04-O -0621

ORDINANCE BY COMMUNITY DEVELOPMENT/ HUMAN RESOURCES COMMITTEE

May 9, 2004

AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE CANDLER PARK POOL ASSOCIATION, INC., FOR THE PURPOSE OF OPERATING THE CANDLER PARK SWIMMING POOL ON BEHALF OF THE DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS, BUREAU OF RECREATION; AND ESTABLISHING HOURS OF OPERATION; AND FOR OTHER PURPOSES.

Whereas, the residents of the Candler Park, Lake Claire and Inman Park neighborhoods have formed a neighborhood association, the Candler Park Pool Association, for the purpose of leasing and operating the Candler Park Pool from the City of Atlanta; and

Whereas, the purpose of the leasing arrangement is to provide for the development of expanded recreational services to the public; and

Whereas, the City has established similar arrangements with other community/neighborhood groups and organizations in the City of Atlanta; and

Whereas, neighborhood support for the Candler Park Pool Association is strong, including unanimous support of this arranged management of the pool from NPU-N (Neighborhood Planning Unit-N); and

Whereas, the Department of Parks, Recreation and Cultural Affairs has previously entered into a lease agreement (Candler Park Swimming Pool Lease Agreement- A Pilot Partnership) with this organization on June 10, 1999, for a period of two (2) years, with a two (2) year extension period, that was executed in the form of a renewal agreement on September 20, 2001, and the Ordinance was adopted as amended by the City Council on June 18, 2001, and approved by the Mayor on June 25, 2001 to execute said renewal; and

Whereas, the projected continued long term benefits of this lease agreement to the City of Atlanta include: making Candler Park Swimming Pool self supporting; relieving the City of Atlanta of the burden of staffing and managing the Candler Park Swimming Pool; and enhancing the safety and security of the Candler Park Pool facility and surrounding grounds at no cost to the City of Atlanta; and

Whereas, the Commissioner of the Department of Parks, Recreation and Cultural Affairs, and the Director of the Bureau of Recreation desires to continue an on-going relationship through the execution of another lease agreement with the Candler Park Pool Association, Inc.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That the Mayor be and is hereby authorized to enter into a Lease Agreement with the Candler Park Pool Association, Inc., for the continuing operation of the Candler Park Swimming Pool, for a term of three (3) years to be extended for two (2) additional terms of two (2) years each, upon mutual agreement between the parties.

Section 2: That any such Lease Agreement will provide for continued reasonable public access to the Candler Park Swimming Pool in a manner similar to prior City of Atlanta/community swimming pool lease agreements, and that the Mayor, the Department of Parks, Recreation and Cultural Affairs and the Candler Park Pool Association, Inc., organization agree to specific, standard hours of operation.

Section 3: That any Lease Agreement shall provide that membership in the Candler Park Pool Association, Inc., organization shall be open to citizens of the City of Atlanta with no discrimination on the basis of race, religion, sex, marital status, sexual orientation, or national origin.

Section 4: That in lieu of rental payments, the Candler Park Pool Association, Inc., shall pay the full and complete cost and expense of managing and operating the swimming pool, except where otherwise indicated within the Lease Agreement.

Section 5: That the fee structure herein identified as Exhibit-B, as established pursuant to subsection (b)(1) of the attached Lease Agreement, shall not be exceptional or exclusionary so as to discourage public use and accessibility.

Section 6: That the fee structure herein identified as Exhibit-B of the attached Lease Agreement shall be subject to review and approval, in writing, by the City at such times as the Candler Park Pool Association, Inc. proposes to make material alterations or changes to any of the categories therein.

Section 7: That all Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.

State of Georgia
County of Fulton

Candler Park Swimming Pool Lease Agreement

This Lease Agreement (hereinafter referred to as the "Agreement") is made and entered into this day of , 2004, by and between the City of Atlanta, a municipal corporation of the State of Georgia (hereinafter referred to as "City") and Candler Park Pool Association, Inc., a Georgia Non-Profit Corporation (hereinafter referred to as "Association")(hereinafter, the City and the Association may be referred to collectively as the "Parties" or singularly as the "Party").

Preamble

The Association and City hereby enter into this Agreement to staff and operate the Candler Park Swimming Pool and Bathhouse, a City public recreational facility, located at 1500 McClendon Avenue N.E. (hereinafter referred to as the "Pool"), as a public-private partnership. The Association recognizes the need for community groups and citizens to take an active part in recreational activities and facilities that promote health and livable family-oriented neighborhoods. By this Agreement, the Association seeks to assist the City in the management and operation of the Pool by providing and paying for management services, lifeguards, expanded Pool hours and by organizing volunteers and community groups to preserve and improve the Pool. This shall free City resources, staff, and funds for other Parks and Recreation Department activities.

In its management and operation of the Pool, the Association shall honor all existing requirements of the City including, but not limited to: free swim periods, access for the Camp Best Friends Summer Program, current and extended hours of operation, and other guidelines required by the City. The Association shall have the authority to enter into a management contract with a licensed, insured and experienced pool management company to oversee the day-to-day operation of the Pool, including maintaining water quality and providing certified lifeguards at staffing levels required by the City. The Association shall be solely responsible for paying for the management company out of Pool membership dues, daily fees, and other sources as set forth in this Agreement.

