

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

7/3/2012

City Council Meeting Date
Agenda Items Only

Carole Jones *[Signature]*
Submitted By

Park Planning
Division

Parks
Department

Action Required:

Staff recommends a resolution approving Bid #12-53 between the City of Fayetteville and Mid-America Pool Renovation, Inc. in an amount of \$256,490 with a 10% project contingency of \$25,649 for a total project cost of \$282,139 and approving a budget adjustment of \$69,074 for the Construction of Wilson Park Pool Renovations.

\$282,139.00 Cost of this request	\$ 253,065.00 Category / Project Budget	Wilson Park Improvements Program Category / Project Name
2250.9255.5315.00 Account Number	\$ 40,000.00 Funds Used to Date	Wilson Park Improvements Program / Project Category Name
08002.1101 Project Number	\$ 213,065.00 Remaining Balance	Parks Development/PLDO SW Quad Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director 6-15-12
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney 6-15-12
Date

Original Contract Date: _____

Original Contract Number: _____

[Signature]
Finance and Internal Services Director 6/15/12
Date

Received in City 06-15-12 P12:43 RCVD
Clerk's Office *[Signature]*

[Signature]
Chief of Staff 6/15/12
Date

Received in Mayor's Office
ENTERED 6-15-12 Bep

[Signature]
Mayor 6/18/12
Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *CE*
Alison Jumper, Park Planning Superintendent *aj*

From: Carole Jones, Park Planner II *CJ*

Date: June 15, 2012

Subject: Bid #12-53, Construction of Wilson Park Pool Renovations
Agenda Request for July 3, 2012 Meeting

PROPOSAL:

The Wilson Park Swimming Pool is the only municipal pool within the City of Fayetteville and had over 22,000 visitors in 2011 during the eight week summer season. The original Wilson Park Pool was built in the 1930s and has become a well recognized structure within the city over the last 80 years. The pool has undergone renovations at different times throughout its history with the most recent renovation occurring in 1997.

The pool deck and interior pool surface are in visible need of repair and renovation. In the fall of 2010, Parks and Recreation contracted Garver Engineering to provide a structural analysis of the pool to determine a proper course of action for the aging structure. Based on the results of the analysis, Parks Staff, after consultation with the Parks and Recreation Advisory Board, determined that renovations and repairs to the structurally sound facility were the most cost effective way to continue to provide this popular amenity to the citizens of Fayetteville. The 2010 structural analysis recommended a complete resurfacing of both the pool deck surface and the pool surface along with repairs and renovations to the necessary areas.

The project includes repair of cracks within the pool structure and surrounding deck, removal of the pool plaster interior and deck surface material, and replacement of the pool and deck surface. This project was approved as part of the 2012 CIP.

Original construction cost estimates were based on a cement based plaster pool lining system similar to the existing pool surface. After further research, Garver (the design consultants) recommended a polymeric composite pool resurfacing system. Because of the existing structural and stress cracks throughout the pool structure and the fact that the pool is drained the majority of the year, the polymeric system is better suited. Cement based plaster systems are designed to be submerged during their life spans. Additionally, the polymeric system has a 15-year warranty while typical plaster systems have a 5-year warranty.

The project was advertised on May 24 and 31, and bids were opened on June 13, 2012. Two vendors including Mid-America Pool Renovation, Inc. and USA Pools Construction, Inc. submitted bids. Mid-America Pool Renovation, Inc. was the low bid in the amount of \$256,490. (See attached bid tabulation sheet.) If approved, the construction of the project is anticipated to begin in August and be completed in November 2012.

RECOMMENDATION:

Staff recommends a resolution approving Bid #12-53 between the City of Fayetteville and Mid-America Pool Renovation, Inc. in an amount of \$256,490 with a 10% project contingency of \$25,649 for a total project cost of \$282,139 and approving a budget adjustment of \$69,074 for the Construction of Wilson Park Pool Renovations.

BUDGET IMPACT:

This project is funded with Parks Development Funds and Park Land Dedication (SW Quadrant) Funds. The cost of \$213,065 is accounted for in project number 08002.1101- Wilson Park Improvements. The balance of \$69,074 is included in the Budget Adjustment.

Attachments:

Staff Review Form
Bid Submittal – Mid-America Pool Renovation, Inc.
Certified Bid Tabulation
Agreement Signed by Contractor
Budget Adjustment
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #12-53 AND AUTHORIZING A CONTRACT WITH MID-AMERICA POOL RENOVATION, INC. IN THE AMOUNT OF \$256,490.00 FOR THE CONSTRUCTION OF WILSON PARK POOL RENOVATIONS, APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY AND APPROVING A BUDGET ADJUSTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-53 and authorizes a contract with Mid-America Pool Renovations, Inc. in the amount of \$256,490.00 for the construction of Wilson Park pool renovations.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

PASSED and APPROVED this 3rd day of July, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 2
 Bid #12-53170-America
 Pool Renovation, Inc.
 Page 5 of 46

Budget Year 2012	Division: Parks & Recreation Department: Parks & Recreation	Request Date 7/3/2012	Adjustment Number
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BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

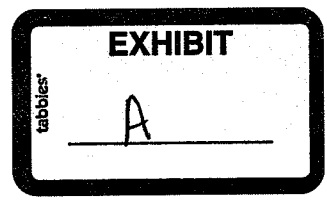
\$69,074 is requested in the Wilson Park Pool Renovations project submitted for City Council approval on July 3rd.

REQUIRED

1 <u>Alison Sumner</u> Division Head	<u>6/14/12</u> Date	Prepared By: _____
2 <u>[Signature]</u> Budget Director	<u>6-14-12</u> Date	Reference: _____
3 <u>Cerami Cronston</u> Department Director	<u>6-14-12</u> Date	Budget & Research Use Only
4 <u>Paul A. Behn</u> Finance Director	<u>6-18-2012</u> Date	Type: A B C <u>D</u> E P
5 <u>Don Man</u> Chief of Staff	<u>6-18-12</u> Date	General Ledger Date _____
6 <u>[Signature]</u> Mayor	<u>6/18/12</u> Date	Posted to General Ledger _____
		Checked / Verified _____
		Initial _____ Date _____
		Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT

Account Name	Account Number	Increase / (Decrease)		Project.Sub Number
		Expense	Revenue	
Contract services	2250.9255.5315.00	69,074		08002 . 1101
Minor equipment	2250.9255.5210.00	(1,173)		00006 . 1
Park improvements	2250.9255.5806.00	(14,908)		02013 . 1
Park improvements	2250.9255.5806.00	(42)		05001 . 3
Park improvements	2250.9255.5806.00	(699)		02014 . 2
Professional services	2250.9255.5314.00	(3,039)		02027 . 2
Park improvements	2250.9255.5806.00	(49,213)		02043 . 1001
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		-		.
		-		.
		-		.



City Of Fayetteville - Purchase Order (PO) Request <small>(Not a Purchase Order)</small> <i>All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)</i> <i>All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us</i>						Requestion No.:	Date:		
Vendor #:						P.O Number:		Expected Delivery Date:	
Vendor Name: Mid-America Pool Renovation, Inc.						Mail Yes: _____ No: _____		Quotes Attached Yes: _____ No: _____	
Address: 5929 East 154th Terrace						Fob Point:		Taxable Yes: <u>x</u> No: _____	
City: Grandview		State: MO		Zip Code: 64030		Ship to code:		Division Head Approval: <i>[Signature]</i>	
Requester: Carole Jones <i>Crf</i>						Requester's Employee #: 3003		Extension: 472	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Construction of Wilson Park Pool Renovations Per Bid # 12-53	1	Lot	\$256,490.00	\$256,490.00	2250.9255.5315.00	08002.1101		
2									
3									
					\$0.00				
					\$0.00				
					\$0.00				
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					\$0.00				
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					\$0.00				
					\$0.00				
*	Shipping/Handling		Lot		\$0.00				
Special Instructions: Tax is included in the contract price.						Subtotal: \$256,490.00			
						Tax: _____			
						Total: \$256,490.00			
Approvals:									
Mayor: _____			Department Director: _____			Purchasing Manager: _____			
Finance & Internal Services Director: <i>[Signature]</i>			Budget Manager: _____			IT Manager: _____			
Dispatch Manager: _____			Utilities Manager: _____			Other: _____			

DOCUMENT 00400 - BID FORM

Contract Name: Wilson Park Pool Renovations

Bid Number 12-53

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: Mid-America Pool Renovation, Inc.
5929 E. 154th Terrace
Grandview, MO 64030
816 994 3300 (800) 253 7349

ARTICLE 1 - INTENT

1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

DOCUMENT 00300 – DISCLOSURE STATEMENT

**City of Fayetteville
Bid 12-53, Construction of Wilson Park Pool Renovations
Statement of Disclosure (please submit with Bid)**

ATTENTION: Please submit this form with your bid.

DISCLOSURE STATEMENT:

Bidder must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

1.) NO KNOWN RELATIONSHIP EXISTS

2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

David E. Katusz
Printed Name

David E. Katusz
Signed

DOCUMENT 00400 – BID FORM (continued)

ARTICLE 3 - QUALIFICATIONS AND RESPONSIBILITY OF BIDDERS

3.01 To demonstrate qualifications to perform the Work, each Bidder must be prepared to submit within five days after bid opening, upon City of Fayetteville's or Project Manager's request, detailed written evidence such as financial data, present commitments, and other such data as may be called for. Each Bid must contain evidence of Bidder's qualification to do business in the State of Arkansas.

