all rules and regulations stipulated by the City and at the request of the City. Suggest and advise with regard to additional rules and regulations for the operation of the Family Aquatic Center.
3. Maintain and produce records and reports, including maintenance sheets, water quality sheets, chemical consumption, water slide reports and Material Safety Data Sheets (MSDS) as required by the State, St. Louis County and City and meet all requirements for such.
4. Inspect and test chemicals every morning and through-out day to maintain safe chemical levels, add as necessary.
5. Maintain any additional records reasonably required by the City.
6. Furnish and supply first-aid kits and lifesaving equipment/devices adequate to meet all first-aid requirements of the Family Aquatic Center. The first aid kit should carry supplies for a minimum of 100 persons and at minimum include: adhesive bandages, sterile pads, gauge pads, eye pads, tape, dressings, elastic bandages, 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 on duty personnel. Safety equipment to include: spine board, head immobilizer, straps, spine boards, ring buoys, reaching pole, shepherds crook, rescue tubes, pocket masks, safety line, and cervical collars.
7. Secure Family Aquatic Center upon closing.

8. The Contractor shall retain a written record of all problems brought to its attention. The City will review this log. A daily log of communication shall be kept in the manager's office for the managers and City Representative to review on a daily basis.
9. Complete a daily safety inspection of the slide surfaces, looking for cracks, chips or rough spots on the rider surface. Contractor's on site staff will also inspect facility safety equipment to verify that it is rescue ready and make a walk through the facility inspecting other items as requested by the City that falls within the expertise level of the lifeguarding staff. It is understood that Contractor will not be using a man-lift or other equipment to inspect bolts and attachments on the slide or play structure towers or other safety inspections that require the special technological expertise outside of the scope of the aquatic staff. The Contractor and City will establish an agreed upon inspection list that Contractor staff will use to document the daily and weekly safety inspections.
10. Work with the City in handling complaints users may have reporting all complaints to the appropriate City Representative.
11. Conduct in-service training per guidelines of Ellis, Red Cross, Star Guard, or YMCA.
12. Keep detailed records of any pull-outs describing the circumstances surrounding the incident and denoting the specific location of the pull-out.
13. Keep the premises within twenty-five (25) feet of the fenced facility in a clean and orderly condition by the proper collection of waste, garbage and all other debris. This shall include the concession/dumpster area outside the pool fence, centering areas and walks.
14. Accident/Incident reports shall be given to the appropriate City Representative on a daily basis. The Contractor shall notify the appropriate City Representative of such Accident/Incident as soon as it occurs.

The general maintenance of operations shall include but not limited to the day to day maintenance of the aquatic facility. The functions of the general maintenance operations shall include but not limited to:

1. Clean the entire Family Aquatic Center, including guard and manager office areas, bathhouse, all areas within the fencing, restrooms, and the premise within twenty-five (25) feet of facility in a clean and orderly condition by the proper collection of waste, garbage, and all other debris. To be completed following the daily closing of the Family Aquatic Center to the public.
2. Maintain and produce records and reports, including maintenance sheets, water quality sheets, chemical consumption, water slide reports and Material Safety Data Sheets (MSDS) as required by the State, St. Louis County and City and meet all requirements for such.

3. Contractor shall open and close the facility each day of the pool season. Turn on all pumps, motors, slides, features, etc. required for the day to day operations and turn off at end of each night.
4. Inspect water levels and turn on fill lines as needed.
5. Vacuum all pool areas as needed Each pool shall be vacuumed entirely, a minimum of twice per week. Pools shall be vacuumed before the public enters the pool. This includes before the public enters for swim lessons or swim/dive team practices.
6. Hair lent pots shall be cleaned daily.
7. Restroom/Locker Rooms shall be maintained on an hourly basis while pool is open to the public (trash/debris, soap, paper towels, toilet paper, etc).
8. Wash all gutters, pool decks, breezeway, etc daily. All areas must be power washed a minimum of twice per week, concessions area must be power washed daily. All work shall be completed immediately following the closing of the Family Aquatic Center to the public.
9. Complete a daily safety inspection of entire facility and document results. Inspect and test safety equipment and document results daily.
10. Keep the premises within twenty-five (25) feet of the fenced facility in a clean and orderly condition by the proper collection of waste, garbage and all other debris. This shall include the concession/dumpster area outside the pool fence, centering areas and walks.

