



# COMMUNITY SERVICES

Council Meeting Date: February 15, 2011  
Staff Report #:

Agenda Item #

**REGULAR BUSINESS:** Approval a contract with Team Sheeper LLC dba Menlo Swim and Sport for operation of the Burgess and Belle Haven Pools beginning May 20, 2011 through May 20, 2021

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## RECOMMENDATION:

Staff recommends that the Council approve a contract with Team Sheeper LLC dba Menlo Swim and Sport for operation of the Burgess and Belle Haven Pools beginning May 20, 2011 through May 20, 2021.

## BACKGROUND

The City of Menlo Park has provided aquatics programs at Burgess Park since the 1960's and at the Belle Haven pool since the 1980's. In 2006, the Burgess Pool was extensively renovated using Measure T bonds, including addition of a 25 meter x 25 yard lap pool, 25 yard x 50 foot instructional pool, a wading pool with a mushroom splash feature, locker rooms, showers, a central lobby, support offices and concrete pool decks. Prior to the renovation, the annual net cost to operate the pool was roughly \$590,000. The Belle Haven Pool currently operates mid-June through late August and averages 5,500 participants per season. The 2010-2011 budget for the Belle Haven pool is \$184,000 which includes the cost of staffing and utilities.

Prior to completing the construction of the Burgess project and opening the facility in 2006, the City had undertaken a community-based budget process called *Your City/Your Decision*, the results of which provided guidance for making difficult budget reductions. As a result of this process, the aquatics budget was identified for reduction. Due to the nature of public aquatic programs and facilities, achieving full cost recovery was not seen as possible, given that the new facility -- with multiple pools -- would have higher costs than previously incurred. Several options for cost savings were discussed, including reduced operational hours, pool closure during winter months, and closing the Belle Haven pool entirely. An alternative solution was reached in May 2006, when the City of Menlo Park entered into a Lease Agreement with a private contractor to operate the Burgess facility and provide aquatic programming year-round for five years. This lease agreement will expire on May 20, 2011.

In April 2010, the City began preparing to seek proposals from aquatic providers to operate the Burgess Aquatic Facility and the aquatic programming beginning in May 2011. In addition, as a part of the development of long term budget cutting strategies, staff decided to include the option to bid on operations at the Belle Haven Pool.

### **Development of the Request for Proposal**

Development of the draft Request for Proposal (RFP) was a collaboration of city departments as well as external legal and aquatics experts. The City's pool contracting experience from the previous four years aided development of the new RFP and reflects many lessons learned. External experts in the aquatics industry were utilized to assist in the process since RFPs and lease agreements for pools are currently uncommon for municipal pool operations and few industry standards or examples were readily available.

The Parks and Recreation Commission discussed general RFP requirements at their June 16, 2010 meeting and an RFP review subcommittee was appointed. The subcommittee submitted comments to staff and these comments and subsequent changes to the RFP were again reviewed and discussed by the entire Parks and Recreation Commission at their July 21, 2010 meeting. City Council reviewed the draft RFP, provided their feedback and approved the RFP at their August 24, 2010 meeting.

The various and extensive input resulted in an RFP reflecting current community needs, and lessons learned and required bidders to describe their proposal for operating the Burgess Aquatic Facility at the City of Menlo Park's civic center campus at Burgess Park. In addition, as an option, bidders were asked to consider including in their proposal operating the Belle Haven Pool adjacent to the Onetta Harris Community Center in the Belle Haven neighborhood.

### **Highlights of the Request for Proposal**

The required scope of services for the Burgess Pool site included permitting operations between the hours of 5 a.m. and 10 p.m. seven days a week and 365 days a year. The RFP required that bidders provide, at a minimum, the following aquatic services: Recreational/Open Swimming, Swim Lessons, Lap Swimming, Masters Swimming, Swim Team, and Community Rentals. Additional proposal requirements for the Belle Haven Pool included opening the site for public use a minimum of 9 am to 7 pm during the summer season for, at a minimum, swim lessons, recreation/open swim, and lap swim.

