

**AGREEMENT BETWEEN THE CITY OF REDMOND AND WAVE
AQUATICS FOR THE OPERATION OF THE REDMOND POOL**

THIS OPERATING AGREEMENT ("the Operating Agreement") is entered by and between the City of Redmond, a Washington municipal corporation ("the City"), and Wave Aquatics, a 501(c)(3) private non-profit corporation ("Wave").

RECITALS

- A. The Redmond Pool ("the Pool"), located at 17535 NE 104th Street, Redmond, Washington, was built as part of the Forward Thrust Initiative in approximately 1974.
- B. From the date of its construction until April 1, 2003, the Pool was owned and operated by King County on land owned by the City, pursuant to a forty (40) year ground lease dated May 28, 1970.
- C. The ground lease expired on May 28, 2010 and the City took ownership of the Pool from King County. The City originally entered into an operating agreement for the Pool with Northwest Center, but that operating agreement was terminated in 2010 by mutual agreement.
- D. In October 2010, the City and Wave entered into an Operating Agreement under which Wave has operated the Pool. The initial October 2010 Operating Agreement expired on December 31, 2012, and was subsequently renewed to December 31, 2014 (first renewal, City Contract #7011), and was subsequently renewed again to December 31, 2016 (second renewal, City Contract #6351-3). In 2017, an amendment was executed to extend the agreement for a term of three (3) additional months, which expired March 31, 2017 (City Contract #6351-4); this amendment contained a renewal provision for up to six (6) three-month periods, which was acknowledged and affirmed by Wave and the City, by both parties having acted and performed upon the renewal provision, which expired September 30, 2018. A subsequent amendment was executed to extend the agreement to December 31, 2019 (City Contract #6351-5).
- E. Wave and the City acknowledge that the City made capital improvements to the Pool in 2010 and made essential improvements in 2019 - 2020. Repairs and improvements occurred in two phases over two years, resulting in better air and water quality, energy efficiencies, and operational savings that will help preserve the Pool for an estimated 25 to 30 years more.
- F. WAVE and the City entered into a new Operating Agreement for the Pool in September 2020 and agreed to set forth the terms and conditions of their agreement in writing. This Agreement shall run from September 1, 2020, or when construction is at substantial completion, thru December 31, 2025 for an initial term of 5 years, with one 5-year extension.

G. During the term of the 2020 agreement, both parties identified opportunities to enhance pool services, improve community access, and refine the operational framework to better serve community members in Redmond.

H. The City and Wave now desire to exercise the extension option provided in the 2020 Agreement. This amendment extends the operating agreement for an additional five (5) year term from January 1, 2026 through December 31, 2030, and incorporates the agreed upon modifications to the previous agreement.

I. Both parties acknowledge that Wave has successfully operated the pool in accordance with the 2020 agreement and this amendment represents a continuation and enhancement of their successful partnership to provide aquatic services to the Redmond community.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF the terms and conditions set forth below, the parties agree as follows:

1. Wave to Operate Pool. Wave shall operate the Pool during the term of this Agreement. Operation includes providing the following at Wave's expense, in addition to any other duties prescribed in this Agreement:

A. Provide for the day-to-day operation, maintenance, and repair of the Pool in compliance with all federal, state, and local laws and regulations and in a clean, safe, and professional manner;

B. Community based programming is defined as aquatic programs and services designed to serve the public and promote community health, safety, and recreation. This **includes**:

- Water safety and drowning prevention programs (all ages)
- Learn-to-swim, Swim lessons, and aquatic instruction (all levels and ages)
- Adult (18-54) and senior (55+) aquatic fitness, therapy, masters, and recreational programs
- Lap swimming, family swim, and open/recreational swimming (all ages)
- Adaptive, inclusionary, or therapeutic programs (all ages)

Community based programming **excludes**:

- Facility rentals to private groups or organizations
- Competitive swim/dive team practices and meets
- School district use (high school teams, physical education classes, etc.) Private lessons or programs restricted to specific organizations

Community access will be granted under the following terms:

Community Events, Programs, and Classes:

Wave will provide a total of 200 hours of guarded pool time (3 hours per week, with an additional 3 hours per week June-August) annually for City of Redmond community events, summer camps, programs, and classes. Specific dates and times will be determined on a seasonal basis in coordination between Wave and the City. The City will provide the programming season schedule no later than September 30 of each calendar year for the upcoming year.

