

## STAFF REPORT

**DATE:** February 25, 2014

**TO:** City Council

**FROM:** Melissa Chaney, Human Resources and Community Services Director  
Samantha Wallace, Community Services Superintendent

**SUBJECT:** Community Pool License to Aquadarts

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### **Recommendation**

1. Approve the attached Resolution authorizing the City Manager, or his designee, to enter into a Temporary License Agreement of Community Pool to Davis Aquadarts, Inc. for summer 2014.
2. Authorize recreation pool re-plaster and repairs to competition pool tile, coping, and mastic at an estimate of \$75,000.
3. Direct staff to work with Davis Aquadarts in consultation with the Recreation and Park Commission to negotiate a License Agreement for year-round operation of Community Pool beginning September 1, 2014, for a three to five year period.

### **Fiscal Impact**

As part of the adopted budget balancing plan for FY2011-2012, Community Pool was closed to year-round programming in Fall 2011. However annual summer use of Community Pool has continued each summer through temporary License Agreements with Davis Aquadarts. The pool complex is currently being maintained at a minimal level. Repairs are required to meet the Health and Safety Code for public pools and funding is available in the Fiscal Year 2013-14 budget to cover the cost of the repairs. While the estimated revenue from a Summer 2014 License Agreement with Davis Aquadarts does not recover 100% of the required repairs to lease the pool, the City would potentially incur a revenue loss of \$110,000 in aquatics programming if space at another pool complex was needed to accommodate Aquadarts' summer programming. In addition, the ability to negotiate a longer term year-round lease with Aquadarts will assist in recouping the cost of repairs over a period of time.

The proposed License Agreement is structured similarly to the previous years' agreements to require the Davis Aquadarts to reimburse the City for all costs above the current level of expenditures being incurred to mothball the Community Pool complex. The purpose of structuring the License Agreement in this manner is to ensure there is basic ongoing maintenance for the City asset and to require the Licensee to be fiscally responsible for any additional costs incurred by the City.

### **Background and Analysis**

Community Pool was closed for year-round operation in Fall 2011 as part of the budget balancing plan for FY2011-2012. Each subsequent year (2012 and 2013), Council has approved

a temporary License Agreement with Davis Aquadarts, a long-standing Council approved Co-Sponsored Aquatic Group, for summer use of Community Pool. These agreements have allowed for Aquadarts to continue their summer programming at Community Pool. Davis Aquadarts summer programming at Community Pool provides learn-to-swim programming for 650 youth and provides pool space for 350 competitive youth swimmers. The agreements have also assisted in providing additional water space to AquaStarz for their summer practices and swim meets, and to AYSO for use during their World Cup Soccer Tournament on Memorial Day weekend.

Based upon the last two years of successful agreements between Aquadarts and the City and the desire of Aquadarts to continue their summer programming, Aquadarts has again requested use of the Community Pool complex for the summer of 2014. In addition to the use of Community Pool by Aquadarts, there is still a need to provide deep water space for Aquastarz practices and swim meets during the summer that is not available at other city pools during the summer. The basic terms of the License Agreement that are being proposed are similar to the agreements in 2012 and 2013.

#### Condition of the pool

- It is understood by the licensee that the Community Pool complex is in need of repair.
- The pool heater is in need of replacement and Davis Aquadarts should not expect to be able to use the pool heater during the term of this agreement, as was agreed upon in 2013.
- The City has met with Aquadarts on multiple occasions prior to this report at Community Pool to review and agree upon the current condition of Community Pool. Davis Aquadarts will need to obtain operational permits from the Yolo County Health Department and Yolo-Solano Air Quality District. Davis Aquadarts will reimburse the City for permit costs at the time of executing the License Agreement.
- The Community Pool complex is to be rented “AS-IS” after operational permits are obtained from County.
- The Community Pool complex must always comply with all local, State, and Federal health and safety rules.

#### Maintenance

- City will maintain the pool water quality, mechanical systems and perform weekly sweeping of the pool for debris.
- Davis Aquadarts will reimburse the City for the utility billings above current baseline costs. The utility billing is for the entire pool complex, including the shower and restroom areas.
- Davis Aquadarts is responsible for cleaning the building/showers. The restrooms will be maintained by the City one day per week under its current custodial contract. All other cleaning responsibilities shall be transferred to the Davis Aquadarts.
- The City will not incur unbudgeted maintenance costs.
- Davis Aquadarts will reimburse the City for any damages to equipment or amenities occurring during the term of the License.
- Davis Aquadarts will be responsible for all minor repairs of less than \$5,000.
- The City and/or Davis Aquadarts can terminate the License, with or without cause, or in the event of a significant equipment repair, by providing 30-day written notice to the other party.

