

**BOROUGH OF GREEN TREE
COUNCIL MEETING**

**MONDAY, FEBRUARY 12, 2024
7:30 pm**

AGENDA

7:30 pm The items on the agenda are scheduled for discussion and/or action by Borough Council. In addition, Council may discuss and/or act on any matter properly brought before it.

1. CALL TO ORDER BY THE PRESIDING OFFICER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PRESIDENT'S STATEMENT

5. SOLICITOR'S STATEMENT

6. MANAGER - PROPOSED POOL MANAGEMENT SERVICES

7. AMERICAN POOL SERVICES PITTSBURGH - INTRODUCTION

8. HEARING THE CITIZENS All persons wishing to address general business or agenda items will be heard at this time.

9. NEW BUSINESS

(a) FINANCE AND GENERAL POLICY

Mr. Turocy

- (1) Authorizing the Borough Manager to execute an Agreement with American Pool Services Pittsburgh

10. ADJOURNMENT



PART 1 GENERAL SPECIFICATIONS

American Pool Management Of Pittsburgh, LLC ("CONTRACTOR") agrees to manage the Green Tree Borough ("OWNER") swimming facility, located at 825 Poplar St, Pittsburgh, PA, 15220, from 5/25/2024 through 9/2/2024 in accordance with the following specifications:

A. POOL HOURS

Full Time Operating Hours

Dates: 6/8/2024 - 8/18/2024

*The pool will be open from 10:30-12 for resident pass holders only

Monday	12:00 PM - 7:00 PM
Tuesday	12:00 PM - 7:00 PM
Wednesday	12:00 PM - 7:00 PM
Thursday	12:00 PM - 7:00 PM
Friday	12:00 PM - 7:00 PM
Saturday	12:00 PM - 7:00 PM
Sunday	12:00 PM - 7:00 PM

Holiday Hours: 12:00 PM - 7:00 PM

Part Time Operating Hours

Dates: 5/25/2024 - 6/7/2024

8/19/2024 – 9/2/2024 Closed M-F

Monday	4:00 PM - 7:00 PM
Tuesday	4:00 PM - 7:00 PM
Wednesday	4:00 PM - 7:00 PM
Thursday	4:00 PM - 7:00 PM
Friday	4:00 PM - 7:00 PM
Saturday	12:00 PM - 7:00 PM
Sunday	12:00 PM - 7:00 PM

Holiday Hours: 12:00 PM - 7:00 PM

B. PERSONNEL

The pool will have part time hours May 25-June 7th. The pool will revert to part time hours on August 19th and the pool will be open weekends / holidays only. The pool will be open from 10:30am-12pm for Lap Swim ONLY. 7 Lifeguards and 1 onsite manager will be provided during normal pool hours: 12-7 or 4-7). There will be two guards/manager on duty from 7-9 for an outside swim team M-F from June 10-August 2nd. Please see the attached schedule for the specific staff schedule. . Swim Lessons Instructors and any additional guards (only if needed) are not included but can be added for an additional cost. The cost would be the hourly rate of the instructors and additional guards (only if needed) plus applicable taxes.

C. COMPENSATION

OWNER to pay CONTRACTOR the total of: **\$160,000.00**

The payments shall be due as follows:

Due Upon Signing: **\$0.00**

January 1, 2024	\$0.00	July 1, 2024	\$32,000.00
February 1, 2024	\$0.00	August 1, 2024	\$32,000.00
March 1, 2024	\$0.00	September 1, 2024	\$16,000.00
April 1, 2024	\$16,000.00	October 1, 2024	\$0.00
May 1, 2024	\$32,000.00	November 1, 2024	\$0.00
June 1, 2024	\$32,000.00	December 1, 2024	\$0.00

D. SPECIAL NOTES

The contract includes lab testing. OWNER will perform the summarization and winterization. Chemicals can be provided as needed and invoiced separately.

2024 Green tree Borough Sample Schedule V2

Part Time Schedule: May 25, 2024 to June 7, 2024

Monday-Friday 4pm-7pm

Manager/ Assistant:	3:30pm-7:30pm
Lifeguard 1:	3:30pm-7:30pm
Lifeguard 2:	3:30pm-7:30pm
Lifeguard 3:	3:30pm-7:30pm
Lifeguard 4:	3:30pm-7:30pm
Lifeguard 5:	3:30pm-7:30pm
Lifeguard 6:	4:00pm-7:00pm
Lifeguard 7:	4:00pm-7:00pm

Saturday, Sunday and Holidays 12pm-7pm

Manager/ Assistant:	10:00am-7:30pm
Lifeguard 1:	10:00am-7:30pm
Lifeguard 2:	10:00am-7:30pm
Lifeguard 3:	10:00am-7:30pm
Lifeguard 4:	10:00am-7:30pm
Lifeguard 5:	10:00am-7:30pm
Lifeguard 6:	12:00pm-7:00pm
Lifeguard 7:	12:00pm-7:00pm

Full Time Schedule : June 8, 2024 to August 18, 2024

Sunday through Saturday: 12pm-7pm

Manager/ Assistant:	10:00am-7:30pm
Lifeguard 1:	10:00am-7:30pm
Lifeguard 2:	10:00am-7:30pm
Lifeguard 3:	10:00am-7:30pm
Lifeguard 4:	10:00am-7:30pm
Lifeguard 5:	10:00am-7:30pm
Lifeguard 6:	12:00pm-7:00pm
Lifeguard 7:	12:00pm-7:00pm

Part Time Schedule: August 19, 2024 to September 2, 2024

Saturday, Sunday and Holidays 12pm-7pm *Closed Monday-Friday

Manager/ Assistant:	10:00am-7:30pm
Lifeguard 1:	10:00am-7:30pm
Lifeguard 2:	10:00am-7:30pm
Lifeguard 3:	10:00am-7:30pm
Lifeguard 4:	10:00am-7:30pm
Lifeguard 5:	10:00am-7:30pm
Lifeguard 6:	12:00pm-7:00pm
Lifeguard 7:	12:00pm-7:00pm

NOTE: The pool is open from 10:30am-12:00pm for Pass Holders Only. The main pool will be open for adults. The baby pool will be open for families with small children. Swim Lesson Instructors and any additional lifeguards (only if needed) are not included but can be added for an additional cost. The cost would be the hourly rate of the instructors and additional lifeguards (only if needed) plus applicable taxes.



