

12-*2*-0250
 (Do Not Write Above This Line)

A RESOLUTION BY
 FINANCE/EXECUTIVE COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO COOPERATIVE PURCHASING AGREEMENT FC-5685 PURSUANT TO ARTICLE X, SECTION 2-1601 ET. SEQ. OF THE CITY OF ATLANTA CODE OF ORDINANCES, UTILIZING THE CITY OF BRUNSWICK, GEORGIA CONTRACT WITH USA POOLS OF GEORGIA, INC., FOR MANAGEMENT AND FEE COLLECTION SERVICES AT CITY OF ATLANTA POOLS ON BEHALF OF THE CITY OF ATLANTA'S DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS FOR A TERM OF THREE (3) YEARS WITH ONE, TWO (2) YEAR RENEWAL OPTION, IN THE AMOUNT OF SEVEN HUNDRED THOUSAND DOLLARS AND NO CENTS (\$700,000.00) PER YEAR; ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM 7701 (TRUST FUND) 140303 (PRG SUMMER PROGRAM) 5222003 (REPAIR AND MAINTENANCE- OTHER) 600239 (YOUTH ATHLETICS PROGRAM) 69999 (FUNDING SOURCE FOR NON CAPITAL TRUST) AND FOR OTHER PURPOSES.

Substitute ADOPTED
Amended

MAR 05 2012

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred _____
 Referred To: _____
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First Reading
 Committee _____
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 Chair _____
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Committee _____
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 Chair _____
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 Other _____

Chair
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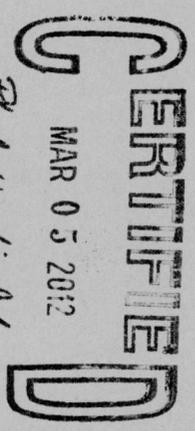
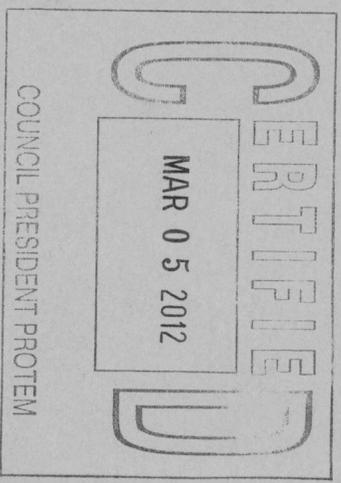
Date _____
 Chair _____

Fav, Adv, Hold (See rev. side) _____
 Other _____

Members _____

FINAL COUNCIL ACTION
 2ND 1ST & 2ND 3RD
 Readings
 Consent V Vote RC Vote

CERTIFIED



Refer To

 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAR 14 2012

WITHOUT SIGNATURE
 BY OPERATION OF LAW



**A SUBSTITUTE RESOLUTION BY
FINANCE/EXECUTIVE COMMITTEE AS SUBSTITUTED BY FULL COUNCIL**

12-R-0250

A SUBSTITUTE RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO COOPERATIVE PURCHASING AGREEMENT FC-5685 PURSUANT TO ARTICLE X, SECTION 2-1601 ET. SEQ. OF THE CITY OF ATLANTA CODE OF ORDINANCES, UTILIZING THE CITY OF BRUNSWICK, GEORGIA CONTRACT WITH USA POOLS OF GEORGIA, INC., FOR MANAGEMENT AND FEE COLLECTION SERVICES AT CITY OF ATLANTA POOLS ON BEHALF OF THE CITY OF ATLANTA'S DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS FOR A TERM OF THREE (3) YEARS WITH ONE, TWO (2) RENEWAL OPTION, IN AN AMOUNT NOT TO EXCEED SEVEN HUNDRED THOUSAND DOLLARS AND NO CENTS (\$700,000.00) PER YEAR WITH ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM: 7701 (TRUST FUND) 140303 (PRC SUMMER PROGRAM) 5212001 (PROFESSIONAL/CONSULTING) 600239 (YOUTH ATHLETICS PROGRAM) 69999 (FUNDING SOURCE FOR NON CAPITAL TRUST) FOR MANAGEMENT AND FEE COLLECTION SERVICES; AND IN AN AMOUNT NOT TO EXCEED TWO HUNDRED AND FIFTY THOUSAND DOLLARS AND NO CENTS (\$250,000.00) PER YEAR FOR POOL REPAIRS ON AN AS NEEDED BASIS AT THE SOLE DISCRETION OF THE CITY TO ENSURE FACILITIES MEET FULTON COUNTY HEALTH COMPLIANCE STANDARDS WITH ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM 7701 (TRUST FUND) 140303 (PRC SUMMER PROGRAM) 5222003 (REPAIR & MAINTENANCE- OTHER) 600239 (YOUTH ATHLETICS PROGRAM) 69999 (FUNDING SOURCE FOR NON CAPITAL TRUST); WITH ALL FEES COLLECTED BY USA POOLS OF GEORGIA, INC. BEING DEPOSITED INTO THE FOLLOWING FUND, DEPARTMENT, ORGANIZATION AND ACCOUNT NUMBERS: 7701 (TRUST FUND) 140303 (PRC SUMMER PROGRAM) 3472004 (FEES, SWIMMING) 6190000 (SPECIAL FACILITIES) 600239 (YOUTH ATHLETICS PROGRAM) 69999 (FUNDING SOURCE FOR NON CAPITAL TRUST)- 50% AND 1001 (GENERAL FUND) 140101 (PRC DPRCA) 3472004 (FEES, SWIMMING) 13200000(CHIEF EXECUTIVE); AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") owns, operates and manages a number of pool facilities and spray grounds to the benefit of residents and visitors; and

