

# **Aquatic Lifeguard Management Agreement**

THIS CONTRACT is made as of the \_\_\_\_ day of \_\_\_\_\_, by and between the City of Richmond Heights, located in Missouri, hereinafter called "City" and MIDWEST POOL MANAGEMENT OF AMERICA, LTD, a for-profit company, hereinafter called "Midwest Pool Management"

**WHEREAS**, the City operates the Maplewood Family Aquatic Center located at 7550 Lohmeyer Avenue, Maplewood, MO 63143, and owns and operates The Heights Aquatic Center located at 8001 Dale Avenue, Richmond Heights, Missouri 63117; and

**WHEREAS**, the City desires to retain Midwest Pool Management to manage the operations of their aquatic facilities; and

**WHEREAS**, Midwest Pool Management possesses the expertise and experience necessary to provide pool management services to the City.

**NOW, THEREFORE**, for and in consideration of mutual covenants herein contained, it is agreed as follows:

## **Section 1. Representations and Warranties of Midwest Pool Management.**

Midwest Pool Management hereby represents and warrants as follows:

- a) Under this agreement, Midwest Pool Management will manage the operations of the Maplewood Family Aquatic Center and The Heights Aquatic Center as per the scope of duties outlined in Section 2.
- b) Midwest Pool Management will coordinate its activities with the City's designated representative in an effort to reduce duplication of services.
- c) Midwest Pool Management is a for-profit company, the principal purpose of which is the operations and management of aquatic facilities in the Midwest.
- d) Midwest Pool Management warrants and represents that its services provided under this Contract will at all times be performed and delivered in a competent, skillful and workmanlike manner and will in all respects be fit for their intended purposes.
- e) Midwest Pool Management warrants and represents that it is duly qualified to do business in Missouri and that it possesses all necessary statutory authority to transact business in the state.

## **Section 2. Services to be provided by Midwest Pool Management.**

Midwest Pool Management shall provide the following managerial and operational services:

### **2.1. Operations and Maintenance of Pools.**

- A. Midwest Pool Management shall have the responsibility to staff lifeguards at the Maplewood Family Aquatic Center, owned by the City of Maplewood, for the periods set

forth in this section thereof during the Term of the Agreement. The cities of Maplewood and Richmond Heights intend to provide for all maintenance including opening, shutdown and regular ongoing maintenance. The City will continue to manage all aquatic programming, concession and front desk operations. Midwest Pool Management will provide daily management support for front desk and concession operations.

The dates of operation of the Maplewood Family Aquatic Center will include the 'Regular Season', Friday of Memorial Day weekend through the day before Maplewood Richmond Heights (MRH) school district begins the regular school year, and the 'Extended Season', the day MRH school district begins through Labor Day. Midwest Pool Management shall provide for the operation of The Maplewood Family Aquatic Center from May 26, 2018 – September 3, 2018:

### **Regular Season**

#### Recreational Swim

May 25, 2018	Friday	Open Swim 6-8 pm	Resident /Member Night
May 26 – August 12, 2018	Mon. – Fri.:	Open Swim 12 pm – 8 pm	Regular Swim
	Sat/Sun:	Open Swim 11 am – 8 pm	

#### Early Morning Programming

May 29 – July 12, 2018	Mon – Thurs	8 am – 12 pm
July 16 – Aug 9, 2018	Mon - Thurs	9:15 am – 12 pm
June 4 – Aug 10, 2018	Friday	9:15 am – 12 pm

### **Extended Season**

#### Recreational Swim

Aug 13 – Aug 31, 2018	Mon/Wed/Fri	Open Swim	12-6 pm
	Sat/Sun	Open Swim	11 am – 8 pm

#### Lap Swim

Aug 27 – Sept 3, 2018	Daily	7 – 11 am
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#### Special Hours of Operation

Memorial Day	Mon 5/28	Open Swim	12 – 6 pm
Independence Day	Wed 7/4	Open Swim	12 – 6 pm
Labor Day	Mon 9/3	Open Swim	12 – 6 pm

- B. Midwest Pool Management shall have the responsibility to staff lifeguards at The Heights Aquatic Center, beginning July 1, 2018 through December 31, 2018. The City of Richmond Heights intends to provide for all maintenance including regular ongoing maintenance.

