COUNCIL DECISION REQUEST

SUBJECT: Taylor Pool Operation agreement between the Town of Payson and EVO Swim School

MEETING DATE: May 2, 2013

PAYSON GOAL: NEW: EXISTING: x

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: Cameron Davis
Park, Recreation and Tourism Director

AMOUNT BUDGETED: $8,900.00

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

EXPENDITURE REQUIRED: $8,900.00

CONT. FUNDING REQUIRED:

EXHIBITS (If Applicable, To Be Attached):

POSSIBLE MOTION

I move to (1) approve the attached Contract for operation of Taylor Pool between the Town of Payson and EVO Swim School and (2) authorize the Town Manager to sign such contract.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

EVO Aquatics desires to operate the pool during the summer swim seasons of 2013 and 2014. The Town is responsible for the facility maintenance and operations expenses which will run approximately $41,500.00 annually. The Term of this Contract may be extended by the Parties beyond the 2014 summer swim season. If both parties agree in writing by April 15, 2015, the Contract shall extend through the summer swim season of 2015. The Contract may be extended through subsequent years through the same agreement in writing. The Town Manager is authorized to agree to an extension on behalf of the Town. EVO would be responsible for staffing the pool and continuing with high quality aquatic programs. All of the existing programs and possibly more will be offered to the community, so the level of service is expected to increase.

If the Town were to operate Taylor Pool, the budget would be $103,400. By partnering with EVO the gross savings to the Town is $58,400 annually.

PROS:

- Saves the Town money!
- Continue to provide first class swimming programs to the community
- Will continue to provide the community with Olympic level training and instruction
- Multi-Year contract that provides a solution to operate Taylor Pool and keep it open in these tough economic times

CONS:

- Town of Payson will no longer recognize aquatic program revenue that is estimated around $32,000.00.
- The Town will continue to be responsible for maintaining the operational aspects of the pool.
- The pool will be open Monday – Thursday and Saturday for all programming
- EVO with consent of the Parks, Recreation and Tourism Director may close the pool for Public Swim one additional day each week.

PUBLIC INPUT (if any):

MAY 0 2 2013 I.2*

COUNCIL DECISION REQUEST

BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):

FUNDING:

	101-5-4469-00-7903	4500.00	4500.00	4500.00	0
	101-5-4469-00-7900	4500.00	4500.00	4500.00	0
Acct:	Budget:	Available:	Expense:	Remaining:	
Acct:	Budget:	Available:	Expense:	Remaining:	
Acct:	Budget:	Available:	Expense:	Remaining:	

BA: Tammy A Enlow Date: 4-26-2013

OPERATION OF TAYLOR POOL CONTRACT BETWEEN EVO AQUATICS LLC, DBA EVO SWIM SCHOOL AND THE TOWN OF PAYSON

Recitals:

A. The Town of Payson owns Taylor Pool (hereinafter the "Pool" or the "Pool Facilities.").

B. EVO Aquatics desires to operate the Pool during the summer months of 2013 and 2014 in lieu of the Town operating the Pool.

C. The Town of Payson and EVO Aquatics desire to enter into this Contract to allow the operation of the Pool by EVO Aquatics and provide a level of services to the citizens of Payson commensurate with the level of service the citizens are accustomed to.

Terms:

1. **Parties.** The parties to this Contract are EVO Aquatics, LLC (dba EVO Swim School), a Delaware Limited Liability Company authorized to do business in Arizona, hereinafter referred to as "Contractor," and the Town of Payson, an Arizona municipal corporation, hereinafter referred to as "Town" (collectively, the "Parties"). The Town and the Contractor, in consideration of the mutual covenants and conditions herein contained, hereby agree as follows:

2. **Contractor's Responsibilities, Access, Control, Entitlements, and Rights**

   2.1 Contractor shall be responsible for the following during each summer swim season:

   2.1.1 General cleaning of the locker rooms, guard house, deck area, snack area, and all other non pool areas.

   2.1.2 Daily cleaning and sweeping of the Pool.

   2.1.3 Installation of the pool tarps when the Pool is not in use.

   2.1.4 Maintenance and repair of the Pool Facilities resulting from negligent use or intentional damage by anyone.

   2.1.5 Maintenance, repair, and replacement of all tools and equipment, including but not limited to, AED and lightning detector.