Insurance

- Davis Aquadarts will obtain an acceptable insurance policy naming the City additional insured
- The City shall provide an additional supplemental event insurance certificate to the Davis Aquadarts minimizing their liability for compatible uses of the Community Pool complex as defined in the License Agreement (i.e. AYSO)

Equipment

- The License Agreement specifies what equipment is included in the License Agreement. At the end of the term all of those items must be accounted for in the same condition as the beginning of the term. Davis Aquadarts will pay the city \$325 per month for the use of the City equipment which includes rescue equipment, lane lines and other items which are detailed on Attachment B of the License Agreement.

Operation

- Two certified lifeguards are required in the pool complex at all times when anyone is in the complex.
- Davis Aquadarts will require all lifeguards and/or swim coaches to possess current American Red Cross Lifeguarding and American Red Cross CPR for Lifeguards.
- Davis Aquadarts may sublicense Community Pool only to other City Co-Sponsored Aquatics Groups. These are currently Davis Aquatic Masters, Davis AquaStarz, Davis Water Polo Club, and the Davis Joint Unified School District.
- Davis Aquadarts will submit Accident and/or Incident Reports for any incident that occurs at the complex. Accident and/or Incident Reports are to be submitted to the City of Davis Community Services Superintendent within 24-hours of the incident.

Finances

- The City will incur minimal costs beyond what is currently spent on the pool.
- The rent amount is a combination of:
  - Cost to meet County requirements
  - Mini dart revenue (status quo)
  - Maintenance staff costs for maintenance of equipment , chemical checks, and weekly sweeping of the pools.
  - Open books – City entitled to audit Aquadarts financial records related to Community Pool use
  - Penalty/fine for unauthorized use of the pool - \$1,000 per incident

<b>Pre-Work Required for Public Use</b>	<b>City Cost</b>	<b>Aquadart Cost</b>
Recreation Pool Replaster	\$60,000	
Competition Pool tile, coping, mastic repairs	\$15,000	
Health Permit		\$1,100
Yolo/Solano Air Quality		\$850
<b>Total Upfront Costs</b>	<b>\$75,000</b>	<b>\$1,950</b>

<b>Estimated Costs Above Baseline – Reimbursed by Aquadarts</b>	<b>Monthly Cost</b>	<b>3.5 Month Cost (May 15-Aug 31)</b>
Personnel – equipment checks and maintenance	\$1102	\$3,857
Chemicals	\$300	\$1050
Use of City Equipment	\$325	\$1137.50
Electrical (cost above mothball)	\$1,650	\$5,775
Aquadarts payment for Mini-Dart program		\$2,300 (est)
		<b>Total</b>
<b>Total Cost above baseline for term of License</b>		<b>\$14,119.50</b>

**Request by Davis Aquadarts to Negotiate a Year-Round Lease of Community Pool**

In Fall 2013, Davis Aquadarts approached the City with request to negotiate a year-round lease of Community Pool. Discussions so far have included a programming plan by Aquadarts for year-round operation of the pool that includes a public component of swim lessons, triathlon training courses, and programming for home-schooled youth during the months of the year the City is not able to offer programming (September-April). Discussions between Aquadarts and the City have explored the public-private partnership that can provide a benefit to Aquadarts as a Co-Sponsored group, potentially provide more pool space to other Co-Sponsored groups (such as AquaStarz who needs deep water space), and provide additional public learn-to-swim components the city cannot provide without incurring a larger financial burden. This type of public-private partnership will also have a positive effect in reducing the city’s current annual costs of maintaining Community Pool, and Aquadarts has proposed to incur all operational costs to run the pool on a year-round basis above the current baseline of Community Pool being maintained at minimum levels. The initial investment needed by the City to lease Community Pool for Summer 2013 will also help to be recouped by a longer term agreement between the City and Davis Aquadarts. Staff would like to pursue, along with input from the Recreation and Parks Commission, a year-round lease of Community Pool by Davis Aquadarts.