Guarded pool time may be scheduled during regular pool hours for shared use or during additional hours as mutually agreed upon by both parties. City registered participants (up to 40 per program session) will have access to the designated pool space during the agreed upon time slots. The City and Wave will partner on one community-based event each season, to be determined and agreed upon by both parties.

As defined in the [Activity and Facility Use Policy](#), Wave will provide priority access to Redmond Residents, (those living or working within the 98052 zip code), which will have at least one week to register for recreational activities before the opportunity is made available to Non-Resident users. Non-Resident users shall pay an additional program fee of at least 20% more than the stated Redmond Resident fee or charge when registering for activities. These requirements shall be in place and operational no later than June 1, 2026.

C. **Peak Hours Definition:** Peak Hours are defined as the times of highest community demand for aquatic facilities:

- Weekdays: Monday through Friday, 8:00 a.m. - 11:00 a.m. and 3:00 p.m. to 8:00 p.m.
- Saturdays: 8:00 a.m. to 4:00 p.m.
- Sundays: 9:00 a.m. to 3:30 p.m.

Community Programming During Peak Hours:

During peak hours, a minimum of 55% of all pool time and lane space shall be reserved for community-based programming. Community-based programming must be distributed throughout peak hours, and should be based on community needs assessments, questionnaires, regular feedback provided by program participants, etc.

- Wave shall implement and administer the City of Redmond's fee assistance program for all aquatics programs and services offered at the Redmond Pool. This program shall operate as follows:
- Wave Aquatics shall use Wave's standard fee assistance application which is aligned with the City of Redmond's eligibility criteria, and updated annually based on any City of Redmond changes. Wave Aquatics will submit their draft application form to the City of Redmond annually (no later than Dec. 1) for review and approval to ensure continued alignment with the City's current eligibility requirements.

- Wave Aquatics shall accept and process all fee assistance applications in accordance with policies and processes consistent with the City of Redmond's policies.
- Wave Aquatics shall maintain records of all fee assistance discounts provided, including participant information, discount amounts, and dates of service.
- Wave Aquatics may submit invoices to the City on a schedule of their choosing (monthly or quarterly) detailing fee assistance discounts provided and requesting reimbursement for the total amount. Only discounts actually used by customers towards programming purchases can be requested for reimbursement by Wave.
- Invoices shall include supporting documentation as required by the City.
- The City shall reimburse Wave for verified fee assistance discounts within thirty (30) days of receiving complete invoices and documentation.

D. Obtain all necessary licenses and permits for operation of the Pool;

E. Manage pool advertising and promotions, patron registrations, agreements with various user groups, drop-in use and instruction, and specialty programming provided by outside agencies, such as SCUBA training or Redmond Parks and Recreation, and provide content to the Recreation Supervisor to advertise Wave activities on City communication channels (social media, website, email newsletter, registration software platform, etc.;

F. Wave shall check each physical component of the pool facility routinely in order to ensure that the requirements of WAC 246-260-131 are met. Wave shall, at its sole cost and expense, maintain the water filtration system and maintain and repair the following pool equipment and components: chemical feed systems, diving boards, diving blocks, lane lines, pool deck equipment, starting platforms, timing systems, pool cleaning equipment, safety equipment, and other moveable equipment used for programming and daily operations. Wave shall promptly report all deficiencies or required repairs to the City of Redmond within 48 hours of discovery.

Equipment Responsibility Matrix:

- **Wave Responsibility:** All moveable equipment, pool water treatment systems, chemical equipment, diving equipment, safety equipment, pool accessories, and any equipment installed by Wave during the lease term.
- **City Responsibility:** Structural components including pool shell, permanent plumbing systems beyond pool equipment connections, pool deck structure, building envelope, fire and life safety equipment, electrical, and filtration system repair along with major mechanical systems serving the building.

Wave shall make no changes, improvements, or alterations to pool equipment or facilities without the prior written consent of the City, which consent shall not be unreasonably withheld. Any Wave-

installed equipment shall become the property of the City upon lease termination, unless the City requires removal and restoration to original condition at Wave's expense.

For deficiencies requiring City responsibility repairs, the City shall acknowledge and respond within three business days with an estimated repair timeline.