   2.1.6 Picking up all trash in the Pool area, the adjacent parking lot, and the area immediately outside the pool fence.

   2.1.7 Payment for propane in all amounts over 4220 gallons used in the operation of the Pool Facilities during the term of this Contract.

   2.1.8 Payment for any telephone or internet use.

   2.1.9 Maintaining the Pool water temperature at a maximum of 82 degrees.

   2.1.10 Checking Pool chemical levels at least every two hours during the hours of use.

2.1.11 Pool closure when required pursuant to the Taylor Pool Weather Guidelines attached as Exhibit A.
2.1.12 Following Fecal Accident Response Recommendations as set forth in Exhibit B.
2.1.13 All costs and expenses related to staffing of the Pool, including but not limited to staff payroll.
2.1.14 Costs of all advertising and promotional materials.

2.2 Contractor shall have full access to the entire Pool Facility during each summer swim season.

2.3 Contractor shall have exclusive control over all aquatics programming except for Town Sponsored or Co-Sponsored events, including but not limited to, the Sprint Triathlon in June of 2013 and 2014 during each summer swim season.

2.4 Contractor shall be entitled to all proceeds collected for aquatic programming at the Pool each summer swim season.

2.5 Contractor may sell temporary advertising within the interior of the Pool area. All such advertising must be removed on or before the last day the Pool is open.

2.6 Contractor shall have the exclusive rights to sell concessions within the interior of the Pool area each summer swim season.

2.7 Contractor shall follow the Schedule of Operation and the Fees for Use set forth in Exhibit C attached hereto.

3. **Town's Responsibilities, Entitlements, and Rights**

3.1 The Town shall be responsible for the following during each summer swim season:
3.1.1 Vacuuming the Pool at least two times a week. Such vacuuming shall be done when the pool is closed.
3.1.2 Cleaning the Pool within 12 hours of any storm that causes the pool to require cleaning.
3.1.3 Maintaining chemical levels in the Pool as described in Exhibit D. Town personnel will respond (during regular hours) within one hour of notification of Contractor to correct any chemical imbalance.
3.1.4 Maintenance and repair of the Pool Facilities (including pool heater) resulting from normal use, wear, and tear. Prior to and following EVO's use of the facility, a walk through will be conducted.
3.1.5 Payment for electricity and water for the Pool Facilities.
3.1.6 Payment for the first 4220 gallons of propane used in the operation of the Pool Facilities during the term of this Contract.
3.1.7 Providing a trash dumpster and paying associated costs.

3.1.8 Reimbursing Contractor for accident and general liability insurance coverage related to the operation of the Pool in an amount not to exceed $4,500.00.

3.1.9 Providing Contractor with a full page at paysonrimcountry.com

3.1.10 Assisting Contractor to gain permission for Contractor's flyers to be distributed in the elementary schools in the Payson/Pine/Strawberry area

3.2 The Town will not be charged any fees by Contractor for Town Sponsored or Co-Sponsored events, but the Town shall reimburse Contractor for the cost of Contractor's lifeguards at such events.

3.3 The Town reserves the right to close the Pool if (1) required by law, (2) required by weather and Contractor does not close pool, (3) due to chemical imbalance, (4) mechanical failure (until repaired), and (5) if the health and safety of the swimmers requires closure.

3.4 The Town shall pay Contractor $4,500.00 to subsidize Contractor's expenses associated with the Public Swim sessions. The $4,500.00 shall be paid following the closure of the Pool for the season.