**Attachments**

1. Resolution
2. License Agreement

**RESOLUTION NO. 14-XXX, SERIES 2014**

**RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO ENTER INTO A TEMPORARY LICENSE AGREEMENT WITH  
DAVIS AQUADARTS TO USE COMMUNITY POOL FOR SUMMER 2014**

WHEREAS, the City of Davis is the owner and operator of Community Pool located in Community Park; and

WHEREAS, as part of the budget balancing plan for FY2011-2012, the City closed Community Pool in fall 2011; and

WHEREAS, Davis Aquadarts has provided swimming and aquatic programs for the youth of Davis for 50 years; and

WHEREAS, the City of Davis has continued to grant use of Community Pool to Davis Aquadarts for each summer since the closure of Community Pool in fall 2011; and

WHEREAS, Davis Aquadarts desires to license Community Pool from May 15<sup>th</sup> - August 31<sup>st</sup>, of 2014; and

WHEREAS, the City of Davis wishes to enter into a Temporary License Agreement with Davis Aquadarts to allow them to use Community Pool for the summer of 2014.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager, or his designee, to enter into and if necessary make minor modifications, after consultation with the City Attorney, to the Temporary License Agreement for use of Community Pool by Aquadarts.

PASSED AND ADOPTED by the City Council of the City of Davis on this 25<sup>th</sup> day of February, 2014 by the following vote:

AYES:

NOES:

ABSENT:

Joseph F. Krovoza  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk

## LICENSE AGREEMENT

This License is made and entered into this 25<sup>th</sup> day of February, 2014, by and between the CITY OF DAVIS, a municipal corporation of the State of California, hereinafter referred to as “Licensor”, and the DAVIS AQUADARTS, Inc. a California non-profit corporation, hereinafter referred to as “Licensee”.

### Recitals

WHEREAS, Licensor is a municipal corporation of the State of California, owning certain property commonly referred to as Community Park, and City owns, maintains and operates a pool facility thereon (the “Pool”); and

WHEREAS, Licensee currently operates a non-profit aquatic program for Davis youths; and

WHEREAS, Licensee desires to use and operate such pool for three months; and

WHEREAS, the Licensor and Licensee desire to enter into a License agreement in order to allow Licensee to operate the pool;

WHEREAS, the Davis Aquadarts is a certified co-sponsor group in compliance with all city rules and policies required of co-sponsor groups and is required to be a co-sponsor group in good standing for the term of the License; and

WHEREAS, the Davis Aquadarts offers educational and recreational opportunities to the citizens of Davis that the City of Davis does not offer due to the cost of offering such programs and limited city resources.

NOW, THEREFORE, in consideration of their mutual promises and covenants herein contained and subject to the terms, conditions and provisions hereof, the parties hereto agree as follows:

### Agreement

1. Premises. Licensor hereby Licenses to Licensee, and Licensee hereby Licenses from Licensor, that certain real property located within Community Park, as more particularly depicted on Exhibit A attached hereto and made a part hereof (the “Premises”). The Premises shall include the area inside the fence including the pools, bleachers and main pool building, as well as the unshaded portions of the building in Exhibit A. Such authorized areas shall be referred to as the “Building Area”; the shaded area of the building is not being licensed and may not be used by Licensee for any purpose (the “Prohibited Area”). Licensee shall be responsible for keeping its employees, licensees, contractors and invitees within the Premises and out of the Prohibited Area. Use of the Premises by Licensee is subject to all exceptions, easements, rights, rights of way and other matters of record now or hereafter applicable to the Premises. This

License is a right to use the Premises only, and is not an exclusive right to possession, nor does it create any estate in the land or the Premises.

2. Term. The term of this License shall commence on May 15, 2014, and shall expire on August 31, 2014. This License may be terminated, without cause, by either party, upon thirty (30) days' written notice to the other party. Notwithstanding the termination of this License, all outstanding fees and charges must be paid in full within thirty (30) days of termination. Additionally, the City may terminate this License for cause. "Cause" is defined as a violation of this License, or of any City, State, or Federal law. If the City finds that it has cause to terminate this License, the City shall provide notice of such violation to the Organization. The Organization shall have five (5) days, or such period of time as the City may determine, from the date of receiving such a notice, to cure the violation. If the Organization does not cure the violation within five (5) days, or within the period of time specified by the City, the City may immediately terminate this License and send a notice of termination to the Organization. The Administrative Services Director is authorized as the party who may give such notice to terminate by Licensor.