The RFP required respondents to ensure that fees charged for public lap swimming, open/recreational swim, and swim lessons be comparable to rates and fees charged by other public facilities in surrounding communities and that rental space for other community organizations and users be provided on a reasonable and comparable fee basis. The RFP also required that the Belle Haven Pool remain an accessible community resource for the Belle Haven neighborhood and that Belle Haven Pool fees not exceed an approved rate or increase without prior City approval. The RFP indicated that all fees will be subject to review by City staff and the Parks & Recreation Commission for public input as part of an annual review process.

Similarly, the RFP required the bidder to demonstrate how they would remain in compliance with all city, county, state, and federal laws and regulations related to pool and aquatic program operations. The Provider is required to maintain health and safety standards, take all appropriate and necessary steps to provide adequate risk

management and acquire and maintain Workers' Compensation, Employer Liability, and Commercial General Liability insurance through company/ies approved by the City. The RFP also stated that the City reserves the right to conduct or require periodic and regular site inspections and operational audits either internally or by outside aquatic experts.

The RFP required that the Provider be responsible for the maintenance of the equipment and facility at Burgess Pool including:

- Three pools
- Offices
- Lobby
- Locker Rooms & Shower Area
- Restrooms
- Pool Decks
- Lawn Area
- Supply Storage Areas
- Equipment/Mechanical Rooms
- Chemical Storage Areas
- Lights on Premises

The RFP required that the Provider be responsible for the maintenance of the equipment and facility at Belle Haven Pool including:

- Two pools
- Office Area
- Locker Rooms & Shower Area
- Restrooms
- Pool Decks
- Supply Storage Areas
- Equipment/Mechanical Rooms
- Chemical Storage Areas
- Lights on Premises

The RFP asked the bidder to assume sole financial responsibility for the operation, maintenance, and expenses of the pool sites including

- The full cost of the separately metered utilities including electrical, gas, and water.
- The full cost of pool chemicals and equipment, janitorial services, building and equipment maintenance, and grounds maintenance to the same standards as performed by the City or per manufacturer or industry guidelines.
- The actual cost of the City staff time to provide contract oversight including costs of the Finance, Community Services, and Public Works Departments.

The RFP required the Provider to pay a rental fee for the usage of the Burgess Pool with options for providing services at the Belle Haven Pool. Respondents were asked to provide proposals for all three of the following lease agreements:

- A. A monthly lease payment for the Burgess Aquatics Center
- B. A monthly lease payment for the Burgess Aquatics Center and provision of seasonal pool operations at the Belle Haven Pool
- C. A monthly lease payment for the Burgess Aquatics Center and provision of annual pool operations at the Belle Haven Pool

### **RFP Distribution & Response**

The RFP was issued on August 30, 2010. The RFP was sent to three pre-qualified providers including Team Sheeper (current provider), California Sports Center (currently operating pools in the City of San Jose and Sunnyvale) and SOLO Aquatics (current Burgess Pool renter and swim club). In addition, the City sent the RFP to twelve other private aquatics operators in the area, predominately swim schools. The RFP packet was also available on the City's web site for other potential vendors.

Two proposals were submitted to the City before the October 15, 2010 deadline, including proposals from Team Sheeper and SOLO Aquatics.

### **RFP Review Committee**

The proposal review committee consisted of City staff, Parks and Recreation Commissioners, User Group Representatives and an outside but local aquatics expert. The committee was assembled to review the proposals and evaluate them based on 13 pre-determined criteria approved by Council in August. The responses included the lease options (although neither respondent included a proposal for Option A, above), fees, programs and services, qualifications, transition plan and augmentations to the scope of services.

#### **Review Committee Members:**

Kelly Blythe	Parks & Recreation Commission
James Cebrian	Parks & Recreation Commission
Maria Silvia Gonzalez-Garcia	Community Member
Starla Jerome-Robinson	Assistant City Manager
Andy Kirkpatrick	Parks & Recreation Commission
Karen Mihalek	Recreation Coordinator
Katrina Whiteaker	Recreation Services Manager
Cherise Brandell	Community Services Director (Committee Facilitator)

Two additional members of the review committee stepped down from the committee due to a conflict of interest that was realized after reading the proposals. In order to keep the process on schedule and the existing representation on the committee, the two committee members were not replaced as it was felt that the three Parks and Rec Commissioners and one resident adequately represented the community.