4. **Effective Date and Term.**

4.1 This Contract shall be effective on the date of the last signature of the Parties.

4.2 The terms of this Contract shall operate during the summer swim seasons of 2013 and 2014. In April of each year, representatives of the Parties shall set the specific dates for the beginning and ending of the summer swim season. Such dates shall be during the months of May, June, July, or August. In no event shall the season be less than 2 months nor more than 4 months.

4.3 Contractor shall notify the Town at least 48 hours prior to Contractor's closure of the Pool for the season.

4.4 Contract Extension

4.4.1 The Term of this Contract may be extended by the Parties beyond the 2014 summer swim season.

4.4.2 If the Parties agree in writing by April 15, 2015, the Contract shall extend through the summer swim season of 2015. The Contract may be extended through subsequent years through the same agreement in writing.

4.4.3 The Town Manager is authorized to agree to an extension on behalf of the Town.

5. **Insurance.** Without limiting any liabilities or any other obligations of Contractor, Contractor shall provide and maintain, with forms and insurers acceptable to Town until all the obligations under this Contract are satisfied, the minimum insurance coverage as

follows:

5.1 Workers Compensation Insurance to cover obligations imposed by Federal and State Statutes having jurisdiction of its employees engaged in the performance of the Services, and Employer's Liability insurance with a minimum limit of ONE HUNDRED THOUSAND DOLLARS ($100,000).

5.2 Comprehensive General Liability insurance with a minimum combined single limit of ONE MILLION DOLLARS ($1,000,000) each occurrence. The policy shall include coverage for bodily injury liability, property damage liability, personal injury liability (including coverage for contractual and employee acts), and blanket contractual. The policy shall contain a severability of interests provision.

5.3 Comprehensive Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than the minimum required by the State of Arizona for each occurrence with respect to Contractor's vehicles whether owned, hired, or non-owned, assigned to be used in the performance of the services.

5.4 The policies required by Sections 5.2 and 5.3 shall be endorsed to include Town, its officers, attorneys, and employees as additional insureds, and shall stipulate that the insurance afforded for Town, its officers and employees shall be primary insurance and that any insurance carried by Town, its officers, attorneys, or employees shall be excess and not contributory insurance.

5.5 Contractor and its insurers providing the required coverages shall waive all rights of subrogation against Town and its directors, officers, attorneys, employees, and agents.

5.6 Prior to commencing Services, Contractor shall furnish Town with Certificates of Insurance as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty days advance notice of cancellation, termination, or alteration shall be sent directly to Town's representative as identified in Paragraph 15.2.

5.7 Town reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

6. **Indemnity.**

6.1 Contractor shall indemnify, defend, and save harmless Town and all of its officers, employees, attorneys, agents, representatives and insurers from any and all claims, demands, suits, actions, proceedings, loss, costs, liabilities, and damages of every kind and description, including attorney's fees and/or litigation expenses, which may be brought or made against or incurred by Town and/or its insurers, on

account of loss of or damage to any property and for injuries to or death of any person by reason of or arising out of any act or omission by Contractor, its employees, agents, representatives, or sub-contractors, or arising out of any defects in the methods, equipment or tools used, or in the manner of carrying on the Services itself, or arising out of workmen's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of Contractor or out of claims under similar such laws.

6.2 Contractor shall further indemnify, defend, and save harmless Town and all of its officers, employees, attorneys, agents, and representatives from any and all claims, demands, suits, actions, proceedings, loss, costs, liabilities, and damages of every kind and description, including costs of investigation and apprehension of persons involved, attorney's fees and/or litigation expenses, which may be brought or made against or incurred by Town arising out of any dishonest act on the part of Contractor, its employees, agents, representatives, or subcontractors.

6.3 The Town shall indemnify, defend, and save harmless Contractor and all of its officers, employees, attorneys, agents, representatives and insurers from any and all claims, demands, suits, actions, proceedings, loss, costs, liabilities, and damages of every kind and description, including attorney's fees and/or litigation expenses, which may be brought or made against or incurred by Contractor and/or its insurers, on account of any latent defects in the Pool Facilities which cause injury to any patron or employee.