ARTICLE 4 - BIDDER'S REPRESENTATIONS

4.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
<u>1</u>	<u>June 4, 2012</u>
<u>2</u>	<u>June 5, 2012</u>
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures

DOCUMENT 00400 – BID FORM (continued)

at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

DOCUMENT 00400 – BID FORM (continued)

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.
- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

ARTICLE 5 - BID PRICE

Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

IN NO CASE SHALL THE AMOUNT BID FOR THE ITEM OF
“MOBILIZATION” EXCEED 5% OF THE TOTAL CONTRACT
AMOUNT FOR ALL OTHER ITEMS LISTED IN THE BID FORM.

DOCUMENT 00400 - BID FORM (continued)

ITEM NO.	SPEC. REFERENCE	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL
1	SP1	Pool Liner	LS	1	<u>\$13⁵⁰</u>	<u>\$164,700⁰⁰</u>
2	SP2	Deck Surface	LS	1	<u>\$6⁵⁰</u>	<u>\$52,500⁰⁰</u>
3	SP3	Concrete Deck Repairs	SF	1000	<u>\$13⁸⁰</u>	<u>\$13,800⁰⁰</u>
4	SP4	Insurance and Bonding	LS	1	<u>3%</u>	<u>\$7,390⁰⁰</u>
5	SP5	Mobilization (Shall not exceed 5% of total bid)	LS	1	<u>\$3,220⁰⁰</u>	<u>\$3,220⁰⁰</u>
6	SP6	Pool Ladder	EA	9 ^{pic attached}	<u>\$920⁰⁰</u>	<u>\$8,280⁰⁰</u>
7	SP7	Fence	LF	93	<u>\$71</u>	<u>\$6,600⁰⁰</u>

TOTAL AMOUNT BID \$ ~~#~~ 256,490⁰⁰

ARTICLE 6 - CONTRACT TIMES

- 6.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

EXPERIENCE OF BIDDER:

The Bidder states that he/she is an experienced Contractor and has completed a minimum of five (5) projects of similar size and scope within the past five (5) years. List similar projects with types, names of clients, construction costs and references with telephone numbers. Use additional sheets if necessary. **Failure to fully complete this section may result in rejection of the Bid.**

DOCUMENT 00400 - BID FORM (continued)

(Project Histories Attached)

Add: Cornerstone High School, 2011, Hartford, CT
Kelly Walsh High School, 2011, Casper WY

ARTICLE 7 - BID CONTENT

7.01 The following documents are attached to and made a condition of this Bid:

- A. Required Bid security in the form of a certified or bank cashier's check or a Bid Bond and in the amount of 5% Dollars (\$ _____).
- B. A tabulation of Subcontractors and other persons and organizations required to be identified in this Bid.

ARTICLE 8 - COMMUNICATIONS

8.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

David E. Kateusz
Mid-America Pool Renovation, Inc.
5929 E. 154 Tee. Grandview, MO 64030
Phone No. 816 994 3300 (800) 253 7349
FAX No. 816 994 3301

ARTICLE 9 - TERMINOLOGY

9.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

SUBMITTED on 11 June, 2012

Arkansas State Contractor License No. 0238700512

DOCUMENT 00400 - BID FORM (continued)

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)

(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____

(Signature of general partner - attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

DOCUMENT 00410 – BID BOND (continued)

Signed and sealed this 11th day of June 2012

PRINCIPAL

(CORPORATE SEAL)

Mid-America Pool Renovation, Inc.

By [Signature]
President

SURETY

By _____

ATTORNEY-IN-FACT

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

END OF DOCUMENT 00410

(ATTACHED)

(CORPORATE SEAL)

DOCUMENT 00430 – LIST OF SUBCONTRACTORS

In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for WILSON PARK POOL RENOVATIONS.

Bidder certifies that all Subcontractors listed are eligible to perform the Work.

<u>Subcontractor's Work</u>	<u>Subcontractor's Name and Address</u>	<u>Expected Percentage or Value</u>
<i>No sub-contractors intended for use</i>		
	<i>N</i>	
	<i>A</i>	

NOTE: This form must be submitted in accordance with the Instructions to Bidders.

Bidder's Signature

END OF DOCUMENT 00430

Evidence of Pres. Signature



File Number: 200325424405
 Charter # X00540361
 Date Filed: 08/25/2003 08:47 AM
 Matt Blunt
 Secretary of State

Corporations Division
 P.O. Box 788 / 600 W. Main Street, Rm 322
 Jefferson City, MO 65102

Registration of Fictitious Name
 (Submit in duplicate with filing fee of \$7)
 (Must be typed or printed)

This information is for the use of the public and gives no protection to the name being registered. There is no provision in this Chapter to keep another person or business entity from adopting and using the same name. (Chapter 417, RSMo)

The undersigned is doing business under the following name, and at the following address:

Business name to be registered: MID-AMERICA POOL RENOVATION, INC
 Business Address: 6604 East 224th Terrace
 (P.O. Box alone not acceptable)
 City, State and Zip Code: Peculiar, MO 64078

The parties having an interest in the business, and the percentage they own are (if a business entity is owner, indicate business name and percentage owned. If all parties are jointly and severally liable, percentage of ownership need not be listed):

Name of Owners, Individual or Business Entity	Street and Number	City and State	Zip Code	If listed, Percentage of ownership must equal 100%
Mid America Pool Renovations, Inc.	6604 E 224th Terrace	Peculiar, MO	64078	100

In Affirmation thereof, the facts stated above are true:
 (The undersigned understands that false statements made in this filing are subject to the penalties of a false declaration under Section 575.060 RSMo 1986.)

[Signature] ALUSYN KATEUSZ, Pres 8-15-03
 (Authorized Signature) (Printed Name) (Date)
 _____ (Printed Name) _____ (Date)
 _____ (Authorized Signature) _____ (Printed Name) _____ (Date)

State of Missouri
 Fictitious Creation 1 Page(s)

FOR OFFICIAL USE ONLY
 Check # _____
 Amount: _____
 Filer's Initials: _____

DOCUMENT 00410 – BID BOND (continued)

Signed and sealed this 13TH day of JUNE 20 12.

PRINCIPAL

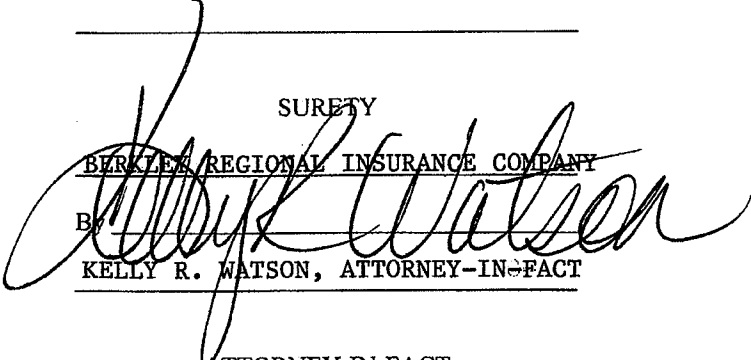
(CORPORATE SEAL)

MID-AMERICA POOL RENOVATIONS, INC.

By _____

SURETY

BERKLEY REGIONAL INSURANCE COMPANY

By 
KELLY R. WATSON, ATTORNEY-IN-FACT

ATTORNEY-IN-FACT

(CORPORATE SEAL)

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

END OF DOCUMENT 00410

POWER OF ATTORNEY
BERKLEY REGIONAL INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY REGIONAL INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Urbandale, Iowa, has made, constituted and appointed, and does by these presents make, constitute and appoint: **George R. Donnelly, Erle Benton, Karra McGreevy or Kelly Watson of Cretcher Heartland, LLC of Overland Park, KS** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on August 21, 2000:

"**RESOLVED**, that the proper officers of the Company are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued."

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 28 day of March, 2011.

Attest: _____ Berkley Regional Insurance Company

(Seal)

By Ira S. Lederman
Ira S. Lederman
Senior Vice President & Secretary

By Jeffrey M. Hafter
Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 28 day of March, 2011, by Jeffrey M. Hafter and Ira S. Lederman who are sworn to me to be the Senior Vice President, and the Senior Vice President and Secretary, respectively, of Berkley Regional Insurance Company.

EILEEN KILLEEN
NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 30, 2012

Eileen Killeen
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY REGIONAL INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 13TH day of JUNE, 2012.

(Seal)

Andrew M. Tuma
Andrew M. Tuma

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation (on reverse) must be in blue ink.

Instructions for Inquiries and Notices Under the Bond Attached to This Power

Berkley Surety Group, LLC is the affiliated underwriting manager for the surety business of: Acadia Insurance Company, Berkley Insurance Company, Berkley Regional Insurance Company, Carolina Casualty Insurance Company, Union Standard Insurance Company, Continental Western Insurance Company, and Union Insurance Company.

To verify the authenticity of the bond, please call (866) 768-3534 or email BSGInquiry@berkleysurety.com

Any written notices, inquiries, claims or demands to the surety on the bond to which this Rider is attached should be directed to:

**Berkley Surety Group, LLC
412 Mount Kemble Avenue
Suite 310N
Morristown, NJ 07960
Attention: Surety Claims Department**

Or

email BSGClaim@berkleysurety.com

Please include with all notices the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please identify the project to which the bond pertains.

