

FORSYTH COUNTY
BOARD OF COMMISSIONERS

Briefing

Draft

MEETING DATE: MARCH 19, 2020

AGENDA ITEM NUMBER: 6

SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN FORSYTH COUNTY AND CAROLINA POOL MANAGEMENT - GREENSBORO, INC., FOR LIFEGUARD SERVICES AT THE PETER S. BRUNSTETTER AQUATICS CENTER AT TANGLEWOOD PARK (PARKS & RECREATION DEPARTMENT)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT
BETWEEN FORSYTH COUNTY AND CAROLINA POOL MANAGEMENT -
GREENSBORO, INC., FOR LIFEGUARD SERVICES AT THE PETER
S. BRUNSTETTER AQUATICS CENTER AT TANGLEWOOD PARK
(PARKS & RECREATION DEPARTMENT)**

WHEREAS the County owns and operates the Peter S. Brunstetter Aquatic Center located at Tanglewood Park;

WHEREAS in order to provide the required lifeguarding services and staffing for the Aquatic Center, Forsyth County has contracted with an agency that has the required experience and certifications to operate such facilities and provide such services;

WHEREAS Carolina Pool Management–Greensboro, Inc. (“Carolina Pool”), was selected in 2010 to staff the Aquatic Center and provide lifeguarding services, and has done so since that date;

WHEREAS after completing a request for proposals in 2017 for Aquatic Center services, Carolina Pool was again selected to provide such services, and the County has since entered into three one-year agreements with Carolina Pool, the last of which expired at the end of the 2019 season; and

WHEREAS it is the recommendation of the County Manager and Parks & Recreation Director that the County enter into a one-year contract with Carolina Pool to provide the required lifeguard and staffing services at the Peter S. Brunstetter Aquatic Center at Tanglewood Park for the 2020 summer season, and rebid such services for 2021 and beyond;

NOW, THEREFORE, BE IT RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, a contract with Carolina Pool Management - Greensboro, Inc., which is attached hereto and incorporated herein by reference, in an amount not to exceed \$132,900.00, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney.

Adopted this 19th day of March 2020.

STATE OF NORTH CAROLINA

FORSYTH COUNTY

AGREEMENT

THIS AGREEMENT, made and effective this 3rd day of December, 2019, by and between Forsyth County, North Carolina (the "County"), and Carolina Pool Management - Greensboro, Inc. (the "Provider");

For the purpose and subject to the terms and conditions hereinafter set forth, the County and the Provider hereby agree as follows:

1. Services. Provider shall provide staffing, training, and supervision of the lifeguards for the Forsyth County Parks and Recreation Tanglewood Park Peter S. Brunstetter Aquatic Center (the "Aquatic Center") from Saturday, May 23, 2020 ("Beginning of Season") through Monday, September 7, 2020 ("End of Season") and perform such staffing levels and services as set forth in Attachments A, B, and C, attached hereto.

The following documents, attached hereto, are incorporated herein:

Attachment A labeled "2020 Tanglewood Aquatic Center Operation Hours" and

Attachment B labeled "Tanglewood Aquatic Center Lifeguard Staffing"

Attachment C labeled "Tanglewood Aquatic Center Lifeguard Duties and Responsibilities"

2. Term. The services of the Provider shall begin on Saturday, May 23, 2020, and unless sooner terminated by mutual consent or as hereinafter provided, shall be provided until Monday, September 7, 2020; provided that the County shall have the right to terminate this Agreement, without cause, upon 30 days' notice in writing to the other party, or upon 7 days written notice if the Provider breaches the Agreement. This contract has the option to be renewable on an annual basis pending approval of appropriation budget for the applicable fiscal year, with the provision of no more than a 3% yearly increase.

3. Compensation. As full compensation for the Provider's services, the County agrees to pay the Provider the sum of one hundred thirty-two thousand nine hundred dollars (~~\$132,900.00~~), payable in installments. The Provider shall bill the County thirty-three thousand, two hundred twenty-five dollars (~~\$33,225~~), which represents twenty-five percent (25%) of the total amount, on the first of each month: June 2020, July 2020, August 2020, and September 2020. Each of the four (4) payments are due on the first (1st) of each invoiced month. No late fees will be incurred by the County for any reason. Total payments under this contract are not to exceed one hundred thirty-two thousand nine hundred dollars (~~\$132,900.00~~). Thereafter, compensation may be subject to an increase of no more than 3% annually for each subsequent contract term.