NOW THEREFORE, in consideration of the promises and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

PART 2 – GENERAL

OWNER has declined the following services and is responsible for summarization

~~CONTRACTOR will render the swimming pool operational by completing the following services:~~

- A. Schedule and perform opening Health Department swimming pool inspection. CONTRACTOR shall apply for the Health Department operating permit upon OWNER's written request. The OWNER shall be responsible for all permit fees, including a processing fee. Any Health Department inspection failure resulting in fees or fines due to OWNER related deficiencies or missing items shall be the sole responsibility of the OWNER.
- B. Remove existing swimming pool cover and store within pool enclosure. Removal off-site or outside of the enclosure shall be subject to an additional fee.
- C. Reclamation of pool water will be attempted as the primary opening procedure. If CONTRACTOR determines draining and acid cleaning of the pool is necessary work will be performed at an additional fee of \$450.00.
- D. Assist OWNER in filling pool. OWNER is responsible for monitoring and stopping the fill process at their pool. OWNER is responsible for additional water or damages due to overflow of their pool.
- E. Reassemble existing filter plant and start system after pool is filled with water.

PART 3 - MAINTENANCE OF POOL

CONTRACTOR will be responsible for the following:

- A. Maintaining water purity, in conformance with local Health Department regulations.
- B. Operating pool in accordance with rules established by governing Health Department's recognized safety rules. CONTRACTOR reserves the right to prohibit admittance of children under the age of 14 unless accompanied by a responsible adult. All adults and legal guardians utilizing the facility will agree to adhere to the facilities posted pool rules which shall, at a minimum, include those attached at the end of this agreement. CONTRACTOR will be responsible to enforce the pool rules agreed to and accepted by OWNER and CONTRACTOR. If CONTRACTOR identifies violation(s) of the pool rules, and brings them to the attention of the individual(s) violating the rules, and the violators will not stop or leave, CONTRACTOR shall have the right to close the pool and ask all patrons to leave the pool area for the balance of the day.
- C. CONTRACTOR will be responsible for wading pool safety based on 7 lifeguards on duty which includes the wading pool. The OWNER will be responsible for gate control.
- D. CONTRACTOR will not be responsible for OWNER's furniture and equipment, or any damages resulting from use, misuse, storage, placement, wind, or any other weather-related phenomenon.
- E. CONTRACTOR will not be responsible for the perimeter barrier of the pool (i.e., fencing), any locking mechanisms of the barrier, or security surrounding the pool area. OWNER shall ensure the same are in place and functional and CONTRACTOR shall secure the facility at close.
- F. CONTRACTOR will perform the following duties, as necessary, to maintain the pool. Not all services may be performed on each visit.
 - 1. Vacuum pool
 - 2. Brush pool
 - 3. Clean skimmer baskets
 - 4. Clean waterline tile
 - 5. Backwash filtration system
 - 6. This clause is intentionally left blank.
 - 7. This clause is intentionally left blank.
 - 8. Test and adjust pool water chemistry
 - 9. Skim leaves from the pool.
- G. If OWNER has a cartridge filter system and the cartridges need to be cleaned more than once per week, CONTRACTOR reserves the right to charge an additional service call fee of \$125.00 to clean/change said cartridges.

PART 4 – PERSONNEL

OWNER acknowledges that the swimming pool industry is heavily dependent upon the international exchange program to provide labor. This program is wholly managed by the US Department of State, and the availability of staff is dependent upon the current political climate and the decisions of the State department. CONTRACTOR has no control over these decisions, and the effect that they may have on the ability to adequately staff your facility. A failure to accommodate staffing requirements as contracted will not be considered a breach of contract. In the event that CONTRACTOR is unable to staff your facility as contracted due to government regulations, and OWNER wishes to terminate this agreement for that reason, then termination may occur at any mutually agreed upon time after CONTRACTOR receives written notification that



OWNER wishes to do so. OWNER will still be responsible for payment for all services, products, and repairs performed through the date of termination. CONTRACTOR shall provide OWNER notice of staffing concerns as soon as possible.