J. Provide, maintain, and repair pool depth markings and signage specifying user rules and safety information as required by WAC 246-260-131;

K. **Communication Protocol and Organizational Authority:**

Wave shall designate a single Primary Point of Contact (Primary POC) who serves as the official liaison between Wave and the City of Redmond for all matters relating to this Agreement. All official communications, policy interpretations, and contractual matters must be channeled through this designated Primary POC.

- **Primary Point of Contact:** Wave shall identify one individual with full authority to speak on behalf of the organization, make binding commitments, and receive official direction from the City.
- **Secondary Contact:** Wave may designate one backup contact who can act in the Primary POC's absence.
- **Operational Staff Communications:** Day-to-day operational communications (scheduling, routine maintenance, customer service issues) may be handled by on-site staff, but any requests that could impact contract terms, policies, or require City resources must be escalated to the Primary POC

The City reserves the right to:

- Respond only to communications from designated Wave representatives for all non-operational matters
- Request written confirmation from the Primary POC for any verbal requests or commitments made by other Wave personnel

L. Prepare and implement an emergency response plan as required by WAC 246-260-131. A copy of the emergency response plan shall be provided to the City;

M. Provide all uniforms, office equipment, office systems, and office supplies necessary for Wave to operate the Pool as required by this Agreement;

N. Provide ordinary, routine maintenance for the pool facility including but not limited to;

cleaning restrooms, offices, public spaces, electrical rooms, and equipment rooms, and performing minor maintenance and repairs;

O. Provide the necessary supplies for pool operations including but not limited to; pool chemicals.

P. Keep inventory and ensure adequate supply of common consumable supplies including but not limited to, paper towels, restroom supplies, and janitorial cleaning products. Consumable supplies of this nature shall be furnished by the City and orders shall be placed through the central warehouse. Wave will coordinate pickup of orders from the warehouse during normal business hours. The City will not provide delivery of consumable supplies to the Pool.

The City will schedule daily janitorial services, 5 days per week, to be completed by an outside contractor. Wave shall pay approximately \$1,699.59 per month for the first year of the operational agreement and CPI (Consumer Price Index) will be reflected annually thereafter. This amount will be paid monthly by Wave via an invoice furnished by the City each month (if Wave decides to use City janitorial services).

Wave at its discretion, can alternatively choose to arrange and schedule daily janitorial services at least five (5) days per week. Wave must work with the City of Redmond purchasing department and facilities division to ensure the janitorial services meet the standards for third party vendors operating in city-owned facilities including but not limited to:

1.) **Washington State Registration:** All vendors must meet Washington State Department of Labor & Industries (L&I) requirements and must be verifiable through the L&I's "Verify a Contractor" portal.

2.) **L&I Training Completion:** Vendor must complete all applicable Labor & Industries training requirements, including those related to prevailing wage, public works contracting, and worker safety as required by L&I.

3.) **Not Debarred:** Vendor and all subcontractors must not be currently debarred or otherwise ineligible to contract with public agencies in the State of Washington.

4.) **City of Redmond Business License:** Vendor must possess or obtain a valid City of Redmond business license, in compliance with the Washington Department of Revenue registration process.

5.) **Certificate of Insurance:** Vendor must provide a current Certificate of Insurance meeting the City of Redmond's insurance requirements. The certificate must name the City of Redmond as an *Additional Insured* and must conform to the minimum coverage limits and policy standards.

6.) **Prevailing Wage Compliance:** Vendor must pay all laborers, workers, and mechanics not less than the applicable prevailing wage rates as determined by the Washington State

Department of Labor & Industries. The applicable rates can be found at:
<https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>.

7.) Wage Documentation: Vendor must file a *Statement of Intent to Pay Prevailing Wages* and an *Affidavit of Wages Paid* with the Washington State Department of Labor & Industries for themselves and each subcontractor, as required under state law. Copies must be submitted to the City upon request.

If Wave elects to provide its own janitorial services, Wave will not be charged the monthly janitorial fee. Wave must provide thirty (30) days written notice to the City before transitioning to its own janitorial services to stop the monthly fee payments.

Wave may request to resume city-provided janitorial services by providing thirty (30) days written notice. Upon resumption, the monthly janitorial fee will be reinstated and invoiced monthly for payment by Wave.