#### **1.6 Operational Supplies/Utilities**

Contractor shall purchase, provide, maintain and repair cleaning equipment necessary for the operations of the facility. This shall include, but not be limited to pool vacuums, aqua max, power washers, pool pumps or motors or other filtration equipment, etc. Contractor shall be responsible for the repair or replacement of any of the following equipment due to a negligent act: chemical feed pumps, chemical controllers, etc.

Contractor shall furnish all chemicals, first-aid supplies, cleaning agents, tools, materials, equipment, lifeguard umbrellas, toilet paper, paper towels, trash bags, feminine hygiene products, hand soap, body shampoo, janitorial supplies, life saving devices, deck vacuums, water hoses, deck brushes, vacuum hoses, extension poles, office supplies, brooms etc. for the pool operation during the season. If any pools are found to leak by the City, Pool Management or Pool Maintenance Contractors, each of the three parties shall be notified. At which time, an additional charge to the City will be assessed for the pool chemicals necessary to maintain the proper water balances, should the cost of chemicals exceed the chemical budget.

#### **1.7 Operational Supplies/Utilities**

Contractor shall utilize own tools and equipment for the maintenance and repair of the facility as described above. This shall include, but not be limited to pool vacuums, aqua max, power washers, tools, etc.



### 1.8 Time and Material

In addition to the aforementioned rates/fees for “Basic Services”, this Contract also establishes maintenance rates/fees on a “Time and Material” basis for the repair of items not covered within the scope and provisions of the “Basic Services”. As such, the City shall pay the Contractor on a “Time and Material” basis as set forth herein in accordance with the figures and schedule of payments for the repair of items not covered within the scope and provisions of the “Basic Services”.

Description	Costs
Maintenance Labor	\$110/hour
Maintenance Labor (additional second Maintenance Labor	\$165/hour
Maintenance Labor – Dive Team	\$165/hour

#### Equipment Cost:

Contractor shall provide equipment rates based on need for repair.

#### Material Cost:

Material Prices will be marked up 20% plus shipping with accompanying receipt verifying total product cost. Time and material work shall be performed with written approval from the CITY.

### 1.9 Staffing

Contractor shall furnish sufficient and competent personnel for the operation of a safe and sanitary facility at all times the facility is in use, including, without limitation, lifeguard personnel whose assignment is lifeguarding during recreational swimming, instruction/lessons, swim/dive team activities and private groups; manager; assistant manager. The Contractor shall have a uniform policy which is approved by the City. All lifeguards and managers shall be dressed appropriately and uniformly identified at all times. All such personnel shall be neat and clean in appearance and courteous to the users of the Pool. All personnel must be uniformly identified at all times. All personnel employed by Contractor in the performance of this Agreement shall be employees of the Contractor and not of the City. Contractor will be responsible for the payment of all employment taxes and Social Security taxes related to the employment of said personnel. No less than the prevailing minimum wage shall be paid by Contractor.

1. All managers and assistant managers employed shall hold a minimum qualification/certification as a Certified Pool Operator (CPO), Aquatic Facility Operator (AFO) or equivalent and Senior Lifesaving (American Red Cross, Jeff Ellis, Star Guard or YMCA Lifeguarding Certification), be at least eighteen (18) years of age, and must have prior experience in managing an aquatic facility equal or comparable to the Chesterfield Family Aquatic Center.