DOCUMENT 00410 – BID BOND

(Attached)

KNOW ALL MEN BY THESE PRESENTS: that we

as Principal, hereinafter called the Principal, and

a corporation duly organized under the laws of the State of Arkansas as Surety, hereinafter called Surety, are held and firmly bound unto

City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

as Oblige, hereinafter called Owner, in the sum of _____
_____ Dollars (\$ _____), for the payment of which
sum, well and truly to be made, Principal and said Surety, bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted a Bid for WILSON PARK POOL RENOVATIONS

NOW, THEREFORE, if the Owner shall accept the Bid of Principal and the Principal shall enter into a Contract with the Owner in accordance with the terms of such Bid, and give such Bond or Bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of Principal to enter such Contract and give such Bond or Bonds, if the Principal shall pay to the Owner the difference not to exceed the penalty hereof between the amount specified in said Bid and such larger amount for which the Owner may in good faith contract with another party to perform the Work covered by said Bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

DOCUMENT 00400 - BID FORM (continued)

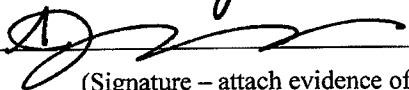
A Corporation

Corporation Name: Mid-America Pool Renovation, Inc.

State of Incorporation: Missouri

Type (General Business, Professional, Service, Limited Liability): _____

Re-surfacing, Renovation, Repairs of Swimming Pools & Decks


By: 

(Signature - attach evidence of authority to sign)

Name (type or printed): ALLISYN KATEUSZ

Title: PRESIDENT

(CORPORATE SEAL)

Attest: 

(Signature of Corporate Secretary)

Business address: 5929 E. 154th Tce.
Grandview, Mo 64030

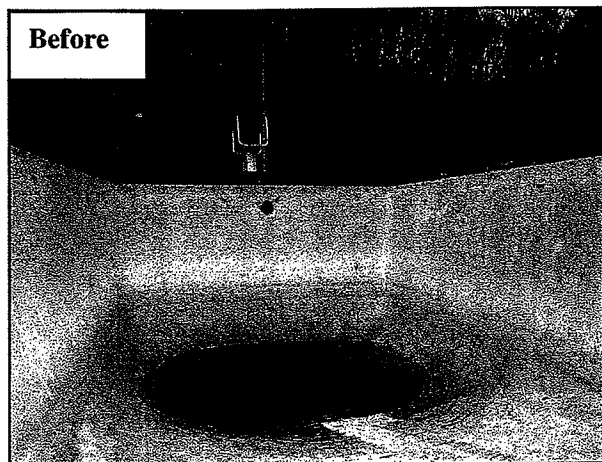
Phone No.: 816 994 3300 FAX No.: 816 994 3301
(800) 253 7349

END OF DOCUMENT 00400

MCKEE FOODS COMMUNITY POOL (LITTLE DEBBIE CAKES)

CHATTANOOGA, TENNESSEE

COMPLETION: 2008



PROJECT ASSESSMENT

“What needed to be done”

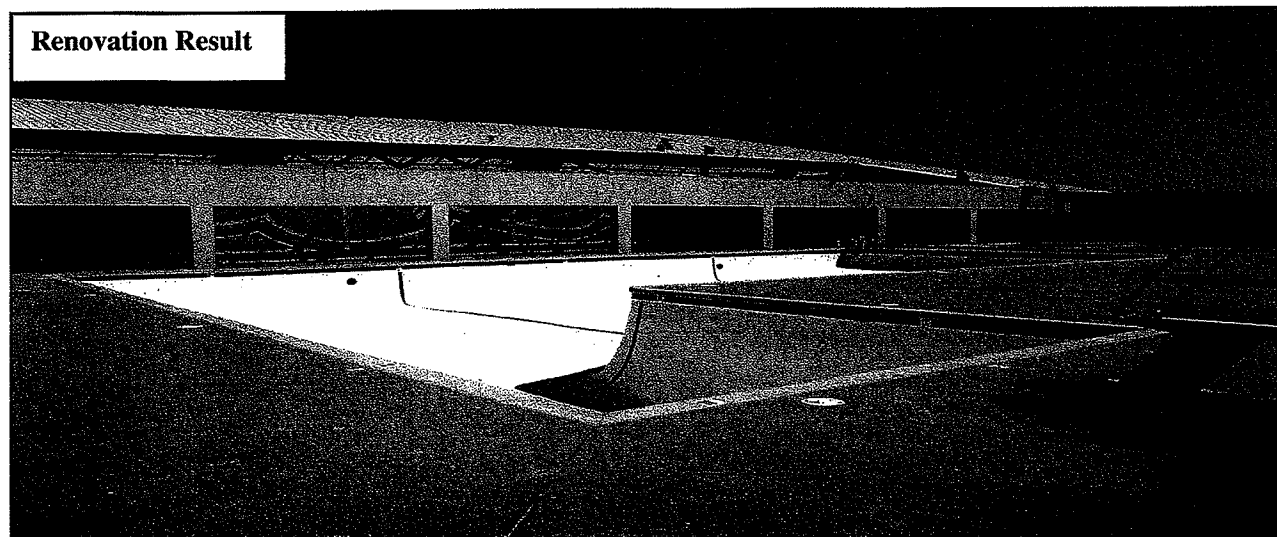
This large shot-creted pool was affected by numerous structure cracks created largely by the effects of hydrostatic pressure and poor construction practices. Built on a clay base with no gravel bedding and a lack of hydrostatic relief ports, subsurface water had no routes of escape. Numerous cracks and voids were created from this pressure in various areas of the pool. While the pool was drained, water bled through the cracks from underground, and while full, pool water leaked out through those same cracks in the pool shell. Rust bleeds from chemically treated water touching the reinforcement steel, as well as calcium and ettringite deposits were evident throughout the pool surface. The brick coping, un-glazed waterline tiling and ‘paint over plaster’ pool surface were all in a state of degradation.

RENOVATION PLAN

“How it was done”

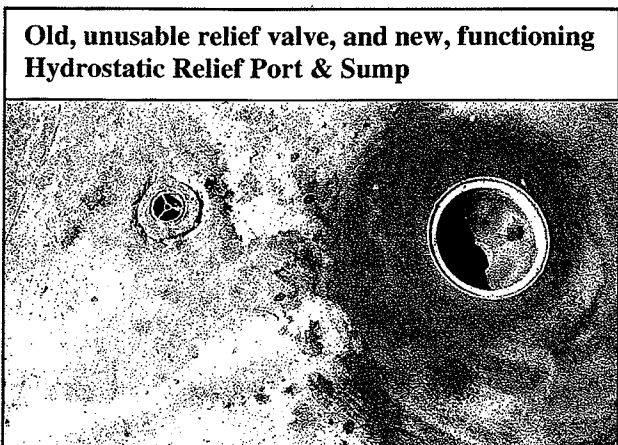
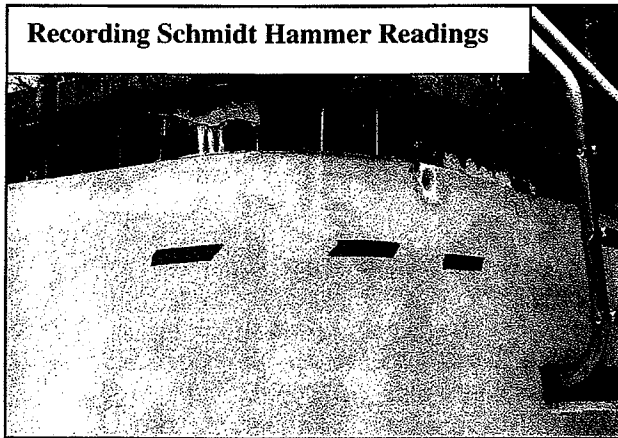
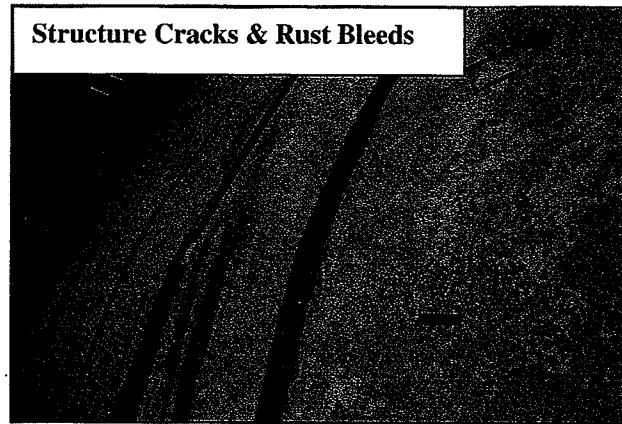
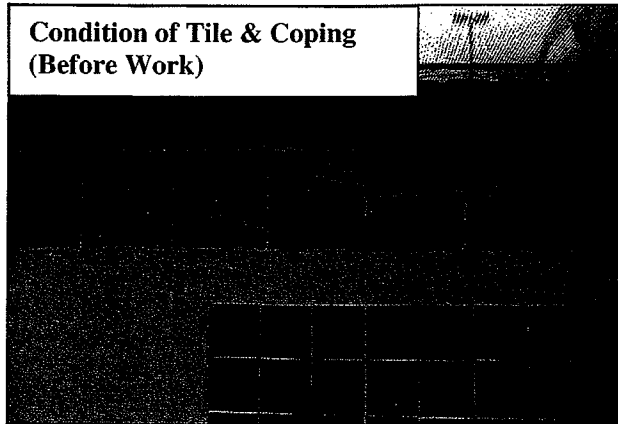
Core drill and Schmidt Hammer testing determined that the pool was structurally sound for renovation. The deteriorating brick coping and unglazed tiling were mechanically removed. Abrasive blasting (coal slag) was used to remove the remaining pool paint and the various deposits from the pool surface. Several hydrostatic relief ports were drilled through the pool shell to offer relief to subsurface water while the pool was drained. These same ports would serve to offer relief in the future when the pool is

drained periodically for cleaning. Up to 4-diaphragm pumps were used at one time to control and remove subsurface water and relieve pressure on the pool shell during renovation. Structure cracks were sealed with a high-grade epoxy and permanently sealed with the **InterSteel Crack Repair** method. Following placement of new frost-proof waterline tiling and a pour *in situ* coping, the entire pool received the INTER-GLASS® Reinforced Composite System.