### **DATES - JULY 1 – DECEMBER 31, 2018**

**All activities except for Open Swim require 2 guards. Open Swim 4 guards up, with one on break.**

### **July 1 – August 26, 2018**

#### Open Swim

Mon/Wed	12-8:30 p.m.
Tue/Thu	None
Fri	12-8 p.m.
Sat	1-6:30 p.m.
Sun	1-5:30 p.m.

#### Lap Swim

Mon – Fri	5:30 a.m. – 8:30 a.m. 10 a.m. – 4 p.m. (subject to change based on class schedule) 6-8 p.m. (subject to class schedule)
Sat	7 a.m. – 10 a.m. 11:30 a.m. – 6:30 p.m.
Sun	8:30 a.m. – 5:30 p.m.

#### Splash & Play

Mon – Fri	10 a.m. – 2 p.m.
Sun	9 a.m. – 12 noon

### **September 4 – December 31, 2018**

#### Open Swim

Mon/Wed	4-8:30 p.m.
Tue/Thu	None
Fri	4-8 p.m.
Sat	1-6:30 p.m.
Sun	1-5:30 p.m.

#### Lap Swim

Mon – Fri	5:30 a.m. – 8:30 a.m. 10 a.m. – 4 p.m. (subject to change based on class schedule) 6-8 p.m. (subject to class schedule)
Sat	7 a.m. – 10 a.m. 11:30 a.m. – 6:30 p.m.
Sun	8:30 a.m. – 5:30 p.m.

#### Splash & Play

Mon – Fri	10 a.m. – 2 p.m.
Sun	9 a.m. – 12 noon

### **2.2 Spring Opening:** To be completed by others.

### **2.3 Operation of the Aquatic Centers**

Midwest Pool Management will use reasonable care and diligence to provide the following services for the operation of the Aquatic Centers:

- A. Complete a daily documented (written) safety check of entire complex.
- B. Check and test all safety equipment.
- C. Clean the entire complex, including: guard and manager offices, locker rooms/restrooms, all areas within the fencing, pool parking lot and the premises within twenty-five (25) feet of the facility in a clean and orderly fashion by the proper collection of waste, garbage and all other debris. Replace needed supplies provided by City. Staff will provide on-going cleaning during hours of operation to maintain reasonable conditions of the facilities.
- D. Enforce all rules and regulations stipulated by the City and suggest and advise with regard to additional rules and regulations for the operation of the pool.
- E. Maintain tests and records as required by State, St. Louis County and Cities of Maplewood and Richmond Heights and meet all requirements for such.

- F. Maintain any additional records as reasonably required by the Cities of Maplewood and Richmond Heights.
- G. Required water quality testing and backwashing in accordance with County Health Department.
- H. Pool vacuuming will be scheduled on a daily basis. Automatic vacuums shall be placed in the pools at the end of each day. In addition, each pool will be vacuumed entirely, a minimum of once per week, manually.
- I. Work with the City in handling complaints users may have, reporting all complaints to the Aquatic Manager.
- J. Conduct in-service training as per guidelines of the American Red Cross or Starguard.
- K. Midwest Pool Management will retain a record of all problems brought to their attention. The City will review this log at weekly intervals. A daily log of communication will be kept in the manager's office for the managers and Director of Parks and Recreation or her designee to review on a daily basis.
- L. Keep detailed records of any pullouts, rescues or injuries, describing the circumstances surrounding the incident and denoting the specific location of the incident.
- M. Keep detailed records of pool closings for partial or full days. Enforce all rules and regulations stipulated by the City.

#### **2.4 Fall Closing / Winterizing      To be completed by others.**

#### **2.5 Use of City of Maplewood and/or Richmond Heights Equipment.**

Midwest Pool Management shall be allowed to use the Cities of Maplewood and Richmond Heights equipment currently located at the Maplewood Family Aquatic Center. Midwest Pool Management will make arrangements for use of other Midwest Pool Management owned equipment items if they are to be used. Use agreements with the respective owners will be put in the name of Midwest Pool Management.