2. All lifeguards employed shall hold a minimum qualification of Senior Lifesaving (American Red Cross, Jeff Ellis, Star Guard or YMCA Lifeguarding Certification) and be at least fifteen (15) years of age.
3. The Contractor shall replace any personnel deemed unsatisfactory by the City and shall replace such personnel within seven (7) days of receiving written notice from the City.
4. Said personnel will be furnished in a manner to operate the Family Aquatic Center in the safest and most efficient manner possible and in the best interest of the City. The City reserves the right to approve or disapprove any proposed staffing schedule. All personnel must be uniformly identified at all times. All staff, 18 and over, shall have a background check and approved by the City of Chesterfield. All personnel employed by the Contractor in the performance of fulfilling a contract for the operation and management of the Family Aquatic Center shall be considered employees of the Contractor and not of the City. 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.
5. Chesterfield residents shall receive priority consideration when hiring for all positions. The Contractor shall provide the City applications for distribution at the Chesterfield City Hall. The Contractor shall provide the City a final complete list of employees, ten (10) days prior to the beginning of the season. This list shall include the names, addresses and phone numbers of each employee.
6. The Contractor shall provide a janitor who shall be responsible for, but not limited to, cleaning of the locker rooms, concession areas, office, guard rooms, inside and outside fenced areas and replace needed supplies as stated further in the contract.
7. The Family Aquatic Center shall be generally staffed for all public session swimming times at the following levels. If attendance is low and/or weather is a factor then changes can be made to the staffing levels with permission from the City of Chesterfield via email to appropriate personnel.
  - 1 Pool Manager or Assistant Manager
  - 2 Head Guard
  - 15 Lifeguards at Stations
  - 3 Rotating Lifeguards
  - 2 Cashiers
  - 1 Maintenance/Janitor
  - \*1 District Manager
  - \*1 Area Supervisor

\*District Manager and Area Supervisor shall be at the Family Aquatic Center to hold regularly scheduled meetings with City Representative(s) at a minimum of twice per week.

### **1.10 Cashiers**

Contractor shall be responsible in providing a minimum of two (2) cashiers on duty at all times, who shall be at least 18 years of age. Cashiers shall be responsible for the collection and accounting of daily receipts, as well as giving out accurate information regarding the Family Aquatic Center and its programs. Each Cashier shall have a police background check and approved by the City of Chesterfield. Verify start up cash daily, sell swimmyies, sunscreen, towels and other merchandise, distribute life vest, distribute wrist bands, monitor patrons entering and existing facilities for rule enforcement, keep front desk area clean, count money at end of day, assist manager in preparing deposit. Call police when deposit is ready to be picked up (Coordinate with the concession staff). Cashiers shall abide by the uniform policy set by the Contractor and approved by the City. Uniform for Cashiers shall consist of a minimum of a polo or t-shirt with Contractors emblem and khaki shorts. The City has the option of taking over the Cashier duties for years 2018, 2019 and the options of 2020, 2021.

### **1.11 Swim Lessons and Programs**

1. The Contractor, in coordination with the City, shall provide instructional group swim lessons, private swim lessons and programs for all ages and ability levels. These group lessons/programs shall consist of a series of ten (10) group sessions including a minimum of thirty (30) minutes of instruction; Groups shall not exceed six (6) participants, except the 3-5 age group shall not exceed four (4) participants per instructor. It shall be the Contractors responsibility to provide all materials and equipment for said program.
2. Contractor shall provide appropriate staffing for additional morning and evening programs in which the City shall have throughout the season. (i.e. Swim Lessons, Private Swim Lessons, River Walk, Water Aerobics, etc.)
3. The City shall be responsible for the registrations, collection of fees, marketing and promotions for said lessons/programs, and make payment to the Contractor for the cost of personnel.
4. All scheduling of sessions, classes etc. must be approved by and coordinated with the City.

### **1.12 Swim Team**

1. The City will be providing opportunities for residents and non-residents of the community to participate in and/or on a youth swim and dive team sponsored by the City.
2. The Contractor shall provide a minimum of three (3) qualified swim team coaches for all practices, home and away competitions, meetings and special events.

3. All scheduling of meetings, practices, competitions and special events must be approved by and coordinated with the City.
4. Contractor shall provide adequate staffing (lifeguards and pool manager(s)) for all practices, practice meets and competitions to be held at the Family Aquatic Center.
5. The City shall be responsible for the registrations, collections of fees, marketing and promotions, parent volunteers, ribbons, medals, trophies, timing equipment, officials etc. for said program, and make payment to the Contractor for the cost of personnel as outlined.