The committee conducted interviews with the two potential Providers on October 25, 2011. The Providers each made a 15 minute presentation and were asked the following questions:

- 1) The City of Menlo Park goals for Aquatics are: Foster human development; provide opportunities to learn new skills or improve skills; promote healthy lifestyles; provide a safe place to recreate; and create a sense of community and appreciation for living in Menlo Park. How would your program and services meet these goals?
- 2) How do you plan to balance the diverse needs of the community?
- 3) Please explain your philosophy for running a for-profit business while operating a public pool.
- 4) Describe the process you used to understand the aquatics needs of the Belle Haven community.
- 5) Beyond the required annual report, please describe how you would maintain a productive on-going relationship with the City of Menlo Park staff.
- 6) Please describe how you plan to foster and maintain a relationship with the existing pool participants as well as the broader Menlo Park community.

The review committee met again on November 1, 2010 and based on the interviews, the proposals, additional follow up information provided by the bidders, and community survey results, used the process below to evaluate the two providers on the predetermined criteria included with the RFP which were:

#### SELECTION CRITERIA RATING SCALE:

The Provider will be rated on the following criteria based on a 4 point scale:

- 0 = No information provided
- 1 = Meets some but not all requirements or incomplete information provided
- 2 = Meets all minimum requirements, no direct experience
- 3 = Meets all minimum requirements, demonstrated direct experience
- 4 = Exceeds minimum requirements and demonstrated direct experience

#### SELECTION CRITERIA:

- A) Qualifications and Background of Provider
- B) Programs, Services, and Schedule
- C) Staffing and Management
- D) Quality Assurance, Risk Management and Insurance
- E) Public Communication, Marketing, and Registration
- F) Fees

- G) Financial Information
- H) Lease Agreement Options A
- I) Lease Agreement Options B
- J) Lease Agreement Options C
- K) Transition Plan
- L) Augmentations to Scope of Service
- M) Additional Information

The results of the evaluation process were:

<b>Criteria</b>	<b>Menlo Swim &amp; Sport</b>	<b>SOLO Aquatics</b>
A) Qualifications / Background of Provider	4,4,3,4,4,4,4=27/3.8	2,1,2,2,3,3,2=15/2.1
B) Programs, Services, and Schedule	4,4,4,3,4,3,3=25/3.5	2,2,2,3,3,3,2=17 / 2.4
C) Staffing and Management	3,4,3,3,3,4,3=23/3.2	1,1,1,2,1,2,2=10 / 1.4
D) Quality Assurance, Risk Management and Insurance	4,3,3,3,3,3,3=22/3.1	1,1,2,1,3,2,2=12 / 1.7
E) Public Communication, Marketing, and Registration	3,3,3,3,3,3,3=21/3	2,1,2,3,3,2,1 = 14/2
F) Fees	3,3,3,3,3,3,3=21/3	3,3,3,3,3,3,3 = 21/3
G) Financial information	1,3,3,2,3,3,3=18/2.5	1,2,3,3,3,2,3 = 17/2.4
H), I), J) Lease Options	1,1,1,1,1 = 5 / 1	2,4,4,3,2 = 15/ 3
K) Transition plan	3,2,3,2,2,2,2=16/2.2	1,2,1,2,2,2,2 =12/1.7
L) Augmentations	1,3,3,3,3,2,1=16/2.2	1,2,2,3,3,2,1 = 14/2
M) Additional info	NA	NA
<b>Total</b>	<b>194</b>	<b>147</b>
<b>Average</b>	<b>2.75</b>	<b>2.17</b>

Based on these results and further discussion, the review committee provided direction to City staff to investigate further and to have both respondents provide more detailed financial information in order to make a more concrete determination of their ability to operate the facility(s) with adequate reasonable profit to include a lease payment.

In addition, during this more detailed financial review period, the Parks & Recreation Commission held a special meeting on November 4, 2010 due to the unprecedented volume of email correspondence to the Commission and City Council during this timeframe. The special meeting allowed for additional public comment on the Aquatics contract process. There were 29 speakers and approximately 60 people in attendance at this meeting.