WHEREAS, the costs to operate and maintain these facilities has increased and the City has sought to find qualified firms to provide professional services for ten (10) of the City's outdoor pool facilities; and

WHEREAS, the Commissioner of the Department of Parks, Recreation and Cultural Affairs ("DPRCA") and the Chief Procurement Officer have identified the agreement between the City of Brunswick, Georgia and USA Pools of Georgia, Inc. ("USA Pools") as a source for a cooperative purchase of management and fee collection services for various aquatics facilities; and



WHEREAS, pursuant to §2-1602 of the City of Atlanta Code of Ordinances, the Chief Procurement Officer may procure supplies, services or construction items through contracts established by a public procurement unit where such contracts and contractors substantially meet the requirements of Article X of the Atlanta City Code of Ordinances; and

WHEREAS, the City of Brunswick, Georgia competitively procured the agreement with USA Pools in a manner consistent with the City of Atlanta Code of Ordinances; and

WHEREAS, the Commissioner of DPRCA and the Chief Procurement Officer recommend utilizing the City of Brunswick, Georgia agreement with USA Pools, for management and fee collection services of various City aquatic facilities for an initial term of three (3) years with one two (2) year renewal option at the City's sole discretion in an amount not to exceed Seven Hundred Thousand Dollars and No Cents (\$700,000.00) per year for management and fee collection services and in an amount not to exceed Two Hundred and Fifty Thousand Dollars and No Cents (\$250,000.00) per year for pool repairs on an as needed basis at the sole discretion of the City to ensure facilities meet Fulton County Health Compliance Standards.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor, or his designee, on behalf of the City is authorized to enter into cooperative purchasing agreement FC-5685 with USA Pools, in substantially the same form as Attached hereto as Exhibit A, for management and fee collection services for various City aquatic facilities for an initial three (3) years with one two (2) year renewal option at the City's sole discretion in an amount not to exceed Seven Hundred Thousand Dollars and No Cents (\$700,000.00) per year for management and fee collection services and in an amount not to exceed Two Hundred and Fifty Thousand Dollars and No Cents (\$250,000.00) per year for pool repairs on an as needed basis at the sole discretion of the City to ensure facilities meet Fulton County Health Compliance Standards.

BE IT FURTHER RESOLVED, that all professional work shall be charged to and paid from 7701 (Trust Fund) 140303 (PRC Summer Program) 5212001 (Professional/Consulting) 600239 (Youth Athletics Program) 69999 (Funding Source for Non Capital Trust) and all contracted work will be charged to and paid from 7701 (Trust Fund) 140303 (PRC Summer Program) 5222003 (Repair & Maintenance- Other) 600239 (Youth Athletics Program) 69999 (Funding Source for Non Capital Trust).

BE IT FURTHER RESOLVED, that all fees collected by USA Pools on behalf of the City under cooperative purchasing agreement FC-5685 be remitted to the City and deposited into the following Fund, Department, Organization and Account Numbers: 7701 (Trust Fund) 140303 (PRC Summer Program) 3472004 (Fees, Swimming) 6190000 (Special Facilities) 600239 (Youth Athletics Program) 69999 (Funding Source for Non Capital Trust)- 50% and 1001 (General Fund) 140101 (PRC DPRCA) 3472004 (Fees, Swimming) 13200000 (Chief Executive)- 50%.

BE IT FURTHER RESOLVED, that the Chief Procurement Officer in consultation with the City Attorney is directed to prepare an appropriate document for execution by the Mayor.



BE IT FINALLY RESOLVED, that the agreement will not become binding on the City, and the City will incur no obligation or liability under it until it has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk and delivered to USA Pools of Georgia, Inc.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

MAR 05, 2012
MAR 14, 2012



EXHIBIT A



SWIMMING POOL MANAGEMENT AGREEMENT

THIS AGREEMENT, ("Agreement") is entered into and effective as of _____ (the "Effective Date") between USA Pools of Georgia, Inc. (the "Company") and the City of Atlanta, (the "City") for the operation and management by the Company of the City's pools located in the city of Atlanta, Georgia, in accordance with the specification, conditions, and terms set forth herein.