## **2.0 INSURANCE**

The Contractor shall, during the term of this Agreement, at its own expense, procure and maintain insurance as follows. A comprehensive general liability insurance to include premises/operations, products, personal injury, completed operations, incidental malpractice and contractual coverage's with a minimum limit of Two Million Seven Hundred and Fifty Thousand Dollars (\$2,750,000.00) combined for any single occurrence and Five hundred Thousand Dollars (\$500,000.00) for any single person per occurrence and for property damage. The above coverage's must be written by an insurer having an AM Best and Company Rating of at least A+. Said liability and insurance must cover the premises herein named and all of the activities pertaining to the Contractor.

Certificates of insurance shall be filed with the City prior to commencement of this Agreement and provided annually hereafter and Contractor shall submit, during the course of this Agreement, at least fifteen (15) days prior to the expiration of any insurance policy, a certificate indicating and evidencing either a renewal or a new policy. City shall be named as an additional insured and it shall provide that the insurer shall, at least thirty (30) days prior to the expiration, amendment, or cancellation of any such policy, give the City notice in writing of such expiration, amendment, or cancellation.

## **3.0 WORKERS' COMPENSATION INSURANCE**

The Contractor shall procure and shall maintain during the term of the Agreement, Workers' Compensation Insurance for all of its employees to be engaged and perform work under the Agreement, and in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all such employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's Workers' Compensation Insurance. In the event any class of employees engaged in hazardous work under the Agreement is not protected under the Workers' Compensation Statute, the Contractor shall provide, and shall cause such subcontractor to provide, adequate Employer's Liability Insurance for the protection of its employees not otherwise protected.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the City.

In full compliance with the Worker's Compensation Act of the State of Missouri and Employer's Liability Coverage the minimum amount of insurance shall be \$1,000.00 per occurrence.

#### **4.0 INDEMNIFICATION**

Contractor shall, at its sole cost and expense, indemnify, hold harmless and protect the City, including its officers and employees, from and against any and all claims, damages, costs or expenses (including court costs and reasonable attorney's fees) for any claim arising out of Contractor's negligent acts under this Agreement; provided, however, that this hold harmless and indemnification shall not apply where such claims, actions, damage, liability, or expenses result from any omission, fault, negligence, or misconduct on the part of the City, its agents, servants, employees, contractors, or licensees. Notwithstanding the foregoing, Contractor's indemnity obligations are limited solely to the extent directly caused by Contractor's fault or negligence.

#### **5.0 LICENSES AND PERMITS**

The Contractor shall be responsible for obtaining and paying the costs of all necessary permits and licenses required by any applicable laws, rules and/or regulations (including the Ordinances of the City of Chesterfield) necessary for the operation of the facility provided, however, the contractor shall not be responsible for obtaining a use permit.

#### **6.0 HEALTH AND SAFETY STANDARDS**

The Contractor shall meet all Health and Safety Standards regulations set forth by Ordinance of the City of Chesterfield and St. Louis County. The Family Aquatic Center 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 Public Health Association, the City of Chesterfield, the County of St. Louis, and the operation shall be in accordance with all the rules and regulations of the health Department of the State of Missouri. The Contractor shall maintain the pool enclosure in a clean and safe condition at all times.

The Contractor will be required to participate in a complete aquatic review program as provided by Jeff Ellis & Associates, the American Red Cross or Star Guard. The costs to participate in such programs shall be borne by the contractor. Upon any change in Federal or State guidelines, which govern the Pool Contractor operations and/or employees, the Pool Contractor may present the new guidelines in an Addendum format to the City with the fiscal adjustments and reasoning's for said adjustments in writing. The City has 30 days to accept or reject the new amount.

#### **7.0 CONTRACTORS BOOKS AND RECORDS**

The Contractor shall keep and maintain proper and adequate books, records and accounts which accurately reflect chemical levels, injuries, staff dialogue of daily occurrences, maintenance/janitorial information, and all necessary data to properly manage the facility and shall be given to the City on a weekly bi-weekly basis. The Contractor shall provide to the City a copy of the time cards on a weekly basis. A year end report is to be provided to the Superintendent of Recreation of the City of Chesterfield no later than October 31<sup>st</sup> of each year.