WITNESSETH:

WHEREAS, the City has previously leased the Pool to the Association in a lease agreement dated June 10, 1999 and renewed on September 20, 2001; and

WHEREAS, the lease agreement has been successful and beneficial to the City and to the Candler Park community; and

WHEREAS, this Agreement was authorized by an Ordinance adopted by the Atlanta City Council on _____, 2004, and approved by the Mayor on _____, 2004, and a copy of said Ordinance is attached hereto and marked Exhibit A.

NOW, THEREFORE, in consideration of the mutual covenants between the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Association agree as follows:

A. Association Responsibilities

1. **Lease, Management and Operations.** Association shall, at its sole cost and expense, and, subject to the terms and conditions hereinafter prescribed, staff, manage and operate the Pool in a safe, clean, healthy and orderly manner so as to offer a high quality and affordable recreational experience to the citizens and residents of the City.

   a. **Association's Right to Subcontract.** Association may elect to subcontract the staffing and operation of the Pool to a licensed and certified company specializing in the staffing and operation of public swimming pools, subject to City's approval.

      i. Association shall incorporate a complete copy of this Agreement by attachment to each and every subcontract for the provision of staffing and operations services and shall ensure that the Subcontractor shall satisfy each and every required insurance coverage and limit, and every other material obligation set forth in this Agreement, including but not limited to certification and coursework requirements for water safety staff.

      ii. Association shall provide City with a full copy of each and every subcontract that it has entered into for the staffing and / or operation of the Pool at least ten days prior to opening the Pool for public use.

      iii. Association shall not transfer, assign or sublease any other interest or responsibility under this Agreement without prior written consent of the City.

   b. **Pool Fees and Revenue.** Association shall operate the Pool in such a manner that it shall become self-supporting from earned revenues during the term of the Agreement.

      i. Association shall be permitted to perform the following:

         (A) Charge admission or usage fees per Exhibit B hereto.

         (B) Sell annual passes or memberships per Exhibit B hereto.

         (C) Sell "Association" memberships per Exhibit B hereto, provided that Association membership is not denied to any Atlanta citizen based upon where s/he lives or works.

         (D) Sell individual or group swimming lessons.

(E) Operate food and beverage concessions.

(F) Receive and expend all proceeds derived from all fees and sales as contemplated herein.

ii. The fees established pursuant to subsection (b)(i) above shall not be exceptional or exclusionary so as to discourage public use and accessibility. The fee structure established pursuant to subsections (b)(i)(A) and (B) above shall be subject to review and approval by the City at such times as Association proposes to make material alterations or changes to any of the categories therein.

iii. Association shall honor all current and future City-issued season swim passes in conformance with Exhibit B hereto. Season swim passes sold by the Association shall be valid at the Pool at all times or as determined by the Association.

iv. Association shall, upon receipt of reasonable prior notification by the City, provide free admission to participants in the City's programmed swim activities, including but not limited to Camp Best Friends, provided that the admission and use of the Pool by the participants shall occur during the Pool's standard hours of operation, as set forth on Exhibit B hereto.

v. Association shall use the revenue earned from operating and managing the Pool as follows:

(A) Association shall utilize earned revenues for the operation of the Pool. In the event there are excess funds that are not required for the operation of the Pool, Association shall use such excess funds for capital improvements to the Pool (which shall be subject to City's approval), Pool maintenance costs, or for the establishment of a sufficient Pool reserve fund.

(B) In the event that Association determines that such excess funds are not required for Pool operations, capital improvements or maintenance, said funds may be used by Association for Pool-related functions and/or programs beneficial to the Candler Park neighborhood as deemed appropriate by the Association and as approved by the City, the latter of which shall not be unreasonably withheld.

vi. Association shall post all fees in prominent public view.

c. Days and Hours of Pool Operation

i. Association shall operate the Pool for public and private use and access from the Friday preceding Memorial Day through and including Labor Day (hereinafter referred to as the "Pool Season"). Association shall not operate the Pool for private use prior to the first day that it opens and operates the Pool for public use.

ii. On the date of execution of this Agreement, the "standard" hours of operation shall be as described in Exhibit B. The Association may change the standard hours of operation with prior written consent of the Commissioner of the Department of Parks, Recreation and Cultural Affairs (hereinafter referred to as the "Commissioner").

iii. Association shall have full discretion in determining the Pool's extended hours of operation.

iv. Association shall have the right to allow only Association members at the Pool after 5:30 PM, and shall have full discretion in determining the days on which the Pool shall be open after 5:30 PM to Association members only. When the Association chooses to allow only Association members at the Pool, the Association shall close the Pool no earlier than 5:00 PM and shall clear the Pool of all persons by no later than 5:15 PM. The Association shall reopen the Pool at 5:30 PM for Association members only.