- A. All personnel employed by CONTRACTOR for work under this agreement shall be employed solely by and will be employees of CONTRACTOR and CONTRACTOR will be responsible for paying these employees and shall pay all taxes and costs incident to the work of the employees. CONTRACTOR shall have sole discretion as to the hours and days of work of its employees.
- B. Lifeguards shall be properly certified through a nationally and locally recognized and approved training entity. CONTRACTOR shall provide in-service trainings and unannounced skill drills monthly.
- C. ~~Contracted staffing coverage is based upon expected conditions of usage and location of static guard locations and duties. In the event of changes to these conditions creating an unsafe environment, CONTRACTOR reserves the right to close the facility at any time until all safety deficiencies have been corrected.~~ In the event of changes to conditions creating an unsafe environment, and conditions remain unsafe after notice to the OWNER, CONTRACTOR reserves the right to close the facility at any time until all safety deficiencies have been corrected.
- D. Staff schedules may be adjusted to suit the particular needs of the OWNER. Additional hours or days may be added at the OWNER'S request for an additional fee with prior written approval by CONTRACTOR.
- E. If the facility cannot open or remain open due to staffing or other issues that are solely in the control of CONTRACTOR, OWNER shall receive a credit for the day equal to the full costs of pay that would have been due to all CONTRACATOR employees that day. The credit can be used towards any overage of hours such as but after hour parties. Any credit will be finalized at the end of the season.
- F. At single lifeguard facilities, unless specifically noted in "Special Notes" and facilities without a lifeguard rotation, the lifeguard(s) will clear the pool for fifteen minutes at the top of each hour for safety break and secondary duties. Which may include: self-care, testing and recording water chemistry, light cleaning, checking filter operations, communications with the office. No swimming will be allowed during these fifteen-minute intervals. The lifeguards must take a thirty-minute break. Lifeguards are entitled to leave the facility during this break. The pool and pool area must be cleared and locked during that time. It is anticipated that the facility is staffed so no closures are necessary.

PART 5 - CLIENT CARE / SUPERVISION

CONTRACTOR agrees to conduct site visits to advise OWNER of the general pool operation. At the request of OWNER, CONTRACTOR will meet with the OWNER'S representative to discuss CONTRACTOR's findings at a mutually agreed upon time and interval.

PART 6 – WINTERIZATION

OWNER has declined the following services and is responsible for winterization.

~~CONTRACTOR will perform the following services, using commonly accepted techniques based on the geographical location of the pool and its climate:~~

- A. Backwash and drain filters
- B. Drain pool to proper level. CONTRACTOR will not be responsible for maintaining the water level after winterization.
- C. Drain pumps and hair/lint strainers that require draining.
- E. Drain pool circulating and vacuum lines that require draining and are so constructed that they can be drained.
- F. Store first aid, emergency, maintenance, and test equipment in filter room.
- G. Secure and store automatic chemical feeder if applicable.
- H. Drain and store hoses, rails, and ladders.
- I. Secure pool cover to pool with existing equipment. Missing or broken anchors, springs, and straps are the responsibility of the OWNER to replace or repair. CONTRACTOR may provide pricing to OWNER for these items. CONTRACTOR may decide not to install cover until deficiencies have been corrected. A failure of OWNER to adequately correct these deficiencies relieves CONTRACTOR of its obligation to install the cover under this provision.
- J. Notify OWNER/AGENT on completion of pool closing.
- K. CONTRACTOR will not be held responsible for any freeze damage which may occur to any fresh water plumbing networks. CONTRACTOR highly recommends OWNER have plumbing inspected by a certified plumber upon completion of winterization by CONTRACTOR.
- L. Upon completion of winterization, CONTRACTOR assumes no responsibility for freeze damage, damage to water meters or damage or loss of any equipment or supplies. This includes any freeze break that occurs after April 1 of the following contract year.

OWNER shall be responsible for winterizing all other areas. OWNER shall be responsible for informing CONTRACTOR of all isolated or concealed drain valves. Equipment and supplies will be stored on-site within the pool enclosure.

PART 7 - CHEMICALS AND SUPPLIES

- A. This contract price does not include any chemicals. Chemicals are the responsibility of the OWNER. CONTRACTOR may provide chemicals at OWNER's request with OWNER responsible for payment upon invoicing.



- B. This clause is intentionally left blank.
- C. This clause is intentionally left blank.
- D. This clause is intentionally left blank.
- E. Test Reagents are included.
- F. CONTRACTOR will obtain authorization before providing supplies and completing repairs unless the below conditions are met and notice is not practical, in which case CONTRACTOR shall notify OWNER by the end of the day of the repairs completed or supplies provided and the reason for the same:
 - 1. Supplies/Repairs are required by the Health Department to keep the facility in compliance with state and local jurisdictional regulations.
 - 2. Supplies/Repairs are necessary for the pool to remain open and operate safely.
- G. This clause is intentionally left blank.
- I. In the event that OWNER's pool fresh water supply is distributed with a chemical composition that is unsuitable for regular swimming pool water and requires additional chemical treatment to bring into regulation with required levels, additional billing may occur for those treatments.