7. **Modification.** No provision of this Contract shall be amended or otherwise modified, in whole or in part, except by an instrument in writing duly executed by the Town's Manager and the Contractor.

8. **Termination.** Without limiting or waiving any other remedies the Town in case of a breach of any provision in this Contract by Contractor, and without election, may terminate this Contract, in whole or in part, by written notice to Contractor.

9. **Taxes.** Contractor shall have full and exclusive liability for and shall pay and hold Town harmless from any and all taxes and fees imposed in connection with all or any part of the Services.

10. **Laws and Regulations.** Contractor and it employees shall comply with all applicable laws, ordinances, statutes, rules and regulations, of the United States, State of Arizona, and local governments, including but not limited to those relating to wages, hours, discrimination, and safety (including OSHA).

11. **Dispute Resolution.** This Contract shall be governed and construed in accordance with the internal laws of the State of Arizona. With the written consent of both Parties, any dispute, controversy, claim, or cause of action arising out of or related to this Contract may, but in no event need, be settled by submission to binding arbitration in accordance

with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq.; and judgment upon any award rendered by the arbitrator(s), if filed in Arizona Superior Court, shall be filed in the Superior Court of Gila County, Arizona; or any such dispute, controversy, claim, or cause of action may be submitted to mediation or litigated in the Superior Court of Gila County, Arizona. The venue for any such dispute shall be Gila County, Arizona, and both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover from the other party any of its attorneys' fees, costs, or expert witness fees incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees without contribution from the other party, whether the same is resolved through arbitration, mediation, litigation in a court, or otherwise.

12. **Cancellation (A.R.S. §38-511).** This Contract is subject to the provisions of A.R.S. § 38-511 which provides for cancellation of contracts by the municipality for certain conflicts of interest.

13. **Town Business License.** The Contractor shall provide the Town with a copy of its Town business license. If the Contractor is exempt from the Town's business licensing requirements, it shall still provide the Town with the items required under Section 110.03(C)-(D) of the Town Code.

14. **Authorized Presence Requirements/Government Procurement (A.R.S. §41-4401).**

    14.1 Contractor and any Subcontractor employed by Contractor warrants their compliance with all Federal immigration laws and regulations that relate to their employees and with Arizona Revised Statutes Section 23-214(A).

    14.2 A breach of the warranty under Section 14.1 above shall be deemed a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract.

    14.3 The Town retains the legal right to inspect the papers of the Contractor or Subcontractor who works on this Contract to ensure that the Contractor and Subcontractor is complying with Section 14.1.

15. **Other Provisions.**

    15.1 **Assignment.** Contractor shall not assign or subcontract the Contract or any part thereof without the written consent of Town, and any attempted assignment or subcontracting in violation of this Paragraph shall render this Contract void and of no effect. The Town may withhold its consent for any or no reason.

    15.2 **Notices.** All notices, filings, consents, approvals, and other communications provided for herein or given in connection herewith shall be validly given, filed,

made, delivered, or served if in writing and delivered personally or sent by certified United States mail, postage prepaid, return receipt requested, to:

Town:
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541
Attention: Debra Galbraith

Contractor:
EVO Swim School
868 North Gilbert Rd. Suite 100
Gilbert, AZ 85234
Attention: David Tait

With a copy to:
Town of Payson
Attention: Cameron Davis

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals, and communication given by certified mail shall be deemed delivered forty-eight (48) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices delivered personally shall be deemed delivered upon delivery.

15.3 **No Partnership.** It is not intended by this Contract to, and nothing contained herein shall, create any employment relationship, partnership, joint venture, or other arrangement between Town and Contractor. Contractor shall be an independent contractor.