1. **EFFECTIVE DATE**: The initial term of this Agreement will be three (3) years. This Agreement shall commence on the Effective Date and end on [_____]. The initial term of the Agreement and any renewal term(s) are collectively referred to as the "Term". City shall have the right in its sole discretion to renew this Agreement for a one additional two (2) year term.
2. **ACCESS AND UTILITIES**: The City agrees to permit and maintain free access to the pool sites and prior to **March 15th** or as soon as the Agreement is executed during the initial term of each year, provide three (3) sets of keys to Company to all locks required to operate the pools. Company shall keep and safeguard keys and release keys only to authorized personnel. NOTE: If City changes lock at a pool site, three (3) sets of keys should be supplied to Company within three (3) working days.

City further agrees to furnish without cost to Company:

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

4. **TELEPHONE**: The City agrees to be responsible for and to provide an operational touch-tone telephone **thirty (30) days prior to opening** and accessible to personnel at pool sites. Consistent with health department regulations and for safety reasons **pools shall only be open when the telephone is operational**. The telephones must be capable of receiving incoming calls and be a dedicated land line. The telephones cannot be cellular or portable since 911 dispatch cannot trace such calls.



reasonable charges for cleanup as the result of vandalism or acts of God, in accordance with section **PAYMENTS**. The Company shall not be held liable nor assumes any responsibility for any and all damage caused by vandalism to the facilities, equipment and surrounding areas. Should water quality be affected by vandalism the cost of correction shall be billed to the City.

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

10. **LAWS**: Company and its subcontractors shall perform services in compliance with all Applicable Laws. Company shall comply with Appendix A and any applicable City socio-economic programs, including, but not limited to, City's EBO and EEO Programs, and requirements set forth in the City of Atlanta Code of Ordinances in the performance of its services.

11. **MINIMUM SAFETY STANDARDS**: City agrees and acknowledges that it is City's responsibility and duty to operate City's pools within the established local health department regulations and minimum safety standards. The National Spa and Pool Institute (NSPI) "Minimum Standards for Public Pools," the National Electric Code, and any and all local health and building codes shall be used as minimum standards for safety herein. The NSPI "Minimum Standards for Public Pools," may be obtained from NSPI, 2111 Eisenhower Avenue, Alexandria, VA 22314; the National Electric Code is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269; and local health codes are available from the county environmental health department. Company agrees to notify the Commissioner of Department of Parks Recreation and Cultural Affairs ("DPRCA"), within twenty-four hours, upon discovering a safety, sanitary and/or maintenance issue that needs to be addressed in any aquatic facility. This is regardless of whether the Company intends to bring resolution to the matter themselves. Company is responsible for maintaining and operating safe and code compliant facilities. Company shall notify the Commissioner of DPRCA, within three hours or less, of learning of any issue regarding or arising at any pool that potentially may involve the media, police, fire, or any other public safety organization. Company shall provide DPRCA its emergency evacuation plans to include how Company shall secure the equipment, visitors and staff, and the pools in the event of an emergency.

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

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

Payment for work and equipment to bring City's pools within minimum standards on the above items shall be the responsibility of the City. In accordance with section **PAYMENTS**.



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

12. **POOL OPERATION:** Company recommends that supervision by certified personnel be required for any use of the pool. Company agrees to follow the approved, agreed upon schedule per the conditions of this Agreement except where the schedule is changed due to inclement weather, low bathing load, repairs, fecal matter contamination or the City's request for modification of personnel's shifts. Company shall schedule personnel to operate the pool on the following schedule:

DATES OF OPERATION:

05/26/2012 through until Sunday before Atlanta Public Schools Starts or as defined below

Note: If a Holiday falls on a day when the pool is normally closed, the pool will be open on that day and closed the following day. If City elects to change the above schedule any time during this agreement, the City agrees to provide 7 day written notice to allow company time to accommodate schedule change. Company shall maintain a list or log of the use of all pool facilities. The log should contain names and ages of facility users, as well as the date and time used.