SAMPLE PICTORIAL SEQUENCE ON BACK OF THIS PAGE

MCKEE FOODS COMMUNITY POOL (LITTLE DEBBIE CAKES)
CHATTANOOGA, TENNESSEE

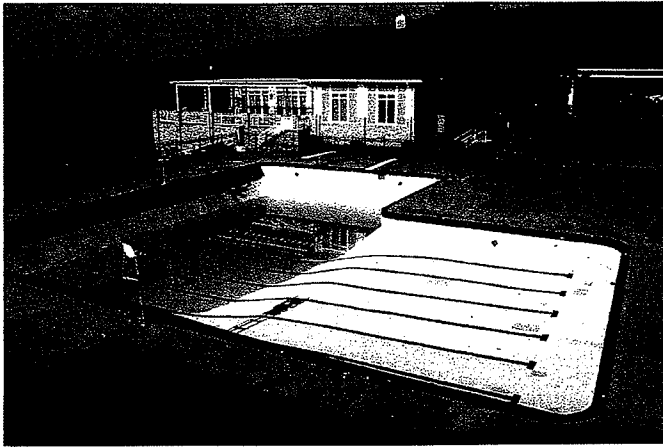


PROJECT SPECIFICATIONS:

TOTAL SQ. FT.:	5,585 w/KIDDY POOL
POOL SHAPE:	RECTANGULAR w/L DEEP END
TYPE OF CIRCULATION:	SKIMMERS
TYPE OF CONSTRUCTION:	SHOT-CRETE
TYPE OF FINISH AFTER RENOVATION:	INTER-GLASS®

**DAVENPORT COUNTRY CLUB
DAVENPORT, IOWA**

COMPLETION: 2010



PROJECT ASSESSMENT

“The Objectives”

The project objectives for the Davenport Country Club pool were four-fold. The pool circulation lines were undersized. New VGB commercial standards required larger diameter suction and return lines. New main drain sumps were required, along with a new filter system. The pool suffered from extensive structure cracks across the entire shallow end, and a patched-looking, peeling and chalking painted finish. The pool also needed an entry set of steps.

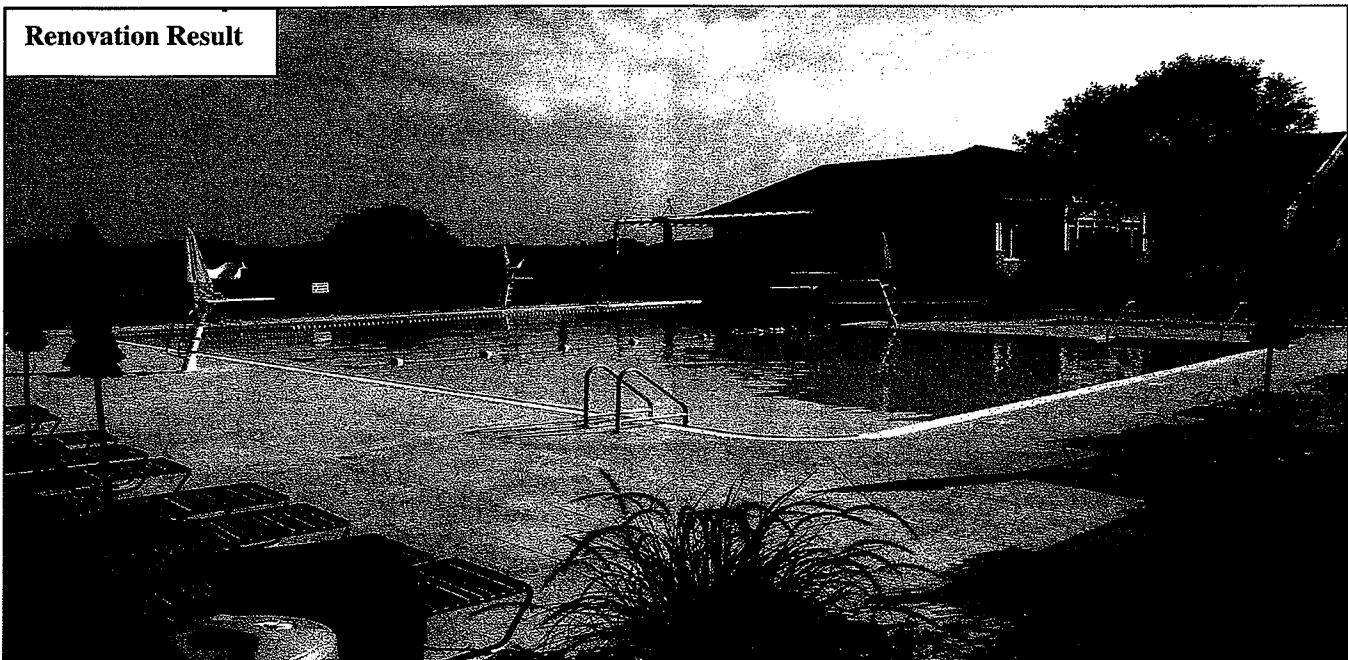
RENOVATION PLAN

“How it was done”

The first course of work in this project was to remove layers numerous layers of pool paint from the surface. This was followed by cutting off the top of the pool walls to accommodate new stainless steel gutters, and excavation for new main drain sumps and circulation lines. Part of the shallow end wall was cut out for off-set entry steps so as not to interfere with the pool’s racing lanes during competitions. Due to the pool’s unusual depth, two sets of scaffolding had to be used during sandblasting and re-surfacing. A sectioned

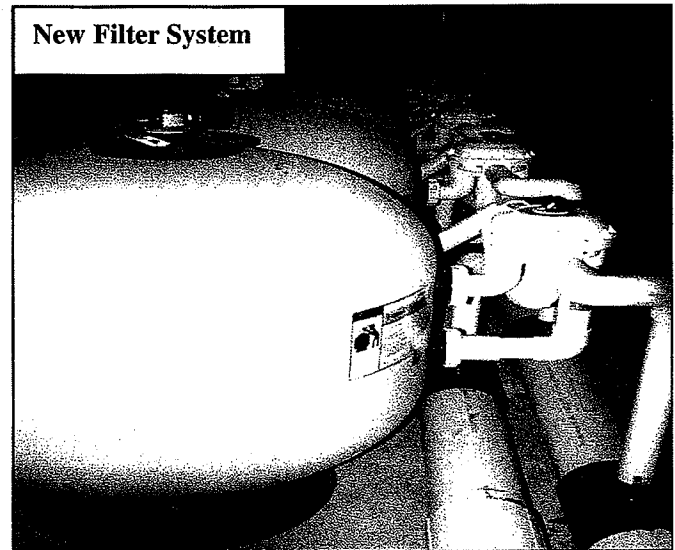
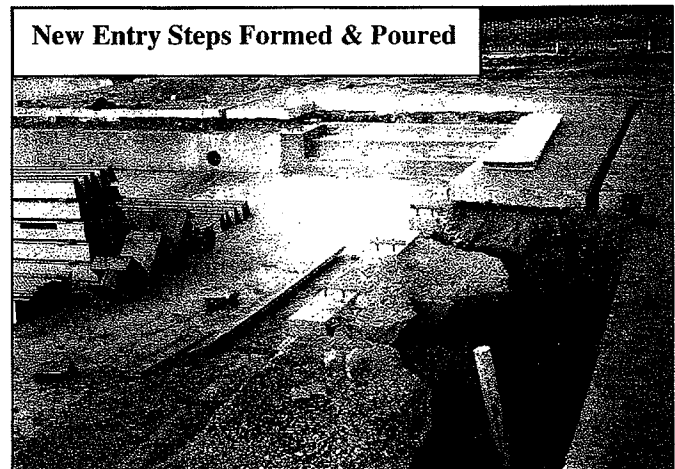
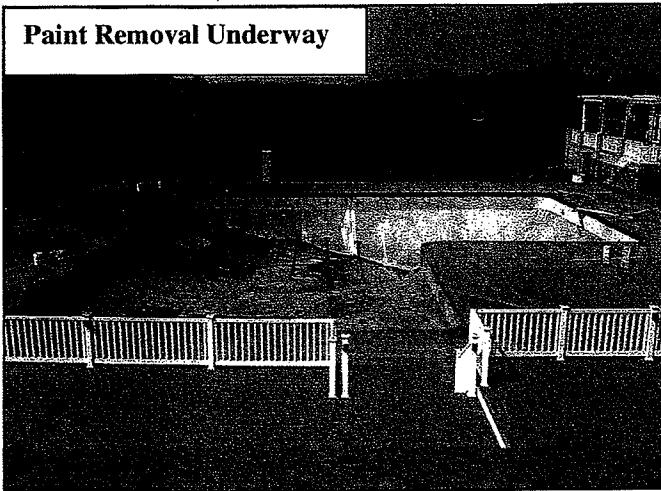
gutter grating and support system was designed for installation over the gutter channel. Such a system would now allow periodic inspections of the gutter, plus safety and comfort to the swimmers. Frost-proof racing lane, target and depth transition tiling was added onto the pool. Structure cracks were filled with a high-grade epoxy and permanently sealed with the **InterSteel Crack Repair** method using Kevlar® (by Dupont), and the entire pool received the **INTER-GLASS® Reinforced Composite System**.