15.4 **No Third Party Beneficiaries.** No term or provision of this Contract is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

15.5 **Counterparts.** This Contract may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

15.6 **No Waiver.** No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Town of a breach of any of the covenants of this Contract shall be construed as a waiver of any proceeding or succeeding breach of the same or any other covenant or condition of this Contract.

15.7 **Non-Appropriation/Non-Receipt.** Nothing herein shall be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money in excess of appropriations authorized

by law and administratively allocated for this work. Nor shall anything herein be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money if the Town does not have sufficient revenues for this expenditure. Notwithstanding the above, the Town remains liable for claims of damage caused by its acts or omissions as set forth in this Contract.

15.8 **Construction of Contract.** This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting this Contract. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Contract.

15.9 **Further Documentation.** Each Party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Contract.

15.10 **Time of Essence.** Time is of the essence in this Contract and all of its parts.

15.11 **Time Periods.** Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Payson time) on the last day of the applicable time period provided for herein. If the time for the performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

15.12 **Severability.** If any portion of this Contract is found to be invalid, such finding will not affect the validity of the remainder of this Contract and to this end the provisions of this Contract are severable.

15.13 **Authority.** The Parties acknowledge and warrant that each of them is fully authorized and empowered to execute this Contract by and through the individual(s) executing hereinafter.

15.14 **Entire Contract.** This Contract contains and sets forth the entire and exclusive agreement and understanding between the Parties hereto pertaining to the subject matter and all prior or contemporaneous oral or written agreements shall have no effect.

15.15 **Scrutinized Business Operations.** Pursuant to A.R.S. §§35-391.06 and 35-393.06, the Parties hereby warrant and represent that they do not have, nor any of their subcontractors have, and during the term of this Contract will not have a scrutinized business operation in either Sudan or Iran.

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WHEREFORE, the parties have caused this Contract to be executed by their duly authorized representatives.

EVO Aquatics, LLC
a Delaware Limited Liability Company
Authorized to do Business in Arizona

By_____ _____
David Tait, its Manager Dated

TOWN OF PAYSON,
an Arizona municipal corporation

By_____ _____
Debra Galbraith, its Manager Dated

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVAL AS TO FORM

The Town of Payson Legal Department has reviewed this contract and approved it as to form and has determined that said contract is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated: ____ day of _____, 2010

By_____

Timothy M. Wright, Town Attorney

Exhibit A

to the Contract Between
EVO Aquatics LLC
and
the Town of Payson

Taylor Pool Weather Guidelines

EXHIBIT A

To the Contract Between
EVO Aquatics LLC
And
The Town of Payson

Taylor Pool Weather Guidelines

Close the Pool under the following conditions:

- If you SEE lightening. Close the pool immediately.
- If you HEAR thunder, check the lightening meter for the storm distance meter. If the meter flashes 0-3 miles, close the pool. If the meter flashes 3-8 miles 5 times in one minute, close the pool. 8-20 miles and 20-40 miles continue to monitor until the storm passes or lightning gets closer.
- In the case of thunder and lighting the designated lifeguard will complete the poor weather report and ensure that it is handed in to the athletic office at the end of the day.
- The pool should be closed if the bottom of the pool is not visible or if it is hard for the lifeguards to see.
- Guards should clear the entire pool area, and no one should be allowed on the pool deck.
- Resume activities only when safe. Usually 30 minutes.
- Lifeguards must be sure to be in appropriate position for surveillance before activities resume. Continue to monitor for additional severe weather.
- In the case of a pool closure inform Pool Manager as well as Aquatics Coordinator.

Steps to closing Taylor Pool

1. Notify Asst. Manager if you see lighting.
2. Asst. Manager will monitor weather conditions.
3. When it is deemed appropriate to close, notify Pool Manager
4. Asst. Manager will announce that Taylor pool is closed due to lighting, and ask everyone to exit the facility.
5. Decide if the storm will pass or if you need to close for the afternoon, make plans for guards to return for Water Aerobics, reschedule swim lessons and hang up closed signs.
6. File Pool Closure Form

Important things to remember:

- Make sure no one is on the deck
- Do Not let anyone shower off
- If necessary allow children to call parents
- Escort kids that are left to library
- Make sure things are clean if you do not plan on returning
- Covers may be left off if storm moves in quickly

Payson
Arizona's Cool Mountain Town

Exhibit B

to the Contract Between
EVO Aquatics LLC
and
the Town of Payson

Fecal Accident Response Recommendations

Pool disinfection time...

