

RESOLUTION NO.: 37 - 2019
INTRODUCED BY: Kumin

A RESOLUTION AUTHORIZING AN AGREEMENT WITH HASTINGS
WATER WORKS, INC. TO MANAGE AND STAFF THE CITY SWIMMING
POOL DURING THE 2019 SEASON.

WHEREAS, after substantial investigation and analysis, the City administration and the Service and Recreation Committee of Council determined that in order to open the City's swimming pool to the public for the 2019 summer season it is most feasible to contract with an independent contractor to manage and staff the City's pool;

WHEREAS, upon obtaining quotes from private entities for the management and staffing of the City's pool, the Committee and the administration are recommending Hastings Water Works, Inc. of Brecksville, Ohio ("Hastings") as the most appropriate entity to perform these services; and

WHEREAS, Council deems it to be in the best interest of the City and its residents to enter into an agreement with Hastings for such services for the 2019 season.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

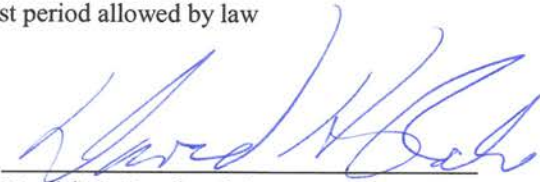
Section 1: The Mayor is authorized to enter into an agreement with Hastings Water Works, Inc. to manage and staff, as an independent contractor, the City's swimming pool for the 2019 summer season, which agreement shall be in a form reasonably similar to the agreement attached hereto and incorporated by reference herein as Exhibit A and approved as to form by the Director of Law.

Section 2: Payment for the services that are the subject of the agreement authorized in Section 1 of this Resolution shall be made to the extent the funds have been appropriated for this purpose by this Council.

Section 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution shall take effect at the earliest period allowed by law

PASSED: April 9, 2019


David H. Roche, Mayor

APPROVED: April 9, 2019

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council


Eloise Cotton-Henry
President of Council

City of Richmond Heights



HASTINGS WATER WORKS

The Aquatic Management Professionals

www.hastingswaterworks.com

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Lifeguard Management Agreement for 2019 Multi-Year Options 2020-2021

Submitted: 3/27/2019

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Owner: _____ HWW: _____

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I. LIFEGUARD MANAGEMENT (LGM) AGREEMENT SPECIFICATIONS

This **LIFEGUARD Management Agreement**, (hereinafter "Agreement"), made and entered into as of the date set forth herein by and between **Hastings Water Works, Inc.**, an Ohio corporation, (hereinafter "HWW" or "HWW's"), and the **City of Richmond Heights**, (hereinafter "OWNER" or "OWNER'S").

In consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DAYS AND HOURS OF OPERATION OF POOL

A. HWW agrees to perform and provide the services set forth herein for OWNER at the City of Richmond Heights Pool, located in Richmond Heights, Ohio.

- a. The annual season dates, (hereinafter "Season"), daily open hours and lifeguard staffing schedules for OWNER'S pool shall be as follows:

2019 Season: Monday, June 3, 2019 through and including Sunday, August 11, 2019

2020 Season: Monday, June 1, 2020 through and including Sunday, August 9, 2020 (optional)

2021 Season: Tuesday, June 1, 2021 through and including Sunday, August 8, 2021 (optional)

- b. Daily Open Hours will be scheduled as follows:

Monday through Saturday: from 1:00 p.m. until 7:00 p.m.

Sunday: from 1:00 p.m. until 5:00 p.m.

- c. Four (4) lifeguards/Front Desk staff will be on duty during all open pool hours.
d. Two (2) Opening lifeguards will be scheduled to arrive up to one hour early to allow ample time for daily opening procedures.
e. All closing staff will be scheduled to depart within 15 minutes after the pool closes daily.
f. Any lifeguards not assigned to the opening or closing shift (mid-day lifeguard), will be allowed a total of 15 minutes combined for arriving before and/or departing after their daily shift.

2. PAYMENT SCHEDULE

A. HWW shall invoice OWNER every two weeks for the actual lifeguard hours worked at the below stated lifeguard hourly rate for any given Season.