The provider also agrees to reimburse the County for hours not worked by the Provider on days when there is inclement weather. The amount of the reimbursement shall be based upon numbers kept by the County and the Provider and reconciled for accuracy and agreed upon by or before September 30, 2020. The reimbursement rates shall be 10% of the total lifeguard hours at an average wage of \$8.65 per hour beginning with the first two hours of closure for the specified operational periods, The percentage shall increase by 10% for each additional two hour increment of closure for the total lifeguard hours at an average wage of \$8.65 per hour of closure. Operational schedules are as follows;

School Days = 4:00pm - 8:00pm with a total of 42 lifeguard hours
(Ex. - 42 hrs x \$8.65 x 10%)

Sunday's = Open 11:00am - 6:00pm with a total of 86 lifeguard hours
(Ex. - 86 hrs x \$8.65 x 10%)

Monday - Saturday = 11:00am - 8:00pm with a total of 110 lifeguard hours
(Ex. - 110 hrs x \$8.65 x 10%)

The reimbursement shall be made to the County by the sixteenth (16th) of October, 2020. The Provider will reimburse the County for hours lost due to being closed early as provided in Attachment B. Any directives to close the aquatic facility shall be given by County Parks & Recreation staff (Director of Park Operations, Assistant Director of Park Operations or Parks Program Manager).

4. Independent Contractor. The Provider shall operate as an independent contractor, and the County shall not be responsible for any of the Provider's acts or omissions. The Provider, its employees, and subcontractors shall not be treated as an employee with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. Neither federal, state, nor payroll tax of any kind shall be withheld or paid by the County on behalf of the Provider or the employees of the Provider. The Provider is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement. The Provider shall comply with the North Carolina Workers' Compensation Act and shall ensure that its subcontractors also comply. The Provider shall not be treated as an employee with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County. The Provider has no authority to enter into contracts or agreements on behalf of the County. The County shall not be liable to the Provider for any expenses paid or incurred by the Provider unless otherwise agreed in writing. The Provider shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide contracted services unless otherwise agreed in writing.

5. Indemnification. The Provider agrees to indemnify, defend, and hold the County harmless from and against any and all claims, expenses (including attorney fees), costs or liability for acts or omissions of the Provider relating to this Agreement or services provided pursuant to it.

6. Insurance. The Provider shall maintain, at its sole expense, insurance coverage as required by the Forsyth County Risk Manager.

7. County Property. Provider agrees that it shall be responsible for the proper custody and care of any property furnished to it by the County for use in connection with the performance of this contract and will reimburse the County for loss of, or damage to, such property. Any information, data, documents, studies, or reports given to or prepared or assembled by the Provider under this Agreement shall be kept confidential and not divulged or made available to any individual or organization without prior written approval of the County.

8. Notice. All notices permitted or required to be given by one party to the other party shall be addressed and delivered in writing as follows:

For the County:
Mike Anderson
Director of Forsyth County Parks and Recreation
201 North Chestnut Street
Winston-Salem, NC 27101
andersmb@forsyth.cc

For the Provider:
Angelo Kontoulas
President of Carolina Pool Management - Greensboro, Inc.
308 Pomona Drive, Building C
Greensboro, NC 27407
angelo.kontoulas@greensboro-pmg.com

The following Forsyth County Parks and Recreation representatives shall serve as liaisons between the Provider and the County during the operational season of the Aquatic Center:

Alex Bennett
Parks Program Manager
Office (336) 703-2502
Mobile (336) 345-2465

Ryan Kearns
Maintenance Manager
Office (336) 703-6452
Mobile (336) 399-5947

Chris Weavil

Assistant Director of Park Operations
Office (336) 703-2501
Mobile (336) 345-2075

Mike Anderson
Director of Parks and Recreation
Office (336) 703-2503

The following Carolina Pool Management representatives shall serve as liaison between the Provider and the County during the operational season of the Aquatic Center.