PART 8 – OWNER'S RESPONSIBILITIES

- A. OWNER will be responsible for filing all permits and associated fees. If applicable, scheduling and performing of the annual visual I permits and associated fees for electrical inspections, filing for hazmat permits, as well as securing necessary bonding and grounding certifications will be the sole responsibility of the OWNER. CONTRACTOR will not be responsible for any opening delays due to late or unpaid permit fees that are the responsibility of the OWNER or others.
- B. Where applicable, provide Contractor with three (3) sets of working keys and lock box to the pool enclosure and facilities. If three (3) sets of keys are not given to the CONTRACTOR, the OWNER may not bill back any locksmith or new lock charges to the CONTRACTOR. If no lock box is provided to CONTRACTOR, one will be purchased and billed back to the OWNER with a cost not to exceed \$45.00.
- C. Complete all needed repairs inside pool enclosure, such as plumbing, decking, fencing, locking mechanisms, caulking, area lights, depth markings, etc.
- D. OWNER will maintain the perimeter barrier of the pool fence and any and all locking mechanisms of the swimming pool area or enclosure, and will be responsible for security of the pool area. OWNER to ensure that the pool enclosure can be secured by the CONTRACTOR against entry during hours when the pool is not open. This includes fencing that complies with State and Local codes, along with gates/doors that can be locked either by the CONTRACTOR or an automatic electronic system. If the pool area is unable to be secured, or otherwise allows access during hours when the pool is closed; OWNER agrees to indemnify, defend and hold harmless CONTRACTOR from any and all claims, actions, losses, causes of action, damage, lawsuits, and judgments, including attorneys' fees and costs arising out of or relating to the inability to secure the pool area.
- E. If OWNER provides pool furniture (including chairs, lounges, tables, umbrellas and umbrella bases) it will be of good working condition. OWNER will supply one base for each umbrella capable of properly securing the umbrella. CONTRACTOR will not be responsible for any damages to pool furniture or liable for injury to patrons caused by pool furniture.
- F. The OWNER shall ensure that the swimming pool facility complies with all building codes and the Local Health Regulations in effect. CONTRACTOR reserves the right to close the facility to patrons unless all proper safety equipment is in good working condition and available for use by staff, and/or to provide or replace the missing or deficient equipment, and bill OWNER for those items. OWNER is responsible for payment for this equipment, after which the equipment shall belong to the OWNER.
- 1. OWNER must provide lifeguard(s) staff with an umbrella or other suitable shade for use while guarding. If OWNER does not have an umbrella for the lifeguard, CONTRACTOR may purchase and place one at the pool for the lifeguard(s)'s use, and bill OWNER for the umbrella. OWNER is responsible for payment for this umbrella, after which it becomes the property of the OWNER.
- G. OWNER will have a telephone at the pool prior to the official opening date available to the guards at all times. Where pre-opening Health Department inspections are conducted a turn on date of March 15th is required. OWNER shall verify that the telephone provided adequately notifies 911 of the facility location of the facility. If OWNER fails to verify that the telephone provided adequately notifies 911 of the location of the facility OWNER will indemnify and save harmless the CONTRACTOR from liability for any damage or loss of any type which may arise as a result of any type of failure associated with the telephone provided or supplied by the OWNER. OWNER agrees to defend CONTRACTOR against any claims brought or actions filed against the CONTRACTOR with respect to the subject of this indemnity.
- H. OWNER will provide long distance, 900 service, toll and internet blocks to prevent additional charges on any telephone provided. CONTRACTOR is not responsible for any charges incurred on OWNER phones.
- I. OWNER will provide CONTRACTOR and CONTRACTOR'S employees with free parking to service the facility.
- J. OWNER will provide CONTRACTOR with a copy of OWNERS approved pool rules for the community no less than 30 days prior to opening to swimmers. In NYC, these are the same rules attached to the facility's Swimming Pool Safety Plan.
- K. OWNER will provide CONTRACTOR and it's employees a consistently safe working environment. Threats, abuse, and harassment of our employees shall not be tolerated. CONTRACTOR will be the responsible for any harassment among its own employees while any harassment from the OWNER, OWNER's employees or OWNER's patrons shall are the responsibility of the OWNER to correct, and may interrupt service until corrected to CONTRACTOR's satisfaction.



- L. OWNER shall provide, free of charge, adequate and conveniently located well ventilated storage space for cleaning materials and equipment of CONTRACTOR and shall be responsible to CONTRACTOR for the security of such place.
- M. OWNER will provide all utilities, water, electric and gas (if needed) for the operation of the pool.
- 1. If CONTRACTOR arrives on site and finds no water or electricity the OWNER will be moved to the end of the opening list and could potentially cause the pool to open late.
- 2. Water and electricity to the facility must be turned on prior to April 15th to avoid a late opening.
- N. OWNER has an affirmative obligation to notify CONTRACTOR of the name and address of any registered sex offender, known to them, that may have access to the pool area. In the event CONTRACTOR observes any conduct on the part of a registered sex offender which CONTRACTOR believes calls into question the safe operation of the pool, CONTRACTOR has the right to ask them to leave and OWNER agrees to assist CONTRACTOR in removing the individual from the pool area and bar them from returning. In the event OWNER refuses to bar the individual(s) from the pool, OWNER, at their expense, shall provide security during pool operational hours.
- O. OWNER hereby agrees that CONTRACTOR is utilizing OWNER'S property and CONTRACTOR will not be held liable for damage or injury that is caused by OWNER'S equipment failure or condition of the OWNER'S property.
- P. OWNER will provide CONTRACTOR with a fixed water fill line/spout within the pool perimeter or affixed to the deck without the need for a hose to maintain the water level. If the pool does not have a fixed water fill line/spout, OWNER shall be responsible to maintain the water level during the season. OWNER shall provide CONTRACTOR with a telephone number to reach OWNER'S REPRESENTATIVE to advise OWNER the pool needs water replenishment. Failure to answer the request or satisfy the request will result in CONTRACTOR closing the pool until the water level is increased to an acceptable level. OWNER agrees to defend and indemnify CONTRACTOR for any claims for injuries sustained arising out of the pool being filled with any alternative water other than a fixed spout/line
- Q. All filtration rooms must be watertight and have adequate drainage to prevent water damage due to any leaks or water in the room or building. Any water damage to adjacent floors, rooms, or equipment is the sole responsibility of the OWNER

PART 9 - ALCOHOL

CONTRACTOR strongly recommends that alcohol not be permitted within the pool enclosure. OWNER agrees to inform CONTRACTOR if alcohol will be permitted within the pool area. The OWNER shall be responsible for any claims, accidents, injuries, and damages should alcohol play any part in an event at the pool. OWNER agrees to and does hereby indemnify CONTRACTOR and save it harmless and shall defend it from and against any and all claims, damages, liability and judgments in connection with personal injury and/or damage to property arising from or out of any patrons consumption of alcohol prior to or within the pool area. In the absence of express permission of the OWNER authorizing alcohol, OWNER will post conspicuously, independently or as part of the pool rules that alcohol is not permitted. Irrespective of the OWNER'S permission to allow alcohol, if, in the discretion of CONTRACTOR, or their agents, someone arrives at the pool in a condition not suitable to utilize the pool or, as a result of consumption of alcohol within the pool area becomes unsuitable to utilize the pool, CONTRACTOR shall have the right to prevent entry or remove the individual(s) from the pool area. If the individual(s) will not leave voluntarily, CONTRACTOR shall be permitted to close the pool to all patrons and OWNER will assist CONTRACTOR in doing so. CONTRACTOR shall be permitted to call the police to have the offending parties removed as trespassers. In the event that the OWNER allows an organization to drink alcohol at the pool, that organization need to sign an additional waiver and/or indemnifications.