Renovation Result



Pictorial Sequence on Back Page

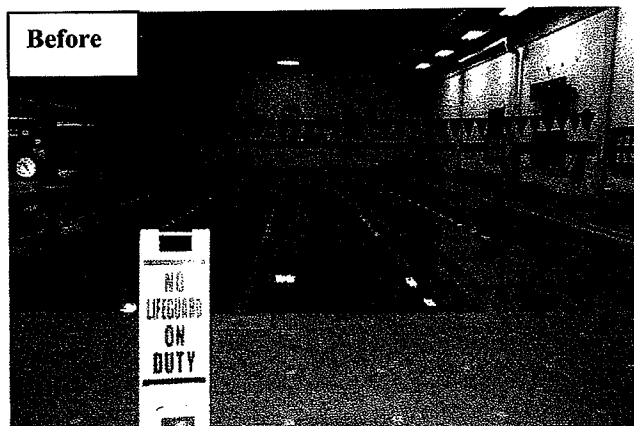
DAVENPORT COUNTRY CLUB
DAVENPORT, IOWA



PROJECT SPECIFICATIONS:
Total Sq. Ft. 7,714 inc. Kiddy Pool
Pool Shape: 'L'
CIRCULATION SYSTEM: 6- 36" SAND FILTERS
S/S GUTTERS
TYPE OF CONSTRUCTION: FORMED & POURED CONCRETE
FINISH: INTER-GLASS®

TOWN OF RIDGEFIELD RIDGEFIELD, CONNECTICUT

COMPLETION: 2010



PROJECT ASSESSMENT

“What needed to be done”

Pool chemicals and heated water had taken their toll on the cement-based surface of the indoor community swimming pool of the town of Ridgefield, Connecticut. Swimmers were tolerating a stained, rough and deteriorating pool surface. Numerous pop-offs had occurred on the pool with visible patches everywhere. A patched structure crack was visible across the shallow end of the pool.

RENOVATION PLAN

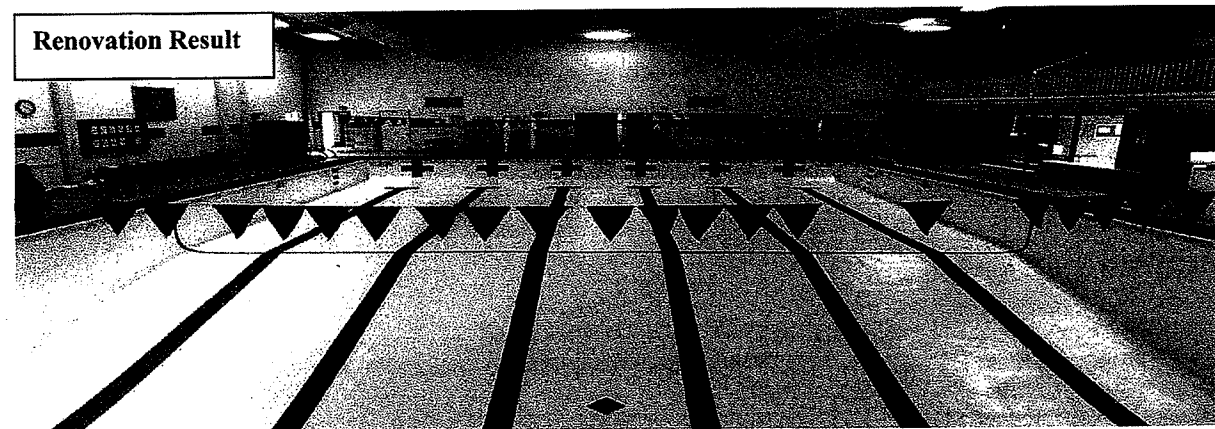
“How it was done”

Members of the Town of Ridgefield Council investigated options for resurfacing their aging, previously re-plastered swimming pool. The goal was to identify the longest-lasting, best process for their heated, indoor pool. They visited similar projects within their vicinity and as far away as Pennsylvania and Ohio in order to personally see installations in use.

After the investigation was complete, the Building Maintenance Manager of the Town of Ridgefield submitted a recommendation to the Town Council. The recommendation was for the INTER-GLASS® Reinforced Composite System. During a large public hearing and vote, the Town Council unanimously accepted the recommendation.

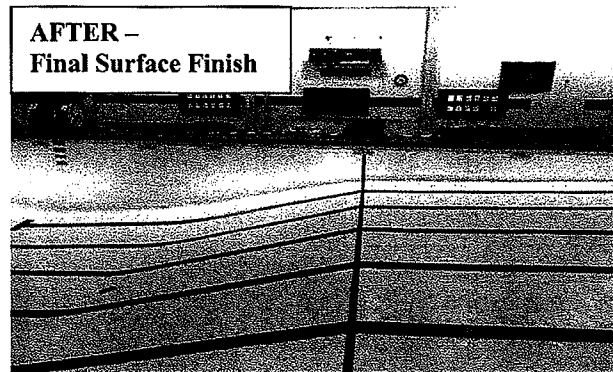
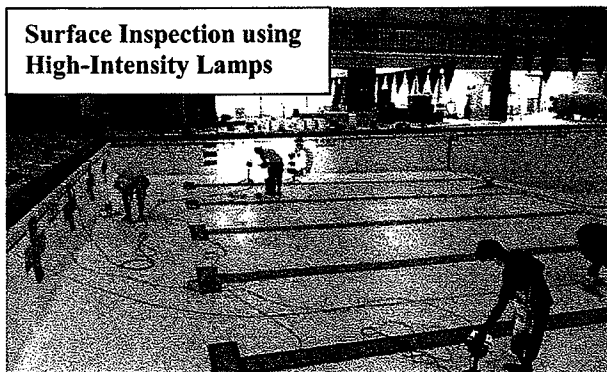
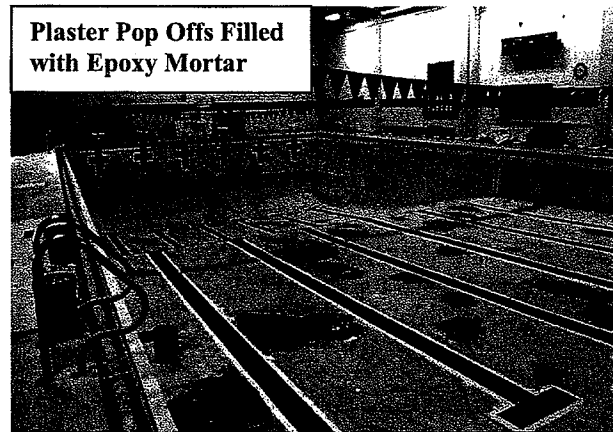
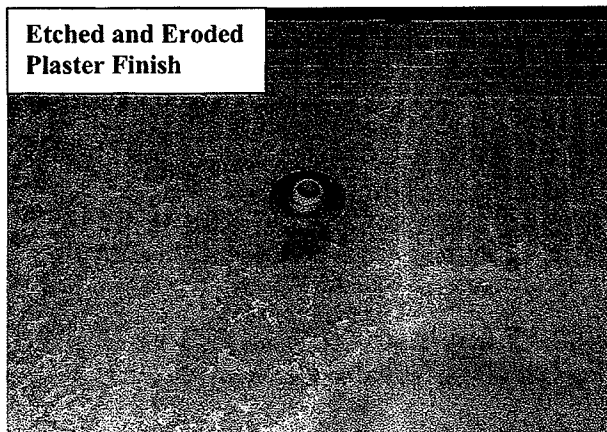
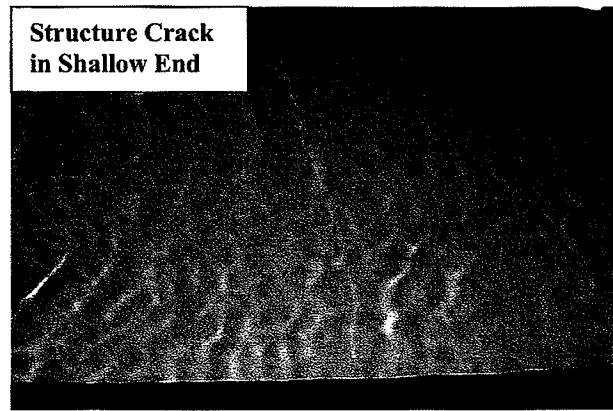
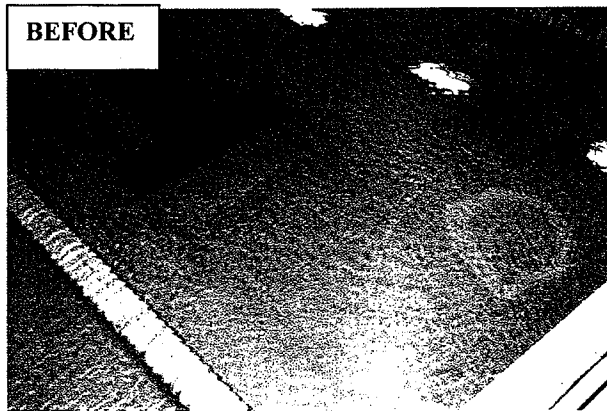
The community began a vigorous fund-raising effort. Within a year the funding was acquired through the joint efforts of the local community and the Town Council. The project was publicly bid. The project included the INTER-GLASS® Reinforced Composite System for the pool interior, and new ceramic tile racing lanes and targets. Mid-America Pool Renovation, Inc. was awarded the work.