v. Association shall have the right to designate "free swim" periods at its discretion, but in no event shall the Association designate less than 2.75 uninterrupted hours of free swim per each week day during the time when the Atlanta Public Schools (APS) are not in session..

vi. Association shall not open the Pool to the general public during school hours prior to the end of the APS Spring Semester nor after the APS Fall Semester begins, but shall designate 3:00 PM through 5:00 PM as a free swim period on each week day during these periods when APS is in session. At its discretion, Association shall have the option to open the Pool to adults, ages twenty-one (21) years and older, and accompanied Pre-Schoolers during school hours.

vii. Association shall post all hours of operation in prominent public view.

viii. The Association may close the Pool as needed for maintenance, safety instruction, and community swim meets.

d. Pool Staffing.

i. Association shall make certain that all Pool lifeguards and the Pool manager (hereinafter referred to collectively as the "Water Safety Staff")

are certified in "Lifeguard Training", "C-PRO", "Cardiopulmonary Resuscitation", and "First Aid".

ii. Association shall make certain that all of the Pool staff, including but not limited to the Water Safety Staff, are trained and certified on the basic operation and use of an Automatic External Defibrillator.

iii. The Association shall make certain that the Pool manager is a "Certified Pool Operator", meaning that s/he has successfully completed all Certified Pool Operator coursework, and that all of the coursework was provided by a licensed program of instruction (i.e. American Red Cross, Ellis and Associates or the National Swimming Pool Foundation, etc.). During the Pool's hours of operation, if the Pool manager is not on site, at least one member of the Pool staff on site must be a "Certified Pool Operator", as defined above.

iv. The Association shall provide written proof of the required staff certifications and course attendance of each member of the Pool's staff to the Department of Parks, Recreation and Cultural Affairs' Aquatics Program Manager (hereinafter referred to as the "Aquatics Manager") at least ten (10) days prior to the date that the Association opens the Pool for public use each year. For those members of the Pool's staff added after ten (10) days prior to the date that the Association opens the Pool for public use, the Association shall provide written proof of staff certifications and course attendance to the Aquatics Manager prior to allowing the potential employee to provide water safety services at the Pool.

v. The City reserves the right to verify any and all certification and course information and to disaallow any potential Pool staff member who does not meet the certification and course requirements set forth in subsections i, ii, and iii above. Association shall not open or otherwise allow the Pool to be operated until proof of the certifications and coursework of each of the Pool's staff has been made to the full and complete satisfaction of City.

vi. Association, and its Subcontractor if applicable, guarantee that at all times that the Pool is open for public and/or private use, any person who is operating, staffing, and/or managing the Pool shall possess the requisite certifications and coursework for doing the job that s/he is performing, as is described in subsections (d)(i), (ii), and (iii) above.

vii. Association shall ensure that the required staffing levels for the Pool shall meet or exceed State, County and City minimums as outlined in the City's "Aquatics Manual". The Association acknowledges that it has received and is in possession of the City's Aquatics Maunal.

e. Pool Standards.

i. Association shall schedule the Pool's required Operational Certification Inspection by the appropriate County Health Department after City has filled Pool with water before its scheduled opening to the public. Further, Association shall notify City in advance so as to enable City's Swimming Pool Maintenance personnel to be in attendance during said Operational Certification Inspection.

ii. The Association shall keep and maintain the Pool, including but not limited to the bathhouse, and any and all improvements and equipment at the Pool, in good and sanitary order and repair, and in good, safe, and presentable condition, consistent with the highest forms of business practices. This responsibility shall include but not be limited to cutting the grass located inside the Pool fence, collecting trash located within ten feet of the outside of the Pool fence, and placing the collected trash in a City-provided trash receptacle. Though the City shall have the maintenance responsibilities set forth in section B(1) below, the Association shall be responsible for making requests, either by phone or in writing, to the Department of Parks, Recreation and Cultural Affairs Work Order Desk (404.817.6813) , requesting repair and/or maintenance work as needed. In the event that the Association has more than three repair and/or maintenance requests at one time, the Association must submit those requests in writing to the Work Order Desk.

iii. Association agrees that after the swimming pool has been filled with water, it shall have the responsibility to maintain the swimming pool in a clean, sanitary condition and shall monitor the filtration and chemical purifier systems to ensure that the pool's water environment remains stable and free of bacteria, fungi, algae and microbial aquatic growth.

iv. Association shall comply with City's sanitation procedures as contained in the Aquatics Manual, including but not limited to sanitizing the pool deck, bathhouse and restroom facilities on a daily basis.

v. Association shall be responsible for supplying and shall maintain a full complement of life-saving equipment near the swimming pool at all times, including but not limited to ring buoys, rescue tubes, and one standard-issue first aid kit, and an Automatic External Defibrillator. vi. Association shall be responsible for supplying and maintaining lifeguard chairs and umbrellas.

vii. Association shall grant to City unrestricted access to the Pool for operational inspections, repair, maintenance and any other purposes that the City deems proper.

f. Security.