If Wave provided janitorial services fail to maintain adequate cleanliness, resulting in damage, excessive complaints, or safety issues, the City will take the following progressive actions:

- 1.) Issue a written notice via email detailing the issues. Wave agrees to provide specific corrective actions within 48 hours.
- 2.) Conduct an on-site meeting between the Wave Executive Director (or designee) and the City Facilities team to discuss issues in person and develop actions items to immediately address any concerns.
- 3.) If the issue(s) continue, the City will hire an outside contractor to address unresolved issues and bill Wave for these services. Wave shall be liable for all costs and liabilities incurred by the City for remedial services and shall remit payment within thirty (30) days of receiving an invoice from the City.

Q. Provide and display copies of SDS forms for all chemicals on the premises as required by law. SDS forms for products provided by the City are available upon request to the central warehouse;

R. Provide compliance with state law and City policies prohibiting use of tobacco or tobacco products/use of any alcohol or drugs or other controlled substances on the premises;

S. Provide appropriate personal protective equipment (PPE) for all pool employees for the nature of work assigned, and training on the use of PPE;

T. Customer Service and Employee Training:

Customer Service Standards: The City of Redmond has published comprehensive Customer Service Standards as part of its own policies, establishing a framework for excellence in public service delivery. Wave, as the contracted pool operator, shall adopt, implement, and maintain these same high standards throughout all Redmond pool facility operations, ensuring consistency with the City's commitment to creating people first environments where all customers are respected, welcomed, and connected to resources.

Training and Development Requirements:

- Customer service training is provided to customer service staff, with initial orientation completed within 30 days of initial hire.
 - The City of Redmond will provide annual training to Wave personnel twice yearly to ensure consistent implementation of the Customer Service Standards and alignment with the City's service delivery expectations.
- Staff are knowledgeable about pool operations, safety protocols, and directing customers to appropriate resources for specific needs
- Staff are proactive in seeking opportunities to assist all pool users and visitors
- Customers are greeted upon entry into the facility
- Staff utilize positive language, facial expressions, and body language with all customers.
- Customer inquiries are acknowledged and addressed within two business days
 - When more time is required for adequate response, staff acknowledge receipt and advise customers of resolution timeframe
- Provide supervisor training for all pool supervisors and head guards, and training of all employees on harassment and sexual harassment annually.

Wave shall provide trained lifeguards and other appropriate trained personnel to provide monitoring of the pool facilities and to perform other tasks required by this Agreement and WAC 246-260-131, and ensure that all such persons have been subjected to appropriate background checks for persons with access to children and vulnerable adults and possess any required certifications. Wave shall identify and meet minimum staffing requirements at all times during operational hours and have qualified supervisory staff are present during all operational hours.

U. Wave agrees to comply with:

1. Provide prompt and timely payment of all applicable taxes and remittance of all employee related withholdings, including but not limited to all personnel, employment, and sales taxes;
2. Maintain pool water quality standards pursuant to WAC 246-260-111, including arranging and paying for water quality sampling, laboratory analysis, and field testing of pool water as prescribed by WAC 246- 260-111 Copies of the results of such sampling and testing shall be provided to the City;
3. Comply with all monitoring, reporting, and recordkeeping requirements of under WAC 246-260-121.

V. Establish and implement standard operating procedures and develop and maintain a written operation manual as required by WAC 246-260-131. A copy of the procedures and written operations manual shall be provided to the City on an annual basis.

2. Pool Revenues.

A. The positive net income from pool operations shall be split equally between the parties as follows: by mutual consent of the parties, Wave shall pay the City 50% of the positive net income for each fiscal year, which runs September 1 – August 31, by the 1st of October of the same year, unless another arrangement is agreed to, in writing, by the parties.

B. In the event that a City-led construction or improvement project to the Pool or surrounding environs extends the planned timeline or scope, resulting in Wave's inability to operate the Pool in a normal manner as per Section 8A, then upon written mutual agreement by both parties, Wave may apply all or a portion of the net losses from one fiscal year towards the net income of the subsequent fiscal year, in an effort to recapture unexpected lost income. In no event shall the offset of net losses from a prior year exceed 50% of the total amount owed, consistent with Section 2.A, the amount owed to the City by Wave in a subsequent, positive net income year. Should Wave experience net losses two or more years in a row, Wave may only carry forward the most recent year's net losses towards the net income of the subsequent fiscal year. Wave may request to carry forward net losses for any year within the contract term, for as many times as is necessary, except for the final year of the contract. At the end of the initial 5-year term, should the City and Wave execute the optional 5-year extension, the final year of the contract shall be considered the final year of the extension, unless sooner extended or terminated. Inflation and interest shall not be factored into the calculation of any offset. A request by Wave to apply net losses from a prior fiscal year towards the net income of the subsequent fiscal year must be made to the City by the 1st of February of the subsequent year, unless another arrangement is agreed to by the parties. Further, a request must be accompanied by Wave's income and expense statements and any other support documentation the City may require. Nothing in this Section shall relieve Wave of its obligations under Section 1.P, whereby Wave's annual payments shall continue to be added to the City's annual revenue owed by Wave for any year with positive net income. Nothing in this Section shall be construed to provide tax relief to Wave, for the purposes of Internal Revenue Service reporting.