PART 10 - SURVEILLANCE CAMERAS

CONTRACTOR has the right to review any surveillance systems maintained by OWNER or OWNER's AGENT which depicts the front gate to the swimming pool(s), any perimeter fencing around the swimming pool(s) and any area within the pool(s) perimeter fencing and OWNER or OWNER's AGENT will give CONTRACTOR access upon request. If the surveillance equipment records, OWNER or OWNER's AGENT will permit CONTRACTOR to review recordings of the front gate, perimeter fencing and area within the perimeter fencing which contains the pool(s). At CONTRACTOR's request OWNER OR OWNER's AGENT will provide CONTRACTOR with any portion of the recording CONTRACTOR requests in a format readily available to the public at large or provide CONTRACTOR with the software necessary to review the recording at a later date. There shall be no cost to CONTRACTOR to obtain the recording if CONTRACTOR provides OWNER or OWNERS AGENT with a storage device capable of maintaining the data. It is understood that the OWNER may not have surveillance cameras showing these areas.

PART 11 - INSURANCE

- A. CONTRACTOR currently maintains Comprehensive General Liability insuring the legal liability for bodily injury and property damage for a combined limit of One Million Dollars (\$1,000,000) per occurrence, and covering at least the following hazards: (a) CONTRACTOR'S Premises and Operations; (b) CONTRACTOR'S Protective for its legal liability in connection with sub-contractor's operations; and (c) Contractual.
- B. CONTRACTOR shall name the owner as an Additional insured on all insurance policies.
- C. CONTRACTOR maintains Employers Liability insuring the legal liability for bodily injury of all employees of the CONTRACTOR for limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for disease for each employee and One Million Dollars (\$1,000,000) for Disease Policy Limit.
- D. Workers Compensation Insurance as required by state statute, covering all employees of the Contractor.



- E. CONTRACTOR maintains Automobile Liability insuring the legal liability for bodily injury and property damage for a combined single limit of not less than One Million Dollars (\$1,000,000) per accident and covering any accident arising out of or resulting from the operation, maintenance or use by the CONTRACTOR on the Property of any owned, non-owned or hired automobiles, trailers or other vehicular equipment to be licensed.
- F. CONTRACTOR currently maintains Excess Liability totaling Thirty Six Million Dollars (\$36,000,000) in excess of liability limits shown in A, B and C. In the event CONTRACTOR'S coverage falls below Ten Million Dollars (\$10,000,000), the CONTRACTOR will endeavor to notify OWNER.
- G. OWNER agrees to and does hereby indemnify CONTRACTOR and save it harmless and shall defend it from any claims resulting from the negligence of the OWNER to the extent permitted by law. CONTRACTOR agrees to and does hereby indemnify OWNER and save it harmless and shall defend it from any claims resulting from negligence of the CONTRACTOR to the extent permitted by law. ~~and any and all other persons, firms, and corporations, both known and unknown of and from any and all past, present and future actions, causes of actions, suits, judgments, claims, demands, damages, costs, loss of services, expenses, and all consequential damage, in law or in equity, known and unknown, foreseen and unforeseen, past, present, and future, for which it now has or may hereafter arising from or out of maintenance, operation, repairs or use by the OWNER and/or its agents, servants, employees, invitees, licensees, contractors and/or trespassers or any breach of the Agreement.~~
- H. OWNER will maintain general liability insurance policy of at least Five Million Dollars (\$5,000,000) evidencing property damage, bodily injury, products & completed operations, contractual liability and personal injury coverage for the subject premises, including the pool area OWNER will provide to Contractor a certificate of insurance evidencing the coverage naming Contractor as additional insured. OWNER expressly waives all rights of subrogation against CONTRACTOR for damages caused by perils to the extent covered by insurance obtained or required to be obtained pursuant to this Agreement, or any insurance coverage applicable to the premises which is the subject of this Agreement. The waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly and whether or not the person or entity has an insurable interest in the property damaged.
- I. OWNER agrees to inform CONTRACTOR of any activities conducted at the pool during hours not listed in the General Specifications per Part 1 and organized activities during hours specified in Part 1 (i.e. pool parties, camps). The OWNER shall be responsible for any claims, accidents, injuries, and damages during such activities. ~~OWNER agrees to and does hereby indemnify CONTRACTOR and save it harmless and shall defend it from and against any and all claims, damages, liability and judgments in connection with personal injury and/or damage to property arising from or out of maintenance, operation or use by the OWNER and/or its agents, servants, employees, invitee's, and licensees 1) outside of the hours listed in the General Specifications, 2) during any organized activities, and 3) brought forth by other contractors and/or trespassers.~~