Angelo Kontoulas
President of Carolina Pool Management - Greensboro
(336) 854-8884

Niki Luckey
Human Resources Office Manager
(336) 383-9825

9. **Assignment.** The Provider may not assign its obligations under this Agreement unless it has received prior written approval from the County, which may be withheld at the sole discretion of the County.
10. **Waiver.** No action or failure to act by the County shall constitute a waiver of any of its rights or remedies or as approval or acquiescence in a breach thereunder, except as may be specifically agreed in writing.
11. **Governing Law.** This Agreement shall be governed by North Carolina law, except that provisions regarding conflicts of laws shall not apply. The venue for any legal proceeding shall be in Forsyth County, North Carolina.
12. **Nonappropriation.** Notwithstanding anything to the contrary herein, in the event that public funds are unavailable and not appropriated for the performance of the County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to the County 30 days after written notice of the unavailability and non-appropriation of public funds. In the event of a change in the County's statutory authority, mandate, or mandated functions by state or federal legislative or regulatory actions, which adversely affects the County's authority or duty to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to the County 30 days after written notice of such limitation or change in the County's legal authority or duty.
13. **Survival of Provisions.** All obligations arising prior to termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the parties shall survive the completion of services and termination of this Agreement.

- 14. Modification.** This Agreement may only be modified in writing and signed by both the Provider and by the County Manager or other authorized County official.
- 15. Conflict with Attachments.** In the event of any conflict between the provisions in this Agreement and any provisions in an attachment thereto, the provisions in this Agreement shall take precedence over any provision in an Attachment.
- 16. Miscellaneous.** The Provider shall comply with all applicable laws and regulations including but not limited to federal, state and local laws regarding business permits, certificates, and licenses that may be required to carry out the services to be performed under this Agreement and all federal immigration laws in its hiring and contracting practices. Provider and its subcontractors shall comply with Article 2 of Chapter 64 of the North Carolina General Statutes relating to the required use of the federal E-Verify program to verify the work authorization of newly hired employees. Failure of the Provider to comply with this provision or failure of its subcontractors to comply could render this contract void under North Carolina law. Provider hereby certifies that it is not on the North Carolina State Treasurer's lists of persons engaging in business activities in Sudan (Darfur), Iran, or boycotting Israel, prepared pursuant to NCGS §§ 147-86.43, 147-86.58, and 147-86.81, nor will Provider utilize for this Agreement any subcontractor on such lists. This agreement is intended for the benefit of the County and the Provider and not for any other party. If any provision of this Agreement shall be unenforceable, the remainder of the Agreement shall be enforceable to the extent allowed by law.

IN WITNESS WHEREOF, the authorized officials of the County and the Provider have set their hands and seals as of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

(SEAL)

By: _____
J. Dudley Watts, Jr, County Manager

Damon L. Sanders-Pratt, Deputy County
Manager

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

Date: _____

CAROLINA POOL MANAGEMENT

By: Angela Kostoulas

Printed Name: ANGELA KOSTOULAS

Title: President / GM

Date: 1-14-20

675302.2326

Attachment A

2020 Tanglewood Aquatic Center Operation Hours

The Aquatic Center is to be open during the following hours from Saturday, May 23, 2020 to Monday, September 7, 2020:

Saturday	11:00 am to 8:00 pm
Sunday	11:00 am to 6:00 pm
Monday	11:00 am to 8:00 pm (Memorial Day & Labor Day are full operation)
Tuesday	11:00 am to 8:00 pm
Wednesday	11:00 am to 8:00 pm
Thursday	11:00 am to 8:00 pm
Friday	11:00 am to 8:00 pm

School Day Operation:

On days when Winston-Salem/Forsyth County Public School is in session and the Aquatic Center is open, the operating hours will be:

- Weekdays, Monday through Friday, 4:00 pm to 8:00 pm
- Saturdays, 11:00 am to 8:00 pm
- Sundays, 11:00 am to 6:00 pm

4:00 pm to 8:00 pm School Day Operation hours will be held on weekdays between *Tuesday, May 24, 2020 and Wednesday, June 10, 2020.

