

Governing Body Agenda Item

Name/Department: Parks and Recreation

Meeting Month: August 2010

Meeting Week:

(Week 1) Business Meeting/Consent

(Week 3) Regular Meeting/Consent X

Time Sensitive? Yes X No

Topic: Swimming Pool Management Services for Natatorium

Brief Summary of Topic: The Department of Parks and Recreation is requesting authorization to advertise a solicitation to procure professional services to possibly provide Swimming Pool Management services for the Community Center natatorium. The intent is to explore the market to determine if cost savings can be achieved via outsourcing the aquatic management of the indoor facilities.

Thank you for your consideration.

GOVERNING BODY AGENDA ITEM

Name/Department: Catherine Morretta/Parks and Recreation

Topic: Aquatic Management Services for the Natatorium.

Brief Summary of Topic: The Department of Parks and Recreation is requesting approval to advertise for Aquatic Management Services for the Indoor facilities within the new community center.

Thank you for your consideration.

THE CITY OF MANASSAS PARK



City of Manassas Park
Department of Parks and Recreation

**Request For Proposals
Swimming Pool Management Services
Manassas Park Community Center Natatorium**

Project No. MPCC 01
Due Date: September 14, 2010 – 10:30 a.m.
Manassas Park Community Center

NOTICE TO OFFERORS

Request For Proposals

Swimming Pool Management Agreement

PROPOSALS DUE: 10:30 a.m., September 14, 2010 at the City of Manassas Park
Community Center, 99 Adams Street, Manassas Park, Va 20111

PROJECT NAME: Swimming Pool Management Agreement
Manassas Park Community Center Natatorium

REQUEST FOR STATEMENTS OF QUALIFICATIONS Copies of this Request For Proposals may be obtained at
City Hall, 1 Park Center Court, Manassas Park, Virginia 20111
or the Department of Parks and Recreation at
99 Adams Street, Manassas Park, Virginia 20111

Call 703-335-8871 for an electronic copy.

SELECTION SCHEDULE: RFP Available: August 18, 2010
Proposals Due: September 14, 2010
A selection committee will review all bids, references, and
facilities before making a selection for recommendation to the
Governing Body for consideration of contract approval.

PROJECT LOCATION: 99 Adams Street, Manassas Park, Virginia 20111

PROJECT DESCRIPTION: The intent and purpose of this RFP is to establish a contract through competitive sealed proposals for aquatic management services for the Manassas Park Community Center Natatorium. The successful Offeror will enter into an agreement with the City for aquatic management and shall be able to provide such services adhering to state, and local requirements, codes and applicable standards.

OWNER: The City of Manassas Park
1 Park Center Court
Manassas Park, Virginia 20111

CONTACT: Catherine Morretta, Parks and Recreation Director 703.335.8871

The City of Manassas Park reserves the right to accept or reject any or all proposals.

Advertisement

The City of Manassas Park, One Park Center Court, Manassas Park Virginia 20111 is requesting bids from qualified Offerors to establish a contract through sealed bids for swimming pool management services for Natatorium located at the Manassas Park Community Center, 99 Adams Street, Manassas Park, Virginia.

Sealed bids will be received by the City of Manassas Park, One Park Center Court, Manassas Park Virginia until 10:30 a.m., September 14, 2010, at which time they will be publicly opened and read aloud for the Aquatic Management Services.

The right is reserved to reject any or all bids, and to re-advertise and award the contract in the regular manner or to waive any informality, irregularity, mistake, error or omission in any bid received and to accept any bid deemed to be most favorable to the interests of the City of Manassas Park, Virginia.

Copies of the Swimming Pool Management Services RFB may be obtained at the City Clerk's Office, One Park Center Court, or the Department of Parks and Recreation, 99 Adams Street, Manassas Park, Virginia.

All questions pertaining to this project must be in writing (legible, handwritten faxes are acceptable) and directed to Catherine Morretta, Director of Parks and Recreation, fax (703) 335 – 9045, email c.morretta@manassasparkva.gov.

Bids will be taken under advisement and the award of a Contract, if awarded, will be made within thirty (30 days) after acceptance by the City.

Introduction

The City of Manassas Park (the "City") is soliciting sealed proposals from qualified Offerors (individually, an "Offeror"; collectively, "Offerors") to establish a contract through competitive sealed proposals for aquatic management service for the Natatorium located in the Manassas Park Community Center through the issuance of this request for proposal (this "RFP"). This RFP and resulting contract (the "Contract") shall be established using procedures applicable to procurement of professional services under the Code of Virginia. All interested parties may submit proposals to provide aquatic management services to the City.

I. Miscellaneous and Related Information

The City reserves the right to obtain any services provided pursuant to this RFP by soliciting additional request for proposals if determined to be in the City's best interest to do so.

Any project representative or on-site representative designated by the City pursuant to this RFP (a "Project Representative" and "On-Site Representative", respectively) shall have no authority to bind the City, unless such authority is expressly provided by the City in writing. The City's designation of a Project Representative or On-Site Representative shall not be deemed to relieve the successful Offeror of any responsibilities under the Contract.