PART 12 - ADDITIONAL PROVISIONS

- A. CONTRACTOR may use pool facility for lifeguard training with prior permission from the OWNER. In-service training and auditing of staff shall occur unannounced throughout the season.
- B. CONTRACTOR is not responsible or liable to any person or entity for any COVID-19 or other disease or bacterial related illness or death. To the extent permissible by law, OWNER shall indemnify and defend CONTRACTOR against any and all such related claims and suits.
- C. In the absence of local Health Department code or regulation, CONTRACTOR shall use best practices and industry guidelines when determining operational procedures.
- D. CONTRACTOR will not be responsible for gate control, hot tub, or wading pool safety unless this position has been designated and staffed as a guarded position and is accounted for in the staffing requirements listed on this Agreement.
- E. The payment schedule on the Specifications Page (1) is included for accounting purposes and does not necessarily relate to service provided during that specific time period. Payment in full of the total contract amount due is expected regardless of this schedule.
- F. All filtration rooms must be watertight and have adequate drainage to prevent water damage due to any leaks or water in the room. Any water damage to adjacent floors, rooms, or equipment is the sole responsibility of the Owner.
- G. CONTRACTOR will advise the OWNER of needed repairs prior to and during the operating period. All repairs needed to render the pool in operational condition will be the responsibility of the OWNER at their expense. CONTRACTOR, if requested by the OWNER, may perform, arrange for, or supervise the work at an agreed upon fee.
- H. REPAIRS, BILLS, AND INVOICES: OWNER shall pay all repair bills and invoices submitted by CONTRACTOR within 30 days of receipt. All materials supplied by CONTRACTOR remain the property of CONTRACTOR until materials are paid in full. If paying by credit card for an invoice, a 3.1% convenience fee will be charged at the time of processing the credit card payment. To the extent any repairs are made pursuant to a separate agreement, failure to make timely payment of the repair agreement shall be considered a breach of this agreement entitling CONTRACTOR to close the pool until payment has been made. Additionally, CONTRACTOR, at its sole option, shall have the right to declare this Agreement terminated and immediately cease to provide any and all services, supplies, and personnel to OWNER at this pool site. This provision does not limit or preclude CONTRACTOR right to take legal action for non-payment and damages associated with OWNER's failure to make payment.
- I. All applicable sales taxes (i.e. Federal, State) for any equipment, labor, chemicals, or any other sales are not included in the prices represented by CONTRACTOR and shall be applied as an extra amount to all invoices.
- J. This clause is intentionally left blank.



K. The CONTRACTOR will invest substantial resources to train its employees and convey information concerning operational techniques and management procedures to its employees at the OWNER's facility and OWNER acknowledges that such information and investment is a valuable asset of the CONTRACTOR's business. Therefore, OWNER agrees that if OWNER employs any NEW Assigned Employee (any NEW employee assigned by CONTRACTOR to work for OWNER at OWNER's pool facility and performs work there during the term of this agreement) of CONTRACTOR's as a direct employee, independent contractor, or through any person or firm other than CONTRACTOR during the term of this agreement or within one (1) year after any Assigned Employee performs work at OWNER's pool facility, OWNER must notify CONTRACTOR in writing and agrees to compensate CONTRACTOR a fee in the amount of thirty percent (30%) of the total contracted amount specified on Page 1 of this Agreement. This does not apply to any staff member that was previously employed by the OWNER prior to the written signed agreement with CONTRACTOR.

L. It is agreed that the OWNER shall pay any increase in insurance, payroll taxes, or minimum wage cost which the CONTRACTOR may incur after the preparation of this Contract. The CONTRACTOR will provide evidence of any such cost increases. If insurance or payroll taxes are increased, the Owner shall pay to the CONTRACTOR the amount of the increase on a per hour basis (i.e., increase per hour times number of affected contracted man hours). If the minimum wage is increased, the Owner shall pay to the CONTRACTOR the amount of the wage increase per hour (i.e., increase per hour times number of affected contracted man hours), plus 18% for taxes, Workers' Compensation Insurance)

M. In the event that OWNER shall become bankrupt, insolvent, or shall make a voluntary assignment for the benefit of creditors, CONTRACTOR, at its option, may terminate this agreement immediately.

N. OWNER hereby agrees to contract with CONTRACTOR to manage and operate the pool site during the term of this Agreement. If OWNER is not the actual OWNER of the pool site, but rather a management company or person acting as the agent of the OWNER of the property, OWNER hereby declares and affirms that it is acting within the scope of its authority in entering into and executing this Agreement.

O. This clause is intentionally left blank.

P. This Agreement may not be amended or modified except by written instrument executed by the parties.

Q. It is agreed and understood that in the event any sums of money which are due to CONTRACTOR under and by virtue of this agreement are not paid in full by OWNER within thirty (30) days subsequent to the receipt of an invoice for the same, said sum shall bear interest at the rate of 1.5% per month. This provision shall be applicable in addition to any rights and remedies which CONTRACTOR may have under any other provisions of this agreement.

R. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania, where CONTRACTOR is domiciled.

S. CONTRACTOR shall make the decision with OWNER ~~have the authority to close the pool during inclement weather.~~ Weather shall be considered "inclement" when there is cloud cover and temperatures fall below 70 degrees, or in the case of rain or other precipitation. ~~CONTRACTOR shall have the right to not open the pool or to close the pool early in the event of severe weather.~~ Should the pool not open to swimmers by 4pm on any day due to inclement weather, the pool will be closed for the remainder of the day subject to the OWNER's approval. CONTRACTOR's policy regarding pool closure due to thunder and lightning is based on the recommendations of the National Lightning Safety Institute. At the first sound of thunder or sight of lightning, the pool and pool deck will be cleared of and closed to patrons. It shall reopen when thirty (30) minutes have passed without another instance of thunder or lightning. In the absence of thunder and lightning, the pool may also be cleared of swimmers due to excessive rainfall that obscures the bottom of the pool. The pool will be closed until the lifeguard is able to properly scan the bottom without their vision being obscured or disrupted by the rainfall. ~~There are no refunds or credits due to OWNER for inclement weather or severe weather closure.~~ An audit of the hours will be completed at the end of the season to determine if a credit is due from inclement weather.