Mid-America dedicated two experienced crews to the project, and the contracted work was finished on schedule, in just one week. When complete, the pool performed better and looked more beautiful than new.



Renovation Result

**TOWN OF RIDGEFIELD
RIDGEFIELD, CONNECTICUT**



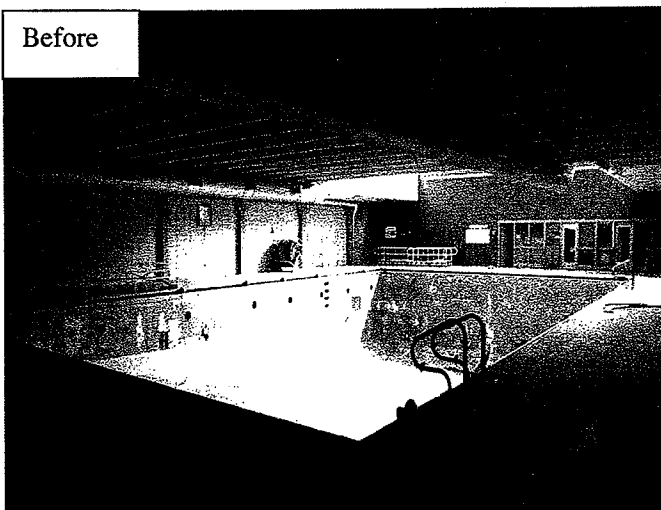
PROJECT SPECIFICATIONS:

TOTAL SQ. FT.:	5,430
POOL SHAPE:	RECTANGULAR WITH RACING LANES
TYPE OF CIRCULATION:	CONCRETE GUTTERS WITH GRATES
TYPE OF CONSTRUCTION:	SHOT-CRETE
TYPE OF INTERIOR FINISH:	INTER-GLASS® AFTER RE-SURFACING

ANNE ARUNDEL COMMUNITY COLLEGE ARNOLD, MARYLAND

COMPLETION: 2009

Before



PROJECT ASSESSMENT

“What needed to be done”

Although this pool had been leaking for years, failure of its cast iron main drain line, which flooded the below-grade equipment room, forced a renovation. All existing tiling in the pool and deck was removed in order to assess the condition of the structure. Several large structural cracks needed repair, as well as 25-foot sections of rebar that had corroded to the point that the Project Engineer specified removal and replacement. In addition to addressing the structural needs of the pool, a portion of the pool wall was to be modified for the addition of entry steps, all 16-existing pool lights, housings and conduits were to be removed and replaced, and a UV sanitizing unit was to be installed to minimize chemical use and odor. New 1” X 1” tiles identical to those in the original construction were installed.

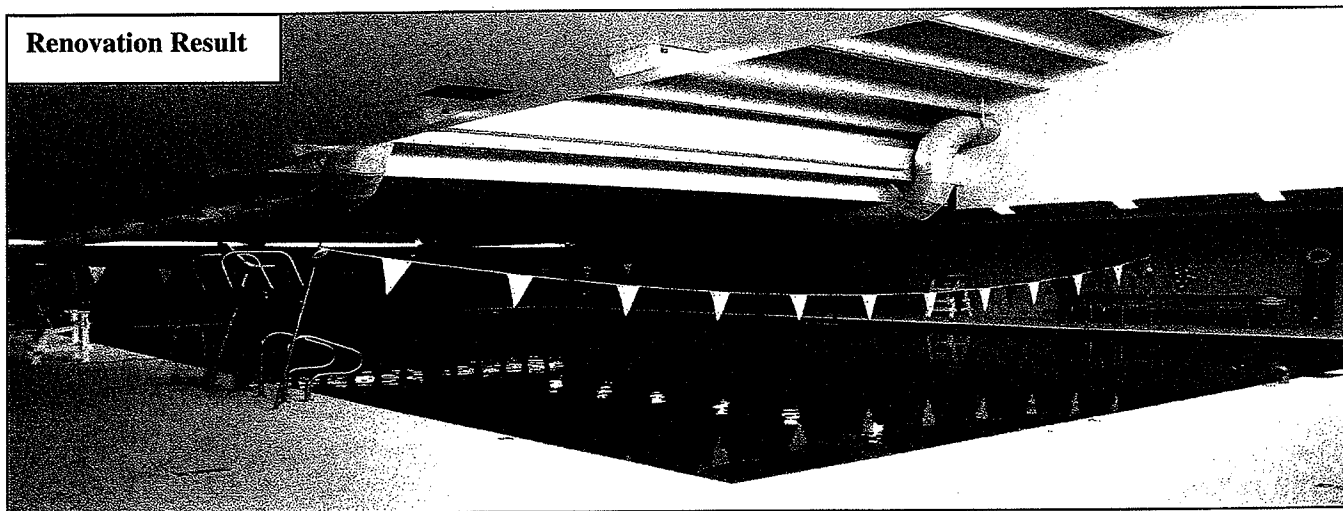
RENOVATION PLAN

“How it was done”

The first order of business on this project was to prepare the surface by removing all remaining grout and mortar left from the previous tile surface. Next an area of wall was removed in order to make way for the new steps, and the deep end floor was demolished in order to allow new main drain sumps and plumbing. Once the new steps were poured and the main drains had been inspected and encased, the existing gutters were modified to function with the new steps. The existing gutter was washed with low concentration nitric acid and polished. Sections of the deck were removed and new conduit, niches and lights were installed.

High-pressure epoxy injection was used to repair the structural cracks, new rebar was installed, primed with a zinc-based coating to inhibit rust, and encased in epoxy mortar. To fully seal the pool structure, the *Hydro Ester Protection System* by Fox Industries was applied to the entire surface. 1”x1” tile was then applied to the entire pool surface. A medium pressure UV filter system was installed to work in concert with the existing filtration system. Deck tile was installed using standard cement-based materials. The pool was filled and started, and is currently leak free and operating beautifully.

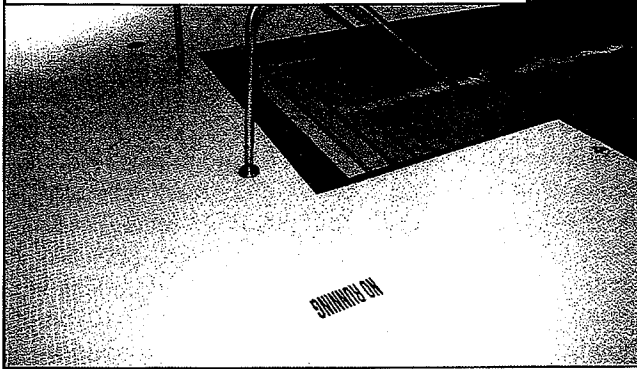
Renovation Result



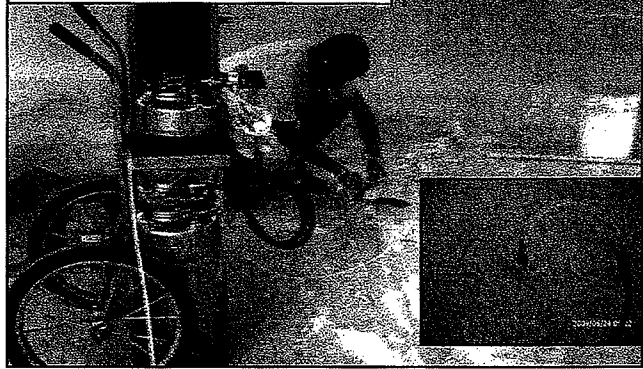
**ANNE ARUNDEL COMMUNITY COLLEGE
ARNOLD, MARYLAND**