The successful Offeror's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the work.

II. Scope of Services

At the direction of the Parks and Recreation Director (the "Director"), the successful Offeror shall provide services that meet or exceed the requirements contained in Exhibit "B", herein (the "Scope of Services").

III. Content of Proposal

Each proposal shall be as thorough as possible so that the City may properly evaluate each Offeror's capabilities to provide the required goods/services. Proposals received pursuant to this RFP will be evaluated using the following criteria:

- A written narrative statement to include experience in providing the goods/services described herein; names, qualifications and experience of personnel to be assigned to the project; and resumes of staff to be assigned to the project.
- A detailed cost statement.
- Copies of current licenses.

- Insurance: The successful Offeror must provide a statement indicating that are it is able to procure and maintain, without interruption and on an occurrence basis, public liability insurance in the amount of \$10,000,000.00 (Ten Million Dollars) to cover property damages and/or accidents and personal injuries that may be sustained by any patron or use of facilities. The insurance coverage shall name the City, its elected officials, officers, agents and employees as additional insured and shall be primary as to any overlapping coverage carried by the city.
- Three (3) letters of reference.
- A performance bond covering faithful and satisfactory performance of the work contracted in an amount not less than one hundred (100%) of the Contract Amount. All goods shall be issued by companies authorized to transact business in the Commonwealth of Virginia.
- The strength of the firm's designated project manager and his/her knowledge and understanding of the City.
- The firm's demonstrated ability to stay on time and within budget.
- Complete Proposal Statement, attached hereto as Attachment 'A'.
- Complete Contractor Data Sheet, attached hereto as Attachment 'B'.
- Complete List of Similar Work, attached hereto as Attachment 'C'.

IV. Selection Process

- Proposals will be received by the City prior to 10:30 a.m. on May 20, 2010 at the Community Center, 99 Adams Street, Manassas Park, Virginia 20111.
- A selection committee comprised of the Parks and Recreation Director, the Deputy Director of Parks and Recreation, and the Aquatics Supervisor will review and evaluate the written proposals. At the discretion of the selection committee, the committee may choose to short list and interview those firms that it deems to be the top prospects. The committee may request additional information from the firms to be interviewed.
- The City will evaluate the proposals using the following criteria:
 - Favorable references from current commercial and/or government accounts (20)
 - Total Amount (45)
 - Experience in aquatics management (30)
 - Bond, licenses and insurance (5)

- Make staff recommendations.
- Present staff report to the Governing Body.
- Governing Body will make selection of firm and enter into negotiations with selected firm upon the City Attorney's approval of contractual documentation.
- The finalization of the Contract will be concluded upon completion of review by the City Attorney and documentation is signed by the Mayor of the City of Manassas Park.

The City of Manassas Park reserves the right to:

- Disqualify incomplete proposals.
- Waive minor defects in the proposals submitted.
- Request additional information from respondents.
- Change the nature or scope of projects without penalty.
- Negotiate terms with one or more of the short-listed firms.
- Reject any or all proposals without penalty.
- Select a firm directly from the proposals without follow-up interviews.
- Take any steps deemed necessary to act in the City's best interest.

V. Services Agreement

Following approval by the Governing Body, the City will provide to the selected firm an approved notice of award (the "Notice of Award") and three copies of the Contract. The Contract must be executed and returned with proof of insurance within ten (10) calendar days of the date indicated on the Notice of Award.

VI. Information to be submitted

To be considered, three (3) copies of each proposal must be received at the City of Manassas Park Community Center, 99 Adams Street, Manassas Park, Virginia 20111 no later than May 20, 2010 at 10:30 a.m. Questions may be addressed to Catherine Morretta by telephone at 703.335.8871 or by email at c.morretta@manassasparkva.gov

VII. Interpretations and Addenda

All questions about the meaning or intent of the Contract Documents are to be directed to

the Parks and Recreation Director. Interpretations or clarification considered necessary by Owner's Representation in response to such questions will be issued by Addenda and mailed or otherwise delivered to all parties recorded by Owner's Representative as having received the Proposal Documents. Questions received less than 48 hours prior to the opening of Proposals will not be answered. Only questions answered by formal written Addenda will be binding. No oral and other interpretations or clarification will be considered official or binding.

VIII. Examination of Contract Documents and The Site

It is the responsibility of each Offeror, before submitting a proposal, to:

- Examine the Contract Documents thoroughly;
- Visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing the Work;
- Consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the work contemplated by this RFP ("the Work");
- Study and carefully correlate Offeror's observations with the Contract Documents;
- Notify the City of all conflicts, errors or discrepancies in the Contract Documents;
- and

Upon request in advance, the City will provide each Offeror access to the site, as each Offeror deems necessary for submission of a Proposal.