#### **2.6 Maintenance of Equipment**

Equipment maintenance, except minor adjustments, is performed by the Cities of Maplewood and Richmond Heights, or their Contractors. The Cities of Maplewood and Richmond Heights shall pay for the costs of parts and materials upon prior approval. All other repairs and replacement of equipment needed during the season to continue the operation of Maplewood Family Aquatic Center and to maintain health and safety standards shall be performed by the respective staff of the Cities of Maplewood and Richmond Heights or their designee. The City of Maplewood or their Contractor will be responsible for the maintenance and replacement of the buildings, structures, utilities and surrounding areas including shrubbery, except policing for trash, waste, garbage and other debris.

Midwest Pool Management will be responsible for the care and repair of the Cities of Maplewood and Richmond Heights' property used for the operation of Maplewood Family Aquatic Center, if said repairs are a required as a result of Midwest Pool Management's fault or negligence. Said equipment shall be returned to the Cities of Maplewood and Richmond Heights at the end of the season in the same condition as received, with reasonable wear and tear expected. Midwest Pool Management will be held accountable for those losses and damages to buildings and City of Maplewood-

owned property due to theft or abuse during hours of operation. Midwest Pool Management will try to prevent losses and damages to City of Maplewood and Richmond Heights owned property during hours of operation. Damaged or malfunctioning equipment will be reported immediately to the Aquatic Manager. If not reported, Midwest Pool Management will be responsible for damages.

## **2.7 Personnel**

Midwest Pool Management shall furnish sufficient personnel for the operation of safe and sanitary facilities. All lifeguards will hold a minimum qualification of an advance lifeguard certificate from American Red Cross or Starguard and be at least 15 years of age (no more than 25% of staff can be 15 years of age). One Manager or Assistant Manager will have current AFO or CPO certification. Said personnel will be furnished in a manner to operate the Aquatic Centers in the safest manner possible and in the best interest of the Cities. All management personnel (pool manager, pool assistant manager and head guards) will be trained and certified in operation of the Automatic External Defibrillator (AED) unit.

The Cities reserve the right to approve or disapprove any proposed staffing schedules. All personnel must be uniformly identified at all times. All personnel employed by Midwest Pool Management in the performance of fulfilling a contract for the operation of the Aquatic Centers shall be considered employees of Midwest Pool Management and not of the City. Midwest Pool Management must conduct a complete background check, including, but not limited to contacting former employers and references provided by the applicants, and conducting a criminal background check and review of driving records for all personnel employed at the Maplewood Family Aquatic Center. All personnel employed by Midwest Pool Management shall be paid to meet or exceed the minimum Federal Wage and Hour Laws. Midwest Pool Management shall be responsible for the payment of all employment taxes and Social Security taxes related to the employment of said personnel. The City shall have the right to request replacement of any of Midwest Pool Management's employees whose conduct, character, or performance is deemed detrimental to the best interest of the City, and Midwest Pool Management agrees to make such replacement within seven (7) days.

Midwest Pool Management shall hire all existing Aquatic Staff who are in good standing with the Cities if they can pass all of Midwest Pool Management's typical pre-employment screenings. City employees that are hired by Midwest Pool Management shall, at a minimum, retain their current position title and pay rates. The scheduling of said employees shall fall under the same conditions detailed herein.

Midwest Pool Management shall give Maplewood and Richmond Heights residents and MRH School District students, current and former City employees in good standing first priority when hiring for all positions. Midwest Pool Management will provide the City a copy of their minority recruitment program. Midwest Pool Management shall provide to the City employment applications for distribution at THE HEIGHTS, Maplewood and Richmond Heights City Halls, and for posting on both cities of Maplewood and Richmond Heights websites. Midwest Pool Management shall provide to the City a

complete list of employees, ten (10) days prior to the beginning of the season. This list shall include the names, addresses and phone numbers of each employee. Additions or deletions to this list shall be timely made.