i. Association shall staff and maintain security at the Pool, and said security responsibility shall begin on the date that the City begins filling the pool with water in preparation for the swim season, and shall continue unabated until such time as the pool is completely drained at the conclusion of the swim season.

ii. Association shall keep the Pool fence, bathhouse, restrooms and utility room locked and secured at all times when the Pool is closed or otherwise not open to the public.

iii. The Association shall provide security between the hours of 10:00 AM through 9:00 PM during the Pool Season on days when the Pool is closed to the public

iv. If conditions and situations dictate, as shall be determined by the Association after consultation with the City, the Association shall utilize the services of a security guard for the purpose of protecting against trespass during times that the Pool is closed, other than the times listed in subsection iii above.

v. Association shall not change or re-key any locks to the swimming pool, bathhouse, restrooms, utility room or fence. In the event that locks are lost, stolen or vandalized, Association shall notify the Aquatics Manager who shall promptly provide replacements or arrange emergency repairs, as appropriate.

g. Consumable Supplies.

Association shall, at its sole cost and expense, provide all chemicals and consumable supplies necessary to operate and maintain the Pool, including but not limited to: (1) Chlorine; and (2) Soda Ash.

2. Rent. In lieu of rent, Association shall pay the full and complete cost and expense of managing and operating the Pool, except where otherwise indicated in this Lease. These costs and expenses shall include but not be limited to telephone costs, staff salaries and benefits, the cost of any and all Subcontractors or service providers as Association may elect to employ, and each and every other expense or cost arising from the management and operation of the Pool for and during the term of the Agreement.

3. Accounting

a. Association shall maintain records of all accounts, receipts, expenditures, cash reserves, program activities and attendance figures which shall accurately reflect

the detailed financial and programmatic operations of the Pool, including but not limited to the the operation of concession sales. These records shall be made available to the City, during the normal business hours of the Association, upon the City's request.

b. The Association shall deliver to the Commissioner a weekly report of attendance and revenue, including but not limited to revenue derived from concession sales.

c. Association shall provide an Annual Financial Report (consisting of an Income Statement and Balance Sheet) to the Commissioner for each calendar year of the Agreement not later than March 1 of each year, or the date of the expiration of the Term of the Agreement, whichever is later. The Annual Financial Report shall present the Association's receipts, expenditures, assets and liabilities, and all revenue generated at and by the Pool during the most recent Pool Season and shall be prepared by Association's Certified Accountant or other Certified Public Accountant and shall be approved by Association's Board of Directors.

d. Association shall provide an Annual Performance Report to the Commissioner for each calendar year of the Agreement not later than sixty (60) days after the end of each Pool Season. The Performance Report shall present the Pool's attendance numbers and any programs or special events sponsored by Association.

4. **Emergencies**

a. Association shall use the Emergency 911 number to summon Police, Fire or Emergency Medical personnel should events or situations dictate. After summoning emergency personnel, Association shall immediately notify the Aquatics Manager.

b. Association shall contact the City's Work Order Desk (404.817.6813) to report system malfunctions, break-ins and any other damage to the any part of the Pool that requires emergency repair service. The City shall undertake emergency repairs to the Pool in a prompt and timely manner, subject however, to City's backlog of emergency repairs required at other City-owned swimming pools. City's procedure shall be to respond to emergency calls in the order by which the emergency requests are received.

c. Association shall provide the Commissioner and the Aquatics Program Manager with the names and telephone numbers of no less than three (3) Association officials who can be contacted by City at night and on weekends and holidays in the event that emergencies arise at the Pool.

d. Association shall comply with City's emergency procedures as contained in the Aquatics Manual.

B. City Responsibilities

1. Maintenance and Repair

a. City shall maintain the Pool in proper operating condition, and shall bear all maintenance costs, including capital repair costs, unless excess funds are generated pursuant to section A1bvA above. The City's maintenance responsibilities shall include but not be limited to maintenance and repair of the swimming pool, bathhouse, restrooms, utility spaces, fence, gates, interior and exterior lights, doors, windows, plumbing, electrical system, filtration and chemical purification systems, pumps, motors, fans and blowers.

b. The City shall charge, and the Association shall pay the City, the full cost of labor, parts and materials for repairs or replacement of plumbing, filtration and purification components in the event that the City determines that damages resulted from the improper operation of said systems by Association, Association's employees or Association's Subcontractor.

c. The City shall charge, and the Association shall pay the City, the full cost of labor, parts and materials for repairs or replacement of other items located at the Pool if the City determines that the damage necessitating the repair or replacement resulted from mismanagement, negligence, gross negligence, or intentional bad acts by the Association, Association's employees, or Association's Subcontractor.

d. The Association shall be responsible for making requests for Pool maintenance and/or repair to the Department of Parks, Recreation and Cultural Affairs' Work Order Desk, pursuant to section A(1)(e)(ii) above. The City will respond to such maintenance and repair requests in a reasonable manner through its work order system.

e. The City shall undertake emergency repairs as is set forth in section A(4)(b) above.