## **8.0 LIQUIDATED DAMAGES AND PENALTIES**

### **8.1 Maintenance**

Contractor agrees that if he/she defaults or neglects to carry out the general maintenance work in accordance with the specifications stated herein (Hose off decks, clean restrooms, empty and take out trash, pickup trash etc.). Provided the City of Chesterfield provides contractor written notice (via email) and no less than twenty four (24) hours to cure any claimed deficiency. City shall deduct from the amount owed to Contractor the cost of time, materials, and a 25% fee for administration for said actions taken by the City.

### **8.2 Register Tape**

If the City gives the Contractor the responsibility of cashiering, Contractor agrees that if he/she collects fees less than indicated on the register tape at the end of the day and he register tape is determined to be accurate, Contractor shall be responsible to reimburse the shortfall to the City on a monthly basis.

### **8.3 Staffing**

Contractor agrees that should it fail, refuse, or neglect to provide staffing as specified herein, provided the City provides the contractor written notice (via email) of any claimed deficiency in staffing and no less than twenty four (24) hours to cure any claimed deficiency, the Contractor shall pay to the City as liquidated damages in the sum of One Hundred Dollars (\$100.00) for part of any hour for each and every hour said Contractor fails, refuses or neglects to perform said obligations.

### **8.4 Performance of Obligations**

Contractor agrees that should it fail, refuse, or neglect to perform any of the obligations imposed upon it as specified herein and City is caused thereby to operate the facility or close the facility and/or seek another person, firm, company, corporation or association to operate and manage the facility, then and in the event, provided the City provides the Contractor written notice (via email) of any claimed deficiency in performance of obligations and no less than twenty four (24) hours to cure any claimed deficiency, Contractor shall pay to City as liquidated damages in the sum of Two Thousand Dollars (\$2,000.00) per day for each and every day said Contractor fails, refuses or neglects to perform said obligations until the City reopens and operates

the facilities through the balance of the season by other means as specified above. In addition to the damages set out in this section, the Contractor shall pay damages for any increase expense incurred once the City has reopened the facility due to Contractors failure to perform equal to any additional costs incurred by City to operate during the term of this agreement.

Failure to open on time (daily) according to the contract will result in a Twenty-Five Dollar (\$25) fine for any amount of time under one (1) hour and Fifty Dollars (\$50) for each additional hour provided that the failure to open on time was not caused by circumstances beyond control of Contractor.

### **8.5 Uniform**

Contractor agrees to abide by the uniform policy accepted by the City of Chesterfield. The Contractor agrees to pay to the City Twenty-Five Dollars (\$25) per each employee not in compliance per day the uniform policy is not followed.

### **8.6 Quit and Surrender Premises**

Contractor further agrees to quit and surrender the premises to City upon the expiration or termination of this Agreement. Contractor agrees that it shall pay as liquidated damages to City, Two Thousand Dollars (\$2,000.00) per day for each and every day that it continues to occupy said premises after expiration or termination.

## Salary Fee – Form

The undersigned, having examined and being familiar with the conditions affecting the services to be performed as outlined in the specifications and other contract documents relating to the Chesterfield Family Aquatic Center hereby proposes and agrees to perform everything required and to provide and furnish any and all labor including: manager, assistant manager, head lifeguards, lifeguards, janitor, swim lesson supervisor, swim instructors, swim coaches, and assistant swim coaches to operate the Aquatic Center in a safe and efficient manner in strict accordance with aforementioned contract document for the sum hereafter specified.