## **2.8 Staffing and Hours of Operation**

The Maplewood Family Aquatic Center shall normally be staffed for all public session swimming times at the following typical levels. A manager/assistant manager shall be on duty at all times whenever pool is open to the public. Changes to these staffing levels will be made with the approval of the Aquatic Manager:

### **Morning Aquatic Programming**

1 Pool Manager/Asst. Manager

4 Lifeguards at stations (not including down guards)

### **Recreational Swim**

1 Pool Manager/Asst. Manager

12 Lifeguards at stations (not including down guards)

*\*Manager/Assistant Manager shall be on duty a minimum of ½ hour after recreational swimming sessions.*

At the Cities' request, Midwest Pool Management shall also provide lifeguard services for pool rentals, special events, Maplewood Richmond Heights (MRH) school district usage and other special programs scheduled outside public swim hours that are not listed in the above paragraph. The City will be invoiced for these supplemental services at the rates detailed on page 16.

Midwest Pool Management shall have the authority to close the Maplewood Family Aquatic Center (below 70 degrees, heavy rain, high wind, thunder or lightning) and shall be prepared to reopen it when the weather permits. Midwest Pool Management shall have the personnel available seven (7) days per week, twenty- four (24) hours per day to address any problems that may arise. If the facility is to be closed for the day, there will be a mutual agreement by Midwest Pool Management and the Aquatic Manager to close to the public.

## **2.9 Responsibility for Contractor Costs**

The Cities of Maplewood and Richmond Heights shall provide all pool chemicals, first aid and janitorial supplies for the respective facilities. Contractor shall notify City to replenish as needed to be refilled for those items under their responsibility. Contractor will timely inform the City of the need for janitorial and first aid supplies.

## **3.0 Responsibility for Charges to the City**

The City will assume all the following costs without charge to Midwest Pool Management:

- A. Telephone (local service)
- B. Computers
- C. Utilities including electric, gas, sewer and water
- D. Maintenance and repair of building
- E. Trash and garbage hauling
- F. Janitorial supplies

- G. First Aid Supplies
- H. Pest control
- I. Pool Chemicals
- J. Provide sets of keys that access Maplewood Family Aquatic Center

### **3.1 Maintenance and Care of Maplewood Family Aquatic Center**

Midwest Pool Management will be responsible for the provision of its own custodial staff for the Maplewood Family Aquatic Center. All windows, equipment, floors, and counters in the work area will be kept clean and sanitary and in full compliance to the laws, rules, and regulations of the State of Missouri and St. Louis County. Contractor staff shall collect all litter and garbage from the areas and place it in closed dumpsters provided by the City of Maplewood's waste management contract. Failure to adequately clean and maintain area will be grounds to terminate the contract. The City will handle all cleaning of front desk, concessions and ancillary related areas.

### **3.2 Notification of Disrepair of Equipment or Facility**

Midwest Pool Management will be responsible to inform the City of any issues or deficiencies it observes in regard to the condition of facilities, pools, or City provided equipment. The City shall retain the responsibility to correct any issues with these items unless the cause of such issues or deficiencies is deemed to be caused through negligence of Contractor.

### **3.3 Evaluation of Service**

Midwest Pool Management shall provide suggestions for the method used to evaluate customer service on a continual basis. The Director of Parks and Recreation or her/his designee shall evaluate the operations of Midwest Pool Management. The Cities reserve the right to inspect and evaluate the operation with respect to the quality services offered and customer satisfaction.

### **3.4 Required Meetings**

Midwest Pool Management agrees to meet on a weekly basis, on a mutually agreed upon day, with the Cities to review total operations, including hours of operation, activity schedules, events and all other topics pertinent to the operation. Additional meetings shall be scheduled as needed at the request of either the Cities or Midwest Pool Management.

## **4. Fees**

Aquatic Facilities. Contractor will provide all personnel as outlined in this proposal. The City will retain all revenue collected for memberships, daily admissions, concessions, special events and rentals.

### Method of Payment.

A. Midwest Pool Management has submitted a firm management fee, which includes recruiting, hiring, training and supervising staff, and general liability insurance. Management fee shall be paid monthly as outlined on Exhibit A.

B. Midwest Pool Management has submitted "not-to-exceed" Salary Budgets on Exhibit B of this agreement for staff salaries and associated payroll taxes for the open swim hours

detailed in section 2.1 of this agreement at the staffing levels detailed in section 2.8 of this agreement. The Salary Budget shall be invoiced monthly. Payroll records are available for review by the City. Salary budget will be recapped in September of each year and reconciled with actual hours worked at the rates outlined in Exhibit B.