2. Seasonal Preparation

a. City shall, at its sole cost and expense, have the Pool filled with water, fully functional and otherwise prepared for service by no later than (10) days prior to the date that the Association opens the Pool for public use each year.. The responsibility for scheduling the appropriate County Health Department's inspection for the Pool's Operational Certification shall rest with Association.

b. City shall, at its sole cost and expense, provide the following equipment for Association's use:

i. Trash receptacles.

ii. Full complement of lifeguard stands.

c. City shall, at the conclusion of the swim season, winterize the Pool so as to protect internal plumbing and filtration systems from freeze damage.

3. **Utilities.** City shall, at its sole cost and expense, provide the following utilities at the Pool: (1) Electricity; (2) Water; (3) Sewer; and (4) Trash pickup from City provided trash receptacles.

4. **Regulatory Signage.** City shall, at its sole cost and expense, install standard regulatory signage at the Pool regarding rules and regulations. Association shall be responsible for installing and paying for all other signage, including but not limited to signs regarding fees and hours of operation.

5. **City's Use of Pool**

a. The City shall give a minimum 7-days prior notice to Association of City's intended use of Pool involving ten (10) or more Camp Best Friends Summer Program participants. City shall have the option of satisfying this requirement by providing Association with a schedule of planned visits to the Pool by Camp Best Friends Summer Program sites at least seven (7) days prior to the start of the Pool Season.

b. City shall ensure that Camp Best Friends Summer Program participants visiting the Pool shall be accompanied by a sufficient number of Summer Camp Counselors.

C. Term

The City hereby leases the Pool to Association for a term of three (3) years. This Agreement may be extended for two (2) additional terms of two (2) years each, upon mutual agreement between the parties hereto and upon adoption of appropriate legislation by the Atlanta City Council and approval by the Mayor. Association shall submit written notice to the Commissioner of such intent to renew no less than ninety (90) calendar days prior to the expiration of the term.

D. Improvements

1. **Capital Improvements**

a. Capital Improvements are defined as facility improvements or new system installations having a minimum value of $20,000.00 and a useful lifetime of no less than ten (10) years.

b. The Association has the authority to make capital improvements to the Pool at its own expense upon approval of those improvements by the Commissioner. All such improvements shall become the property of the City upon their installation and/or completion.

c. The Association may request that the City make and pay for Capital Improvements to the Pool. In a non-Emergency situation, Association's requested Capital Improvements shall first be incorporated into the City's Comprehensive Development Plan (CDP). Following the CDP's adoption by the Atlanta City Council and approval by the Mayor, said improvements shall be incorporated into the City's Capital Improvement Plan (CIP).

d. Capital improvement projects that are incorporated into the CIP shall be scheduled for implementation based on the availability of funding and previously scheduled projects of higher priority or of greater urgency.

2. Facility Improvements (Non-Capital)

a. Facility Improvements are defined as those improvements to the Pool that do not qualify as Capital Improvements.

b. The Association has the authority to make Facility Improvements to the Pool at its own expense upon approval of those improvements by the Commissioner. All such improvements shall become the property of the City upon their installation and/or completion.

c. The Association may request that the City make and pay for Facility Improvements to the Pool. In a non-Emergency situation, Facility Improvements requested of the City by the Association shall be subject to City's final approval or disapproval based on the City's policies and the availability of funding.

E. Insurance and Bonding Requirements

The following general requirements apply to any and all work under this contract. Compliance is required of Association and Subcontractors of any tier.

1. Evidence of Insurance Required Before Work Begins - Neither Association nor Subcontractor shall commence any work of any kind under this contract until all Insurance and Bond requirements contained in this contract shall have been complied with as outlined below and until evidence of such compliance satisfactory to the City as to form and content has been filed with the City. The Accord Certificate of Insurance or a pre-approved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.

2. Minimum Financial Security Requirements - Any and all companies providing insurance required by this contract must meet certain minimum financial security requirements set forth below. These requirements conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide. The ratings for each company must be indicated on the Accord Certificate of Insurance form.

3. For all Contracts, regardless of size, companies providing Insurance of Bonds under this Contract must have a current:

   a. Best's Rating not less than A-VII and current

   b. Best's Financial Size Category not less than Class IX.

   c. Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.

   If the issuing company does not meet these minimum requirements, or for any other reason shall be or become unsatisfactory to the City, written notification shall be mailed by the City to the Association who shall promptly obtain a new policy or bond issued by an insurer acceptable to the City, and shall submit evidence of the same to the City as required herein.

4. Upon failure of the Association to furnish, deliver and maintain such insurance or bonds as herein provided, this contract, at the election of the City, may be declared forthwith suspended, discontinued or terminated. Failure of the Association to take out and / or to maintain any required insurance or bonds shall not relieve the Association from any liability under the contract, nor shall these requirements be construed to conflict with the obligation of the Association concerning indemnification.

5. Insurance Required For Duration of Contract - Any and all Insurance and Bonds required by this contract shall be maintained during the entire length of this contract, including any extensions thereto.