<b>Management and Maintenance Fee</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
	<b>\$58,600</b>	<b>\$58,825</b>	<b>\$60,000</b>

### Maximum Base Salary

	<b>2017</b>	<b>2018</b>	<b>2019</b>
Maximum Base Salary for Season	\$189,000	\$191,500	\$195,500

### Hourly Rate for Staff

	<b>2017</b>
Manager	\$17.00
Assistant Manager	\$14.00
Head Lifeguard	\$11.50
Lifeguard	\$10.50
Swim Lesson Supervisor	\$14.00
Swim Instructors	\$11.50
*Swim Coach	\$16.00
*Assistant Swim Coach	\$14.00
Janitor	\$10.50
Cashiers	\$10.50



**CERTIFICATION OF NON-SEGREGATION**

By submission of this bid, I certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated at any of my establishments, and that you will not permit my employees to perform their services at any locations, under my control, where segregated facilities are maintained. I agree that a breach of this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, Centering lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom or otherwise. I further agree that I will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause; that I will retain such certification in my files, and that I will forward this notice to such proposed Contractors.

SIGNED

Contractor: Lifeguards Unlimited, Inc.

By: 

Date: 4/5/17

ANTI-COLLUSION AFFIDAVIT

STATE OF Missouri,

COUNTY OF St. Louis County,

Jeff Fitterling, being first duly sworn, deposes and says that he/she is President (sole owner, partner, president, secretary, etc.) of Lifeguards Unlimited, Inc., the party making the foregoing bid; that such bid is not made in the interest of or on the behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or any one else to put in a sham bid, or that any one shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with any one to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of any one interested in the proposed contract; that all statements contained in such bid are true, and, further, that said bidder has not, directly or indirectly, submitted his/her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto,. Or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have partnerships or other financial interest with said bidder in his general business.

SIGNED: [Signature]  
Title: PRESIDENT

Subscribed and sworn to me before this 5<sup>th</sup> day of April, 2017

Seal of Notary  TIMOTHY C. COLLETT  
My Commission Expires  
September 17, 2018  
St. Louis County  
Commission #14942423  
Notary Public: [Signature]

In completing this form the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "Sole owner, a partner, secretary, etc." should be struck out.

## INSTRUCTIONS FOR EXECUTING CONTRACT

The Contractor, in executing the Contract Agreement, shall follow the following requirements:

The Contractor and the Owner shall sign the Contract Documents in not less than triplicate.

If the Contractor is a corporation, the following certificate shall be executed:

I, Tim Collett certify that I am the secretary of the corporation named as Contractor herein above, that Jeff Fitterling who signed the following Contract Agreement on behalf of the Contractor was then of said corporation; that said Contract Agreement was duly signed for and in behalf of said corporation by Authority of its governing body, and is within the scope of its corporate powers.

If the Contract Agreement is signed by the secretary of the corporation, the above certificate shall be executed by some other officer of the corporation under the corporate seal. In lieu of the foregoing certificate, there may be attached to the contract copies of the records of the corporation which will evidence the official character and authority of the officers signing. Said copies shall be duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

If the Contractor is a partnership, each partner shall sign the Contract Agreement. If the Contract Agreement is not signed by each partner there shall be attached to the Contract Agreement a duly authenticated power of attorney evidencing the signer's (signers') authority to sign such a Contract Agreement for and in behalf of the partnership.

If the Contractor is an individual, the trade name (if the Contractor is operating under a trade name) shall be indicated in the Contract Agreement and Contract Agreement shall be signed by such individual. If signed by one other than the Contractor there shall be attached to the Contract Agreement a duly authenticated power of attorney evidencing the signer's authority to execute such contract for and in behalf of the Contractor.

The full name and business address of the Contractor shall be inserted and the Contract Agreement shall be signed with his/her official signature. The name of the signing party or parties shall be typewritten or printed under all signatures to the Contract Agreement.

The Contract Agreement shall be deemed as having been awarded when formal notice of award shall have been duly served upon the intended awardee (i.e. the bidder with whom the City contemplates entering into a Contract Agreement) by some officer or agent of the City duly authorized to give such notice.

## CITY – CONTRACTOR AGREEMENT

This is an Agreement made and entered into the 4<sup>th</sup> day of April, 2017, by and between the City of Chesterfield, Missouri (herein called "City") and Lifeguards Unlimited, a Corporation  
With offices at 4709 LaGuardia Drive Suite 180, St. Louis, MO 63123  
(hereinafter called "Contractor").

WITNESSETH: That Whereas, the Contractor submitted the successful bid for the Operations and Management of the Chesterfield Family Aquatic Center 2017.