Upon any change in Federal or State guidelines, which govern Midwest Pool Management's operation and/or employees, Midwest Pool Management may present a new contract amount in writing to the City. The City has 30 days to accept or reject the new amount.

## **5. Insurance**

### **5.1 Comprehensive General Liability Insurance.**

Midwest Pool Management shall maintain Commercial General Liability insurance, which shall include bodily injury and accidental death to any person. The policy will include limits as follows:

General Liability	\$1,000,000 each occurrence/\$2,000,000 Aggregate combined single limit bodily injury and property damage
Excess General Liability	\$2,000,000 each occurrence/\$3,000,000 Aggregate combined single limit bodily injury and property damage

The policy will include protection for the following hazards:

- Premises and Operation
- Independent Contractor's Coverage
- Products and Completed Operations Liability Coverage to apply one year beyond completion and acceptance of the work specified by this contract
- Personal Injury Liability
- Broad Form Property Damage
- Contractual Liability

Midwest Pool Management shall not commence work under the Agreement until it has obtained the insurance required under this Section 5, and such insurance has been approved by the City. Midwest Pool Management shall not permit any employee to commence work in relation to the Agreement until insurance equivalent of that required of Midwest Pool Management has been so obtained and approved by the City. An *original* Certificate of Insurance from the company of record must be furnished to the City and provide that the cities of Maplewood and Richmond Heights are "Additional Insureds" during the term of the Agreement. Midwest Pool Management must obtain and maintain (at its sole expense) during the life of the Agreement, insurance of the type and the minimum amounts stated in Sections 5.1 through 5.5. This requirement of insurance does not limit Midwest Pool Management's liability under the Agreement in any manner nor does it cause or constitute any waiver of sovereign immunity for the Cities.



## **5.2 Worker's Compensation Insurance**

Midwest Pool Management shall procure and shall maintain during the Term of the Agreement, Worker's Compensation Insurance in an amount equal or greater than Missouri Worker's Compensation statute requirements for all of its employees to be engaged and perform work under the Agreement.

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

Contractor shall be in full compliance with the Worker's Compensation Act of the State of Missouri and Employer's Liability Coverage as required by Missouri State statute.

## **5.3 Comprehensive Automobile Liability Insurance**

Midwest Pool Management shall maintain Comprehensive Automobile Liability insurance coverage in amounts not less than the limits set forth below:

Automobile Liability	\$1,000,000 each accident combined single limit bodily injury and property damage
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Excess Liability	\$2,000,000 each occurrence/\$2,000,000 Aggregate
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## **5.4 Satisfactory Coverage**

The insurance which the Contractor is required to obtain and maintain pursuant to this Section 5 shall be written by a company or companies licensed to do business in the State of Missouri and satisfactory to the City. Insurance is to be placed with an insurer with a Bests' rating of no less than A: VII. Midwest Pool Management shall not allow any policies to be canceled or permit the policies to lapse during the Term of the Agreement.

## **5.5 Proof of Insurance Coverage**

"Certificates of Insurance" shall be originals, not copies, shall contain true transcripts for the policy, authenticated by the proper officer of the insurer, evidencing in particular those insured, the extent of the insurance, the location and operation to which the insurance applies, the effective date and expiration date. An original "Certificate of Insurance" shall be furnished to the Cities, clearly specifying the Cities of Maplewood and Richmond Heights as "Additional Insured" and the date of issue, prior to commencement of services by the Contractor.

## **6. The Cities of Maplewood and Richmond Heights to be Indemnified and Held Harmless**

Midwest Pool Management shall, at its sole cost and expense, indemnify, defend and hold harmless and protect the Cities, including their officers and employees, from and against any and all claims, damages, costs or expenses (including court costs and reasonable attorney's fees) for any claim arising out of Contractor's negligent acts

under this Agreement; provided, however, that this hold harmless and indemnification shall not apply where such claims, actions, damage, liability, or expenses result from any omission, fault, negligence, or misconduct on the part of the Cities, their agents, servants, employees, contractors, or licensees. Notwithstanding the foregoing, Contractor's indemnity obligations are limited solely to the extent directly caused by Contractor's fault or negligence."