Schedule and Hours of Operation

<u>Pool</u>	<u>Days</u>	<u>Summer Hours</u>	<u>Hours After APS starts</u>
¹ Adams	M-F	10AM-7PM	
¹ Anderson	M-F	10AM-7PM	
² Candler	M-F Sat	10AM-7PM 12PM-7PM	3-7PM
¹ Dunbar	W-F Sat	10AM-7PM 12PM-7PM	
² Grant	M-F Sat- Sun	10AM-8PM 12PM-8PM	3-7PM
² John A. White	M-F	10AM-7PM	3-7PM 12PM-7PM
¹ Pittman	M-F	10AM-7PM	
² Powell	W-F Sat- Sun	10AM-7PM 12PM-7PM	3-7PM
¹ South Bend	T-F Sat	10AM-7PM 12PM-7PM	



¹Thomasville M-F 10AM-7PM



¹Open from the Saturday before Memorial Day until the Sunday before APS schools start

²Open from the Saturday before Memorial Day until Labor Day

Monday through Friday

10:00am -1:00pm Swim Lessons/Camp

1:30pm-4:00pm Community Free Swim

4:30pm -7:00pm Community Pay Swim

Saturday and Sunday

12:00pm -7:00pm Community Pay Swim

Pay swim only on the following holidays: Memorial Day, Independence Day, Labor Day

Company may determine personnel requirements based on bathing load and pool size to include Certified Pool Operator (“CPO”) and licensed lifeguard to serve as manager, all staff shall be distinctively uniformed; at least two (2) lifeguards for every fifty (50) persons in a pool and one (1) lifeguard for every twenty-five (25) above that number of persons. DPRCA reserves the right to schedule special events for specific benefit of City programs such as Camp Best Friends.

13. **CAMP BEST FRIENDS**: Company shall make the pools available at no cost to City of Atlanta Camp Best Friends participants during swim lessons & camp time period (10AM-1PM). Company shall provide swim lessons to Camp Best Friends participants during those times. DPRCA Office of Recreation will provide Company a schedule for Camp Best Friends attendance on or before May 1 of the calendar year.

14. **WADING POOL**: The supervision and safeguarding of users of wading pools shall be the responsibility of the parents of the children using the wading pool. Company agrees to maintain the wading pool and, where the necessary pump, filter, and chemical feeders are in place, to maintain water chemistry. Company, however, shall not be responsible for any injury or loss resulting from use of the wading pool.

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

1. The Company shall maintain at its expense a sufficient number of personnel to perform Company’s responsibilities hereunder. Company shall have sole and complete authority for recruiting, hiring, training, promoting, supervising, compensating and disciplining such personnel and for establishing the terms and conditions of their work environment. Company is responsible for providing professional apparel including swim suits for staff. Such personnel shall be under the Company’s exclusive direction and control. City requests a ratio of 1 guard to 25 patrons be maintained. At the commencement of the Term Company shall evaluate current pool personnel and use best efforts to maintain current employees where practicable.



2. The Company agrees to pay the following for Company personnel:
 - a. wages
 - b. income tax withholdings
 - c. social security withholdings
 - d. state unemployment insurance
 - e. federal unemployment insurance
 - f. workmen's compensation
3. The Company shall train personnel. Personnel not performing up to the standards of the City will be replaced by the Company within 48 hours of receipt of written request by City or designated representative.
4. Personnel engaged by the Company shall require proper credentials required by the local Health Department.
5. Personnel engaged by the Company shall be required to go through the Company's orientation training, onsite training, and a post Memorial Day Personnel training review test.
6. Personnel shall be required to be trained in the area of blood borne pathogen and provided a blood borne pathogen exposure control kit.
7. Personnel shall have the authority to discipline swimmers and any and all other persons within the pool facilities, within their best judgment and sole discretion consistent with the published and posted rules of the City and minimum safety standards as established herein.
8. Personnel are not required to tolerate abusive language or physical confrontations by facilities members or guests. If either occurs, the facility owner or guest will be required to leave the active area and/or premises at the request of personnel. Should guest not comply, the local authorities shall be called. Company has authority to call the appropriate law enforcement authority for assistance and/or arrest if the Company feels necessary. Company feels this action is in the best interest of other facility members or guest and/or company personnel.
9. Anyone not abiding by the rules or blatantly disregarding them shall be warned and may be asked to leave the pool and/or facility. Should any individual pose an ongoing problem, that matter will be brought to the attention of Company's office and City's contact person.
10. Company's full time management staff shall train personnel on independent mechanical operation of City's facility.
11. Company's full time management staff shall supervise personnel.
12. Whereas, Company will invest substantial resources to train and convey information concerning operational techniques and management procedures to its personnel at City's facilities. City acknowledges that such information and investment is a valuable asset of Company's business. City agrees not to hire or contract (without the prior written consent of Company) any personnel or former personnel of the Company directly or indirectly to work at, service, or be connected in any way with the pool named herein for a period of one (1) year from the date of expiration or cancellation of this Agreement. City further agrees not to contract for swimming pool maintenance or services as described herein with any other company or individual who makes use of former Company's personnel to work at, service, or be connected in any way at the pool named herein for a period of one (1) year from the date of expiration or cancellation of this agreement.
13. CPO licensed lifeguard to serve as manager, all staff shall be distinctively uniformed; at least two (2) lifeguards for every fifty (50) persons in a pool and



one (1) lifeguard for every twenty-five (25) above that number of persons.