6. Mandatory 30-Day Notice of Cancellation or Material Change - The City of Atlanta shall, without exception, be given not less than thirty (30) days notice prior to cancellation for other than non-payment of premium or for material change of any

Insurance or Bond required by this contract. Non-Payment of premium shall require ten (10) days notice of cancellation. Confirmation of this mandatory 30-day notice of cancellation shall appear on the Accord Certificate of Insurance and on any and all Bonds and Insurance policies required by this contract.

7. City of Atlanta As Additional Insured - The City of Atlanta shall be covered as an Additional Insured under any and all Insurance and Bonds required by this contract, and such insurance shall be primary with respect to the Additional Insured. Confirmation of this shall appear on the Accord Certificate of Insurance, and on any and all applicable Bonds and Insurance policies. However, this requirement does not apply to Workers' Compensation.

8. Mandatory Subcontractor Compliance - Association shall incorporate a copy of these Insurance, Bond requirements in each and every contract with each and every Sub-Contractor of any tier, and shall require each and every Sub-Contractor of any tier to comply with all such requirements. Association agrees that if for any reason Sub-Contractors of any tier fail to procure and maintain Insurance and Bonds as required, all such required Insurance and Bonds shall be procured and maintained by Association at Association's sole cost and expense.

9. Authorizing and Licensing of Agent - Each and every agent acting as Authorized Representative on behalf of a Company affording coverage under this contract shall warrant when signing the Accord Certificate of Insurance that specific authorization has been granted by the Companies for the agent to bind coverage as required and to execute the Accord Certificate of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies, these requirements have been conveyed to the Companies for these terms and conditions. In addition, each and every agent shall warrant when signing the Accord Certificate of Insurance that the agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

10. Workers' Compensation and Employer's Liability Insurance - The Association shall procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits, such insurance to cover each and every employee who is or may be engaged in work under the contract:

Workers' Compensation	Statutory
Employer's Liability	
Bodily Injury by Accident	$ 100,000 each accident
Bodily Injury by Disease	$ 100,000 each employee
Bodily Injury by Disease	$ 500,000 policy limit

11. General Liability Insurance - The Association shall procure and maintain General Liability Insurance in an amount not less than $ 1,000,000 per occurrence. The policy shall also contain a $2,000,000 aggregate Bodily Injury and Property Damage

combined single limit. The following specific extensions of coverage shall be provided and shall be indicated on the Accord Certificate of Insurance:

a. Comprehensive Form

b. Personal Injury

c. Broad Form Property Damage

d. Premises – Operations

12. Automobile Liability Insurance - The Association shall procure and maintain. Automobile Liability Insurance with not less than 500,000 combined single limit. The following extensions of coverage shall be provided and shall be indicated on the Certificate of Insurance:

    a. Comprehensive Form

    b. Owned, Hired, Leased and Non-owned vehicles to be covered.

    In the event the Association does not own any automobiles in the corporate name, non-owned vehicle coverage shall apply and must be endorsed on either the Association's personal automobile policy or the General Liability coverage required under this Agreement.

13. Property Insurance - The Association shall procure and maintain for the life of this Agreement an All Risk Property Insurance, including Flood and Earthquake coverage. The policy must name the City of Atlanta as a Named Insured . The policy will provide for full replacement cost of the physical structures and other real or personal property comprising the facility.

14. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

F. Hold Harmless Agreement

In addition to its agreement to obtain and maintain insurance, as set forth hereinabove, the Association agrees to indemnify and hold harmless the City of Atlanta, its officers, agents and employees, from: 1) any and all losses, expenses, demands, damages, and claims against the City, and/or its officers, agents and/or employees, which arise out of any intentional bad act or omission, or out of any negligent act or omission of the Association, or of any contractor or subcontractor of the Association, or of any of the Association's officers, agents, or employees; and 2) any and all losses, expenses, demands, damages, and claims which result from any condition created or maintained by the Association, or by any contractor or subcontractor of the Association, or by any of the Association's officers, agents, or employees, which condition was not specified to be created or maintained by this Agreement. The Association further

agrees that this agreement to indemnify and hold harmless the City of Atlanta, its officers, agents and employees shall not be limited to the limits or terms of the liability insurance required under this Agreement. Lastly, Association shall incorporate a copy of these Hold Harmless requirements in each and every contract with each and every contractor and sub-contractor of any tier, except that the name of the contractor or subcontractor shall be substituted for the word "Association".

G. Non-Discrimination

1. During the performance of this Agreement, the Association agrees to comply with all provisions of Sections 2-1200 and 2-1414 of the Atlanta Code of Ordinances. Furthermore, by execution of this Agreement, the Association certifies that, during the Term of this Agreement, it shall be bound by and comply with the following statement:

   "We the supplier of goods, materials, equipment or services covered by this Agreement shall not discriminate against any volunteer, employee, or applicant for volunteerism or employment, because of the race, creed, color, religion, sex, national origin, marital status, parental status, age, physical handicap, sexual orientation, or gender identity of such person."