B. If OWNER becomes more than five, (5), days delinquent on any payment, HWW retains the right to immediately suspend lifeguard staffing and other services described herein, until all past due payments are paid in full. No refunds will apply if and when lifeguard staffing and related services have been suspended while awaiting payment on a past due invoice(s). HWW may accept partial payment of any amount due, without notice and without waiving its rights.

C. Below is the *estimated* number of hours to be staffed with hourly pricing by year.

Season	<i>Estimated</i> Lifeguard Hours	Lifeguard Hourly Rate	<i>Estimated</i> Total Price
2019	1,593	\$21.89	\$34,862.41
2020	1,593	\$22.33	\$35,559.66
2021	1,569	\$22.77	\$35,729.79

3. AQUATIC STAFFING

- A. To insure lifeguard staffing levels are appropriate for the actual and/or anticipated bather load on any day, OWNER and HWW have the option to adjust lifeguard staffing hours when mutually agreed upon. HWW shall insure staffing levels comply with all applicable laws and meet HWW's internal safety requirements. In the event lifeguard staffing hours are reduced on any day, OWNER understands HWW may not be able to staff additional lifeguards for the remainder of that day.
- B. Should a lifeguard's shift be reduced to less than four (4) hours due to decisions made by OWNER, OWNER will remain responsible for payment of a minimum of four (4) hours of each lifeguard shift.
- C. HWW retains the authority, at its discretion, to close OWNER'S pool due to inclement weather or if the air temperature at the OWNER'S pool is less than sixty nine (69), degrees Fahrenheit. Reasonable efforts will be made to contact the pool liaison prior to closing.
- D. If HWW and OWNER both agree additional personnel are required to staff OWNER'S pool, an additional charge of based on your annual lifeguard hourly rate listed in section I, 2, C of this Agreement, per lifeguard hour will apply. This hourly rate will also apply if OWNER decides to add additional daily open hours or extend the Season beyond the dates stated herein.
- E. HWW has the option to staff a temporary lifeguard if deemed necessary by HWW when swimmer loads exceed capacity of current lifeguard rotation on any day. OWNER shall be invoiced at a rate based on your annual lifeguard hourly rate listed in section I, 2, C of this Agreement, per temporary lifeguard hour. All charges for a temporary lifeguard will be invoiced separately from this Agreement. HWW will notify Management Company or pool liaison when a temporary lifeguard will be used.
- F. Swim Lesson lifeguards and Instructor staffing are not included in this Agreement and will be addressed separately from this Agreement.

4. DAILY DUTIES: LIFEGUARD AND OWNER

A. PERSONNEL DUTIES

- a. HWW shall be solely responsible for providing lifeguards and management required to staff OWNER'S pool in a safe manner during the aforementioned open hours of the pool.
 - b. HWW shall provide a minimum of one (1) field supervisor who shall make a minimum of one weekly random check at OWNER'S pool, as well as meet with OWNER upon request to discuss any concerns.
- B. HWW personnel will provide the following services daily and/or as needed to ensure the safe and clean operation of the pool:
- a. HWW personnel will use reasonable efforts to assist OWNER to enforce all reasonable rules including checking gate passes, maintaining membership and guest records.
 - b. HWW reserves the right to reassign lifeguards performing non-lifeguard duties, to lifeguard duties poolside when situations warrant such measures to be implemented, as determined by HWW.
 - c. HWW will be responsible for the collection of any monies at the front desk.