IX. Substitute or "or Equal" items:

The materials and equipment described in the Contract Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless a written request for approval has been submitted by the Offeror and has been received by the City at least seventy two (72) hours prior to the date for receipt of Proposals or until after the Contract for the Work has been signed. Each such request shall include the name of the material or equipment which is to be substituted and a complete description of the proposed substitute, including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that the incorporation of substitutes would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Offeror. The City's decision of approval or disapproval of a proposed substitution shall be final. If the City approves any proposed substitution before the date for receipt of proposals, such approval will be set forth in an addendum issued to all prospective Offerors. Offerors shall not rely upon approvals made in any other manner.

XI. Performance Bonds:

Each Offeror is required to furnish a performance bond covering faithful and satisfactory performance of the work contracted in an amount not less than one hundred percent (100%) of the total amount for completion of the Work as stated in the Contractor's Proposal document.

Companies authorized to transact business in the Commonwealth of Virginia shall issue all bonds.

ATTACHMENT 'A'
CONTRACTOR'S PROPOSAL

Manassas Park Community Center, Natatorium	\$

ATTACHMENT 'B'
CONTRACTOR DATA SHEET

CONTRACTOR'S EXPERIENCE
AND
DATA INFORMATION

Name of Company:

Company Years in Business:

List of Municipal Projects
(Similar Projects in Size and Scope Completed in Last Five Years)

List of Municipal Projects				

Contract Manager and Pool Manager Information

Include Contract Manager proposed for the project, years of experience as a contract manager,
Pool Manager proposed for the project, and years experience as Pool Manager.

Contract Manager and Pool Manager Information		

Contract Manager and Pool Manager Information		

ATTACHMENT 'C'
LIST OF SIMILAR WORK

References: Name 5 Projects of similar work, giving owner's name, representative's name, project engineers name, and telephone numbers for each

1. _____

2. _____

3. _____

4. _____

5. _____

EXHIBIT A

AQUATIC MANAGEMENT SERVICES

COMMUNITY CENTER NATATORIUM

SERVICES AGREEMENT

THIS AQUATIC MANAGEMENT SERVICES AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 2010, by and between THE CITY OF MANASSAS PARK, a Virginia municipal corporation (the "City"), and _____, a Virginia corporation (the "Contractor").

WITNESSETH:

WHEREAS, the City desires to have certain aquatic management services performed, which services require specialized skills and other supportive capabilities; and

WHEREAS, the City lacks sufficient resources to provide such services; and

WHEREAS, the City has advertised a request for proposals dated June 16, 2010 (the "RFP"), which RFP is attached to this Agreement as Exhibit A and incorporated herein by this reference; and]

WHEREAS, in response to the RFP, the Contractor has submitted a proposal for aquatic management services entitled "Aquatic Management Services" (the "Proposal"), which Proposal is attached to this Agreement as Exhibit B and incorporated herein by this reference; and

WHEREAS, the City has determined that the Contractor's Proposal is responsive to the RFP and meets the needs of the City, and that the Contractor is responsible, qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and tasks set forth in this Agreement, and therefore desires to contract with the Contractor in accordance with the terms and conditions of the RFP, the Contractor's Proposal and the Virginia Public Procurement Act (Va. Code § 2.2-4300 et. seq.).

NOW, THEREFORE, in consideration of the foregoing recitals, each of which is hereby incorporated herein by this reference, and the terms, conditions, covenants, and obligations contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Contractor shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are set forth in the Proposal (the "Scope of Services"). The work performed will be bound by the specifications according to this Agreement and the following documents, which documents are incorporated herein by reference:

- A. The City's RFP(Exhibit A)
- B. Contractor's Proposal (Exhibit B)
- C. The City's Performance Bond
- D. The City's Insurance Certificates

2. TERM.

The initial term of this Agreement (the "Initial Term") shall commence on the date of execution of this Agreement (the "Effective Date") and shall terminate on the date that is one (1) year following the Effective Date. The term of this Agreement may be extended for up to four (4) additional 1-year periods (each, an "Additional Term" and, together with the Initial Term, individually referred to as the "Term"), provided that either the City's City Manager (the "City Manager") or the City's Parks and Recreation director (the "Parks and Recreation Director"), as the designated representative of the City's governing body, has first authorized each such extension prior to the expiration of the then-current Term. If the City Manager or the Parks and Recreation Director has not authorized such extension prior to the expiration of the then-current Term, this Agreement shall be deemed to have been terminated as of the date of such expiration and shall thereafter have no further force and/or effect, except for those provisions that by definition necessarily survive the termination of this Agreement (e.g., liability).

3. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services included in the Scope of Services shall be made monthly following the performance of such services in accordance with the fee schedule included in the Proposal.

B. No payment shall be made for any service rendered by the Contractor except for services identified and set forth in this Agreement.

C. The Contractor shall submit to the City Manager or his designee, on a form approved by the City Manager, an invoice for services rendered during the prior month. The City shall make payment to the Contractor within thirty (30) days from receipt thereof. Requests for more rapid payment will be considered if a discount is offered for early payment.