COMPLETION: 2009

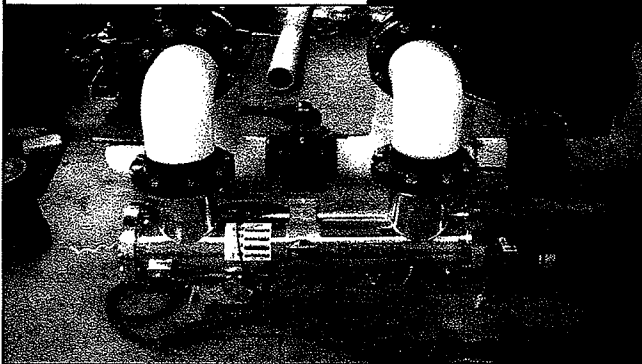
New Concrete Steps & Gutter Additions



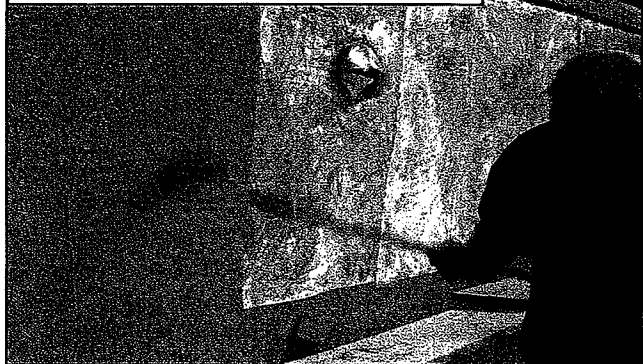
Epoxy Injection in Progress



New Hanovia UV System



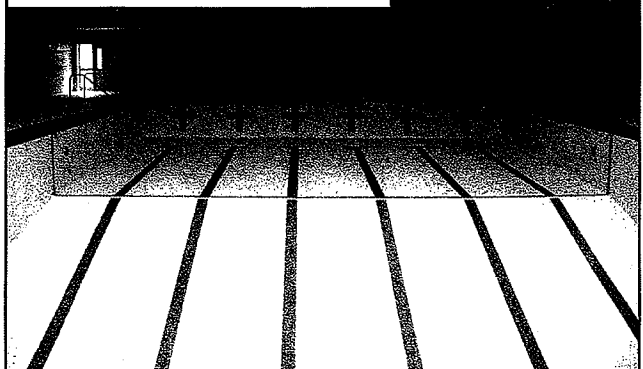
Flex Epoxy Composite Installation



New Deck Tile Installation



New Pool Tile Interior



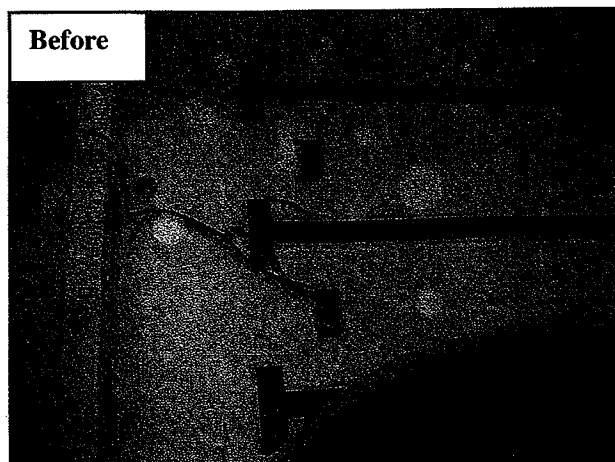
PROJECT SPECIFICATIONS:

TOTAL SQ. FT.:	10,071 POOL & DECK
POOL SHAPE:	RECTANGULAR
TYPE OF CIRCULATION:	S/S GUTTERS
TYPE OF CONSTRUCTION:	CONCRETE
TYPE OF FINISH AFTER RENOVATION:	TILE

CITY OF MISSION, KANSAS

MISSION, KANSAS

COMPLETION: 2008



PROJECT ASSESSMENT

“What needed to be done”

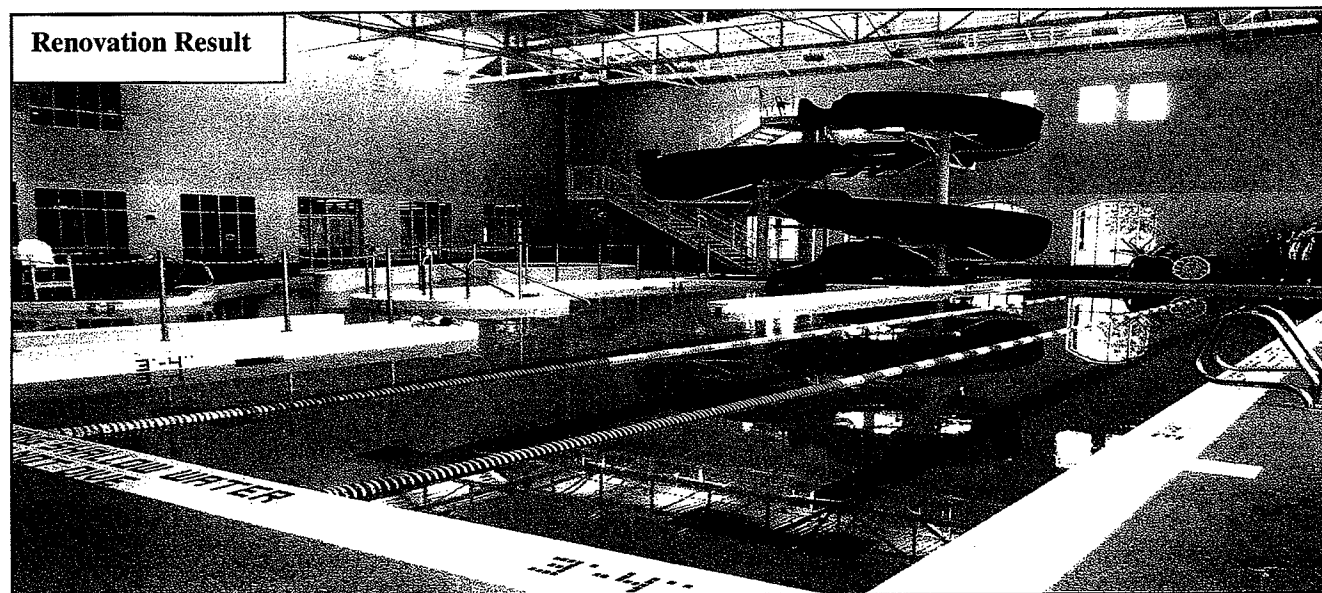
Large indoor pool complex originally surfaced with white pool plaster. Heat in combination with chemically treated water yellowed the surface and deteriorated the smooth finish. The rough, spalling surface took its toll on swimmers, especially children’s feet. After years of draining, (repeated cycles of drying and wetting), cleaning and acid washing, the pool surface started to experience adhesion problems and a series of pop-offs developed.

RE-SURFACING PLAN

“How it was done”

Pebblecrete was the choice for the new surface. Re-surfacing with Pebblecrete results in a thicker surface coating than re-plastering with pool plaster or Diamond Brite. The expected thicker new coating demanded deeper and wider removal of the existing pool plaster around waterline tiling, pool lights and other orifices. Brush blasting was used to remove the spalled and

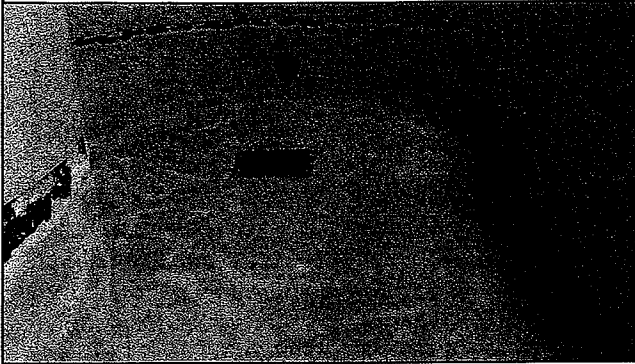
weakened top layer surface finish, followed by high-pressure water blasting (>5000 psi). Mechanical removal of the existing plaster from the tile line and other fixtures extended to a depth of 6–8”. Following cleaning and high-pressure water blasting, SGM bond coat was applied throughout the pool shell followed by a new, mist-cured Pebblecrete surface.



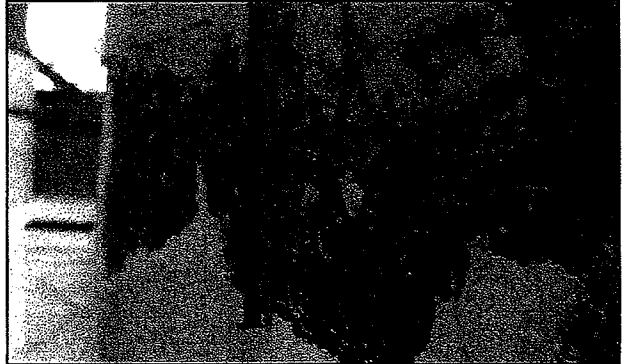
SAMPLE PICTORIAL SEQUENCE ON BACK OF THIS PAGE

CITY OF MISSION, KANSAS
MISSION, KANSAS

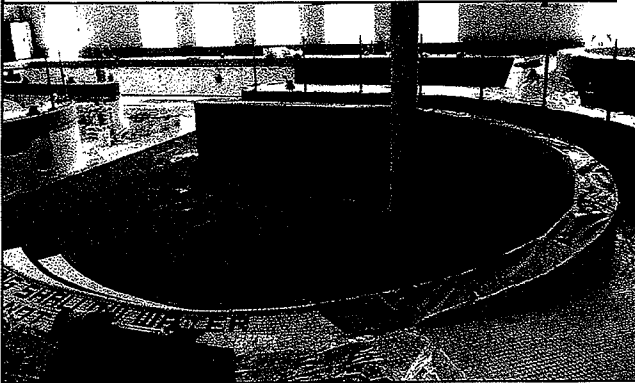
Removal in Progress from the Yellowed Surface



Depth of Plaster Removal from Tile Line



Protective Paper During Bond Coat Installation



Pebblecrete Installation in Progress



Exposing the Pebbles



Mist Curing in Progress



PROJECT SPECIFICATIONS:

TOTAL SQ. FT.:

5,780

POOL SHAPE:

RECTANGULAR, LAZY RIVER, ZERO-DEPTH WALK-IN

TYPE OF CIRCULATION:

SKIMMING, TILED CONCRETE GUTTER SYSTEM

TYPE OF CONSTRUCTION:

SHOT-CRETE

TYPE OF FINISH AFTER RENOVATION:

PEBBLECRETE

Commercial Ladders

STANDARD (LF)

Ladder frames are made of 1.90" O.D. x .065" wall 304 stainless steel tube with a polished and buffed finish. All bends are 6" radius. Ladder frames shall extend from pool wall 6 1/2".