3. Capital Improvements and Major Repairs. Except as provided in this section 3, the City shall be responsible for all capital improvements and major repairs to the Pool, including but not limited to, improvements and repairs to the building shell (building structure, exterior walls, doors, locks, and roof), pool drains, electrical system, plumbing system, pool liner, and HVAC system. Wave shall be responsible for repairs necessitated by the negligent acts, errors, or omissions of Wave in operating the Pool. Wave shall not make any alterations, additions, renovations, or capital improvements or major repairs to the Pool, or seek funding to make such capital improvements or major repairs to the Pool without the City's express written consent. Nothing in this Agreement obligates the City to make any capital improvement or major repair to the Pool which the City determines, in its sole discretion, is not financially prudent for the City. The City's responsibility to make capital

improvements and repairs under this Section is expressly subject to the City's right to terminate this Agreement as set forth in Section 12 below.

The City agrees to consult with Wave before making any final decision on whether to make any capital improvement or repair, but the City has the sole discretion as to whether to make such an improvement or repair. A good faith effort will be made to make repairs with a minimum disruption to the program schedule. Any improvements or repairs proposed to be made or constructed by Wave, and the funding proposed for such improvements or repairs, are subject to the City's review and approval. Wave shall provide the City with an estimated cost and verification of the actual cost to complete any agreed upon improvements.

All improvements made and trade fixtures installed by Wave shall become the property of the City at the expiration or termination of this Operating Agreement without further compensation to Wave.

4. Utilities. Wave shall be responsible for paying the monthly charges for water, sewer, storm water, electricity, and natural gas provided to the Pool facility. Wave will also be responsible for paying the monthly charges for telephone, internet, and cable television service, if any.

5. Reporting. Wave shall provide the following reports about the Redmond Pool to the City:

A. Wave shall immediately report all accidents, illnesses, and incidents at the Redmond Pool to the City, requiring emergency response, and shall provide the City with copies of all reports related to accident, illness, or incident as defined in WAC 246-260-110 and as required by WAC 246-260-121 as the reporting party and Wave shall comply with reporting requirements of illness and injury required by WAC 246-260-121.

B. Wave as the reporting party, shall immediately report any violation noted by the Department of Health to the City and shall provide the City with copies of any report or notice generated by the Department of Health and any response or report of corrective action generated by Wave.

C. Wave shall provide mutually agreed upon monthly reports to the City regarding usage, maintenance, and operation of the Pool. These reports shall be submitted in a mutually agreed upon format no later than the 15th day of each month following the reporting period. The City and Wave shall collaborate to establish standardized reporting templates and procedures within sixty (60) days of the operational agreement's effective date. Reports should include but not be limited to:

1.) Program Allocation Analysis

- Total Operating Hours:
 - Total hours the pool was open and operational during the month
- Pool Time Allocation:
 - Number of hours dedicated to each program category:
 1. Shallow End Lap Swim
 2. Deep End Lap Swim
 3. Deep Water Aerobics
 4. Shallow Water Aerobics
 5. Wave Swim Team
 6. Lake Washington Masters
 7. Family Swim
 8. Wave Rentals
 9. Swim Lessons (with breakdown by lesson type and skill level)
 10. Hours allocated to city programming
 11. Other programming (any additional programs not listed above)
- Utilization Metrics:
 - Percentage of total available pool hours used by each program category
 - Actual attendance numbers versus capacity for each program
 - Identification of peak hours
- Peak Hours Reporting:
 - Total Peak Hours available during reporting month
 - Total Peak Hours allocated to community based programming
 - Total hours allocated for city based programming
 - Percentage of Peak Hours dedicated to community based programming (must meet minimum 55% requirement)

2.) Revenue Analysis – Quarterly Reporting

- Total gross revenue generated during the reporting period
- Revenue breakdown by program category

3.) Residency Demographics

- Total number of individual registrations for each program category, separated by resident/non-resident status.