D. For all work outside the Scope of Services, the Contractor shall submit a task proposal based on direction by the City. The City shall pay the Contractor for such work in accordance with the Proposal and the RFP.

4. MAINTENANCE OF RECORDS; REPORTS AND INSPECTIONS.

A. The Contractor, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.

B. The Contractor shall retain all books, records, documents, data and other material relevant to all matters covered, directly or indirectly, by this Agreement for a period of six (6) years after the expiration of this Agreement. The Contractor shall at all reasonable times during said 6-year period, and as often as the City may deem necessary in its sole discretion, make available for examination and permit the City or its designated authorized representative to audit and inspect all such books, records, documents, data and other material.

C. The City Manager or his designee shall have full access and right to examine any of said books, records, documents and other materials at all reasonable times during said 6-year period.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. The parties intend that an independent Contractor/City relationship will be created by this Agreement. No employee, agent, or representative of the Contractor shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees, agents, and representatives of the Contractor are not entitled to any of the benefits the City provides for its employees. The Contractor will be solely and entirely responsible for its acts and for the acts of its employees, agents, representatives, and subcontractors during the performance of work contemplated by this Agreement (the "Work").

B. In the performance of the Work, the Contractor shall be an independent contractor with the authority to control and direct the performance of the details of the work; provided, however, that the results of the Work must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. CONTRACTOR'S EMPLOYEE/AGENTS/REPRESENTATIVES.

The City may at its sole discretion require the Contractor to remove any employee(s), agent(s), or representative(s) from employment on City projects. The Contractor may, however, employ such individuals(s) on other projects not related to City projects.

7. INSURANCE.

A. The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees, or subcontractors. The Contractor shall provide a certificate of insurance from its insurance company (a "Certificate of Insurance") evidencing:

1) PUBLIC LIABILITY INSURANCE in the amount of ten million dollars (\$10,000,000) to cover property damages and/or accidents and personal injuries that may be sustained by any patron from use of facilities.

1) **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability insurance written on an occurrence basis with limits no less than two million dollars (\$2,000,000) combined single limit per occurrence and four million dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage.

2) **AUTOMOBILE LIABILITY.** Automobile Liability insurance with limits no less than two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

3) **PROFESSIONAL LIABILITY.** Professional Liability (Errors and Omissions) insurance written on a Claims Made basis with limits no less than five million dollars (\$5,000,000).

4) **WORKERS COMPENSATION.** Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

B. The City shall be named as an additional insured on all insurance policies with respect to work performed by or on behalf of the Contractor and a copy of the endorsement naming the City as an additional insured shall be attached to each Certificate of Insurance. Each Certificate of Insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation of the relevant insurance policy. The City reserves the right to request certified copies of any required insurance policies.

C. The Contractor's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

8. HOLD HARMLESS INDEMNIFICATION.

A. The Contractor shall indemnify and hold the City and its agents, employees, and officers harmless from, and shall process and defend at its own expense, any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City and/or its agents, employees, and/or officers arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

9. DISPUTES.

A. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by this Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall deliver to the City a written and signed appeal addressed to the City Manager.

B. In connection with any appeal proceeding conducted pursuant to this section, the Contractor will be afforded an opportunity to be heard by a hearing officer designated by the City's Governing Body (the "Hearing Officer") and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of this Agreement and in accordance with the City's decision. The decision of the Hearing Officer shall be final and conclusive, but shall not be arbitrary or unreasonable.

10. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Contractor pursuant to this Agreement.

11. COMPLIANCE WITH LAWS.

A. The Contractor, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

B. The Contractor specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

12. ASSIGNMENTS/SUBCONTRACTING.

A. The Contractor shall not assign or delegate its rights or obligations under this Agreement or any portion of this Agreement without the written consent of the City Manager or his designee. Any such consent must be sought in writing by the Contractor not less than thirty (30) days prior to the date of any proposed assignment or delegation. The City Manager or his designee reserves the right to reject without cause any such assignment or delegation. Notwithstanding the foregoing, claims for compensation due or to become due the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to the City Manager.

B. Any rights, work or services assigned or delegated hereunder shall be subject to each provision of this Agreement and procurement procedures where applicable as set forth in local, state and/or federal statutes, ordinances, regulations and guidelines.

C. Any technical/professional service subcontract not listed in this Agreement must have express advance written approval by the City.

13. PAYMENT TO SUBCONTRACTORS; MATERIALMEN; LABORERS

If the City reasonably believes that the Contractor has failed to pay subcontractors, materialmen, or laborers for Work within a reasonable time of when payment is due, then the City may, after having notified the Contractor, either pay the Contractor's unpaid bills and reduce the payment otherwise due to the Contractor by the same amount, or withhold from the release of the Contractor's payment bond for this Project a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged. If either action is taken by the City to ensure payment of the Contractor's subcontractors, materialmen, or laborers for Work, the City shall charge the Contractor ten percent (10%) of the amount owed as a fee for administering such claims.