How long does it take to disinfect the pool after a fecal accident? This depends on what type of fecal accident has occurred and at which chlorine levels you choose to disinfect the pool. If the fecal accident is formed stool, follow Figure 1, which displays the specific time and chlorine levels needed to inactivate *Giardia*. If the fecal accident is diarrhea, follow Figure 2, which displays the specific time and chlorine levels needed to inactivate Crypto.

Figure 1-*Giardia* Inactivation for a Formed-Stool Fecal Accident

Chlorine Level (ppm)	Disinfection Time*
1.0	45 minutes
2.0	25 minutes
3.0	19 minutes

* These closure times are based on 99.9% inactivation of *Giardia* cysts by chlorine at pH 7.5, 77°F (25°C). The closure times were derived from the U.S. Environmental Protection Agency (EPA) Disinfection Profiling and Benchmarking Guidance Manual. These closure times do not take into account "dead spots" and other areas of poor pool water mixing.

Figure 2-Crypto Inactivation Time for a Diarrheal Fecal Accident

Chlorine Level (ppm)	Disinfection Time*†
1.0	15,300 minutes (255 hours)
10	1,530 minutes (25.5 hours)
20	765 minutes (12.75 hours)

* Shields, JM; Arrowood, MJ; Hill, VR and Beach, MJ. (2007) Inactivation of *Cryptosporidium parvum* under chlorinated recreational water conditions. Journal of Water and Health. In Press.

† At pH 7.5, 77°F (25°C).

The **CT inactivation value** is the concentration (C) of free chlorine in ppm multiplied by time (T) in minutes (CT value = C x T). The CT value for *Giardia* is 45 and the CT value for Crypto is 15,300 (both at about pH 7.5, 77°F [25°C]). If you choose to use a different chlorine concentration or inactivation time, you must ensure that the CT values remain the same.

For example, to determine the length of time needed to disinfect a pool after a diarrheal accident at 15 ppm, use the following formula: C x T = 15,300.

Solve for time: T = 15,300 ÷ 15 ppm = 1020 minutes or 17 hours. It would take 17 hours to inactivate Crypto at 15 ppm. You can do the same for *Giardia* by using the CT inactivation value of 45.

Exhibit C

to the Contract Between
EVO Aquatics LLC
and
the Town of Payson

Schedule and Fees

Taylor Pool will be open to the public during the summer swim session as determined by the Parties.

Public Swim:	Monday - Thursday, and Saturday ($2 per person per visit) Fridays, at EVO's option ($2 per person per visit) EVO with the consent of the Parks, Recreation, and Tourism Director may close the Pool for Public Swim one additional day each week.
Swim Team:	Monday - Thursday ($75 per person for the entire summer)
Swim Lessons:	Monday - Thursday ($12.50 per person per week, two lessons per week)
Lap Swim:	Monday - Thursday, and Saturday ($2 per person per visit)
Water Aerobics:	Monday - Thursday ($2 per person per visit)

Private use of the Pool during off hours - _____

Exhibit D

to the Contract Between
EVO Aquatics LLC
and
the Town of Payson

Chemical Levels

Free Chlorine	2.0-4.0 ppm
Combined Chlorine	0.2-0.4 ppm
pH	7.4-7.6
Total alkalinity	70-100 ppm
Calcium hardness	200-400 ppm

Healthy Swimming

Fecal Accident Response Recommendations for Pool Staff*

What do you do when you find poop in the pool?