14. Ensure all Company volunteers and staff clear a background check conducted by the Atlanta Police Department showing no felonies within the last ten (10) years, no crimes against children and no drug related convictions as defined under Title 16 "Criminal Code of Georgia" of the Georgia Code. It shall be the Company's sole responsibility to ascertain that each of its employees and volunteers satisfies these criteria before they are allowed to work in any City pool. Company shall be responsible for and bear the cost of getting the required documentation. City shall have the right to review employee background checks prior to employment. Company shall keep all background checks on file and make them available to the City upon request.

16. **PERSONNEL RESPONSIBILITIES:** Personnel shall be required to be responsible for the following duties:

Contacting of City's representative before pools opening for instruction on City's rules and regulations.

Company shall train Company personnel regarding customer service best practices and customer support to pool patrons regarding City operations.

2. Supervise main pool. Parent(s) should supervise wading pool.
3. Checking water chemistry and record readings.
4. Maintaining chlorine and pH balance of pool water.
5. Cleaning tiles around pool edges according to companies cleaning schedule.
6. Back washing filtration system as needed.
7. Cleaning pump system hair and lint strainer basket(s).
8. Cleaning trash in swimming pool area.
9. Vacuuming pool according to companies cleaning schedule.
10. Emptying trash receptacles.
11. Straightening deck furniture.
12. Replenishing janitorial supplies in bathhouse, cleaning and maintaining bathhouses
13. Enforcing City and Company's rules for the safety and convenience of pool guests.
14. Assisting City in monitoring membership.
15. Report medical or disciplinary action to the Company (copies of reports available to City upon written request).
16. Lock and secure facility upon closing. In cases where guests may swim when personnel is not at pool sites then City agrees to secure the facility.
17. City agrees to report and document any action that may jeopardize the spirit and content of this Agreement to Company's corporate office.

17. **RAIN DAY:** On rain days the Company shall keep one (1) personnel at the pool until 5:00 p.m. At 5:00 p.m., if the weather is still unsuitable for swimming, the pool shall be closed for the remainder of the day. In the event of severe weather, Company shall have the right to close the pool with no refund due the City.

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



the last occurrence of thunder or lightning. Deck area shall also be closed for 30 minutes after each occurrence of lightning.

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

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

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

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

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

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

Although glass is not permitted in the pool area during operation, glass can enter the pool area due to vandalism, after hour parties or storms that blow glass top tables into pools.



Generally, colored glass entering the pool can be identified and removed. Clear glass is not easily seen and it is a requirement of the health department that the pool is drained, surface scrubbed and cleaned, refilled and water rebalanced. City shall be notified should glass enter the pool.

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

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

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

19. **CHEMICALS AND SUPPLIES**: Company agrees to supply and inventory, at its expense:

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

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

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

2. City agrees to supply and inventory, at its expense. The following bathhouse supplies for light cleaning and disinfecting services. Heavy usage owners should supplement Company's cleaning with a professional cleaning service.

soap	deodorizers	scrubbies
disinfectant	toilet tissue	sponges
paper towels	trash can liners for pool	

3. City agrees to be responsible for providing, with no cost to Company, the following items/equipment:



water hoses	algae brushes	chemical control unit
pool vacuum heads	leaf net	first aid kit/supplies
pool poles	shepherd hook	water test kit/reagents
pool vacuum hoses	pool rules sign	2 chemical feed pumps
ring buoys	trash receptacles	gas and blower
rescue tubes	safety rope and buoys	flow
meters & pressure gauges		
mops	toilet bowl brush	brooms
buckets	blood born kit	hazmat kit
algacides	pool stand	pool umbrella
backboard with straps and head immobilizer		
Automatic pool fill with auto shut off		

20. **REPAIR WORK**: The Company shall stand ready to perform any repair work needed during the Term of this Agreement. It is understood that repair work is an independent covenant of this Agreement and notwithstanding any alleged breach of any other covenant. City shall authorize work in a timely matter. City shall have the option of using another contractor for repair work. Work performed by Company shall be billed as follows:

1. Company shall be solely responsible and agrees to perform emergency work at all City aquatic facilities, if the repair work is under five thousand dollars (\$5,000.00) per occurrence. Should any repair exceed five thousand dollars (\$5,000.00), DPRCA may make the repair, but shall have the option of having Company make the repair and reimburse Company any costs associated with the repair. Any repair work performed by Company pursuant to this section shall be invoiced to the City. City agrees to pay repair bills and invoices in accordance with section **PAYMENTS**.
2. The Company shall assist the City with regards to any necessary major repairs.

21. **COACHES**: At the City's request, the Company shall assist the City in locating and hiring swimming coach (es) and/or diving coach (es). Unless noted elsewhere in this Agreement, cost of any coaches shall be borne by the City, plus twenty percent (20%), in accordance with section **PAYMENTS**.