C. Agreement includes the following services:

Lifeguards are responsible for the following duties on a daily, and/or as needed, basis:
Open Pool - Unlock entrance gate, restrooms and other areas as determined by OWNER
Set out lifesaving equipment
Vacuum pool
Skim Pool
Put up and take down umbrellas
Straighten deck furniture
Test and record water chemistry per Ohio Dept. of Health specifications, on ODH log sheets
Maintain patron sign in sheet
Check patrons and guests for pool passes
Maintain bathrooms in a litter-free manner every two hours including: restock soap, paper towels, toilet paper, sweep and/or mop floors once a day or as needed.
Maintain lifeguard room/equipment room in an organized, clean manner
Police deck area for litter and debris
Empty trash cans and replace garbage bags when more than 50% full and take trash to designated area
Notify OWNER of any equipment or chemical issues as soon as possible
Check supplies daily and notify OWNER when supplies are low (bathroom or trash)
Add pool chemicals to maintain pool water chemistry in balance per ODH specifications
Collect money as payment for daily pool passes and similar items as required by OWNER
OWNER is responsible for the following duties as needed:
Deep clean bathrooms and equipment room/lifeguard room if and when required during the season
Clean bathroom floors, toilets and sinks on a regular schedule and as needed
All bathroom and related cleaning supplies shall be provided by OWNER at OWNER'S expense
All pool related chemicals for the season shall be provided by OWNER at OWNER'S expense
Empty pump baskets
Maintain filtration systems in proper working order, including backwashing

II. LIFEGUARD MANAGEMENT (LGM) TERMS & CONDITIONS

1. NOTICES AND COMMUNICATIONS

- A. All notices, demands or other communications (other than day to day operations), initiated by OWNER shall be sent via email to David Hastings, CEO at dhastings@hastingswaterworks.com
- B. All notices, demands or other communications initiated by HWW shall be sent via email to OWNER at:

Property Management Company	In-House
Name	Rick Dula
Title	Director of Recreation
Email	recreation.director@richmondheightsohio.org
Direct	216-383-6313
Work	216-486-2474

- C. OWNER to notify HWW of any changes to the contact information listed above.

- D. This Agreement shall be deemed to be made in the State of Ohio and shall be construed and enforced in accordance with the laws of the State of Ohio.
- E. This Agreement contains the entire Agreement between the parties, and it supersedes any and all prior Agreements (including oral Agreements between the parties hereto) concerning the transactions contemplated by this Agreement. There are no representations, warranties or Agreements between the parties hereto concerning the transaction contemplated by this Agreement, except as herein set forth.
- F. This Agreement shall be binding upon the parties hereto and their successors and assigns.
- G. This Agreement may be assigned to others with a minimum two week notice via email to all parties herein.
- H. The headings herein are for convenience only and are not to be used for interpreting this Agreement.
- I. Any modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement. The failure of any party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.

2. EMPLOYEES

- A. All lifeguard and pool personnel are employees of HWW, not OWNER.
- B. All lifeguards at OWNER'S facility shall be certified in accordance with the rules and regulations specified by the State of Ohio.
- C. HWW shall be solely responsible for hiring all of its employees.
- D. HWW shall be solely responsible for terminating employment of its employees.
- E. HWW shall be responsible for training and conveying information to its employees concerning the day-to-day operations of OWNER'S pool.
- F. HWW shall be responsible for the payment of wages, taxes, unemployment insurance and workman's compensation for its employees.
- G. Any increases in federal or state minimum wage guidelines that affect the hourly rate of pay for any of HWW's lifeguards and related pool personnel, shall require this Agreement to be amended in writing to reflect any direct or indirect increases of payroll costs to HWW. OWNER agrees that said cost increase shall be borne by OWNER.
- H. OWNER hereby agrees that it shall NOT hire, consult with, or allow to work at OWNER'S pool, in any capacity whatsoever, whether directly or indirectly employed by OWNER, any current or former HWW employees, without prior written consent from HWW, for a term of one, (1), year from the date of expiration or termination of this Agreement.

3. CHEMICALS, SUPPLIES AND MISCELLANEOUS

- A. OWNER shall provide any and all chemicals needed to maintain OWNER'S pool in a safe, clean condition throughout the Season.
- B. OWNER shall obtain, prior to pool opening all necessary certificates and permits as required by state, county and local laws.
- C. OWNER shall provide any and all necessary maintenance and safety equipment, (including, but not limited to: **Taylor K-2006 Complete Swimming Pool/Spa Test Kit FAS-DPD K2006 or similar**, (Test Kit can be purchased from HWW), vacuum hose, vacuum pole, vacuum head, hoses, nozzle, backboard, etc.) to properly maintain pool in a clean and safe condition. Any and all maintenance and safety equipment cost shall be borne by OWNER and stored on the property where pool is located.
- D. OWNER **shall provide and restock during the Season, at OWNER'S expense, a first aid kit** meeting HWW, state and local health department standards. (First Aid kit can be purchased from HWW)
- E. OWNER shall provide HWW with two, (2), sets of keys if needed to provide the services herein.
- F. OWNER shall supply and restock at OWNER'S expense, all bathroom supplies, paper products, cleaning products and tools to maintain bathrooms, pump room and guard room in a clean manner.
- G. Pump room shall be locked and secured at all times unless access is needed, per the Ohio Administrative Code.