14. CHANGES.

Either party may request changes to the Scope of Services and performance to be provided hereunder; provided, however, that no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Any such change or addition shall be attached to and made part of this Agreement as an amendment.

15. PROHIBITED INTEREST.

No officer or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

16. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

A. All work proposed by the Contractor is based on current government ordinances and fees in effect as of the date of this Agreement.

B. Any changes to the scope or cost of the services proposed by this Agreement resulting from a change to current government ordinances and/or fees may, at the sole option of the City, be treated as work outside the Scope of Services pursuant to Subsection 3C above or deleted from the Scope of Services.

C. The City shall make provision for access to the property and/or project and adjacent properties as necessary for performing the services contemplated herein.

17. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement either party may terminate this Agreement at any time by providing at least thirty (30) days advance written notice of such termination to the other party. The Contractor shall be paid its costs, including contract close-out costs, on Work performed up to the time of termination. The Contractor shall promptly submit a termination claim to the City following the City's termination of this Agreement pursuant to this subsection. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in a manner directed by the City.

18. TERMINATION; DEFAULT AND REMEDY

A. The City may terminate this Agreement and any Work or delivery required hereunder, from time to time either in whole or in part, for the following reasons:

1. If the City Manager or the Public Works Director determines that such termination is in the best interests of the City;
2. If the contractor or any subcontractor substantially violates any of the provision of this Agreement;
3. If the Contractor substantially fails to perform any part of this Agreement;
4. If the Contractor repeatedly fails or becomes unable to perform the services contemplated by this Agreement as required herein, or fails to provide services under the Agreement for a period of twenty-four (24) hours;
5. If the contractor (i) becomes insolvent in a bankruptcy sense; (ii) is generally not paying its debts as they become due, or within a reasonable time thereafter; (iii) suffers, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian, receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (iv) suffers, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (v) suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (vi) is dissolved; (vii) becomes the subject of any proceeding, suit, or action at law or

in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (viii) voluntarily suspends substantially all of its business operations; (ix) is merged with, acquired by, or otherwise absorbed by any individual, corporation or other business entity or organization which is controlled by, controlling, or under common control with the contractor; or (x) takes action for the purpose of any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (x) takes action for the purpose of any of the foregoing,

B. Termination shall be effected by a notice of termination (a "Notice"), signed by the City Manager or the Public Works Director, mailed or delivered to the Contractor setting forth the manner in which the Contractor is in default and the effective date and extent of termination. The Contractor will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

C. Upon receipt of a notice, the Contractor shall:

1) Cease any further deliveries or Work due under this Agreement, on the effective date and to the extent that is specified in the Notice.

2) Place no further orders with any subcontractors, except as may be necessary to perform that portion of this Agreement not subject to the termination.

3) Terminate all subcontracts except those made with respect to contract performance not subject to termination.

4) Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the City's Finance Director.

5) Use its best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this section.

D. After complying with the provisions of subsection C above, the Contractor shall, no later than six (6) months after the effective date of the termination, submit to the City Manager or the Parks and Recreation Director a termination claim.

E. Because of the nature of the Work, if the Contractor fails to perform any part of this Agreement, the City may, at its sole discretion, serve written notice on the Contractor and its surety of its intention to terminate the services of the Contractor and, if after serving such notice the violation is not promptly corrected to the City's reasonable satisfaction, the City then may take over the Work and prosecute it to completion by contract or by any other method it may deem advisable, all at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the Work.

F. The Contractor shall be entitled to a hearing before the Hearing Officer upon the issue of termination if it promptly submits a written request to the City Manager therefore following its receipt of a Notice. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of relating to the termination of this Agreement before the decision is issued by the Hearing Officer.

G. The Contractor shall continue the performance of this Agreement to the extent not terminated under the provision of this section.

H. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

19. NONDISCRIMINATION.

A. During the performance of this Agreement:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

B. The Contractor will include the provisions of the foregoing paragraphs 1, 2 and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

20. DRUG-FREE WORKPLACE.

A. During the performance of this Agreement:

1. The Contractor will provide a drug-free workplace for the Contractor's employees.

2. The Contractor will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.

3. The Contractor will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.

B. The Contractor will include the provisions of the foregoing paragraphs 1, 2 and 3 in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

21. THIRD PARTY RIGHTS

Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

22. NOTICE.

Except for notice provided to the parties in accordance with the procedures established for requesting work set forth in the Scope of Services, notice provided for in this Agreement shall be hand delivered or sent by overnight mail or certified U.S. mail to the City at One Park Center Court, Manassas Park, Virginia 20111, and to the Contractor at the address designated for the Contractor on the last page of this Agreement. Such notice shall be deemed received (i) upon actual receipt, (ii) on the same day if hand-delivered, (iii) the following day if sent using overnight mail, or (iv) three days later if sent using certified U.S. mail.

23. ATTORNEYS' FEES AND COSTS.

If any legal action or proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other

party, in addition to any other relief to which such party may be entitled, reasonable attorneys' fees and other costs incurred in such action or proceeding.

24. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered within the Commonwealth of Virginia and shall be governed by laws of the Commonwealth of Virginia, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in a court of competent jurisdiction in Prince William County, Virginia or in the United States District Court for the Eastern District of Virginia, Alexandria Division.

25. SEVERABILITY.

A. If, for any reason, any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be illegal, void or unenforceable.

B. If any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable with respect to particular circumstances, such part, term or provision shall nevertheless remain in full force and effect in all other circumstances.

C. If it should appear that any provision hereof is in conflict with any statutory provision of the Commonwealth of Virginia, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and this Agreement shall be deemed as having been modified to conform to such statutory provisions.

D. One or more waivers by the City of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative. The forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of that or any other provision of this Agreement.

26. AMBIGUITY; MEANING OF "CITY"

A. Although this Agreement has been drafted by the City, the Contractor acknowledges that it has been afforded the opportunity to have this Agreement reviewed by legal counsel and expressly agrees that any ambiguity herein shall be resolved in favor of the City.

B. The term "City", as used in this Agreement, shall mean the person, board, commission, committee, or other subunit of the City having the legal obligation or right to act on behalf of the City, as the context may require.

27. ENTIRE AGREEMENT.

This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement.

28. MISCELLANEOUS

Headings and captions are provided in this Agreement for ease of reference only and shall not be used to construe or interpret any provision of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original; but all of which together shall constitute one and the same instrument.

{Signature Page Follows}

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

THE CITY OF MANASSAS PARK,
a Virginia municipal corporation

By: _____
Francis C. Jones, Jr., Mayor

COMMONWEALTH OF VIRGINIA
CITY OF MANASSAS PARK, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by Francis C. Jones, Jr., Mayor of the City of Manassas Park, Virginia.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM:

Dean H. Crowhurst, City Attorney

CONTRACTOR

_____,
a Virginia corporation

Address: _____

Tax ID#: _____

By: _____
Name: _____
Title: _____

STATE/Commonwealth of _____
CITY/COUNTY OF _____, to wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
200__, by _____ as _____
of _____, a Virginia corporation, on behalf of the
corporation.

Notary Public

My Commission Expires: _____

EXHIBIT B
Scope of Services

Part I – General

1.01 CONDITIONS OF THE CONTRACT AND DIVISION 1 – GENERAL REQUIREMENTS

Are hereby made a part of this section.

1.02 SCOPE

Provide Swimming Pool Management services for the Community Center Natatorium.

- A. All services provided shall be performed in accordance with the Agreement.
- B. The individual or firm providing management services shall be duly licensed to perform such tasks.

1.03 POOL OPERATIONS

A. PERSONNEL

All employees employed by the Contractor for work under this Agreement shall be employed solely by the Contractor, and the Contractor will be responsible for paying these employees and shall pay all Social Security, Workman's Compensation and other taxes incidental to the work of such employees. The Contractor shall provide proper staffing for the safe and prudent operation of the Pools, and to this end, the Contractor shall provide the following personnel:

- 1. The Contractor agrees to provide lifeguards in sufficient numbers as to provide coverage that are certified in accordance with this Section 3.4, one (1) who must be a Prince William County Certified Pool Operator at all times of operation.

B. RECIRCULATION AND PURIFICATION SYSTEM OPERATION

The pumps, filters, disinfectant and chemical feeders, flow indicators, gauges and all related parts of the pool water purification system shall be kept in operation whenever the pools are available for use, and at such additional times and periods as may be necessary to maintain the water in the pools in a clear and disinfected condition.

C. CLARITY OF WATER

THE CITY OF MANASSAS PARK
Professional Services Agreement

The recirculation and purification system shall be operated and maintained so as to keep the pools water clean and clear. Under no circumstance shall the pool be used if the main drain is not clearly visible from the deck. Such a pool shall be closed and shall not be reopened until the water is clean and clear, and upon specific written approval of the Owner and subject to the terms of this agreement. If the pool drain is still not visible 48 hours following inspection and closure by the Owner, the Owner may order the pool to be drained at the sole expense of the Contractor.

D. DISINFECTION, pH CONTROL AND CYANURIC ACID

1. Competition Pool: When open or in use, shall be disinfected continuously by a chemical that imparts a residual effect and shall be maintained in an alkaline condition at a pH between 7.2 and 8.0. Spa: When open or in use, shall be disinfected continuously by a chemical that imparts a residual effect and shall be maintained in an alkaline condition free bromine reading of at least 2.0

2. Competition Pool: When open or in use, shall maintain a free chlorine residual at least 1.0 ppm. Spa: When open or in use, shall maintain a free at a pH between 7.0 and 7.8.

3. Cyanuric acid may only be applied upon specific written approval of the Owner. If the use of Cyanuric acid is approved by the Owner, the free residual of at least 1.5 ppm shall be maintained throughout the pool. The Cyanuric acid concentration in any pool shall not exceed 100 ppm.