Upper ends of ladder frames are fastened to the pool deck with two anchor sockets on 20" centers. Lower ends of ladder frames are bent to meet pool wall and fitted with two white rubber bumpers.

CROSS BRACE (LFB)

Cross brace is continuously welded to front and rear legs. All welds, sharp corners and edges are ground smooth and polished to a mirror finish after fabrication.

TREADS (LTDF-103)

Stainless steel elite frame steps with black, non-skid inserts. LTDF-103

NOTES:

ORDER ESCUTCHEON PLATES AND ANCHOR SOCKETS SEPARATELY. SEE PAGES 69-71 FOR OPTIONS.

AVAILABLE IN 316L STAINLESS STEEL UPON REQUEST. (ADD "-MG" TO MODEL NO.)

1.5" O.D. LADDERS ARE AVAILABLE UPON REQUEST

See page 147-148 for product specifications

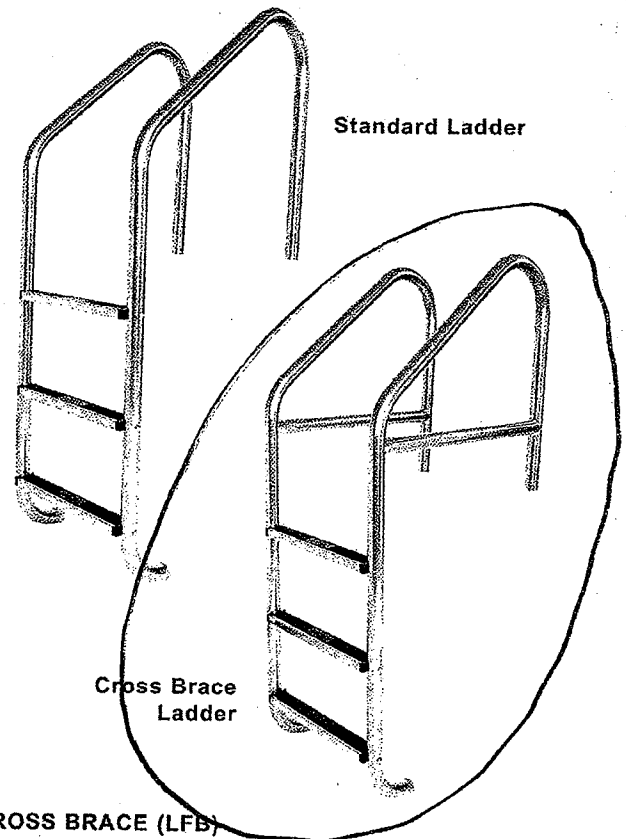
STANDARD (LF)

Item No.	Description	Shipping Wt.
LF-24-2A	2-Step 24" Ladder	28 lbs.
LF-24-3B	3-Step 24" Ladder	32 lbs.
LF-24-4C	4-Step 24" Ladder	36 lbs.
LF-24-5D	5-Step 24" Ladder	40 lbs.
LF-30-2A	2-Step 30" Ladder	33 lbs.
LF-30-3B	3-Step 30" Ladder	38 lbs.
LF-30-4C	4-Step 30" Ladder	42 lbs.
LF-30-5D	5-Step 30" Ladder	47 lbs.
LF-36-2A	2-Step 36" Ladder	40 lbs.
LF-36-3B	3-Step 36" Ladder	45 lbs.
LF-36-4C	4-Step 36" Ladder	50 lbs.
LF-36-5D	5-Step 36" Ladder	55 lbs.

WALL THICKNESS: .065"

SIZES: 24", 30", 36" or custom sizes

WEIGHTS: 28lbs - 60 lbs



CROSS BRACE (LFB)

Item No.	Description	Shipping Wt.
LFB-24-2A	2-Step 24" Ladder	35 lbs.
LFB-24-3B	3-Step 24" Ladder	38 lbs.
LFB-24-4C	4-Step 24" Ladder	43 lbs.
LFB-24-5D	5-Step 24" Ladder	48 lbs.
LFB-30-2A	2-Step 30" Ladder	40 lbs.
LFB-30-3B	3-Step 30" Ladder	45 lbs.
LFB-30-4C	4-Step 30" Ladder	50 lbs.
LFB-30-5D	5-Step 30" Ladder	55 lbs.
LFB-36-2A	2-Step 36" Ladder	45 lbs.
LFB-36-3B	3-Step 36" Ladder	50 lbs.
LFB-36-4C	4-Step 36" Ladder	55 lbs.
LFB-36-5D	5-Step 36" Ladder	60 lbs.



BID: 12-53
 DATE: 06/13/12
 TIME: 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-53, Construction - Wilson Park Pool Renovations

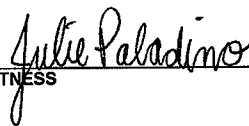
				Mid- America Pool Renovations, Inc.		USA Pools Construction, Inc.	
ITEM #	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	Pool Liner	LS	1	\$ 164,700.00	\$ 164,700.00	\$ 224,800.00	\$ 224,800.00
2	Deck Surface	LS	1	\$ 52,500.00	\$ 52,500.00	\$ 75,450.00	\$ 75,450.00
3	Concrete Deck Repairs	SF	1000	\$ 13.80	\$ 13,800.00	\$ 41.93	\$ 41,930.00
4	Insurarrice and Bonding	LS	1	\$ 7,390.00	\$ 7,390.00	\$ 22,450.00	\$ 22,450.00
5	Mobilization (Shall not exceed 5% total bid)	LS	1	\$ 3,220.00	\$ 3,220.00	\$ 19,750.00	\$ 19,750.00
6	Pool Ladder	EA	9	\$ 920.00	\$ 8,280.00	\$ 685.00	\$ 6,165.00
7	Fence	LF	93	\$ 70.97	\$ 6,600.00	\$ 47.96	\$ 4,460.28
				TOTAL AMOUNT BID	\$256,490.00	TOTAL AMOUNT BID	\$ 395,005.28

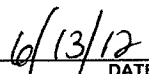
Pricing in **bold italics** indicates corrected calculation.

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED 
 A. Foxen, CPPB, CPPO, Purch. Agent

WITNESS



 6/13/12
 DATE

DOCUMENT 00500 – AGREEMENT

BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: CONSTRUCTION OF WILSON PARK POOL RENOVATIONS

Contract No.: _____

THIS AGREEMENT is dated as of the _____ day of _____ in the year 20__ by and between The City of Fayetteville, Arkansas and _____ (hereinafter called Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to:

Project includes repair of cracks within the pool structure and surrounding deck, removal of pool plaster interior and deck surface material, and replacement of pool and deck surface at Wilson Park pool located at 675 N. Park Avenue.

ARTICLE 2 - ENGINEER

2.01 The Contract Documents have been prepared by GARVER who is here in after called Engineer. GARVER assumes all duties and responsibilities, and has the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

A. The Work will be Substantially Completed within **60** calendar days after the date when the Contract Times commence to run as provided in the

DOCUMENT 00500 – AGREEMENT (continued)

GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 70 calendar days after the date when the Contract Times commence to run.

3.03 **LIQUIDATED DAMAGES:**

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay The City of Fayetteville Seven Hundred Fifty Dollars (\$250.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Seven Hundred Fifty Dollars (\$250.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal (BID FORM) which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

DOCUMENT 00500 – AGREEMENT (continued)

- 4.02 As provided in the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.
- 4.03 Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

ARTICLE 5 - PAYMENT PROCEDURES

5.01 **SUBMITTAL AND PROCESSING OF PAYMENTS:**

- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 **PROGRESS PAYMENTS, RETAINAGE:**

- A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.
- a. 95% of Work Completed (with the balance being retainage).

DOCUMENT 00500 – AGREEMENT (continued)

- b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.
- 2. Upon Substantial Completion, The City of Fayetteville shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

- 6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

DOCUMENT 00500 – AGREEMENT (continued)

- D. Contractor has carefully studied all:
- (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings

DOCUMENT 00500 – AGREEMENT (continued)

identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
 - 1. This Agreement.
 - 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.
 - c. Documentation submitted by Contractor prior to Notice of Award.
 - 3. Performance, Payment, and other Bonds.
 - 4. General Conditions.

DOCUMENT 00500 – AGREEMENT (continued)

5. Supplementary Conditions.
6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
7. Addenda numbers one (1) to _____(____), inclusive.
8. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

8.03 SUCCESSORS AND ASSIGNS:

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 FREEDOM OF INFORMATION ACT:

- A. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

DOCUMENT 00500 – AGREEMENT (continued)

8.06 MATERIALMEN’S LIENS

- A. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§ 18-44-501 through 508) prohibits the filing of any mechanics’ or materialmen’s liens in relation to this public construction project. Arkansas law requires and the Contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment of labor or materials on the bond. The Contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

OTHER PROVISIONS: Not Applicable.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor and Engineer. Two counterparts each has been delivered to The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor or identified by Engineer on their behalf.

DOCUMENT 00500 – AGREEMENT (continued)

This Agreement will be effective on _____, 20__, which is the
Effective Date of the Agreement.

CONTRACTOR _____ CITY OF FAYETTEVILLE _____

By: _____ By: _____

Title: _____ Title: _____

(SEAL)

(SEAL)

Attest _____ Attest _____

Address for giving notices Address for giving notices

License No. _____ (attach evidence of authority to

Agent for Service of process sign and resolution or other documents
authorizing execution of Agreement)

(If Contractor is a corporation,
attach evidence of authority to
sign.)

Approved As to Form:

By: _____

Attorney For: _____

END OF DOCUMENT 00500