### **Final Evaluation & Recommendation**

City staff met with both respondents to receive the more detailed explanation of their organization's confidential financial information and to address any additional issues regarding their proposals.

During these follow up meetings with the respondents, staff determined that the confidential information from Team Sheeper, based on actual operations from the previous three years, demonstrated a business model that allowed for a fair and reasonable profit. In addition, this analysis showed that, after assuming the additional expenses of the Belle Haven Pool, only a modest rental payment would be available to the City that allowed the Provider to operate in a manner that would continue to promote safe and quality programming while providing a modest profit for Team Sheeper.

In the follow up meetings with SOLO Aquatics and based on the confidential financial information provided, staff determined that their organizational capacity to operate two aquatics facilities was limited, unproven, and at a higher risk than the current provider. While the SOLO proposal offered to provide the City a rental payment of \$20,000 a month in addition to operating the Belle Haven Pool, staff had major concerns with the validity of this offer based on a comprehensive review of the financial statements of the current operator, lack of organizational assets to guarantee this monthly payment and start operations, the volunteer nature of the current board and the inadequacy of the start up business plan that was submitted.

The review committee convened for a final time on November 29, 2010 to discuss the results of the subsequent meetings and the financial review. Based on these discussions, the committee recommended the City Manager begin negotiations with Team Sheeper LCC with the RFP as a starting point for contract development. The committee also determined that staff would meet with SOLO to gain a better understanding of their needs and in order to try to incorporate those specifics into the agreement.

Subsequently, City staff met with SOLO several more times to review their needs and asked for a reasonable request which could be included in the lease agreement. In their final submission SOLO requested: more consistent lane space; a predictable schedule; space in both the warm instructional pool and performance pool at Burgess; additional marketing space on site and online: expanded hours at Burgess Pool by 100 hours per week in addition to their existing rental agreement of 45 hours; and space to operate summer camp and private swim instruction. SOLO also requested that the City require the current provider discontinue their swim team program (Mavericks) which they felt competes with the SOLO program. At these meetings, representatives from SOLO also expressed their willingness to use the Belle Haven pool on occasion.

Most recently, the Parks and Recreation Commission met on January 17, 2011 to provide staff feedback on the policy level terms of the emerging general lease agreement. At this meeting, the Commission requested that staff provide more data showing the current pool allocations for all user groups for the past several years as well as projected use in future years to help determine a reasonable allocation for SOLO Aquatics and other community aquatics needs. The Commission also chose to provide more specific comments and input on the draft lease agreement by forming a subcommittee to review the draft once it had been approved by the City Attorney. In order to meet the scheduled presentation of the lease agreement to the City Council, the Commission also chose to convene a special meeting on February 3, 2011. The



Program Profitability

	Lap and Open Swim	Swim School	Youth Swim Team	Camps	Junior Tri	Masters	Aqua Fit	Rentals	Water Polo
2007	+	+	N/A	=	N/A	+	=	-	N/A
2008	+	+	=	+	-	+	=	-	-
2009	+	+	+	+	-	+	=	-	-
2010	+	+	+	+	-	+	+	-	-

(+ Profitable, = Breakeven, or – Not Profitable)

Performance Pool Usage Overall

	Laps	Masters	Solo	Water-polo	Mavericks	Open Swim	Camps	Team In Training	Total
Overall	61%	23%	5%	4%	3%	2%	1%	1%	100%

Performance Pool Usage During Peak Usage

	Laps	Masters	Solo	Water-polo	Mavericks	Open Swim	Camps	Team In Training	Total
Peak	56%	14%	10%	9%	5%	3%	0%	2%	100%

Instructional Pool Usage Overall

	Swim School	Laps	Open Swim	Aqua Fit	Mavericks	Team in Training	Camps	Total
Overall	35%	29%	24%	5%	4%	2%	1%	100%

Instructional Pool Usage During Peak Usage

	Swim School	Laps	Open Swim	Aqua Fit	Mavericks	Team in Training	Camps	Total
Peak	43%	6%	37%	2%	9%	2%	1%	100%