T. Storm related clean up, broken glass vandalism, fecal treatment and other services not included in this Agreement that are performed by CONTRACTOR will be billed to OWNER separately from this Agreement.

U. ~~If the pool is scheduled to be closed on any holiday during this agreement, it shall remain open and be closed the following day, unless otherwise noted.~~

V. CONTRACTOR cannot be held liable for any hydrostatic conditions that cause damage to the pool structure, pool components, and surrounding areas.

W. Restrictive endorsements or other statements on checks accepted by CONTRACTOR will not apply and in no way alter this contract.

X. If "Part 1 school hours" are active as part of this contract, CONTRACTOR has set a ~~school date of 5/25/2024~~ 6/8/2024 as the date the pool will go fulltime. Contractor has set a school dates of 5/25/2024 - 6/7/2024 and 8/19/2024 - 9/2/2024 as the dates the pool will operate part time.

Y. If OWNER is required to provide an Automated External Defibrillator "AED" due to State, County or municipal code, and has not done so, CONTRACTOR reserves the right to supply these items and invoice OWNER. CONTRACTOR strongly recommends that all facilities regardless of code have an AED on site.

Z. OWNER must supply first aid supplies (first aid kit, eye wash station, backboard with head immobilizer, rescue tube, and CPR masks) at the facility. In the event that supplies are needed and are not readily located on-site, CONTRACTOR may provide and bill separately to OWNER. If first aid supplies are not present at the facility, CONTRACTOR may close the pool until the first aid kit is adequately stocked.

AA. A test kit is required in accordance with local Health Department. If a test kit is not on site, one will be provided by CONTRACTOR and billed to OWNER.

BB. CONTRACTOR cannot guarantee the pool will open on the scheduled opening day if the contract is signed less than 60 days



CC. The pool's staffing requirements must cover all zones of protection at all times the pool is open to swimmers. In the event of a change in environment necessitating smaller zones and/or more staff members, CONTRACTOR shall provide OWNER with a proposal to increase staffing requirements to maintain safety standards. CONTRACTOR always reserves the right to close the pool to patrons in the event of an inability to meet safety standards.

DD. OWNER agrees to indemnify and hold harmless CONTRACTOR from any and all claims, actions, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs arising out of or relating to broken glass or any other foreign objects in the pool area, unless such broken glass or foreign objects were brought into the pool by CONTRACTOR or its employees or while CONTRACTOR is providing services at the pool and in such case CONTRACTOR shall indemnify and hold harmless OWNER from any and all claims, actions, losses, causes of actions damage, lawsuits, judgements including attorney's fees and costs. CONTRACTOR strongly recommends the pool be drained and cleaned to remove glass and other objects thoroughly.

EE. If a vendor agreement is required for the execution of this contract, the language in this contract body will supersede that of the vendor agreement.

FF. It is expressly agreed and understood that CONTRACTOR will not be liable to any person for any loss, injury and/or damage sustained by said person as a result of the use of the pool or its facilities, save and excepting that caused by gross-negligence of CONTRACTOR or its employees. CONTRACTOR is also exempt from liability due to mechanical failure of equipment, damage to the pool due to faulty construction, damage to buildings or equipment due to lack of adequate drainage, defective workmanship or hydrostatic conditions.

GG. This clause is intentionally left blank.

HH. This clause is intentionally left blank.

II. **SERVICE ANIMALS** – In accordance with local Health Department guidelines and laws, only "Service Animals" or "Emotional Support Animals" will be permitted within the pool enclosure. All other animals shall be barred from within the pool enclosure. "Service Animals" or "Emotional Support Animals" must be under the control of the handler. They must be harnessed, leashed or tethered, unless the individual's disability prevents using these devices or these devices interfere with the animals safe, effective performance of tasks. The individual must be able to maintain control of the animal through voice, signal, or other effective controls. **IN NO CIRCUMSTANCES SHALL THE ANIMAL BE ALLOWED TO ENTER THE WATER.** CONTRACTOR shall remove any individual, and their animal if the animal attempts to enter the water. CONTRACTOR shall close the pool and verify that the water is in satisfactory condition before reopening the pool to patrons.

JJ. If OWNER has a cartridge filter system and cartridges need to be cleaned more than once per week, CONTRACTOR reserves the right to charge an additional service fee of \$125 to clean and/or change cartridge filter elements.

KK. The payment schedule on the Specifications Page is included for accounting purposes and does not necessarily relate to services provided during that specific time period.

LL. The contract price for the proposed Scope of Work has been calculated based on current prices for all necessary chemicals, fuel, materials, and labor; however, the current market is volatile and sudden price increases may occur. Company agrees to use best efforts to obtain the lowest prices for materials, chemicals, fuel, from available suppliers, but if a sudden increase in costs occurs after the execution of this proposal, Customer agrees to pay the increased cost. Any claim by the Company for payment related to a price increase shall require written notice from the Company to the Customer setting forth the increased cost, the material(s) in question, and the source of the supply. Chemicals are not included. IF OWNER purchases chemicals from CONTRACTOR, the price will be given to the OWNER prior to delivery and invoicing.