The facility will be **closed** to the public:

- Monday, August 24, 2020 through Friday, August 28, 2020
- Monday, August 31, 2020 through Friday, September 4, 2020

The facility will **open** to the public:

- Saturday, August 29, 2020 and Sunday, August 30, 2020
- Saturday, September 5, 2020 through Monday, September 7, 2020 (Labor Day Weekend)

**Dates are subject to change due to school calendar changes and school inclement weather days added to schedule.*

Attachment B

Tanglewood Aquatic Center Lifeguard Staffing

Saturday, May 23, 2020 through Monday, September 7, 2020

Mondays through Saturdays:

- Two (2) certified persons will be on duty from 10:00 am to 11:00 am performing opening duties.
- Ten (10) certified persons will be on duty from 11:00 am to 12:00 pm.
- Thirteen (13) certified persons will be on duty from 12:00 pm to 5:00 pm.
- Eleven (11) certified persons will be on duty from 5:00 pm to 8:00 pm.
- Three (3) certified persons will be on duty from 8:00 pm to 8:30 pm performing closing duties.

Sundays:

- Two (2) certified persons will be on duty from 10:00 am to 11:00 am performing opening duties.
- Eleven (11) certified persons will be on duty from 11:00 am to 1:00 pm.
- Thirteen (13) certified persons will be on duty from 1:00 pm to 5:00 pm.
- Ten (10) certified persons will be on duty from 5:00 pm to 6:00 pm.
- Three (3) certified persons will be on duty from 6:00 pm to 6:30 pm performing closing duties.

School Days:

- Two (2) certified persons will be on duty from 3:00 pm to 4:00 pm performing opening duties.
- Ten (10) certified persons will be on duty from 4:00 pm to 8:00 pm
- Two (2) certified persons will be on duty from 8:00 pm to 8:30 pm performing closing duties.

Holidays:

- On Monday, May 23, 2020 (Memorial Day), Saturday, July 4, 2020 (Independence Day), and Monday, September 7, 2020 (Labor Day) two (2) additional guards will be on duty from 12:00 pm to 5:00 pm

"Certified persons" for the purposes and usage of this Agreement refers to lifeguards that meet current American Red Cross and/or YMCA Standards.

Reimbursement Scale

	Monday - Saturday	Sunday	School Day
Operation Hours	11 AM - 8 PM	11 AM - 6 PM	4 PM to 8 PM
Total LG Hours	110 hours	86 hours	42 hours
Average LG Wage	\$8.65 per hour		
Reimbursement Scale			
	10% (\$95.15) 2 hrs	10% (\$74.39) 2 hrs	10% (\$36.33) 2 hrs
	20% (\$190.30) 4 hrs	20% (\$148.78) 4 hrs	20% (\$72.66) 4 hrs
	30% (\$285.45) 6 hrs	30% (\$223.17) 6 hrs	
	40% (\$380.60) 8 hrs		
	50% (\$475.75) 10 hrs		

Attachment C

Tanglewood Aquatic Center Lifeguard Duties and Responsibilities

The Splash Pad Playground, Main Pool, Children's Activity Pool, and Tubing River area will be considered "Lifeguard on Duty" areas.

The Provider lifeguards will perform clean-up and preparation duties to be done at opening, during the operational day, and at closing:

Opening duties include removing the vacuum(s) from the pools if necessary, checking and emptying all skimmer baskets, cleaning hair and debris from the skimmer vents, ensuring all water features and lights are on, bringing out and setting up the umbrellas for lifeguard stands and patron tables, ensuring cover is off lift, battery pack is in, and the lift is operational, testing all bodies of water for required sanitizer and pH levels and recording them in a log provided by the Provider, and inspecting the water and deck then clearing the water and deck of foreign objects and debris, net skimming the water's surface, scrubbing tiles around the water's edge, sweeping and hosing down deck, bringing out forty (40) tubes from storage at the Tubing River, feel-testing tubes for air pressure (if tubes need air, set aside for maintenance), and rearranging deck chairs and tables to their original locations prior to opening.

Duties to be done during operation hours include testing all bodies of water for required sanitizer and pH levels and recording them in a log provided by the Provider once every two (2) hours, maintaining a clean and organized Lifeguard Room, rearranging deck chairs and tables when necessary, inspecting the water and deck then clearing the water and deck of foreign objects and debris and hosing down deck when spills and food debris are present, net skimming the water's surface, checking all trash can levels and emptying when needed, contacting Tanglewood Maintenance when the trash hopper needs to be emptied, checking locker rooms for cleanliness in stalls, showers, and changing areas, checking items in locker rooms to see if refills by Tanglewood staff are necessary and contacting Tanglewood staff for refills, keeping tubes at Tubing River neat and organized, and checking all operational supplies and requesting more inventory to Tanglewood Maintenance within five (5) days of run-out time.