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

1. Whereas the Company shall schedule personnel for extra hours of operation, the City agrees to be responsible for giving the Company no less than seven (7) days of prior written notice. Additional hours are subject to the availability of personnel.
2. The Company shall not schedule any personnel beyond the hour of 11:00 p.m.
3. Personnel scheduled by the Company, other than those specified in this contract, shall be at the rate of \$19.50 per hour. Amount shall be payable to the Company with the seven (7) day prior written notice. This cost is in addition to the fees as provided hereinafter.



23. **INSURANCE:** Company shall comply with the insurance and bonding requirements set forth on Appendix B.
24. **INDEMNIFICATION:** Company shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:
1. Company's performance, non-performance or breach of this Agreement;
 2. compensation or benefits of any kind, by or on behalf of Company or Company personnel, or any subcontractor, claiming an employment or other relationship with Company or such subcontractor (or claiming that this Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Agreement or the provision of services by Company or subcontractor);
 3. any actual, alleged, threatened or potential violation of any Applicable Laws by Company or Company personnel, to the extent such claim is based on the act or omission of Company or Company Personnel, excluding acts or omissions by or at the direction of City;
 4. death of or injury to any individual caused, in whole or in part, by the tortious conduct of Company or any person acting for, in the name of, at the direction or supervision of or on behalf of Company; and
 5. damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Company or any person acting for, in the name of, at the direction or supervision of or on behalf of Company.
25. **LIMITATION OF LIABILITY:** THE MAXIMUM AGGREGATE LIABILITY OF CITY HEREUNDER IS LIMITED TO THE TOTAL OF ALL CHARGES ACTUALLY PAID DURING THE CURRENT YEAR UNDER THE AGREEMENT. EXCEPT FOR COMPANY'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY PROVIDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
1. Exceptions to Limitations. The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; or (b) any claim involving a violation of any applicable law concerning homeland security, terrorist activity or security sensitive information, regardless



of the manner in which such damages are characterized.

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

27. **MISCELLANEOUS:**

1. City agrees to allow Company to display a sign on the pool premises.
2. City agrees to communicate any comments, suggestions, or complaints concerning the pool, pool staff, or management service directly to the Company's corporate office.
3. The Company shall not be liable for pool and damages caused by hydrostatic lifting or faulty construction.
4. When Company's personnel is not scheduled to work at City facilities the Company shall assume no responsibility or liability at the facility before or after specified hours of operation.
5. The Company shall not be liable for any damage to the facility, equipment and surrounding areas caused by sudden storms, and/or damage from lightning, wind, hail, or heavy rains.
6. To comply with national, state and local codes and recommendations, the Company shall close and treat City pools in the event that fecal matter, vomit, or blood should contaminate the pool. Company shall take appropriate steps to clean and disinfect pool. An additional cost will be billed to City for this process.
7. If there is a change in local, state or federal laws concerning minimum wage, or concerning any other cost aspect relating to this proposal, the Company may present a new contract amount or additional charges to City, who shall have thirty (30) days to accept or reject the new amount. If the City does not accept the new amount, this contract is void at the Company's option.
8. Company reserves the right to close pool if air temperature is 69 degrees or



lower with no refund due to City.

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

29. **EXTENSION OF OPERATION**: At the option of the City, the Company shall schedule and maintain the pools and provide all necessary services to allow swimming before or after the dates in section **POOL OPERATION**. The City agrees to notify Company in writing thirty (30) days prior to the "extension of operation". The cost for "extension of operation" not covered by this agreement shall be \$65.00 for each day (including days the pool is closed) from the first day of the extension through the final day that the pool is open for swimming, plus \$23.50 per hour. An additional four (4) hour per week shall be added for pre and post operational maintenance hours. Amount shall be payable to the Company with the thirty (30) day written notice. This cost is in addition to the fees as provided hereinafter.

30. **CLOSING**: Unless the City elects section **EXTENSION OF OPERATION**, the pools shall be considered closed to swimmers as indicated in Section 12 above and the Company shall close the pool as soon after that date as Company deems possible. The Company shall complete the following services to close the pools:

- (1) Pump pool water to correct level.
- (2) Upon written request, Company shall drain all freshwater lines for pool fills and fixtures in the bathhouse. City agrees to pay additional charges in accordance with section **PAYMENTS** for winterization of bathhouse. Company shall assume responsibility for any freeze damage to bathhouse and shall repair any damage to bathhouse at Company's expense with the exception of damage due to circumstances beyond the Company's control.
- (3) Install City's covers. (If applicable)
- (4) Drain pumps and hair/lint strainer.
- (5) Backwash and drain filter tanks.
- (6) Open all valves to appropriate settings.
- (7) Store City's deck furniture.
- (8) Remove and store skimmer parts.
- (9) Cover all skimmers with plastic to prevent winter rain from refilling drained skimmers.
- (10) Remove and store all moveable ladders, pool stand chairs, at City's written request.
- (11) Clean and store chemical feeders.
- (12) Drain and store water hoses.
- (13) Lubricate filter system valves.
- (14) Grease motor bearings. (If applicable)



- (15) Add winterization chemicals to pool to retard algae growth, City to pay cost.
- (16) Prepare pool and pool plumbing lines for freeze protection; Company agrees to use common and accepted winterization techniques, but assumes no responsibility for freeze damage, Company shall inject anti-freeze in skimmers and related fixtures.
- (17) Prepare an inspection closing report.