D. Wave shall maintain a logbook to record daily operational issues, including, but not limited to, customer complaints, staff concerns, actions/decisions, incidents, lifeguard assists, and shall make this log available to the City upon request.

E. Wave shall immediately report to the City any and all complaints made against Redmond Pool employees, including but not limited to, harassment, sexual harassment, and sex offenses, regardless of whether the complaint is made by a patron, staff, volunteer, contractor, or any other party.

F. Wave shall be required to document all complaints against Wave Pool employees,

and immediately report those complaints to the City.

6. Inspections. The City shall have the right to enter the Pool at any time in order to inspect the facility and to ensure the safety and health of customers and Wave employees, and that all provisions of this Agreement and all state, federal and local building, fire, and pool operation regulations are being complied with.

7. Records-Audits. Each party shall have the right, at any time during regular business hours, to review the books and records maintained by the other party with respect to pool operations, maintenance, revenues, and expenditures, including but not limited to, programming materials, maintenance logs, safety and accident reports, Department of Health reports, income and expense statements, inspection reports, and registration information and reports, in order to audit the same and determine compliance with this Agreement

8. Pool Closures.

A. The parties acknowledge that the Pool may have to be closed temporarily from time to time or for an extended time frame during the term of this Agreement in order to perform required maintenance or to make necessary repairs or improvements. If either party determines that closure is necessary for such purpose, the parties shall meet and confer regarding the need for such closure and the duration thereof. The final decision on any such closure shall rest with the City. Wave shall not be entitled to any compensation from the City for lost revenues as the result of a closure for required maintenance or repairs. However, all closures that impact revenue will be reflected in the “profit share” that is owed by Wave to the City at the end of each fiscal year.

B. In the event that the Department of Health orders the Pool closed because of any non-compliance by Wave with Department of Health requirements, or in the event that the Pool must otherwise be closed because of the failure of Wave to comply with any other term or condition of this Agreement, Wave shall be liable for all closure-related expenses, including but not limited to, any actual expenses incurred by the City in physically closing the Pool and any program or contract refunds. Wave shall not be held accountable for a Department of Health closure that is the result of the City not performing the necessary maintenance and repairs.

9. Indemnity.

A. Wave shall release, protect, save harmless, indemnify, and defend, at its own expense, the City, its officers, elected officials, agents, volunteers, and employees from any and all costs, claims, judgments or awards of damages of any kind (including attorney’s fees and costs) arising out of or in any way resulting from the negligent acts, errors, or omissions of Wave, its officers, employees, contractors, subcontractors, agents, and volunteers in performing this Agreement.

B. No liability shall be attached to either party by reason of entering into this Agreement except as expressly provided herein.

C. It is further specifically and expressly understood that Wave's indemnification provided herein constitutes such party's waiver of immunity under the Industrial Insurance Act, Title 51 RCW, solely for the purpose and solely to the extent required to provide the indemnification required in this Section.

D. The provisions of this Section 9 shall survive the expiration or termination of this Agreement.

10. Insurance. Throughout the term of this Agreement, Wave shall maintain a combination of commercial general liability, automobile insurance, and excess coverage of not less than \$5 million (\$5,000,000) per occurrence. A minimum coverage of \$1,000,000 per occurrence and \$1,000,000 aggregate specifically covering claims arising from actual or alleged sexual abuse, molestation, or harassment by Wave's employees, volunteers, or agents is required. Wave shall maintain workers' compensation insurance in amounts sufficient pursuant to the laws of the State of Washington. The City, its officers, elected officials, agents, volunteers, and employees shall be named as a Primary Noncontributory additional insured on all such policies, except for workers's compensation coverage. Wave shall provide certificates of insurance and an endorsement copy of such insurance concurrent with the execution of this Agreement. All insurance policies shall contain a clause or endorsement providing that they may not be terminated or materially amended during the term of this Agreement, except after thirty (30) days prior written notice to the City.