3. Rent. Licensee shall pay to Licensor the following amounts on the schedule listed:

3.1 Licensee shall pay Licensor \$1,950 upon execution of the License to fund County Health and Air Quality permits necessary to open the pool. Licensor shall commence required repairs and secure permit prior to May 15, 2014.

3.2 Licensee shall pay Licensor \$3,561, (\$10,683 in total for May 15-August 31), in three equal payments during the term of the License, due and payable in advance on May 15, 2014, June 15, 2014, and July 15, 2014 to pay for Licensor's personnel and increased maintenance costs, increased chemical costs, and increased electrical costs. This includes 5 man hours per week above the basic hours (15 hours) needed to mothball the pool, and an additional 1.5 hours for contract/invoicing administration. If Licensee requests additional work to be performed by Licensor's personnel in excess of 5 man hours per week Licensee shall reimburse Licensor at a rate of \$48 per hour. Licensor shall provide Licensee written notice of additional work prior to the 15<sup>th</sup> of each month, and can only be authorized by the Community Services Superintendent or Community Services Director. Only the Head Swim Coach or President of Davis Aquadarts may request additional work. Any residual fees due shall be paid no later than September 15, 2014, or within 10 days of invoice by Licensor, whichever is later.

3.3 Licensee shall be invoiced by Licensor for the cost of pool chemicals in excess of \$300 per month. Such fees shall be paid no later than September 15, 2014, or within 10 days of invoice by Licensor, whichever is later.

3.4 Licensee shall be invoiced by Licensor for gas and electric usage. Licensee shall be responsible for 100% of the gas usage. Licensee shall reimburse Licensor for any electric usage beyond \$1,650 per month already included in the Licensee's monthly rent. Such fees shall be paid on no later than September 15, 2014, or within 10 days of invoice by Licensor, whichever is later.

3.5 Licensee shall pay Licensor \$325 per month, due and payable on May 15, 2014, June 15, 2014, and July 15, 2014 for use of the Licensor's equipment as identified on Attachment B. Following termination of the License all city equipment shall be returned to Licensor in the same condition as it was at the commencement date of the License. Licensor shall invoice Licensee for any damaged equipment. Any residual fees due shall be paid no later than September 15, 2014, or within 10 days of invoice by Licensor, whichever is later.

3.6 Licensee shall continue to offer the Summer Mini Darts program at other city pools and pay Licensor \$37.50 per swimmer in the same manner as the 2011, 2012, and 2013 summer program. Licensee shall provide a reconciliation and accounting with all such payments. Any residual fees due shall be paid no later than September 15, 2014.

3.7 Licensee shall pay to Licensor a penalty/fine of \$1,000 per incident for any unauthorized use of the pool as defined in section 5(a). Any residual fees due shall be paid no later than September 15, 2014, or within 10 days of invoice by Licensor, whichever is later.

3.8 Should pool be closed for a period exceeding 72 consecutive hours for mechanical failure or reasons beyond the control of Licensee, the License's fees due to Licensor may be prorated.

4. Improvements.

A. Improvements. Upon execution of the License, Licensor shall repair recreation pool plaster, competition pool tile, coping, and mastic and ensure that chemical levels in pool meet requirements for public swim. Licensor shall obtain the appropriate permits from the Yolo County Health Department and Air Quality District. Following these improvements, the premises are rented AS-IS. Licensee shall not make any improvements to the premises without prior written approval from Licensor.

5. Use of Premises.

A. Pools. Licensee is authorized to use the Premises for aquatic programs including lap swimming, swimming lessons, swim team training, team functions and swim meets.

B. Building. Licensee's is authorized to use the Building Area solely in conjunction with aquatic activities and not in any other manner and not for any other purposes.

C. Keys. Licensee currently has keys for the premises. No additional keys shall be issued.

D. Operation. Licensee shall be responsible for the following:



- Ensuring that there are two certified Lifeguards in the pool complex at all times when anyone is in the complex. At least one certified lifeguard must be present at the pool side for each pool in use.
- Ensuring that all lifeguards and/or swim coaches shall possess current American Red Cross Lifeguarding and American Red Cross CPR for Lifeguards.
- Licensee shall have in their possession and available for Licensor or any authorized City inspector review copies of the American Red Cross Lifeguarding and American Red Cross CPR for Lifeguards certifications for all lifeguards and/or swim coaches.
- Licensee will submit Accident Reports for any incident that occurs at the facility. Accident Reports are to be submitted to the City of Davis Aquatic Supervisor within 24-hours of the incident.
- The pool shall only be used between the hours of 5:30am and 10:00pm.
- There shall be no alcohol allowed on the premises.
- Any concessions shall be limited to serving those inside the pool complex. Licensee shall be responsible for complying with any rules or laws regarding sales tax.
- Licensee shall not allow vehicles to be driven in the park without the proper city permit. All coaches, participants, parents and visitors shall park in legally designated parking areas. Licensor makes no representations regarding the availability of the Veterans Memorial Center Parking lot, and Licensee acknowledges that any such parking area is shared with other users of the park facilities.

E. Rental of Community Pool. Licensee shall allow Licensor to rent Community Pool when not in use by Licensee. All rentals shall follow the normal Licensor rental process and be processed by Licensor. Licensor shall retain all rental revenue with no offset or reimbursement to Licensee. Licensee shall allow access to all pool equipment provided for in this Licensee but shall not be responsible for loss or damage caused by such rental. Licensee shall be allowed to rent Community Pool to the American Youth Soccer Association, "AYSO" if so desired, for the 2014 Memorial Day weekend to correspond with their World Cup Soccer Tournament. Licensee shall be responsible for supervising the rental to AYSO. Licensee shall be responsible for complying with all the requirements of section 5(d) of this agreement in conjunction with the AYSO rental. Licensee shall be allowed to negotiate the rent rate for this rental and shall give Licensor 20% of the gross rent collected due and payable to Licensor within 15 days of the AYSO final rental date. The City shall work with Licensee at the time of AYSO rental to assist in providing necessary supplemental insurance.

F. Signage. Licensee shall be allowed to hang sponsorship banners in recognition of donors per the following criteria. In general, the following industries and products are not eligible for sponsorships at City of Davis parks and recreational facilities, and the following criteria shall be considered in relation to sponsorship banners/signage:

- 1) Police-regulated businesses;
- 2) Companies whose business is substantially derived from the sale of alcohol, tobacco, firearms or pornography;

- 3) Religious or political organizations/campaigns;
- 4) Business regarded as "Adult" business;
- 5) Sponsors that do not portray a PG or G rated image;
- 6) Any depiction which gives the appearance or impression that a product or business is endorsed or recommended by the City of Davis or its officers, agents, or employees;
- 7) Sponsorship will create a conflict of interest or policy with the City of Davis;
- 8) Signs/banners shall be posted in a manner that does not impede with safety and access to all areas of the facility by emergency vehicles, public safety personnel, and/or participants;
- 9) Signs/banners shall be posted on the interior of the facility only, and must not be directed toward the exterior of the facility and/or general park users.

6. Maintenance. Maintenance and custodial costs of the Building Area and all costs associated therewith shall be the sole responsibility of Licensee except as provided herein. Licensor shall provide, at Licensor's expense, custodial service every Monday during the term of this agreement. Licensor shall, at Licensor's expense provide custodial services on all days when there are special events in Community Park that allow the public access to the Facilities restrooms. The anticipated special events are Celebrate Davis on May 15<sup>th</sup> and 4<sup>th</sup> of July Festival. Licensee shall be responsible for any minor repair of \$5,000 or less. If any repair estimate is received which exceeds \$5,000, Licensor may revoke this License with 24 hour notice, or at its option, proceed to repair with no effect on the License. Building Area maintenance shall be consistent with the standards provided in Attachment C. Licensor shall be responsible for maintaining the pool equipment, water quality and turf areas on the Premises.

7. Compliance with Laws. Licensee shall, at Licensee's own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities relating to Licensee's use and occupancy of the Premises whether those statutes, ordinances, regulations and requirements are now in force or are subsequently enacted during the term of the License.

8. Prohibited Use. Licensee shall not use or permit the Premises or any portion of the Premises to be improved, developed, used or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance or regulation of any federal, state, county or local governmental agency, body or entity. Furthermore, Licensee shall not maintain, commit or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Premises or any part of the Premises. Licensee shall not use or permit the Premises to be improved, developed, used or occupied for any purpose or purposes inconsistent with those for which the Premises are hereby Licensed, without first obtaining the express written consent of the City Manager.

9. Abandonment. If Licensee shall abandon, vacate or surrender said Premises, or be removed by process of law or otherwise, Licensor shall have the right to immediate possession of the Premises, and any improvements and fixtures thereon, and this License shall be immediately terminated. All personal property of Licensee, in such event shall be removed within thirty (30) days. All personal property of Licensee which is not so removed shall be deemed to be abandoned, at the option of Licensor, and title to any such personal property shall pass to Licensor.

10. Condition of Premises at expiration. Upon expiration of this License or termination of the License by Licensor, Licensee shall return the Premises to a condition similar to that at the beginning of term of License, excepting reasonable wear and tear.

11. Indemnity. Licensee shall indemnify, defend and hold harmless City, its officers and employees, from and against any and all claims, suits, or liability of any kind brought by any person for or on account of any loss, damage or injury to person or property or any interest, tangible or intangible, sustained by any person, howsoever the same may be caused, directly or indirectly arising or resulting from the acts or omissions of Licensee, its members, agents, employees, contractors or invitees in connection with this License.

12. Insurance. Licensee shall apply for, obtain and maintain, at its sole cost and expense, a separate policy or policies of public liability insurance which shall name Licensee and its officers and employees as the insured, and such policy shall also name Licensor, its officers, agents, council members, public officials, and employees as additional insured against any and all liability arising out of any act or omission of Licensee, its respective agents, members, employees, invitees or contractors in the performance of the License, the condition of the Premises or Licensee's use thereof. Coverage for both bodily injury and property damage liability must be on an occurrence basis, and each policy shall provide that the insurance afforded thereby shall be primary insurance to the full limits of liability stated in the certificates, and if the named insured has other insurance against a loss covered by said policy, that other insurance shall be excess insurance only.

The limits of liability shall be no less than ONE MILLION DOLLARS (\$1,000,000) per person, ONE MILLION DOLLARS (\$1,000,000) per occurrence, or a combined limit of ONE MILLION DOLLARS (1,000,000) for property damage. Said insurance, and certificates evidencing said insurance shall be in a form satisfactory to Licensor's City Attorney.

Said policy or policies shall be made effective before commencement of any activities by Licensee hereunder and shall be filed with Licensor's City Manager, and shall contain a condition or an endorsement precluding cancellation or reduction of coverage without thirty (30) days prior written notice to Licensor.

13. Force Majeure. Except as otherwise provided in this License, if the performance of any act required by the License to be performed by either Licensor or Licensee is prevented or delayed by reason of any act of God, act of terrorism, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations or any other cause (except financial ability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

14. Destruction of Premises. In the event that the Premises, improvements and fixtures thereon are substantially destroyed by fire, earthquake, elements, casualty, war, insurrection, riot, public disorder, any authorized act on the part of any governmental authority or any cause or

happening, to the extent that the same cannot be used by Licensee in Licensor's reasonable discretion, this License shall be terminated effective the date of destruction.

15. Waiver. The waiver by either party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision herein contained.

16. Successors and Assigns. The terms, conditions, and provisions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns all parties hereto. This License shall not be assigned without the written consent of Licensor and in the event of such assignment shall be void. Licensee may sublicense, rent or allow others to use the facility consistent with sections 3 and 5 of the License without prior written consent of Licensor.

17. Captions. The captions of this License are for convenience only and are not a part of this License and do not in any way limit or amplify the terms and provisions of this License.

18. Notice. Except as otherwise expressly provided by law and except where telephonic notice is expressly allowed under this License under Section 2, any and all notices or other communications required or permitted by this License shall be sent via facsimile, personal delivery, or USPS (return receipt or certified mail) to the parties at the following addresses:

Licensor: Community Services Director  
City of Davis  
23 Russell Boulevard  
Davis, CA 95616  
Phone: (530) 757-5626  
Fax: (530) 750-2742

Licensee: Davis Aquadarts  
Miriam Fisk, President  
PO Box 376  
Davis CA 95617  
Phone: 530-758-3278  
Fax:

19. Costs and Attorney's Fees. If either party commences any legal action against the other party arising out of this License or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including but not limited to court costs, expert witness fees, discovery expenses and attorneys' fees.

20. Agreement Contains All Understandings. This document represents the entire and integrated agreement between Licensor and Licensee and supersedes all prior negotiations, representations or agreements, either written or oral. This document may be amended only by written instrument, signed by both Licensor and Licensee. All provisions of this License are

expressly made conditions. The License shall be governed by and construed under the laws of the State of California as having been drafted by both parties.

IN WITNESS WHEREOF, the parties hereto have executed the License on the day and year first above written.

**CITY OF DAVIS**, a municipal corporation of the State of California.

By: \_\_\_\_\_  
Steve Pinkerton, City Manager

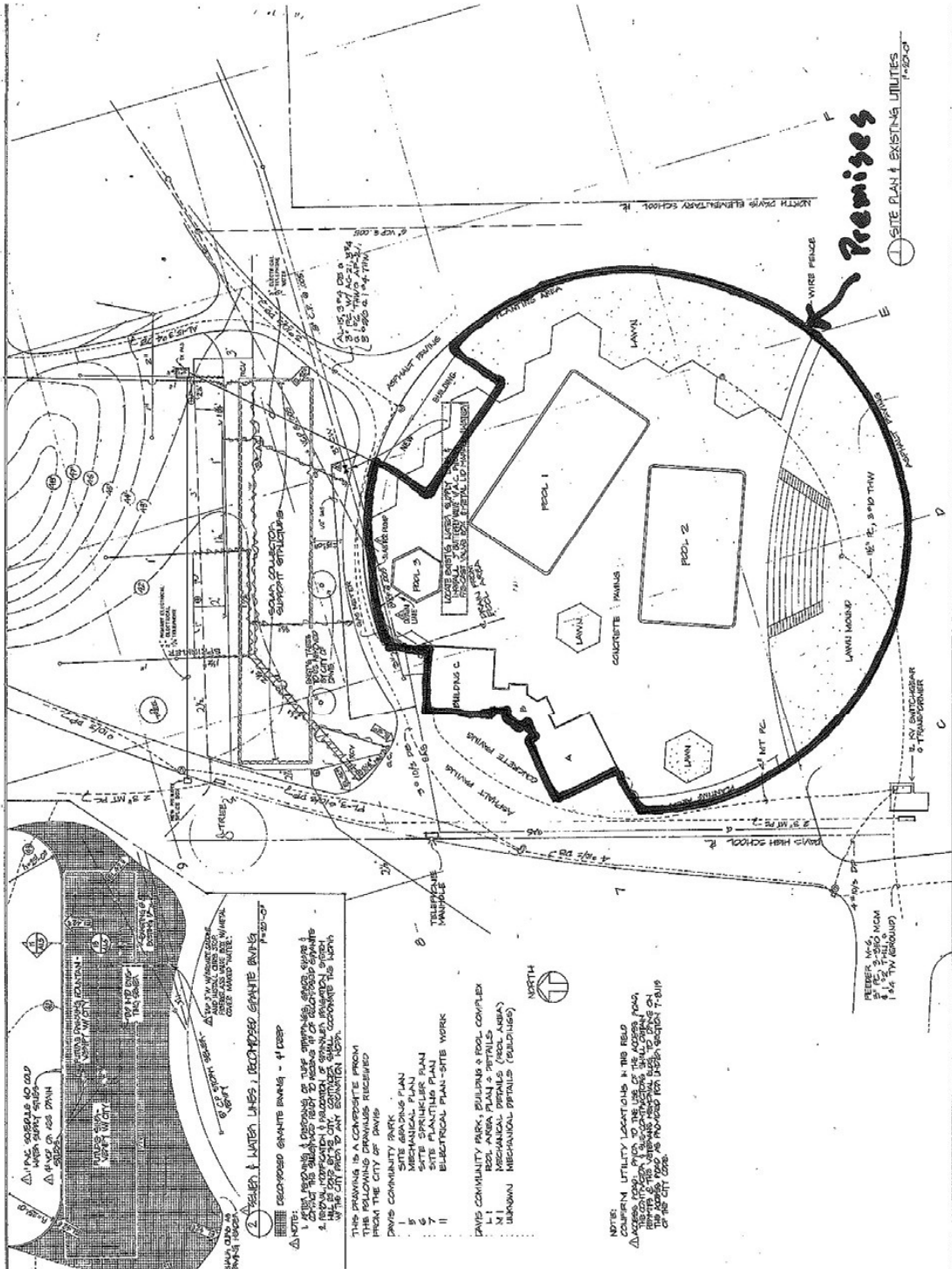
**DAVIS AQUADARTS**

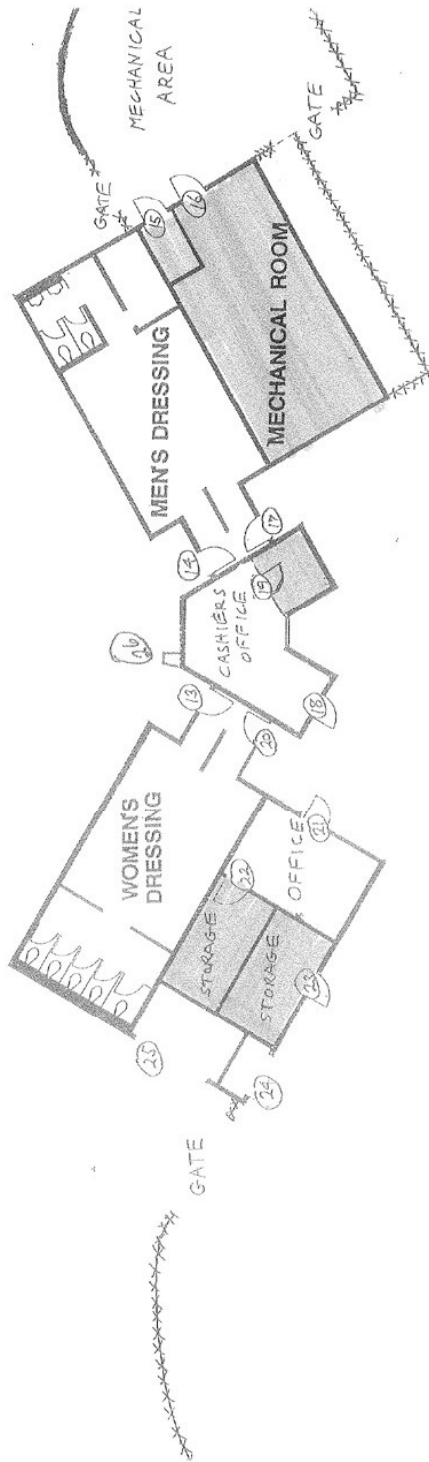
By: \_\_\_\_\_  
Miriam Fisk, President

APPROVED AS TO FORM:

\_\_\_\_\_  
Harriet Steiner, City Attorney

Attachment A





DAVIS COMMUNITY PARK POOL & RESTROOM

CITY OF TARRANT PUBLIC FACILITIES

LIONAKIS-BEAUMONT DESIGN GROUP

Attachment B  
City Equipment included in the License Agreement

Medical Equipment:

- Rescue tubes
- Backboards
- First Aid Supplies – ice packs, sting relief, band aids, etc.
- AED & Battery
- % of replacement for Adult AED pads
- % of replacement for Pediatric AED pads

Pool Equipment:

- Lane Ropes
- Lane Rope Wrenches
- Lane Rope Reels
- Pool Covers
- Pool Cover Reels



## Attachment C

### Daily Custodial Maintenance Standards

1. Restroom/Shower Room Cleaning. After cleaning, the restrooms will be clean and sanitary. The following actions shall be performed as minimum to accomplish these results:
2. Completely damp-clean and disinfect all surfaces of toilet bowls, urinals, lavatories, showers, dispensers, mirrors, chrome surfaces, and other such surfaces, using a germicidal detergent/cleaner.
3. Disinfect all surfaces of partitions, stalls, stall doors, shower walls/floors and wall areas adjacent to wall mounted lavatories, urinals toilets, and locker room wet area mats.
4. De-scale toilet bowls and urinals. After de-scaling, the entire surface shall be free from streaks, stains, scale, scum, urine deposits, and rust stains.
5. Re-supply restroom. Restrooms shall be stocked so that supplies do not run out prior to next servicing. Licensee is responsible for providing all cleaning and paper supplies.
6. Mop floors using germicidal detergent/cleaner solution.
7. Deodorizers. Place sufficient room deodorizers to control restroom odors.
8. Garbage. Empty garbage cans each evening and provide new garbage bag liners for all cans. Licensee is responsible for providing all garbage bags. Garbage may be disposed of in the dumpster behind Veterans Memorial Center so long as such activity does not interfere with Licensor's use of such dumpster. If Licensee has an event that generates a significant amount of trash, Licensee shall arrange for separate trash removal at its sole expense. Licensor shall have the right to terminate or restrict Licensee's access and use of Licensor's dumpster and require Licensee to arrange separate trash removal services in a manner acceptable to Licensor. Licensee shall provide recycling contains and recycle all recyclable materials.
9. Doors. All doors shall be secured each evening.
10. Deck. Hose off pool deck daily per the Yolo County Health Departments or City requirements, whichever is stricter.