4. REPAIRS

- A. All repairs above and beyond normal daily maintenance shall be addressed on an individual repair basis, separate from this Agreement. HWW shall contact OWNER with a description and an estimate of work needed to be done. OWNER shall be responsible for cost of repair and replacement of any equipment, and for the repair of any unsafe conditions that may exist or occur at OWNER'S pool.
- B. All repairs shall be billed at a rate of One Hundred Sixty Five Dollars (\$165.00) per man hour.

5. PARTIES

- A. HWW shall provide when available, personnel for pool parties, which does not include Swim Team practices, Swim Team meets nor Swim Lessons.
- B. OWNER must request additional staffing for pool parties a minimum two, (2), weeks advance notice via email to aquatics@hastingswaterworks.com
- C. All parties requiring additional lifeguard(s) will be billed separate from this Agreement directly to OWNER at Twenty Five Dollars (\$25.00), per additional lifeguard hour, payable to HWW before event is scheduled.
- D. Staffing for parties will be provided on a personnel availability basis. One lifeguard is required for every additional 25 people in attendance. HWW reserves the right to add additional lifeguard(s) when deemed necessary by HWW due to various factors relating to the specific party.
- E. OWNER is not required to use or retain HWW and/or its employees for staffing during pool parties and/or special events. However, OWNER assumes full responsibility and liability for the pool and related areas when any individuals are in the pool or pool area when HWW employees are not on duty. Furthermore, ~~OWNER hereby agrees to indemnify and hold HWW and/or each of its respective members, directors, officers, shareholders, partners and employees, harmless from any and all claims, demands, liabilities, and expenses, including any legal fees and court costs (collectively as a "Claim or "Claims") incurred by HWW and/or each of its respective members, directors, officers, shareholders, partners and employees, directly or indirectly arising and/or resulting from the use, utilization and/or operation of the pool or pool area including but not limited to, any club house, pavilion, deck or related areas during hours other than those specified in this Agreement as open pool hours, (hours of operation), unless HWW'S employees have been scheduled according to the policies set forth in this Agreement.~~
- F. No lifeguard will be provided by HWW beyond the hour of 12:00 a.m. (midnight).

Owner: _____

6. SAFETY STANDARDS

HWW: _____

- A. OWNER agrees and acknowledges that its OWNER'S responsibility and duty to allow HWW to operate said pool within the established minimum safety standards. The Association of Pool and Spa Professionals (APSP) "Minimum Standards for Public Pools," and all state and local health and building codes shall be used as minimum standards for safety herein.
- B. Compliance with minimum standards relates to but is not limited to: safety warning signs - depth markings - safety equipment - GFCI circuit breakers - perimeter fencing.
- C. All cost to insure pool meets "minimum safety standards" is the sole responsibility of OWNER. HWW shall consult with OWNER for approval prior to any such work.
- D. OWNER acknowledges and agrees that the supervision and safeguarding of children using the wading pool (also referred to as "baby pool"), shall be the sole responsibility of the OWNER and/or the parents or guardians of the children using the wading pool.
- E. ~~OWNER hereby agrees to indemnify and hold HWW and each of its respective members, directors, officers, shareholders, partners and employees harmless from any and all claims, demands, liabilities, and expenses, including any legal fees and court costs (collectively as a "Claim or "Claims") incurred by HWW, and/or each of its respective members, directors, officers, shareholders, partners and employees, directly or indirectly arising or resulting from the utilization, use, misuse or safeguarding of OWNER'S wading pool.~~
- F. ~~In the event any action or proceeding shall be brought against HWW and/or each of its respective members, directors, officers, shareholders, partners and employees, by reason of any Claim, OWNER shall defend the same at OWNER'S expense by counsel reasonably satisfactory to HWW.~~

- G. A "Guardian" is defined as a person being of at least 18 years of age who is responsible for a minor child.
- H. The pool will be closed for a fifteen (15), minute rest/safety break fifteen minutes before each hour, with the exception of the final hour before closing when no break shall occur.