11. Duration. This Agreement and the obligations of the parties under it shall become effective on January 1, 2026 and shall be in effect for 5 years, expiring at the close of business for the Pool on December 31, 2030. The City of Redmond will initiate discussions with Wave Aquatics during the fourth quarter of 2029 regarding the future management of the Redmond Pool beyond the expiration of this Agreement. Such discussions will include the City's preliminary determination of whether to proceed with a competitive Request for Proposals process, negotiate a contract extension with Wave Aquatics, or pursue other alternatives for pool management. The City reserves the right to make the final determination regarding the process for selecting future pool management services in its sole discretion

12. Termination. This Agreement may be terminated as follows:

A. By mutual agreement of the parties;

B. By either party without cause upon the giving of thirty (30) days' written notice to the other party. All terms of the Agreement remain in effect until the stated termination date. Final cost settlement shall be made thirty (30) days after termination of this Agreement.

C. By either party for material breach of this Agreement's terms by the other party, provided, that no such termination shall become effective unless the non-breaching party provides at least thirty (30) days' written notice to the other party and an opportunity to cure the breach within that

thirty (30) day period. If the breach cannot reasonably be cured within thirty (30) days, this Agreement shall not terminate if the breaching party has commenced cure within thirty (30) days and diligently pursues the same to conclusion.

13. Dispute Resolution. The parties mutually agree to use a formal dispute resolution process, such as mediation, through an agreed upon mediator, if agreement cannot be reached regarding interpretation or implementation of any provision of this Agreement. All costs for mediation services will be divided equally among the parties to the dispute. Each party will be responsible for their own legal representation, provided, that nothing in this Section 13 shall be construed to limit or negate the parties' ability to indemnify and defend as set forth in Section 9 above. In the event that agreement cannot be reached through the formal dispute resolution process contemplated by this Section, the parties reserve the right to seek any available legal or equitable remedy, including litigation, to resolve the dispute.

14. Notices. Notices required by this Agreement shall be given to the parties at the following addresses:

To the City:

Loreen Hamilton
Parks Director
City of Redmond
15670 N.E. 85th Street
P.O. Box 97010
Redmond, WA 98073-9710

To WAVE:

Christopher Geitz
Board President
Wave Aquatics
P.O. Box 2953
Kirkland, WA 98083-2953

Notices shall be deemed given upon either personal delivery or e-mail to the individuals named above mailed, three days after the written notice is placed in the United States Mail, postage prepaid, addressed to the individuals named above.

15. Force Majeure. Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of force majeure. For the purposes of this Agreement, force majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials, including delays by or acts or orders of any governmental body or changes in laws or governmental regulations; acts of civil or military authority; freight embargoes; epidemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall

give the other party prompt written notice of the impediment and its effect on the ability to perform; failure to provide such notice shall preclude recovery under this provision; such notice shall release both parties from their future respective obligations under the Agreement, provided that written notice setting forth in detail the nature of any delay or suspension is given by such party to the other party within 72 hours of the order to cancel or reschedule the event or activity. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion may be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. The City reserves the right to cancel this Agreement in accordance with the "Termination" sections of this Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Wave shall have no recourse against the City.

16. Miscellaneous Provisions.

A. Assignment and Subcontract. Wave shall not assign or subcontract its rights or obligations under this Agreement without the express written consent of the City.

B. No Waiver. Waiver by any party of any breach of this Agreement shall not constitute a waiver of any subsequent breach or of a breach of any other provision.

C. Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision.

D. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Subject to the dispute resolution provisions of Section 13, venue for any action brought to enforce any provision of this Agreement or to seek redress for any breach thereof shall be in the superior court of King County, Washington.

E. Attorney's Fees. In the event that either party commences litigation against the other party to enforce any provision of this Agreement or to seek redress for any breach thereof, the prevailing party in any such litigation shall be entitled to recover its costs and reasonable attorney's fees incurred in the litigation from the other party.

F. Construction. Both parties participated equally in the drafting of this Agreement and this Agreement shall not be construed against either party as drafter.

G. Amendment. This Agreement may be amended only by a written instrument signed by both parties.

H. Entire Agreement. This Agreement constitutes the entire Agreement between the parties concerning its subject matter and supersedes all prior understandings and agreements.

EXECUTED by the parties on the dates hereinafter written.

Wave Aquatics:

Christopher Geitz, Board President

Date: _____

CITY OF REDMOND:

Angela Birney, Mayor

Date: _____

ATTEST/AUTHENTICATED:

City Clerk, City of Redmond

APPROVED AS TO FORM:

Office of the City Attorney