PART 13 - CLOSURES

CONTRACTOR reserves the right to close the pool in an emergency situation, inclement weather, breakdown of equipment, inadequate security for the protection of the lifeguard at the facility, violation of local or state ordinance, or any other condition or circumstance which, in the sole judgement of CONTRACTOR, endangers the health or safety of the lifeguard(s) or patrons, which shall not constitute a breach by CONTRACTOR. If the emergency event causes the pool facility to be closed for more than seven (7) consecutive days and such event was not caused by any act or omission of the OWNER, then CONTRACTOR shall refund to the OWNER all unused lifeguard(s) hours from that date forward that the facility is closed. The rate of refund shall be defined as hours multiplied by ~~minimum~~ actual wage that would have been paid to employees. Owner acknowledges that Pools must not create a public nuisance. Stagnant (uncirculated) and untreated water encourages algae growth and insect breeding. OWNER must ensure water recirculates and water chemistry is maintained at minimum levels. In the event of closure longer than seven (7) consecutive days, CONTRACTOR shall visit and adjust chemicals at the pool a minimum of once per week. The cost of any maintenance shall be deducted from the unused guard hours credit. Additional maintenance may be recommended and will be deducted from unused lifeguard(s) hours credit if authorized.

PART 14 - HYDROSTATIC CONDITIONS

OWNER is solely responsible for determining a) the existence and/or risk of a high water table condition and b) the presence and functionality of any hydrostatic relief valves and notifying CONTRACTOR of such. Unless these determinations are made by OWNER and submitted to CONTRACTOR in writing, CONTRACTOR will not be responsible for any damage caused by hydrostatic conditions when the pool is drained such as in cleaning, repair, or renovation.



PART 15 - DEFAULT

In the event that OWNER fails to make any of the payments required hereunder or fails to comply with any of the terms of this Agreement, the OWNER shall be in default and CONTRACTOR, at its sole option, shall have the right (i) to suspend all management and maintenance services until account is paid in full, (ii) to declare this Agreement "terminated" and immediately cease to provide any and all services, supplies and personnel to OWNER at the pool site or elsewhere, and (iii) avail itself of any and all remedies, both legal and equitable, it may be entitled to at the time of default, to specifically include but not be limited to the damages set forth below in damages due to termination

In the event that either party considers the other to have breached any provision of this Agreement or failed to perform or unsatisfactorily performed any obligation under this Agreement, that party shall have the right to terminate the agreement provided hereunder, provided: (1) a certified written complaint is made promptly to other party stating the precise nature of the deficiencies in performance and/or quality of service; (2) the other party has not corrected the deficiencies within seven (7) days from the date written notification is received; and (3) the notifying party has complied in all material respects with its obligations under this agreement. Unless the notifying party complies with Agreement, the notifying party shall not be entitled to set off, reduce, offset or claim consequential damages or any other deduction whatsoever, for nonperformance of this agreement.

PART 16 - DAMAGES DUE TO TERMINATION

In the event of termination of service by either party under the terms of this Agreement for any reason, it is expressly agreed and understood that CONTRACTOR shall be entitled to retain all sums of money previously received from OWNER, and shall be entitled to collect all sums of money due including reasonable attorney's fees under the terms of the Agreement, in the event litigation or debt collection is required. The fees for any chemicals, supplies, labor, or other services provided are also due upon termination. In the event of a breach or termination of this Agreement by OWNER prior to CONTRACTOR beginning pre-opening operations as defined in Part 2, CONTRACTOR shall be entitled to 20% of the total contract price as compensation.

PART 17 - BINDING EFFECT

The terms and provisions of this Agreement shall be binding on the OWNER, its successors and/or heirs and to the benefit of CONTRACTOR and its successors and assigns. OWNER shall not have the right to assign, pledge or encumber in any way any part of its interest in this Agreement without the prior written consent of CONTRACTOR. CONTRACTOR, however, shall have the right to assign any and all rights, services and obligations under this Agreement. If OWNER has provided CONTRACTOR documents as addendum to this agreement, should any term or provision of one document conflict with a term or provision of the other, the terms or provision contained in CONTRACTOR'S contract shall control.

PART 18 – SEVERABILITY

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, it shall not affect the enforceability of any other provision of this Agreement. Rather, the invalid, illegal, or unenforceable provision shall be deemed severed from this Agreement, and this Agreement shall be enforced as if the Agreement did not contain the invalid, illegal, or unenforceable provision.

PART 19 - MISCELLANEOUS

This contract embodies the entire understanding between the parties, and there are no other agreements, representations or warranties in connection therewith. IN WITNESS HEREOF, the parties hereto have signed this contract by their duly authorized representative and/or agents who represent that they have the express authority to enter this agreement on behalf of each party.

The CONTRACTOR has the option to void this Agreement if it is not signed and returned by the OWNER within 30 days from date of submission.

PART 20 - FORCE MAJEURE

CONTRACTOR will be relieved of its obligations under this contract in whole or in material part if the failure to perform is due to any occurrence beyond the CONTRACTOR'S control, including without limitation, acts of God, fire, natural disaster, war, power failures, accidents, labor shortages, pandemics, epidemics, or government restrictions of any kind. OWNER's sole remedy will be the credit of any unused guard hours as dictated by this agreement.

PART 21 – ACCOUNTS PAYABLE

All invoices for services performed by CONTRACTOR pursuant to this agreement shall be provided to the following:

Name:

Address:



If invoices are to be electronically submitted by CONTRACTOR, they shall be sent via email to the following email address to the attention of_____

If OWNER has an electronic system other than email for the purposes of processing invoices OWNER shall provide the name of the system:_____. OWNER will provide written instructions to CONTRACTOR, within thirty (30) days, directing CONTRACTOR how to comply.

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. This Agreement is a valid and legally binding obligation of OWNER and is fully enforceable against OWNER and the party which owns and operates the pool facility.

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American Pool Management Of Pittsburgh, LLC

OWNER agrees to terms

**American Pool Management Of Pittsburgh, LLC
Representative Signature**

Owner or Authorized Agent for Owner Signature

Print Name

Sign Date

Print Name

Sign Date