7. PHONE USAGE

- A. It is OWNER'S responsibility to provide a phone in working order at the pool area. Phone ringer must be audible to lifeguard(s) poolside. OWNER is responsible for blocking the availability of all non-essential phone services such as long distance and 900 or 976 exchanges. In no case, or at any time, shall HWW be responsible for any local or long distance phone charges incurred.
- B. HWW will not be responsible for any charges whatsoever incurred on a cellular phone issued by OWNER. Consistent with health department regulations, the pool will only be open when telephone is in operation.
- C. OWNER shall have phone service available one week prior to the start of each Season annually.

8. VANDALISM

- A. Any vandalism shall be reported to the HWW office immediately. Additional charges for any clean up required by HWW as the result of vandalism, shall be paid by OWNER.
- B. OWNER acknowledges that it is considered standard operational procedure by HWW to completely drain the swimming pool when glass is found on the pool deck or in the swimming pool. Though not specifically stated in the Ohio Revised Code, state and county inspectors have strongly recommended following this procedure (ORC 3701-31-06 Par. I). The swimming pool shall be completely drained and thoroughly rinsed. OWNER shall be responsible for all costs incurred.

9. INSURANCE COVERAGE

- A. HWW shall carry Liability Insurance in an amount to be not less than Five Million Dollars (\$5,000,000.00). A certificate of insurance shall be issued to OWNER upon its request. All HWW employees shall be covered by workman's compensation and unemployment insurance.
- B. OWNER shall carry physical damage/property coverage on the aquatic facility itself. OWNER shall carry commercial general liability (CGL) coverage, with limits of \$1,000,000.00 per occurrence with a \$2,000,000.00 annual aggregate.
- C. Certificates of insurance evidencing CGL coverage shall be provided to HWW one week prior to the start of the Season annually, or upon request by HWW.

10. TERMINATION OF AGREEMENT

- A. OWNER may terminate this Agreement, with or without cause, by providing fourteen (14) day notice of such via email and sent to: dhastings@hastingswaterworks.com.
 - a. In the event that OWNER terminates Agreement by procedure stated above, OWNER shall either: be entitled to a refund for money paid in advance for services not yet provided, or shall be responsible for a balance owed to HWW for services provided up to the date of termination.
 - b. Refund or balance owed shall be paid within fifteen (15) business days after termination.

12. ACCEPTANCE OF AGREEMENT

By OWNER'S signature set forth below, the services, chemicals, prices, specifications and conditions outlined in this Agreement are hereby accepted and agreed upon. The person(s) signing on behalf of OWNER personally represents to HWW that they are the qualified agent(s) of OWNER, for the **City of Richmond Heights Pool**, which has authorized them to enter into this Agreement with HWW to perform the aforementioned work as specified. All terms, conditions, payment schedules and amounts are agreed to. The parties acknowledge and agree that any terms and conditions set forth in any purchase order or other documents prepared by OWNER which is inconsistent with any of the terms and conditions set forth herein or in HWW'S invoices are hereby rejected by HWW, and OWNER acknowledges and agrees that such terms and conditions shall not apply.

INTENDING TO BE LEGALLY BOUND, the parties have executed this Agreement on the date set forth below.

OWNER:

Sign Here for One Year Option Effective June 2019 through and including August 2019:

SIGNATURE: _____ DATE: _____

(Print) name/title _____

OWNER:

Sign Here for Two Year Option Effective June 2019 through and including August 2020:

SIGNATURE: _____ DATE: _____

(Print) name/title _____

OWNER:


Sign Here for Three Year Option Effective June 2019 through and including August 2021:

SIGNATURE: _____ DATE: _____

(Print) name/title _____

HASTINGS WATER WORKS, INC.

By:



David J. Hastings, CEO

DATE: 3/27/19

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This Agreement may be voided at Hastings Water Works' option if not executed by OWNER and returned to HWW by April 1, 2019.