Historical SOLO Usage of Burgess Pool

Year	Operator	Rental fee (per lane per hr)	Weekly lane hours	Annual lane hours
2001	City	\$7	61	3050
2002	City	\$7	23-45	1275
2003	City	\$7	23-45	1275
2004-2006	Pool Under Construction			
2006	Contractor	35% split \$6.24	54	2700
2007	Contractor	40% split \$8.51	54	2700
2008	Contractor	\$0 Debt Repayment	54	2250
2009	Contractor	\$8	45	2250
2010	Contractor	\$8	45	2250

External Rentals at Burgess Pool Analysis (with Contractor)

Renter	Rental fee (per lane per hr)	Weekly lane hours	Annual lane hours	Annual cost for renter	Operator Subsidy at Breakeven	Total Loss Revenue Opportunity for Operator
SOLO – Existing Terms	\$8	45	2250	\$18,000	(\$31,500)	(\$41,400)
SOLO – TS/City Proposed New Terms	\$6	45	2250	\$13,500	(\$36,000)	(\$45,900)
SOLO – SOLO Proposed New Terms	<b>\$6</b>	<b>144</b>	<b>7200</b>	<b>\$43,200</b>	<b>(\$115,200)</b>	<b>(\$146,880)</b>
Team in Training	\$15	23	1230	\$18,500	(\$8,610)	(\$14,000)

### Swim Team Comparison

	<b>Mavericks</b>	<b>SOLO</b>
Current lane hours	42.5	45
Number of participants	180	100 - 150
Average cost per work-out Depending upon the number of days attending each week and the level of the swimmer	\$4.30 - \$13.00	\$6.81 - \$39.15
Parental opt out fee SOLO families must volunteer a minimum number of hours per session or pay to opt out	None	\$100 - \$250
Rental fee % of overhead	TBD	TBD
Facility Usage	1 location Burgess Pool	2 locations Burgess Pool and Menlo Atherton Pool
Growth percentage	35% per year	Unknown

Based on this and further analysis of the Burgess Pool user group allocations, the following considerations were included in finalizing the SOLO Aquatics terms in the proposed lease agreement:

- The lane space offered in the agreement for the next ten years is the same allocation SOLO has received for the past three years of the agreement. The Monday-Friday from 4-5:30 pm schedule will stay consistent for the next 10 years and meets SOLO need to have a reliable and predictable schedule. In addition, this timeframe is consistent with the past 10 years with Team Sheeper and when the City operated the pool.
- Although SOLO is requesting additional space at Burgess Pool to offer their program, the Burgess Pool cannot reasonably accommodate all their needs and their needs and SOLO should be encourage to locate other sites for their program. For example, SOLO currently uses Menlo-Atherton High School.
- The break-even cost to operate the Burgess Pool pool is \$22 per lane hour. SOLO has paid \$8 per lane hour for the past two years and the proposed lease agreement offers a reduced rate of \$6 per lane hour for the next 10 years. This effectively results in a subsidy of \$16 per lane hour or \$36,000 per year support for the SOLO program. Any additional lane allocation will increase the subsidy by the City's provider and reduce their opportunity for profitability in other program areas. Additional lane space also reduces the Provider's ability to support the rental payment or fund aquatic services at Belle Haven pool.
- SOLO fees are higher than Maverick's fees. However, Mavericks is a revenue generating program for Team Sheeper while still paying for the full overhead costs.
- Additional space for SOLO in the fall season or space in the warm instructional is not feasible due to other popular year round programs. Offering additional space

to SOLO would mean reducing or eliminate another existing program. Again, all of the other programs using the pool at the same time are helping offset the costs of the SOLO subsidy.