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

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

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

32. **PAYMENTS:** The Company hereby proposes to perform the work and services set forth above for the price of \$69,980.00 per swim year, per pool upon specification, conditions and terms as set forth herein. Payments by City to Company shall be made in accordance with the following schedule:

- (1) Upon execution of this Agreement
\$3,499.00
or the annual renewal date of this Agreement,
in the event of renewal.

- (2) On or before December 1 of each year.
\$3,499.00

On or before February 1 of each year. \$3,499.00

- (3) On or before April 1 of each year.
\$6,998.00

- (4) On or before June 1 of each year.
\$20,994.00

- (5) On or before July 1 of each year.



\$20,994.00

(6) On or before August 1 of each year.
\$10,497.00

Initial _____

Agreement Payments are due as indicated above. Any contract payment not made within five (5) days of the dates listed above shall be subject to a delinquent payment of five percent (5%) of the amount due or any portion thereof. In the event contract payment are not received within (10) days of the dates listed above, the Company shall have the right, at it's option, and within its sole discretion, to interrupt or terminate its services under this Agreement and to withdraw and remove all personnel and supplies from City's pool facilities without any further or additional notice to City. Any and all other Payments, including, but not limited to, payments for repairs, parts, equipment, or labor, not made on or before ten (10) days from the due date shall be subject to a delinquent payment of five percent (5%) of the amount due or any portion thereof. In the event payments are not received fifteen (15) days from the due date, the Company shall have the right, at it's option, and within its sole discretion, to interrupt or terminate its services under this Agreement and to withdraw and remove all personnel and any unpaid for parts, equipment, and/or supplies from City's pool facilities without any further or additional notice to City. Any such interruption or termination notwithstanding, City shall be fully responsible for all payments provided herein. In the event that Company is required to collect payment at City's establishment, City agrees to pay an amount not to exceed \$100.00 for courier services.

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

33. **FEES/REVENUES:** Company shall collect all daily pool usage fees and turn over to City on a weekly basis. City shall receive one hundred percent (100%) of all daily admissions to pools. Company shall remit all fees by check to address provided by the City. Company shall fill out a daily cash sheet to match money that is reported along with corresponding weekly check.

Company shall be entitled to seventy five percent (75%) of all revenue from all programs offered at all facilities. The remaining twenty-five percent (25%) of revenue from all programs offered at the facility will be given to the City on a monthly basis. Revenue share will be given on any activity, program, parties, or event that generates additional money.

During the pool season, Company shall charge patrons the following rates to use each pool during public swim:

Fee Schedule

Resident Non-Resident



Swim Lessons	\$65/12 lessons	\$80/12 lessons
Annual Pass	\$110/Adult	\$185/Adult
	\$65/Senior	\$85/Senior
	\$65/Youth	\$85/Youth
	\$245/Family	\$470/Family

Daily Admission

Children 5 & Under	\$1.00/each
Children 6-16 *	\$2.00/each
Adults 17 & Over	\$4.00/each
Senior Rate 50 & Over	\$2.00/each

*All children 12 & under must be accompanied by a paying adult

Outdoor Rental Fees (Grant & Pittman Pool facilities not included)

No holiday rentals

Exclusive Rentals:

Closed to public, private parties, birthdays from 8pm -12am

\$55.00/hour facility fee

\$22.00/hour for Pool Manager

\$12.00/hour for each Lifeguard

Company shall be required to maintain (1) one Lifeguard for every (20) twenty patrons at the various facilities at all times. Additionally, Company shall provide, at minimum, one security staff for every (25) twenty-five patrons at all City facilities.

Company shall charge \$60.00 per month for all water aerobics classes. Each class type will be offered four (4) days per week. The \$60.00 fee per month will entitle user to visit all 16 classes per month.

34. **AUDIT:** Company shall provide to City, and any Person designated by City, access to Company Personnel for the purpose of performing audits and inspections of Company of the relevant information relating to the services and this Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of charges and invoices; (b) examine Company's performance of the services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Company shall provide full cooperation to City and its designated persons in connection with audit functions and examinations by regulatory authorities. City shall create an audit schedule for each element and may be conducted by City without prior notice to Company.