4. Appropriate test kits for measuring the pH, concentration of the disinfectant, and when used, concentration of Cyanuric acid shall be maintained at each pool. The test kit must measure the concentration of the disinfectant accurate to within 0.1 ppm at each pool. Test kits must be capable of testing for free chlorine residual.

E. BACTERIOLOGICAL AND CHEMICAL QUALITY OF POOL WATER

Bacteriological quality of water in the pool shall be such than not more than two consecutive samples, taken when the pool is in use, shall:

1. Contain more than 200 bacteria per millimeter, as determined by the standard (35 C) plate count or contain a total coliform organism MPN (most probable number count of 2.2 or greater per 100 milliliters of sample.

THE CITY OF MANASSAS PARK
Professional Services Agreement

2. Chemical quality of water in the pools shall not cause irritation of eyes or skin of the bathers, or have other objectionable physiological effects on bathers.

F. CLEANLINESS OF POOLS

Floating scum, sputum or debris shall not be allowed to accumulate in the pool. Skimmers shall be maintained and operated to remove such material continuously. The bottom and sides of the pool shall be cleaned as often as necessary to be kept in a clean condition. The sides and bottom of the pools, decks and other surfaces shall be kept free of slime and algae.

G. CLEANING AND MAINTENANCE

All parts of the pool and related pool facilities and equipment shall be maintained in good repair. Wall, ceilings, partitions, doors, lockers and similar surfaces and equipment shall be kept in good repair. Hoses shall be provided for regular flushing and cleaning. The whole pool area shall be kept clean, sanitary and free of litter and vermin. Toilets, urinals, showers, wash basins and other plumbing fixtures shall be maintained in a clean condition and in good repair.

H. RULES AND ENFORCEMENT

Rules shall be posted in conspicuous locations and enforced by Contractor. Signs officially notifying patrons of the requirement to make use of the toilets and showers before entering the pools shall be posted during all times of operation and in a conspicuous location. At all pools, diagrammatic illustrations of artificial respiration procedures shall be posted where clearly visible from the nearby deck. Such illustrations shall be protected against the elements. Also, the telephone number of the nearest ambulance, fire and police or sheriff's department shall be kept similarly posted along with instructions that, if needed, manual or mouth to mouth artificial respiration should be started immediately and continued until a physician arrives or mechanical resuscitators are applied.

I. SAFETY EQUIPMENT

Each pool shall be equipped for safety and rescue purposes with one or more rescue poles not less than 12 feet (3.6 meters) in length with body hooks, and one or more life rings having a minimum exterior diameter of 17 inches (43 centimeters) readily accessible for use. Such lift rings shall have attached to them an 3/16 inch line long enough to span the maximum width of the pool. The line shall be stored when not in use in such a way as to prevent kinking or fouling.

THE CITY OF MANASSAS PARK
Professional Services Agreement

A first aid kit shall be provided in quantities to meet the daily demand of each facility.

J. HEALTH OF EMPLOYEES AND PATRONS

No person having a communicable disease shall be employed at a public swimming pool. All patrons known to be or suspected by the management of being afflicted with an infectious disease, suffering from a cough, cold or sores, wearing bands or bandages shall be excluded from the pools unless at least one of the following conditions is met;

- The patron submits a current written statement, signed by a licensed physician, confirming that the patron does not present a health hazard to other pool users.
- Pool use by the patron is approved by the Owner.

1.04 CODES AND STANDARDS

A. Codes: All work shall be performed within Prince William County Health Department guidelines, all personnel shall be lifeguard certified the American Red Cross (or equal), all pool operators shall maintain current Prince William County Pool Operators license.

B. Permits: The Contractor shall acquire all necessary licenses and trade permits as required.

1.05 UTILITIES

Phone: The Contractor shall have access to one phone line for business related purposes. A long distance and 900 block shall be placed on non-pay phones. All non-local calls shall be the sole responsibility of the contractor. All phone bills deemed to be through the expressed usage of the contractor shall be paid to the city, upon request, immediately.

Water Service: The City shall provide water service to the site.

Electric/HVAC: The City shall provide electric service and HVAC to the site.

1.06 SUBMITTALS

Submit three (3) sets of complete proposals in a one time submittal. All proposed materials and products are subject to approval by the Owner.

PART 2 – PERSONNEL

2.01 QUALIFICATIONS AND STANDARDS

All lifeguards employed by the Contractor shall be at least sixteen (16) years of age and must hold Red Cross lifeguard and CPR First Aid certification or equivalent certification by a comparable licensed agency, approved by the City. Prior to operating the Pools to the general public, the contractor shall forward copies of all certifications to the City. During operating hours, the Contractor shall post the certification of all employees currently on shift and shall make these certifications available for review by the general public in a location that is visible, convenient and accessible to the Pools patrons.

2.02 LANGUAGE REQUIREMENT

In effort to preserve public safety, during all times of operation, the Contractor shall provide at least one employee at the Pools that has a working knowledge of the English language and is able to communicate clear and precise directions to any employees recruited through the International Program.