- Additional space for SOLO on the weekends is also not feasible. Similar to the after-school time slot of 3-8 pm, weekends are peak time for pool usage. Saturdays and Sundays are heavily used by other groups and these user groups are profitable to the Provider (and so, to the City).
- The request to move SOLO to Belle Haven Pool during the peak summer session is needed because of the overall demand during the busiest time of the year. In addition, one of the major complaints from the public has been the need for additional recreational/open swim space and time at the Burgess pool during the summer. By moving SOLO to Belle Haven Pool, the Provider will be able to expand the recreational/open swim area from two lanes in the performance pool to 6-8 lanes in the performance pool during the busiest and hottest time of the day. For more open swim, SOLO was asked (when the City was operating the pool) to discontinue their use of the Burgess Pool during summer monthly to accommodate the peak usage (see Attached A).
- In order to accommodate SOLO request for additional lane space at Burgess Pool than proposed in the lease agreement, the following trade-offs would need to be considered:

**Trade-offs for increasing SOLO lane space**

Increase SOLO lane space	▲
Rental Payment to City	▼
Community use of pool during summer time or peak times for Recreation/Open Swim, Swim lessons, Lap swim, etc	▼
Subsidy for Belle Haven Pool operations	▼
SOLO Lane rental payment (4X)	▲

## ANALYSIS

In addition to the information established in the RFP document, staff used the following outcome values in formulating the final lease agreement terms (see Attachment B for the Lease Agreement):

- Ensure that the community continues to receive high quality aquatics programming at a reasonable return for the Provider for reasonable fees to the community.
- Maintain the City's ability to ensure the safety of participants and minimize risk.
- Maintain an appropriate level of stewardship for City assets and infrastructure.
- Allow the Provider adequate flexibility and management control to balance programs and access for the diverse user groups competing for aquatics time for a fair return that will promote continued high quality programs.

A detailed explanation of the major lease terms and rationale behind the agreement negotiations follows, including: the appropriate business model for a private aquatics provider using a public resource to provide a public service; expectations for a reasonable rental payment; description of the extensive scope of services being provided; data used for determining a "reasonable" agreement for community rental groups; the basis for the length of the lease agreement; assurances to maintain safety and risk management standards; requirements for facilities maintenance and repairs; and the City's role in lease agreement oversight.

### **Balancing Public and Provider Needs in an Appropriate Business Model**

As a private-public partnership, the lease agreement is constructed to allow the operator to implement a successful business model resulting in enough profit to allow a lease payment as well as a fair return to the operator. The assumption is that maintaining a fair and reasonable profit for the operator while balancing community needs is important to maintaining the long-term quality and success of the aquatics programs. In exchange for a reasonable profit, the operator will be expected to maintain certain standards and serve a wide spectrum of aquatic users. The lease also allows the contractor to operate with a high degree of autonomy given their position as the direct service provider closest to the end users and the deeper understanding of the program needs for the entire aquatics community that this position implies.

While the City will provide oversight of overall operations and ensure community satisfaction and safety, the contractor will be responsible for daily operations, schedules, fees, maintenance, customer communication, and the core functions of aquatics programs. The business model implied in the proposed lease would allow for competition in order to provide the highest quality programs, whether provided by the operator directly, by a rental group or additional contractor, or by both. Competition and choices allow participants options and meets the diverse needs of the community. In addition, the business model allows the provider to offer new programming and develop creative ideas to supplement traditional and long-standing aquatics programming. This allows the operator to meet the ever-changing and evolving needs of the community.

In the changing times of municipal recreation services and the current challenges of moving toward long term suitability, the municipal Aquatics business model is changing. The January 2011 issue of the Recreation Management, describes this process as going from the “library model” to the “golf course model”. The library model assumes that participants pay subsidized fees because their tax dollars pay for the services. The golf course model assumes that the city builds the facilities but the participants still pay a fair price for the services provided. Likewise, in Menlo Park, the aquatics provider will need to charge fees to pay for the operation of the facility. While the fees should be comparable to other aquatic facilities in the area, the fact that many of these facilities may still be heavily subsidized by their communities should be considered. The proposed business model supported by the lease agreement allows the operator to set fees at a reasonable rate in order to recover the costs of operations and make fair and modest profit that supports continue quality programming and community access.