   As used here, the words 'shall not discriminate' shall mean and include without limitation the following:

   > Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

   The Association agrees to and shall post in conspicuous places, available to employees and applicants for employment the provisions of the non-discrimination statement above, and the other provisions set forth in this Non-discrimination section, section G, of the Agreement.

2. The Association shall in all solicitation or advertisement of employees, placed by or on behalf of the Association, state that all qualified applicants will receive consideration for the employment without regard to race, creed, color, religion, sex, national origin, marital status, parental status, age, physical handicap, sexual orientation, or gender identity.

3. The Association shall take such action with respect to any contractor or subcontractor as the City may direct as a means of enforcing the provisions herein, including penalties and sanctions for noncompliance; provided, however, that in the event the Association becomes involved in or is threatened with litigation as a result of such direction by the City, the City will enter into such litigation as is necessary to protect the interest of the City and to effectuate the Equal Employment Opportunity Program of the City of Atlanta.

4. The Association shall include the provisions of this non-discrimination section, section G, of the Agreement in every contract and subcontract so that such provisions will be binding upon each contractor and subcontractor.

5. A finding that a refusal by the Association or contractor or subcontractor to comply with any portion of this non-discrimination section, section G, of the Agreement, as herein provided and described, may subject the offending party to cancellation. of the Agreement or contract or subcontract as appropriate.

H. Jurisdiction

This Agreement is made and entered into in Fulton County, Georgia. In the event of any dispute, disagreement or action arising under this Agreement, the proper place for determination of such dispute, disagreement or legal action is within the jurisdiction of Fulton County, Georgia and based upon the laws of the State of Georgia.

I. Notice

1. All notices, demands, requests or replies provided for, permitted or appropriate under this Agreement shall be in writing and may be delivered by any one of the following methods:

    a. By personal delivery;

    b. By deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid to the addresses stated below;

    c. By prepaid telegram; or

    d. By deposit with an overnight express delivery service.

2. Notice deposited with the United States Postal Service, telegram or express delivery service in the manner described above shall be deemed effective one (1) business day after deposit therein. Notice by personal delivery shall be deemed effective at the time of personal delivery.

3. For purposes of notice, demand, request, reply or repayment, the address of City shall be:

    The Commissioner
    City of Atlanta, Department of Parks, Recreation and Cultural Affairs
    City Hall East, Suite 800
    675 Ponce de Leon Avenue, NE
    Atlanta, Georgia 30308

The address of the Association shall be:

Candler Park Pool Association, Inc.
c/o The President

P.O, Box 5343
Atlanta, Georgia 31107-5343

J. Termination

Either party to this Agreement shall have the right to terminate the Agreement with or without cause by giving, one unto the other, one hundred and twenty (120) days notice of intent to terminate.

K. Default

1. Either Party shall be in default under this Agreement if the Party fails to keep, perform, observe, or comply with any of the terms, conditions, covenants or requirements set forth in this Agreement, and does not cure such failure within thirty (30) days after receipt of written notice of such failure from the Commissioner or the Association President, as appropriate, or if such failure cannot be cured within said thirty (30) day period, the Party does not commence such cure within that period and thereafter diligently pursue same to completion. If default is made by either Party, as described in this section K, the other Party may terminate this Agreement upon written notice to the defaulting Party.

2. In the event of default of any of the terms and conditions hereunder, including, but not limited to the obligations placed upon the Association, or upon the termination of this Agreement under any of the other terms hereof, Association agrees to surrender possession of the Pool immediately and hereby grants to City the right of possession thereof, with or without process of law, and the right to expel and to remove Association, its contractor(s) and/or subcontractor(s) or any other person or party who may be occupying the Pool or any part thereof under claim of right by, through or under Association, and City may repossess itself of the Pool as its estate, but such entry of the Pool by City shall not constitute a trespass or forcible entry or detainer.

L. Entire Agreement

This Agreement represents the entire and integrated Agreement between the Parties and may be amended only by written instrument signed by both Parties, and said instrument must be authorized by appropriate City legislation.

M. Liability

It is mutually agreed between the Parties hereto that this Agreement shall not become binding on the Association or the City, and neither the Association nor the City shall incur any liability upon the same, until said Agreement has been fully executed by the Mayor and delivered to the Association.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year first written above.

ATTEST:

_____
Municipal Clerk

ATTEST:

_____
Corporate Secretary

APPROVED:

_____
Commissioner, Department of Parks, Recreation and Cultural Affairs

APPROVED AS TO FORM:

_____
City Attorney

RECOMMENDED :

_____
Director, Bureau of Recreation

RECOMMENDED:

_____
Director, Bureau of Parks

CITY OF ATLANTA:

_____
Mayor **(Seal)**

CANDLER PARK POOL ASSOCIATION INC.:

_____
President **(Seal)**

APPROVED:

_____
Chief Operating Officer

APPROVED:

_____
Chief Procurement Officer

APPROVED:

_____
Chief Financial Officer

Candler Pool

EXHIBIT - B

Days and Hours of Operation:

		Mon.	Tues.	Wed.	Thur.	Fri.	Sat.	Sun.
	9:00 AM	Assoc. Fee	Assoc. Fee	Assoc. Fee	Assoc. Fee	Assoc. Fee	Closed	Closed
	9:30 AM	Assoc. Fee	Assoc. Fee	Assoc. Fee	Assoc. Fee	Assoc. Fee	Closed	Closed
	10:00 AM	Free Swim *	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Closed
	10:30 AM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Closed
	11:00 AM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Closed
	11:30 AM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Closed
	12:00 PM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Schedule
	12:30 PM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Schedule
	1:00 PM	Free Swim	Free Swim	Free Swim	Free Swim	Free Swim	Assoc. Fee	Schedule
	1:30 PM	Assoc. Fee	Schedule					
	2:00 PM			Assoc. Fee	Schedule			
	2:30 PM					Assoc. Fee	Schedule	
	3:00 PM	Assoc. Fee	Schedule					
	3:30 PM			Assoc. Fee	Schedule			
	4:00 PM					Assoc. Fee	Schedule	
	4:30 PM	Assoc. Fee	Schedule					
	5:00 PM			Assoc. Fee	Schedule			
X	5:30 PM					Assoc. Fee	Schedule	
X	6:00 PM	Assoc. Fee	Schedule					
X	6:30 PM			Assoc. Fee	Schedule			
X	7:00 PM					Assoc. Fee	Schedule	
X	7:30 PM	Assoc. Fee	Schedule					
	8:00 PM			Assoc. Fee	Schedule			
	8:30 PM	Closed	Closed	Closed	Closed	Closed	Closed	Closed

Admission:

a City Fees

Children (5 & under)	free
Youth (6-16 yrs)	$1.00
Adults	$2.00
Seniors	$1.00

b. Association Fees

Children (5 & under)	free
Youth (6-18 yrs)	$1.00
Adults	$3.00
Seniors	$1.00

Memberships:

a **City**

Current memberships valid daily between 10:30 AM and 5:00 PM (12 Noon to 5:00 PM, Sundays)

Youth (resident)	$25.00
Youth (non-resident)	$45.00
Senior (resident)	$25.00
Senior (non-resident)	$45.00
Adult (resident)	$75.00
Adult (non-resident)	$150.00

**Memberships available at the Bureau of Recreation, City Hall East

b. **Association**

Current memberships valid daily between 9:00 AM and 8:30 PM (12 Noon to 5:00 PM, Sundays)

Youth (12-18 yrs.)	$75.00
Senior Citizen	$50.00
Adult	$125.00
Household (2 adults)	$200.00
Ea. Addt'l adult	$25.00
Max household	$275.00

**Memberships available at the Candler Park Swimming Pool

*** "Free Swim" hours Monday-Friday are subject to change at the discretion of Association. However, under no circumstance shall "Free Swim" be less than City's standard of 2.5 hours per day, Monday**

Candler Pool

EXHIBIT - B

through Friday

TRANSMITTAL FORM FOR LEGISLATION

TO MAYOR'S OFFICE: **Gregory G. Pridgeon, Chief of Staff**
(for review & distribution to Executive Management)

Commissioner's Signature: _____ **Director's Signature:** _____

From Originating Dept.: Parks, Recreation and Cultural Affairs

Contact (Name): Truman Tolefree 404-817-7985

Committee(s) of Purview: CD/HRC

Committee Deadline: 03-22-04

Committee Meeting Date(s): 03-29-04
04-27-04

Council Meeting Date(s): 04-19-04
05-03-04

CAPTION: ORDINANCE BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE CANDLER PARK POOL ASSOCIATION, INC., FOR THE PURPOSE OF OPERATING THE CANDLER PARK SWIMMING POOL ON BEHALF OF THE DEPARTMENT OF PARKS, RECREATION AND CULTURAL AFFAIRS, BUREAU OF RECREATION; AND ESTABLISHING HOURS OF OPERATION; AND FOR OTHER PURPOSES.

BACKGROUND/PURPOSE/DISCUSSION:

The Candler Park Pool Association, Inc., has previously entered into a Lease Agreement to operate and manage the Candler Park Swimming Pool in 1999 and also entered into a Renewal Agreement to facilitate the operation and management of the swimming pool in 2001. Each term of each agreement proved successful in partnering with this organization.

The Bureau of Recreation and the Bureau of Parks has met with the Association and has negotiated another Lease Agreement with this organization so as to allow them to continue the on-going relationship under a new Lease Agreement for a term of three (3) years to be extended for two (2) additional terms of two (2) years each, upon mutual agreement between the parties, a copy of the Lease Agreement is herewith attached for your review.

FINANCIAL IMPACT (if any):

MAYOR'S STAFF ONLY:

Received by Mayor's Office: 3.22.04 (date) **Reviewed:** _____ (initials/date)

Submitted to Council: _____ (date)

Action by Committee: ____ **Approved** ____ **Adversed** ____ **Held** ____ **Amended**
____ **Substitute** ____ **Referred** ____ **Other**