Closing duties include dumping the trash in closed/tied bags into the trash hopper located in the Janitorial Room, move all empty trash cans to concessions area for cleaning, rearranging deck chairs and tables, inspecting the water and deck then clearing the water and deck of foreign objects and debris, sweeping and hosing down deck, net skimming the water's surface, scrubbing tiles around the water's edge and buoys to ensure there is no scum line, ensuring all water features and lights are turned off, putting vacuum robot in Main Pool in "on" mode, making sure the Lifeguard Room is clean and organized, returning tubes to storage at Tubing River, returning the lifeguard stand and patron table umbrellas to the proper location for overnight storage, and stacking chairs and loungers per the maintenance scheduled to be provided on-site.

Significant cleaning that needs to be done during normal maintenance operating hours will be referred to the appropriate Tanglewood staff. This would include major spills or

contaminations such as diarrhea, vomit or blood in either the locker rooms. Please contact Tanglewood Maintenance if significant cleaning needs to be performed. After normal maintenance operating hours, spills and contamination duties are the Provider's responsibility. Spills and contaminations on the Aquatic Center deck are the Provider's responsibility at all times.

Tanglewood staff will assist in some routine maintenance during peak times of operation. This would include checking and emptying the trash bin at 2:00 pm daily during peak hours. At this time, Tanglewood staff will refill toilet paper, soap, and paper towels in the bathrooms. These products will be provided by the County.

When an Aquatic Center contamination occurs, the head lifeguard on duty will notify the front desk staff and the Parks Program Manager. The following actions should take place:

- Everyone will be directed to leave the body of water which contains the contamination, feces, vomit, or otherwise.
- The lifeguards will remove as much of the contamination as possible using a net or scoop, provided by the County, and properly dispose of it.
- For contaminations involving formed stools, the head lifeguard will contact the Tanglewood Maintenance and inform them of the contamination. The Provider will then add the supplied granular sanitizer at the given rate to the contaminated area of the pool body of water. The contaminated body of water will remain closed until a free available chlorine concentration of 3ppm has been maintained for nineteen (19) minutes.
- For contaminations involving liquid stool, the body of water in which water containing the contamination will be closed for the remainder of the day. Tanglewood maintenance will arrive and properly sanitize the contaminated body of water per health code regulations.

When thunder is heard, the Aquatic Center will be closed for thirty (30) minutes from the time last thunder was heard. When lightning is seen, the pool deck will be cleared and Aquatic Center will be closed for thirty (30) minutes from the time the last lightning strike was observed. During severe storms, the Parks Program Manager or Forsyth County Parks and Recreation Administrators will make the decision regarding closing the Aquatic Center for the remainder of the operational day.

The Provider shall not make the decision to close the Aquatic Center for any reason. The closing must be documented in logs provided by Provider.

The Provider does not have the right to reduce lifeguard staffing during operational hours for any reason without written consent by Parks Program Manager or authorized County representative.

Each lifeguard shall have a current American Red Cross Basic Lifeguarding Certificate or Lifeguard Training Certificate, or the equivalent, as well as a Professional Rescuer Certified Cardiopulmonary Resuscitation (CPR) Certificate and Automatic External Defibrillator (AED) trained. Provider shall make these certificates (or copies) available to the County prior to the commencement of services herein this Agreement. The Provider shall ensure that all lifeguards provided for the Aquatic Center have met and passed all legally required training. The Provider

shall agree to perform random drug screenings if the circumstances are necessary for any Provider employee if so requested by the County.

The Provider shall be permitted access to the Aquatic Center one (1) month prior to the beginning of the season for the purpose of training its lifeguard staff and to set up the Aquatic Center facility with proper equipment and placement. The Provider shall coordinate the scheduling of training at the Aquatic Center with the Parks Program Manager.

The Provider shall supply, at its sole expense, Cardiopulmonary Resuscitation (CPR) masks, fanny packs, materials, and/or supplies required to provide contracted services in this Agreement unless otherwise agreed in writing.

The Provider shall maintain a competent and qualified Pool Manager, lifeguards, and all other staff necessary to fulfill the obligations of the Agreement. If any Provider staff is or becomes unacceptable to the County, the Provider, upon written demand by the County, shall promptly remove the unacceptable staff and shall appoint a replacement that is satisfactory to the County.