35. **TERMINATION**: Termination by City for Cause. City may at its option, by giving written notice to Company, terminate this Agreement:

(a) for a material breach of the Agreement by Company that is not cured by Company within seven (7) days of the date on which City provides written notice of such breach;

(b) immediately for a material breach of the Agreement by Company that is not reasonably curable within seven (7) days;

(c) immediately upon written notice for numerous breaches of the Agreement by Company that collectively constitute a material breach or reasonable grounds for insecurity concerning Company's performance; or

(d) immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Company's obligations under this Agreement or is in violation of any City Ethics Ordinances.

36. **TERMINATION BY CITY FOR INSOLVENCY**: City may terminate this Agreement immediately by delivering written notice of such termination to Company if Company: (a) becomes insolvent, as that term may be defined under Applicable Law, or is unable to meet its debts as they mature; (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors; (c) is adjudicated bankrupt or makes an assignment for the benefit of its creditors generally; (d) fails to deny or contest the material allegations of an involuntary petition filed against it pursuant to any Applicable Law relating to bankruptcy, arrangement or reorganization, which is not dismissed within sixty (60) days; or (e) applies for or consents to the appointment of any receiver for all or any portion of its property.

37. **TERMINATION BY CITY FOR CONVENIENCE**: At any time during the Term of this Agreement, City may terminate this Agreement for convenience upon thirty (30) days written notice of such termination. Upon a termination for convenience, Company waives any claims for damages, including loss of anticipated profits. As Company's sole remedy and City's sole liability, City will pay Charges for the Services properly performed prior to the notice of termination, plus all reasonable costs for Services performed after the termination, as specified in such notice, and reasonable administrative costs of settling and paying claims arising out of the termination of Services under purchase orders or subcontracts except to the extent any products under such purchase orders or subcontracts can be used by Company in its business within the thirty (30) days following termination. If requested, Company shall substantiate such costs with proof satisfactory to City.

38. **EFFECT OF TERMINATION**: Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Company shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Company or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable



requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

39. **CITY CONTACT PERSON:** Please direct all Company communications to the following City/ Representative:

Name:
Street:
City:
Phone:
E-mail:

Name: _____
Street: _____
City: _____ St: _____ Zip: _____
Contact Name: _____
Contact Phone: - _____
E-mail: _____



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

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

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

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

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

38. **ATTORNEYS FEES:** In the event of the breach of Agreement or legal action to enforce the rights of under the terms of this Agreement, the parties agree that the each party shall be responsible for any and all litigation expenses, including attorney's fees.

39. **ACCEPTANCE:** Acceptance of this Agreement by City and Company through signatures below, and return of this Agreement along with any payments due hereunder will constitute a contract entered into in accordance with the specifications, terms and conditions and addenda attached hereto.



The Parties hereto by authorized representatives have executed this Agreement as of the Effective Date.

City of Atlanta

USA POOLS

By: USA Pools of Georgia, INC.

Mayor

By: _____
Name: John Williams

Title: President

Municipal Clerk (Seal)

Approved:

The Department of Parks Recreation
and Cultural Affairs

Chief Procurement Officer

APPROVED AS TO FORM:

Senior Assistant City Attorney



APPENDIX A

NOT APPLICABLE



APPENDIX B



APPENDIX B
INSURANCE & BONDING REQUIREMENTS
FC-5685, Management & Fee Collection Services for Various Aquatic Facilities

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-,
- ii) Best's Financial Size Category not less than Class IX, and



- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

68 Mitchell St. Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the



Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Risk Management** at **68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303**.

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements – Form CG 20 10 (11/85) or its equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement (Form CG 20 10 (11/85) or its equivalent) evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

B. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :



Workers' Compensation. **Statutory**

Employer's Liability:

- Bodily Injury by Accident/Disease **\$1,000,000 each accident**
- Bodily Injury by Accident/Disease **\$1,000,000 each employee**
- Bodily Injury by Accident/Disease **\$1,000,000 policy limit**

C. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Fire Legal Liability
- Medical Expense
- Independent Contractor/Consultants/SubContractor/Consultants
- Products – Completed Operations
- Additional Insured Endorsement* (primary & non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

E. Fidelity Bond or a Crime Policy

The Contractor shall procure and maintain a Fidelity Bond or Crime Policy covering all persons receiving or disbursing funds under this contract in an amount not less than **\$1,000,000**. The Bond or Policy shall be specifically endorsed to cover loss under this contract and shall name the City of Atlanta as Loss Payee.

RCS# 1790
3/05/12
3:15 PM

Atlanta City Council

12-R-0250

CPA FC-5685 PURSUANT TO ARTICLE X, SEC
2-1601 W/USA POOLS FOR POOL REPAIRS
ADOPT ON SUB

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 0
EXCUSED: 0
ABSENT 5

Y Smith	Y Archibong	Y Moore	Y Bond
N Hall	Y Wan	Y Martin	B Watson
Y Young	B Shook	B Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	B Mitchell

12-R-0250