## **7. Term**

This contract shall be effective upon approval and execution of this agreement. The initial term is valid for 2018 with the option to renew for up to two (2) additional years under the proposed terms and conditions upon mutual written agreement. This Agreement shall be subject to termination by the City in the event of sale or destruction of the facilities or because of misfeasance or non-misfeasance by the Contractor. The City may also terminate this Agreement for repeated non-compliance with the requirements as set forth in these specifications. Either party may terminate the contract for any reason with a thirty (30) day written notice.

## **8. Licenses and Permits**

Midwest Pool Management shall be responsible for obtaining and paying the costs of all necessary permits and licenses required by any applicable laws, rules and/or regulations (including the Ordinances of the Cities of Maplewood and Richmond Heights) necessary for the operation of the facility provided.

## **9. Health and Safety Standards**

Midwest Pool Management shall meet or exceed all Health and Safety Standards regulations set forth by Ordinance of the Cities of Maplewood and Richmond Heights and St. Louis County.

The City shall have the ultimate authority and responsibility for compliance with the Virginia Graeme Baker Pool and Spa Safety Act and Americans with Disability Act compliance. Midwest Pool Management shall communicate with the City about any violations it observes under the Acts.

## **10. Contractor's Books and Records**

Midwest Pool Management shall keep and maintain proper and adequate books, records and accounts which accurately reflect daily usage, financial data, supply needs, injuries, staff dialogue of daily occurrences, maintenance information, and all necessary data to properly manage the operation. Midwest Pool Management shall provide the Director of Parks and Recreation or her/his designee with a copy of financial report and occurrence report monthly. Midwest Pool Management shall also provide the City with an end of season report for the Maplewood Family Aquatic Center no later than thirty (30) days after the close of the season.

## **11. Independent Contractor**

Midwest Pool Management is retained by City only for the purposes of, and to the extent set forth in, this Contract, and the relationship of Midwest Pool Management with

City under this Contract during the term of this Contract shall be that of an independent contractor. Midwest Pool Management and not an employee, partner, member, owner, officer, director or other agent of City. Midwest Pool Management agrees to devote sufficient time, effort, resources, ability, skill and attention as may be necessary for Midwest Pool Management to perform the services required to be provided to City under this Contract, but performing such services subject to the provisions of this Contract, all applicable laws, rules, regulations governing the business of Midwest Pool Management and the work to be performed hereunder. Midwest Pool Management shall not be considered by reason of the provisions of this Contract or otherwise as being an employee of City. This Agreement will not be deemed to create a partnership, joint venture, agency or fiduciary relationship between the parties. Midwest Pool Management shall have no right to bind City to any agreement with any other person or entity and is not authorized to act for City in any manner except as expressly set forth in the Agreement.

## **12. Notices**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the other party at the address described below or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

### **Midwest Pool Management**

Attn: Bert Forde

President

[bforde@midwestpool.com](mailto:bforde@midwestpool.com)

156 Weldon Parkway, Ste. B

Maryland Heights, MO 63043

Phone: (314) 432-1313

Fax: (314) 432-0059

### **The City of Richmond Heights**

Attn: Teresa Proebsting

Director of Parks and Recreation

[tproebsting@richmondheights.org](mailto:tproebsting@richmondheights.org)

8001 Dale Ave.

Richmond Heights, MO 63117

Phone: (314) 645-1476

Fax: (314) 645-0502

### **13. Other Requirements**

13.1 Penalty in the Event of Late Opening. Midwest Pool Management agrees to have its staff available to open the Maplewood Family Aquatic Center fifteen (15) minutes before scheduled opening time. In the event Midwest Pool Management is late in opening the area, the City will assess a \$25 penalty per occurrence for such late opening. More than three late openings may result in the termination of the agreement at the City's option.

13.2 Purchasing. In order to facilitate accounting control, Midwest Pool Management shall purchase all supplies in its own name.

### **14. Changes**

No change in this Contract shall be made except in writing prior to the change in work or terms being performed. Midwest Pool Management shall make any and all changes in the Work without invalidating this Contract when specifically required to do so in writing by the City.