NOW THEREFORE: The Contractor and the City for the consideration set forth herein agree as follows:

### ARTICLE I.

#### The Contract Documents

The Contract Documents consist of the Invitation to Bid, Information for Bidders, Instructions to Bidders, General Conditions, Basic Services, Compensation to Contractor, Renewal Option, Insurance, Workers Compensation Insurance, Indemnification, Licenses and Permits, Health and Safety Standards, Contractors Books and Records, Liquidated Damages, Bidders Declaration, Ant-Collusion Affidavit, Certification of Non-Segregation, Specifications, all Addenda, all Modifications issued after the execution of this Contract, and this Agreement which together from the Contract, and are all as fully a part of the Contract as if attached to this Agreement or repeated herein. All definitions set forth in the General Conditions are applicable to this Agreement.

### ARTICLE II.

#### Performance of the Work

The Contractor, acting as an independent contractor, shall furnish all supervision, labor, equipment, tools, materials, and supplies necessary to perform and shall perform all work in accordance with the Contract Documents and any applicable City ordinances, county, state and federal laws. Contractor represents and warrants that he/she has special skills which qualify him/her to perform the Work and is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

### ARTICLE III.

#### Time of Completion

All time limits stated in the Contract Documents are of the essence. The Work to be performed under the Contract shall begin April 1, 2017 and ending March 31, 2018 with alternate

### ARTICLE IV.

#### The Contract Sum and Payments

The Contract Sum shall be Two Hundred and Forty-Seven Thousand and Six Hundred Dollars (\$247,600.00). Based upon application for Payment submitted by the Contractor as scheduled in the Bid Document.

### ARTICLE V.

#### Manner and Time of Completion

Completion of the Work in accordance with time limits, dates set forth and specified in the Contract Documents is an essential condition of the Contract. If the Contractor fails to complete the work in accordance with the Contract Documents, the Contractor shall pay the City liquidated damages as outlined in the Contract Documents.

### ARTICLE VI.

#### Exclusive Contract and Termination of Contract by City

The City will award an exclusive Contract Agreement to one (1) Contractor for the right to manage and operate the facility. The Contract is valid for the 2015 pool seasons only.

This Contract Agreement shall be subject to termination by the City in the event of sale or destruction of the facilities or because of misfeasance or malfeasance by the operator. The City may also terminate this Contract Agreement for repeated noncompliance with requirements as set forth and specified in the Contract Documents. The City reserves the right to terminate the Contract Agreement for any reason with a Thirty (30) day written notice.

The City also reserves the right, by the Contract Agreement to cancel any part or all of the same for failure by the Contractor to follow terms of said Contract Agreement. All licensing, health and safety standards and regulations required by ordinances of the City of Chesterfield, St. Louis County, State of Missouri or Federal laws will be required of the Contractor. Midwest Pool Management has no authority or responsibility to make changes to the physical plant of the Chesterfield Aquatic Center. The City shall have the ultimate authority and responsibility for compliance with the Virginia Graeme Baker Pool and Spa Safety Act, the ADA or other local, State or Federal requirements.

ARTICLE VII.

Contractor's Insurance

The Contractor shall maintain, during the term of this Contract Agreement, at its own expense, shall procure and maintain Comprehensive General Liability and Workers Compensation Insurance as set forth and specified in the Contract Document. This coverage can be provided with one policy or multiple policies.

ARTICLE VIII.


The Work

The Contractor shall furnish all labor, equipment, materials, and service necessary for the operation and management of the Chesterfield Family Aquatic Center as set forth and specified in the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as of the date first above written.

CITY OF CHESTERFIELD

(SEAL)

By   
Michael O. Geisel, City Administrator

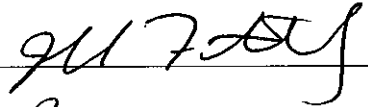
ATTEST:

  
Vicki Hass, City Clerk

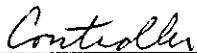
CONTRACTOR

Lifeguards Unlimited, Inc.

(SEAL)

By   
Title PRESIDENT

ATTEST: 

  
Title: