

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-8

Urgent

Routine

AGENDA DATE June 18, 2013

CEO Concur with Recommendation YES NO

(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Multi-Year Funding Strategy for the Ongoing Operations and Maintenance of the Regional Water Safety Training Center-Empire Community Pool, and Related Actions

STAFF RECOMMENDATIONS:

1. Approve a Multi-Year Funding Strategy for the ongoing operations and maintenance of the Regional Water Safety Training Center, Empire Community Pool.
2. Authorize the Auditor Controller or her designee to accept contributions and pledges outlined in the Multi-Year Funding Strategy, and to accept future contributions and pledges which are designated to be used for the ongoing operations and maintenance of the Regional Water Safety Center, Empire Community Pool.

(Continued on Page 2)

FISCAL IMPACT:

On June 26, 2012, the Board of Supervisors authorized the Director of Parks and Recreation to sign Amendment 3 to the Amended and Restated Agreement No. A043009 with the Stanislaus County Police Activities League (SCPAL) for special youth programs including administration of the recreation swim program at the Regional Water Safety Training Center (RWSTC)-Empire Community Pool using revenue generated from entrance fees, program registration and sponsorships from local sponsors.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2013-298

On motion of Supervisor Monteith, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

STAFF RECOMMENDATIONS: (Continued)

3. Authorize the Director of Parks and Recreation, or her designee, to sign the Amended and Restated Agreement with the Stanislaus County Police Activities League relating to the maintenance and operations of the Regional Water Safety Training Center, Empire Community Pool for Special Youth and Recreational Swim Programs through Fiscal Year 2017-2018, with an option to extend the Agreement for two, one-year terms.
4. Approve the use of \$100,000 of seed funding from the Community Development Fund for the ongoing operations and maintenance of the Regional Water Safety Training Center, Empire Community Pool.
5. Direct the Auditor-Controller to deposit and transfer the contributions and pledges to the Regional Water Safety Training Center Maintenance and Operations Special Revenue Fund, as outlined in the attached budget journal.
6. Authorize the Chairman to thank and recognize the generosity of the donors in support of this community effort.

FISCAL IMPACT: (Continued)

In prior fiscal years, Stanislaus County maintained an agreement with SCPAL for the recreational swim program at the RWSTC in Empire which was funded by private sources that were raised during the pool construction by the Friends of the Empire Community Pool. These funds were mostly used during the initial years of operation. As such, the Fiscal Year 2012-2013 season aligned available programs with available resources, at no charge to the County. Funding for the maintenance and operations of the RWSTC was included in the Parks and Recreation Adopted Proposed Budget for Fiscal Year 2012-2013.

At that time, the Board of Supervisors authorized staff from the Department of Parks and Recreation and the Chief Executive Office to work with SCPAL and local partners, including the municipal advisory councils (MAC), community services districts, school districts, residents, and the business community to identify additional funding sources in the upcoming fiscal year to support the operation and maintenance costs for the RWSTC in Empire. The total estimated cost to operate and maintain the RWSTC is \$39,000 annually which includes utilities, pool/ground supplies, security alarm services and labor.

Multi-Year Funding Strategy

Since that time, a stakeholder group comprised of staff from the Department of Parks and Recreation, the Chief Executive Office, the Sheriff's Department, SCPAL, Friends of the Empire Community Pool, and the Supervisor William O'Brien representing District 1 met to develop a multi-year funding strategy for the ongoing operations and

Approval of a Multi-Year Funding Strategy for the Ongoing Operations and Maintenance of the Regional Water Safety Training Center-Empire Community Pool, and Related Actions
Page 3

maintenance of the RWSTC. The stakeholders group has developed a unique public and private funding strategy that creates a level of sustainability which will ensure the pool can operate now and into the future as outlined in Attachment A.

A comprehensive outreach campaign integrating a two tiered approach to raise funds for the operations and maintenance of the pool has been implemented. Tier 1 focuses outreach on the business community, and donors are requested to contribute once annually, with a five year commitment period. Tier 2 focuses outreach using a community based model with The Friends of the Empire Pool. To date, Tier 1 outreach campaign efforts with the business community has yielded commitments totaling \$57,500, made possible by generous contributions from Duarte Nursery, the Modesto Irrigation District, and the Beard Family. The investment of privately donated funds by these businesses demonstrates a commitment by private business to contribute to a partnership that ensures members of the community have a safe place to swim. Additional partners are being considered throughout Stanislaus County, and this effort will continue to feed this community based funding strategy into the future

The Sheriff's Department has also committed funding of \$50,000 over a five-year period to support this strategy. This significant investment supports the Sheriff's Coordinated Intervention Strategy (CIS) and creates a nexus between the community members of Empire and law enforcement. The CIS integrates water training and safety which seeks to minimize fatalities in local rivers, lakes and canals by providing a safe place to swim, community policing through the use of partnerships and problem solving techniques which are community driven, and by providing alternative prevention programs with SCPAL that serve as alternatives to drugs, gangs and other criminal activities.

The SCPAL has also committed funding of \$20,000 as outlined in Amendment 4 to the Amended and Restated Agreement (Attachment B). This is a five-year agreement with the option to extend the agreement for up (2) one-year terms. In accordance with the terms of the Agreement, SCPAL will contribute \$5,000 per year towards maintenance and operations beginning in Budget Year 2014-2015 of the Agreement, and will continue to administer the recreational and instruction programs.

At this time, staff recommends the Board of Supervisors approve the Multi-Year Funding Strategy for the ongoing maintenance and operations of the RWSTC. The strategy has estimated sources totaling \$271,500. Of the total amount of sources, staff recommends the Board of Supervisors approve the use of seed funding of \$100,000 from the Community Development Fund. The Community Development Fund was established by the Board of Supervisors at \$1.5 million as part of the Final Budget during Fiscal Year 2007-2008. To date, seventeen projects have been awarded funding from this source. Community projects have included sidewalk, lighting, infrastructure improvements and maintenance districts in the unincorporated areas of Stanislaus County. The current uncommitted balance in the Community Development Fund is \$1,175,769. If the use of Community Development Funds for the Multi-Year Funding Strategy for the ongoing operations and maintenance of the RWSTC is approved, the uncommitted balance would be \$1,075,769, not including interest earnings.

Finally, in Fiscal Year 2013-2014 of the multi-year funding strategy is recommended to be funded through a contribution of \$24,000 from the remainder of the initial fundraising efforts of the Friends of the Empire Community Pool, and a \$15,000 contribution from the Department of Parks and Recreation.

The total estimated annual cost for the maintenance and operations of the RWSTC is \$39,000. With the Board of Supervisors approval of the multi-year funding strategy, this will ensure the RWSTC can fund the operations and maintenance of the RWSTC entirely through Budget Year 2018-2019. The stakeholders group will continue to aggressively pursue funding opportunities which may include, but not limited to, competitive grant funding, business and community outreach, facility rentals, and signage and naming opportunities at the pool.

DISCUSSION:

Regional Water Safety Training Center-Empire Pool Background

The Regional Water Safety Training Center-Empire Community Pool was inspired by a tragedy that occurred in July of 2003 when three young brothers (Eloy, José, and Daniel Yopez) from Empire drowned in the nearby Tuolumne River. Following the tragedy, a grassroots effort began shortly thereafter and brought together local community stakeholders for the common purpose of raising enough funds to assist with the financing of a community swimming pool in Empire. The Empire Pool Committee was formed under the auspices of the Stanislaus Community Foundation, a local non-profit organization, for the purposes of beginning the fund raising campaign for this effort. The Regional Water Safety Training Center-Empire Community Pool was over six years in the making. The completion of the Regional Water Safety Training Center-Empire Community Pool marked a historic point in time, where community volunteers, hundreds of private citizens, businesses and their county government came together to make a difference that will serve future generations.

The project budget to construct the pool was \$2,641,125. The project was funded by a \$1,000,000 grant from the State of California Urban Parks and Healthy Communities 2002 Resources Bond Act; \$1,000,087 from the Tobacco Tax Fund, \$496,038 in Public Facility Fees; a \$200,000 grant from the Stewardship Council, and \$165,000 from community driven fundraising efforts reflecting a true public-private partnership.

Special Youth and Recreational Swim Programs

The Department of Parks and Recreation has partnered with the Stanislaus County Police Activities league (SCPAL) for many years to provide after school activities and recreation for at risk children throughout Stanislaus County. These youth activities are extremely important to the community in that they involve children in various constructive adult supervised activities, and, therefore, are less vulnerable to potentially negative influences arising from unsupervised play. The contract between the Department and SCPAL was originally entered into on June 30, 1998, with amendments approved annually since then. In recent years, the Restated Agreement included the SCPAL program at the RWSTC.

SCPAL continues to provide the recreational activities that are funded through various independent means including grants, a partnership with Modesto Irrigation District to assist with funding for swim lessons, entrance fees to the swim sessions at the RWSTC, and other revenue sources including a snack bar. SCPAL has also continued to receive support from local sources in the three communities (Empire, Grayson and Keyes).

At this time, staff recommends the Board of Supervisors authorize the Director of Parks and Recreation to sign the Amended and Restated Agreement between the SCPAL relating to the operations and maintenance of the RWSTC for special youth and recreational swim programs through Fiscal Year 2017-2018, with an option to extend the Agreement for two, one-year terms. In accordance with the terms of the Agreement, SCPAL will contribute \$5,000 per year towards maintenance and operations beginning in Budget Year 2014-2015 of the Agreement, and will continue to administer the recreational and instruction programs.

POLICY ISSUES:

The Board of Supervisors should consider if approval of a multi-year gap funding strategy for the ongoing operations and maintenance of the Regional Water Safety Training Center, Empire Community Pool is consistent with the Board's priorities of A Safe Community, Efficient Delivery of Public Services, and Effective Partnerships.

STAFFING IMPACTS:

Existing staff from the Chief Executive Office and Parks and Recreation will continue to work on this effort. There are no additional staffing impacts associated with this item. The Department of Parks and Recreation will oversee the management of the Agreement with the Stanislaus County Police Activities League to the scope and terms specified.

CONTACT:

Patricia Hill Thomas, Chief Operations Officer. Telephone: (209) 525-6333
Jami Aggers, Director of Parks and Recreation. Telephone: (209) 525-6770



DEPARTMENT OF PARKS AND RECREATION
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Phone: (209) 525-6770
Fax: (209) 525-6773

**AMENDED AND RESTATED
AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**

This Amended and Restated Agreement for Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and Stanislaus County Police Activities League, a California non-profit corporation ("Contractor") on June 18, 2013.

Recitals

WHEREAS, the County has a need for services providing traditional recreational activities for children and adults in order to provide alternatives to gang, drug and criminal activities; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

WHEREAS, as of August 27, 1996 (the "Effective Date") the County and Contractor have entered into a certain Agreement relating to the provision of traditional recreational activities for children and adults in order to provide alternatives to gang, drug and criminal activities (the "Original Agreement"); and

WHEREAS, the Original Agreement was amended by Amendment 1 executed on June 30, 1999, Amendment 2 executed on May 17, 2000, Amendment 3 executed on June 29, 2001, Amendment 4 executed on June 28, 2002, Amendment 5 executed on June 26, 2003, Amendment 6 executed on June 30, 2004, Amendment 7 executed on July 13, 2005, Amendment 8 executed on July 20, 2006, Amendment 9 executed on August 7, 2007, and Amendment 10 executed on August 1, 2008 ("Original Agreement Amendments"); and

WHEREAS, the Original Agreement and 10 Amendments were Amended and Restated in Agreement Number A043009; and

WHEREAS, the Amended and Restated Agreement, was amended by Amendment 1 executed on July 28, 2010, Amendment 2 executed on June 28, 2011, and Amendment 3 executed on June 26, 2012; and

WHEREAS both parties desire to Amend and Restate the Agreement; and

NOW, THEREFORE, in the most efficient manner, the Original Agreement and Amended and Restated Agreement A043009 are hereby amended and restated and in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in Ind-Con-Agmt (Rev 021706)

accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. Consideration

2.1 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.2 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.3 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, or determined to not be a non-profit corporation in good standing by the California Secretary of State, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives, subcontractors or volunteers utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees or volunteers shall be excess of the Contractor's insurance

and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives, subcontractors or volunteers.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor and its officers, employees, agents, representatives, subcontractors or volunteers shall hold harmless and defend the County and its agents, officers, employees and volunteers from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives, subcontractors or volunteers and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors, volunteers and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of

County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives, subcontractors and volunteers are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period services are provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives, subcontractors or volunteers do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Department of Parks and Recreation
Attention: Susan M. Garcia, C.P.M.
3800 Cornucopia Way, Suite C
Modesto, CA 95358

To Contractor: Stanislaus County Police Activities League
Attention: Alfredo Guerra, Executive Director
1325 Beverly Drive
Modesto, Ca 95351

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect, which would conflict, in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the

provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Agreement on the day and year first hereinabove written.

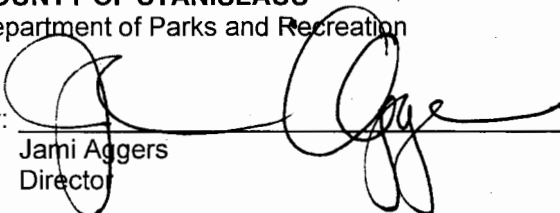
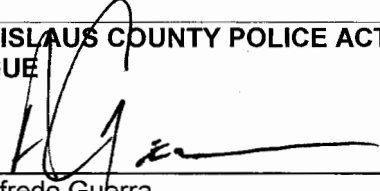
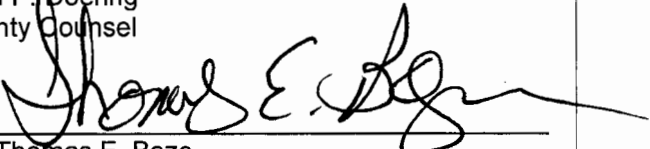
<p>COUNTY OF STANISLAUS Department of Parks and Recreation</p> <p>By:  Jami Aggers Director</p> <p style="text-align: center;">"County"</p>	<p>STANISLAUS COUNTY POLICE ACTIVITIES LEAGUE</p> <p>By:  Alfredo Guerra Executive Director</p> <p style="text-align: center;">"Contractor"</p>
<p>APPROVED AS TO FORM: John P. Doering County Counsel</p> <p>By:  Thomas E. Boze Deputy County Counsel</p>	

EXHIBIT A

A. SCOPE OF WORK

The Contractor shall provide services under this Agreement as follows:

1. Furnish and provide a program, as approved under A.5 below, consisting of recreational, educational and special activities for children and adults including, but not limited to, arts and crafts, table games, tutoring, a recreational swim program, computer lab, baseball/softball, soccer, flag football, volleyball and basketball. Contractor is responsible for managing the program on a daily basis and for conducting all of the associated recreational, educational and special activities furnished and provided by the Contractor under this Agreement.

2. Contractor shall provide and furnish all personnel, who shall be properly supervised, trained and if required, licensed, and all equipment, transportation, materials, products, supplies and permits needed to safely perform the Contractor's obligations under this Agreement in accordance with all applicable laws, regulations or ordinances. Contractor shall provide sufficient staffing to provide a safe and secure program. Staff must be the age of 18 or above, and one staff member shall supervise each recreational activity and shall provide, as needed, a sufficient number of additional personnel to safely and effectively conduct the activities. Contractor shall be solely responsible for payment of all salary for personnel involved in furnishing services under this Agreement.

3. Anyone, regardless of where they reside, shall be allowed to participate in the programs and activities furnished by the Contractor, however, residents of Stanislaus County shall be given first priority and preference over residents in other counties if the activity is made available to only a limited number or participants.

4. The programs and activities shall be conducted at one or more of the below locations or facilities:

- (a) Empire Regional Water Safety Training Center (RWSTC)
- (b) Keyes Community Center/Hatch Park
- (c) Grayson United Community Center and adjacent park

5. Contractor shall establish an on-site advisory committee composed of two commissioners from the Stanislaus County Parks Commission, one staff employee from the County Parks Department, and one staff employee from the Contractor. Contractor shall prepare a proposed schedule and program of recreational activities to be furnished under the Agreement, and shall submit such proposal to the advisory committee for review and approval.

6. If, at any time, the County determines that the Contractor's performance under this Agreement is unsatisfactory, then the County shall notify the Contractor in writing specifying the reasons for such dissatisfaction. Within five (5) days of receipt of such notice, the Contractor shall submit to the County a written action plan for providing satisfactory service or correcting unsatisfactory conditions. The County may terminate this Agreement if, in the County's sole discretion, a satisfactory action plan cannot be agreed upon or if the Contractor fails to correct the unsatisfactory performance or unsatisfactory conditions within five (5) days after notice of termination is mailed to the Contractor by the County.

Contractor shall promptly notify the County of any problems, concerns or public input arising from or concerning any of the programs or activities implemented by the Contractor or the Contractor's performance of its obligations under this Agreement.

7. Concessions at the Empire Regional Water Safety Training Center, Empire Pool

- a. Contractor may offer for sale a variety of food items (such as pre-made sandwiches, soups and salads) and beverage products. The sale of alcoholic beverages is prohibited.

- b. County agrees that Contractor's merchandise, if any, including its prices for same shall be within Contractor's discretion.
 - c. There is currently an existing structure in the Premises which Contractor may, at its sole discretion, elect to use as a concession stand. Should Contractor elect to operate a concession stand, Contractor shall be responsible for all costs related to operating a concession stand, including but not limited to:
 - i. Inventory, stock;
 - ii. Maintenance and operation of all kitchen equipment;
 - iii. Obtaining and Maintaining any/all necessary licenses and permits;
 - iv. Any/all utility connection, disconnection, and service fees;
 - v. Cleaning and sanitation; and
 - vi. Cash management, data (computer) and communications equipment, connections and service.
 - d. Contractor may lease or purchase any equipment, furnishings and expendables (collectively, "Equipment") required for its operation of the RWSTC with County's prior written approval. Any such equipment shall be leased, purchased, and installed by Contractor at its sole cost and expense, and shall remain its personal property.
 - e. Contractor shall, at all times and at its sole expense, keep and maintain all equipment, owned by Contractor, together with all of the fixtures, equipment and personal property therein, in good repair and in a clean, sanitary, and orderly condition and appearance. No equipment provided by County shall be removed or replaced by Contractor without the prior written consent of the County. If County provides such consent, such removal and/or replacement shall be at the expense of Contractor.
8. Maintenance.
- a. Contractor shall assist County with some maintenance servicing of the RWSTC, such as chlorine readings of the pool water, following protocol for pool water contamination, etc.
 - b. County shall keep and maintain in good repair and working order and promptly make repairs to and perform maintenance upon and replace as needed: (i) the structural elements of the Building. County, at its sole cost and expense, shall also perform all maintenance and repairs to the Premises, and shall keep the Premises in good condition and repair, reasonable wear and tear excepted.
 - c. The County shall indemnify, defend and hold Contractor harmless from any Claims for personal injury or property damage arising from or connected with the negligence or wrongful acts of the County, its officers, agents and employees or from the material failure of the County to perform its express obligations under this Agreement. These indemnity obligations shall include reasonable attorney fees, investigation costs, and all other reasonable costs incurred by Contractor from the first notice that any claim or demand is to be made or may be made. Contractor shall promptly give notice to County of any claim or demand. The provisions of this section shall survive the termination of this Agreement for any event occurring prior to the termination."

B. COMPENSATION

- 1. Contractor shall not be compensated by the County for the services provided under this Agreement.
- 2. Contractor shall pay the County as follows, for the use of the locations or facilities listed below:
 - a. Empire Regional Water Safety Training Center – Contractor agrees to pay County an annual maintenance and operations fee of Five-Thousand dollars (\$5,000) per

year, payable on the 31st day of December of each year, beginning December 31, 2014.

- i. The annual fee of \$5,000 shall be used by the County for the ongoing maintenance and operations of the Regional Water Safety Center, Empire Community Pool.
- b. The following locations shall be made available to the Contractor at no expense to the Contractor:
 - i. Keyes Community Center/Hatch Park
 - ii. Grayson United community Center and adjacent park

3. Contractor is authorized to charge a fee for individuals who participate in aquatic activities at the Regional Water Safety Training Center at Empire Park in an amount no greater than necessary to offset the Contractor's costs and expenses for operating the pool. Fees to be charged for the open swim program must be approved in advance from the State of California in accordance with the conditions of a grant received for construction of the pool which is in effect through the term of this Agreement. Such fee shall be levied on an equal basis for all pool users; provided, however that the Contractor, in its discretion, may establish a policy for waiving the fee based upon financial hardship. Such fee waiver policy shall be uniformly applied. Contractor shall establish a separate account to deposit all fees collected for use of the pool. Contractor shall not apply pool user fees for any other purpose than operation and maintenance of the pool.

C. FEE REMIT TO ADDRESS

The Contractor shall remit the annual fee to:

Stanislaus County
Department of Parks and Recreation
Attention: Accounting
3800 Cornucopia Way, Suite C
Modesto, CA 95358

D. SUBLEASE OF REGIONAL WATER SAFETY CENTER (CENTER)

Contractor and County shall work together to develop an approved process for rental or lease of the Regional Water Safety Center. Once the approved process is in place, Contractor and County may rent or license the Regional Water Safety Center, Empire Community Pool, or any part of it to corporations, organization, individual or others who may use the Center for its intended purposes, consistent with the policies developed in the approved process.

E. REPRESENTATIVES

The County's representative is Merry Rorabaugh, (209) 525-6750. The Contractor's representative is Alfredo Guerra, (209) 529-9121.

F. PROTECTION OF EXISTING FACILITIES

Contractor shall take every precaution to protect all public and private property during the performance of this contract. Any damages caused by Contractor's personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Contractor.

G. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA.

H. AGREEMENT PERIOD

The Agreement Period shall be effective as follows:

1. For Keyes Community Center/Hatch Park and Grayson United community Center and adjacent park this Agreement shall be effective from July 1, 2013, or date of award, whichever is later, and continue from year-to-year until terminated as provided in this Agreement.

2. For Empire Regional Water Safety Training Center this Agreement shall be effective from July 1, 2013, or date of award, whichever is later, and continue to June 30, 2018, unless sooner terminated as hereinafter provided in this Agreement, or as renewed, as herein provided.

2.1 At the end of this term and if mutually agreeable to both parties, the Agreement term for this location may be renewed for two one-year periods, for a total of seven years. Contractor shall exercise these options in writing at least 90 calendar days prior to the termination of the then existing term.

I. TERMINATION FOR CONVENIENCE

1. The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Contractor. Contractor agrees to waive any claims for damages, including loss of anticipated profits, in the event the County terminates the Agreement as provided for in this paragraph. Upon such termination, the obligations of this Agreement shall continue as to any work already performed and the County shall pay Contractor the amount due for work properly performed as of the date of termination, less any sums previously paid and pay for all fees earned and reasonable costs necessarily incurred by the Contractor, subject to any applicable setoffs.

2. Contractor may terminate services provided at RWSTC upon 30 calendar days written notice to the County, if in its sole discretion the income for the pool operations do not offset the expenses for maintaining and operating the RWSTC. Such expenses include the annual maintenance fee to the County.

J. WORK SCHEDULE

Contractor is obligated to perform in a timely manner those services and work identified in Exhibit A of this Agreement. It is understood by Contractor that the performance of these services and work shall require a varied schedule with the hours and times for completion of said services to be set by Contractor.



Stanislaus County P.A.L. Police Activities League

1325 Beverly Dr. • Modesto, CA 95351 • Tel: (209) 529-9121 • Fax: (209) 529-8794

Board of Directors

June 13, 2013

President

Vicki Bauman

Keith D. Boggs

Vice President

Carla Beck

Assistant Executive Officer

GSA Director /County Purchasing Agent

Treasurer

Patty Tharp

Re: Amended Agreement

Secretary

Jeri Trainor

Dear Mr. Boggs,

Executive Director

Alfredo Guerra

It is with great pleasure I inform you the Stanislaus County Police Activities League board of directors on June 13, 2013 agreed to the terms and conditions set forth in the Amended Agreement Number: A043009. On behalf of the board of directors, I hereby authorize Alfredo Guerra Executive Director for the Stanislaus County Police Activities League to enter into agreement with Stanislaus County to continue services set forth in Amended Agreement Number: A0403009.

Board Members

Adam Christianson

Becky Campo

Darin Gharat

Eric Parsons

Gary Del Nero

Ismael Saldaña

John Brugger

Kathy Salvatore

Lenley Duncan

Richard Breshears

Ron West

Tim Bomgardner

Tori Hughes

Vicki Maldonado

We look forward to many more years of what has been an excellent partnership for the benefit of the youth and citizens of Stanislaus County.

Should you have any questions regarding this letter, please feel free to contact me via e-mail at vbauman@stancoe.org or via telephone at (209) 238-1361.

Respectfully,

Vicki Bauman

Vicki Bauman
Board President
Stanislaus County PAL