### **15. Entire Agreement**

This contract contains all the agreements of the parties relating to the subject matter hereof and is the full and final expression of the agreement between the parties. Any oral representations or modifications concerning this instrument are of no force or effect excepting through a subsequent modification in writing signed by all the parties hereto.

### **16. Severability**

All parties agree that should any provision of this contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this contract, which shall continue in full force and effect.

### **17. Transferability**

Neither City nor Midwest Pool Management shall assign any rights or duties under this Contract without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Contract. Nothing contained in this Article shall prevent Midwest Pool Management from employing independent Midwest Pool Managements, associates, and sub-contractors to assist in the performance of the Services.

### **18. Third Party Rights.**

Nothing in this Contract is intended to benefit any third party not a party to this Contract, and no provision of this Contract shall confer any rights upon any such third party.

### **19. Venue.**

This Agreement shall be governed by the laws of the State of Missouri. Any legal action or proceedings relating to this Agreement shall be instituted only in St. Louis County, Missouri.

**IN WITNESS WHEREOF**, the parties have made and executed this contract in multiple copies, each of which shall be an original.

**CITY OF RICHMOND HEIGHTS**

**MIDWEST POOL MANAGEMENT**

\_\_\_\_\_  
**By:**

\_\_\_\_\_  
**By:** Bert Forde, President

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
**By:**  
**Name, Title**

\_\_\_\_\_  
**By:**  
**Name, Title**

## EXHIBIT A "MANAGEMENT FEE"

Midwest Pool Management agrees to provide all items as listed in this document, as part of the base bid "Management Fee".

<b>Maplewood Family Aquatic Center</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
April 1	\$ 6,220.	\$6,420.	\$6,730.
May 15	\$ 6,220.	\$6,420.	\$6,730.
June 15	\$ 6,220.	\$6,420.	\$6,730.
July 15	\$ 6,215.	\$6,420.	\$6,720.
August 15	<u>\$ 2,000.</u>	<u>\$2,000.</u>	<u>\$2,000.</u>
<b>Total Management Fee Bid</b>	<b>\$26,875.</b>	<b>\$27,680.</b>	<b>\$28,910.</b>

<b>The Heights Aquatic Center</b>	<b>2018</b>
June 15	\$ 2,600.
July 15	\$ 2,600.
August 15	\$ 2,600.
September 15	\$ 2,600.
October 15	\$ 2,600.
November 15	\$ 2,600.
December 15	<u>\$ 2,597.</u>
<b>Total Management Fee Bid</b>	<b>\$18,197.</b>

Taxes. The Contract amount as stated above includes all sales taxes, excise taxes, and other taxes, for all materials and appliances subject to and upon which taxes are levied.

## EXHIBIT B "NOT TO EXCEED SALARY BUDGET"

### THE MAPLEWOOD FAMILY AQUATIC CENTER

	<b>2018</b>	<b>2019</b>	<b>2020</b>
April 1	\$10,000.	\$10,000.	\$10,000.
May 15	\$39,795.	\$41,140.	\$44,250.
June 15	\$39,795.	\$41,140.	\$44,250.
July 15	\$39,785.	\$41,140.	\$44,240.
August 15	\$10,000.	\$10,000.	\$10,000.
<b>Maximum Salary Budget</b>	<b>\$139,375.</b>	<b>\$143,420.</b>	<b>\$152,740.</b>

### THE HEIGHTS AQUATIC CENTER

	<b>2018</b>
June 15	\$ 7,870.
July 15	\$ 7,870.
August 15	\$ 7,870.
September 15	\$11,810.
October 15	\$11,810.
November 15	\$11,808.
December 15	\$11,807.
<b>Maximum Salary Budget</b>	<b>\$70,845.</b>

2018 STAFF RATES FOR RECREATION PROGRAMS / SPECIAL EVENTS NOT COVERED UNDER SECTION 2.1: These rates include all payroll taxes and fees and worker's compensation. These are not the rates paid to staff.

Manager	\$14.85__ per hour
Asst. Manager	\$12.12__ per hour
Head Guard	\$11.51__ per hour
Lifeguard	\$10.60__ per hour
Concession staff	\$10.00__ per hour