*Check for existing guidelines from your local or state regulatory agency before use. CDC recommendations do not replace existing state or local regulations or guidelines.

- These recommendations are for responding to fecal accidents in chlorinated recreational water venues.
- Improper handling of chlorine-based disinfectants can cause injury. Follow proper occupational safety and health requirements when following these recommendations.
- **Pool Closures:** Fecal accidents are a concern and an inconvenience to both pool operators and patrons. Pool operators should carefully explain to patrons why the pool needs to be closed in response to a fecal accident. Understanding that pool closure is necessary for proper disinfection and protection of the health and safety of swimmers is likely to promote support rather than frustration. Pool closures allow chlorine to do its job—to kill germs and help prevent Recreational Water Illnesses (RWIs).

Important background info...

WHAT ARE RECREATIONAL WATER ILLNESSES (RWIs)?

What is the first thing that pops into your head when you think about water safety? Drowning? Slipping? Lightning? All good answers, and all are very important. But, did you know that germs can contaminate swimming water? These germs cause RWIs that have made many people sick.

RWIs are caused by germs such as "Crypto" (KRIP-toe), short for *Cryptosporidium*, *Giardia* (gee-ARE-dee-uh), *E. coli* 0157:H7, and *Shigella* (Shi-GEL-uh).

HOW ARE RWIs SPREAD?

RWIs are spread by swallowing pool water that has been contaminated with fecal matter. How? If someone has diarrhea, that person can easily contaminate the pool. Think about it. Pool water is shared by every swimmer. Really, it's communal bathing water. It's not sterile. It's not drinking water.

The good news is that germs causing RWIs are killed by chlorine. However, chlorine doesn't work right away. It takes time to kill germs and some germs like Crypto can live in pools for days. Even the best maintained pools can spread illness.

SHOULD ALL FECAL ACCIDENTS BE TREATED THE SAME?

No. A diarrheal fecal accident is a higher-risk event than a formed stool accident. With most diarrheal illnesses, the number of infectious germs found in each bowel movement decreases as the diarrhea stops and the person's bowel movements return to normal. Therefore, a formed stool is probably less of a risk than a diarrheal accident that you may not see.

A formed stool may contain no germs, a few, or many that can cause illness. You won't know. The germs that may be present are less likely to be released into the pool because they are mostly contained within the stool. However, formed stool also protects germs inside from being exposed to the chlorine in the pool, so prompt removal is necessary.

Germ Inactivation Time for Chlorinated Water*

Germ	Time
E. coli O157:H7 Bacterium	Less than 1 minute
Hepatitis A Virus	About 16 minutes
Giardia Parasite	About 45 minutes
Crypto Parasite	About 15,300 minutes or 10.6 days†

SHOULD YOU TREAT A FORMED FECAL ACCIDENT AS IF IT CONTAINS CRYPTO?

No. In 1999, pool staff volunteers from across the country collected almost 300 samples from fecal accidents that occurred at waterparks and pools.¶ CDC then tested these samples for Crypto and *Giardia*. None of the sampled fecal accidents tested positive for Crypto, but *Giardia* was found in 4.4% of the samples collected. These results suggest that formed fecal accidents pose only a very small Crypto threat but should be treated as a risk for spreading other germs (such as *Giardia*). Remember a diarrheal fecal accident is considered to be a higher-risk event than a formed-stool fecal accident.

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* 1 ppm (1mg/L) chlorine at pH 7.5 and 77°F (25°C).

† Shields, JM; Arrowood, MJ; Hill, VR and Beach, MJ. (2007) Inactivation of *Cryptosporidium parvum* under chlorinated recreational water conditions. Journal of Water and Health. In Press.

¶ Prevalence of Parasites in Fecal Material from Chlorinated Swimming Pools — United States, 1999 (2001) MMWR Morb Mortal Wkly Rep (20):410–2.

What do I do about...

formed stool in the pool?