2.03 POOL OPERATORS

All Pool Operators must be Prince William County Certified Pool Operators. Prior to operating the Pools to the general public, the contractor shall forward copies of all licenses to the City. During operating hours, the Contractor shall post the licenses of all employees currently on shift and shall make these licenses available for review by the general public in a location that is visible, convenient and accessible to the Pools patrons.

2.04 SCHEDULED CLOSURES

The Pools will be closed for one week annually to facilitate cleaning. Date to be determined. Additional closures include New Years' Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day.

2.05 REMOVAL OF PERSONNEL

THE CITY OF MANASSAS PARK
Professional Services Agreement

- A. The Contractor will replace any of its individual staff members, except Manager, at the Pools deemed undesirable or incompetent within 24 hours of receipt of written request by the City or designated representative.
- B. Upon written request of the City or designated representative, the Contractor will replace its Manager at the Pools as soon as practicable, but in no event longer than 15 days, with an individual mutually suitable to both the Contractor and the City.

2.06 APPEARANCE

All lifeguards shall be appropriately uniformed, in like colors, so as to be readily identifiable. All uniforms shall be worn in a professional and appropriate manner.

2.07 SAFETY DRILLS

The Contractors supervisory personnel staff shall conduct bi-weekly lifeguard safety drills and continued training with all Pools staff. Written documentation of stated drills and training and those employees in attendance and shall be submitted to the City within 24 hours of receipt of such bi-weekly drills and training.

2.08 LIFE GUARDING SERVICES

Life guarding services shall be in compliance with the agreement as to provide continuous surveillance over the bathers. At no time shall the pools be unsupervised during hours of operation. Minimally, at Costello Park Pool, one guard must remain up in rotation, this includes break periods. Signal Bay Water Park shall maintain full supervision rations, per this agreement, during all hours of operation.

PART 3-EXECUTION

3.01 BASIC SERVICES

Basic services shall be performed at the Contractor's cost, unless otherwise expressly provided in the Scope of Services.

- Inspect the Pools and plumbing and advise the City of any defects and/or repairs needed.
- Clean the Pools.
- Repair/patch white coat as needed
- Check all equipment and facilities and advise the City of any needed supplies and/or repairs.
- Acid wash the Pools; the Contractor will supply and pay for the acid.

THE CITY OF MANASSAS PARK
Professional Services Agreement

- Install ladders and guard chairs.
- Fill Pool as required, City to pay cost of water.
- Backwash and vacuum the Pools
- Have the Pools in operational condition on days facility is open to the general public.
- Set up and maintain patio furniture

The City shall prepare the Pools by completing the following basic services at the City's cost.

- Provide trash receptacles for debris removed from the Pools during cleaning and have trash receptacles removed from the Pools area after cleaning is completed.
- Provide two sets of keys to the Pools facilities for the following identified Contractor personnel: _____,
- All doors within Pools facilities shall be lockable to help protect supplies and equipment.
- Provide water, electricity, and gas for operation of the Pools
- Prepare bathrooms at the Pools for use, including needed repairs to the building, plumbing, lighting and fixtures, other than those for which the Contractor is responsible under this Agreement
- Provide ample supplies of paper products and cleaning supplies.

3.02 MAINTENANCE OF POOLS

The Contractor shall, during the Term, be responsible for keeping the locker rooms and restrooms, changing areas, pool deck, guard room, party room, patio and guard stations free and clear of debris and in a clean and sanitary condition. Cleaning and maintenance shall be in accordance with the applicable state health regulations and state and local laws.

1. The Contractor will perform all custodial duties associated with the guard room to include the walls and posting boards, the floors, the cabinets, desk, appliances, windows and doors so as to ensure the guard room is kept in a clean and sanitary condition. The Contractor shall perform such custodial duties as many times as required, but no less than once daily. The City shall provide a sanitizing agent, cleansers, brooms, mops, and all materials required to provide such custodial service
2. The Contractor will perform all custodial duties associated with the locker rooms and family changing areas, to include the toilets, sinks, showers, lockers, mirrors, tile floor, walls, doors and trash removal so as to insure the bathhouse is

THE CITY OF MANASSAS PARK
Professional Services Agreement

kept in a clean and sanitary condition. This Contractor shall perform custodial checks at least once an hour with documentation available for review by the general public in a location that is visible, convenient and accessible to the Pools patrons. The Contractor shall perform such custodial duties as many times as required, but no less than every two hours (every other hour). The City shall provide a sanitizing agent, cleansers, brooms, mops, and all materials required to provide such custodial service.

3. The Contractor will perform general custodial maintenance of the pool deck, bleachers, patio and guard stations so as to ensure these areas are kept in a clean and sanitary condition and free and clear of debris. This general custodial maintenance shall be ongoing in nature and shall include litter disposal and removal and disposal of trash and replacement of new trash liners. The City shall provide trashcans and trash liners.
4. The City reserves the right, but not the obligation, to inspect the Pools and Pools facilities from time to time.