Formed stools can act as a container for germs. If the fecal matter is solid, removing the feces from the pool without breaking it apart will limit the degree of pool contamination. In addition, RWIs are more likely to be spread when someone who is ill with diarrhea has a fecal accident in the pool.

diarrhea in the pool?

Those who swim when ill with diarrhea place other swimmers at significant risk for getting sick. Diarrheal accidents are much more likely than formed stool to contain germs. Therefore, it is important that all pool managers stress to patrons that swimming when ill with diarrhea is an unhealthy pool behavior.

1. **For both formed-stool and diarrheal fecal accidents,** direct everyone to leave the pool. If you have multiple pools that use the same filter—all pools will have to be shut down. Do not allow anyone to enter the contaminated pool(s) until all decontamination procedures are completed.
2. **For both formed-stool and diarrheal fecal accidents,** remove as much of the fecal material as possible using a net or scoop and dispose of it in a sanitary manner. Clean and disinfect the net or scoop (e.g., after cleaning, leave the net or scoop immersed in the pool during disinfection).

VACUUMING STOOL FROM THE POOL IS NOT RECOMMENDED.

3. Raise the chlorine to 2 ppm (if less than 2 ppm), and ensure the water's pH is between 7.2–7.5 and temperature is about 77°F (25°C). This chlorine concentration was selected to keep the pool closure time to approximately 30 minutes. Other concentrations or closure times can be used as long as the CT inactivation value* is kept constant (see next page).
4. Maintain the chlorine concentration at 2 ppm, pH 7.2–7.5, for at least 25 minutes before reopening the pool. State or local regulators may require higher chlorine levels in the presence of chlorine stabilizers,† which are known to slow disinfection. Ensure that the filtration system is operating while the pool reaches and maintains the proper free chlorine concentration during the disinfection process.

3. Raise the free chlorine concentration to 20 ppm (mg/L)¶§ and maintain the water's pH between 7.2–7.5 and temperature at about 77°F (25°C). The chlorine and pH should remain at these levels for at least 12.75 hours to achieve the CT inactivation value* of 15,300. **Crypto CT values are based on the inactivation of 99.9% of oocysts. Laboratory studies indicate that this level of Crypto inactivation cannot be reached in the presence of 50 ppm chlorine stabilizer,†** even after 24 hours at 40 ppm free chlorine, pH 6.5 at a temperature of about 77°F (25°C).**
4. Ensure that the filtration system is operating while the pool reaches and maintains the proper chlorine level during disinfection. If necessary, before attempting the hyperchlorination of any pool, consult an aquatics professional to determine the feasibility, the most optimal and practical methods, and needed safety considerations.
5. Backwash the filter thoroughly after reaching the CT value. Be sure the effluent is discharged directly to waste and in accordance with state or local regulations. Do not return the backwash through the filter. Where appropriate, replace the filter media.
6. Allow swimmers back into the pool after the required CT value has been achieved and the chlorine level has been returned to the normal operating range allowed by the state or local regulatory authority.

Establish a fecal accident log. Document each fecal accident by recording date and time of the event, whether it involved formed stool or diarrhea, and the free chlorine and pH levels at the time or observation of the event. Before reopening the pool, record the free chlorine and pH levels, the procedures followed in response to the fecal accident (including the process used to increase chlorine levels if necessary), and the contact time.

* CT inactivation value (or contact time) refers to concentration (C) of free chlorine in ppm multiplied by time (T) in minutes at a specific pH and temperature.

† Chlorine stabilizers include compounds such as cyanuric acid, dichlor, and trichlor.

¶ Many conventional test kits cannot measure free chlorine levels this high. Use chlorine test strips that can measure free chlorine in a range that includes 20 ppm (such as those used in the food industry) or make dilutions with chlorine-free water when using a standard DPD test kit.

§ If pool operators want to use a different chlorine concentration or inactivation time, they need to ensure that CT values always remain the same (see next page for examples of how to accomplish this).

** CDC, unpublished data.