### **Rental Payment**

In determining the appropriate rental payment for the lease agreement, staff considered the following:

- Impact of the rental fee on the long-term sustainability of the operator
- Impact of the rental fee on the operator’s ability to maintain high quality programming
- Impact of the rental fee on the operator’s ability to maintain participant safety
- The impact of existing program subsidies and community benefit
- City General Fund savings from elimination of utilities, chemicals, maintenance and other costs
- The limitations of the physical capacity of the pool and the result on the operator’s ability to generate additional revenue
- The age of the pool and the increasing cost of maintenance over time

According to Recreation Management, in recent economic times, an estimated three public pools close each week in the United States. Traditionally, municipal aquatic programs are a highly subsidized service. The table below provides Aquatics services budgets for other cities in the area.

**Regional City Aquatic Budgets**

City	Revenue YR 09/10	Expenses YR 09/10	Net Gain (Loss)	Cost Recovery %	Number & Type of Pools (Seasonal = S, Offsite = OF, and Year Round = YR)
Alameda	\$ 35,000	\$ 313,234	\$ (278,234)	11%	2=OF,S
Antioch	\$ 500,000	\$ 1,135,000	\$ (635,000)	44%	5 = S
Belmont	\$ 510,700	\$ 440,811	\$ 69,889	116%	1 = OF, S
Benicia	\$ 217,000	\$ 259,700	\$ (42,700)	84%	1 = S
Campbell	\$ 250,531	\$ 171,073	\$ 79,458	146%	1=YR; 1=S, OF
Cupertino	\$ 164,522	\$ 86,922	\$ 77,600	189%	1 = OF, S
Daly City	\$ 335,000	\$ 350,000	\$ (15,000)	96%	1 = OF, YR
Dublin	\$ 165,801	\$ 492,901	\$ (327,100)	34%	1= OF, S
East Bay Regional Parks District	\$ 700,000	\$ 2,040,000	\$ (1,340,000)	34%	2 = YR; 4 = S
Hercules	\$ 300,000	\$ 600,000	\$ (300,000)	50%	1=YR, 1=S
JCC Addison Penzak	\$ 127,000	\$ 206,000	\$ (79,000)	62%	2 = YR
JCC S.F.	\$ 696,676	\$ 980,251	\$ (283,575)	71%	2 = YR
Livermore P&R District	\$ 418,000	\$ 900,000	\$ (482,000)	46%	1=YR, 2 =S
Newark	\$ 1,385,200	\$ 1,054,000	\$ 331,200	131%	4 = YR
Pacifica	\$ 400,000	\$ 303,000	\$ 97,000	132%	1 = YR
Palo Alto	\$ 438,875	\$ 346,000	\$ 92,875	127%	1=YR, 1=S
Pleasant Hill Rec. & Park District	\$ 338,000	\$ 598,700	\$ (260,700)	56%	1=S; 1=YR
San Bruno	\$ 107,474	\$ 110,000	\$ (2,526)	98%	1 = OF,S
San Ramon	\$ 800,000	\$ 2,071,679	\$ (1,271,679)	39%	2 = YR
Vacaville	\$ 261,501	\$ 290,473	\$ (28,972)	90%	2 = YR; 1=S, 1=OF,S
Walnut Creek	\$ 665,550	\$ 1,419,050	\$ (753,500)	47%	2=YR, 1=OF,S, 2=S
<b>Average</b>	<b>\$ 419,849</b>	<b>\$ 674,704</b>	<b>\$ (254,855)</b>	<b>62%</b>	

**Note: Many, if not all of these budgets, are operational ONLY and DO NOT include all of the overhead costs including utilities, chemicals, and/or full-time staff costs.**

<b>Menlo Park</b>				
Belle Haven Pool	\$15,280	\$163,958	(\$148,678)	9%
Burgess Pool	\$105,393	\$120,499	(\$15,106)	87%
YR09/10 TOTAL (Belle Haven & Burgess combined)	\$120,673	\$284,457	(\$163,784)	42%
YR11/12 PROJECTED (w/ Proposed Lease)	\$151,000	\$145,000	\$6,000	104%

The City of Menlo Park is in a favorable position compared to other area communities and has been successful at maintaining an exceptional level of cost recovery. While other cities provide high General Fund subsidies for their aquatics programming, Menlo Park will enjoy the benefits of a quality provider at a significant General Fund savings.

In evaluating a fair and reasonable rental payment, staff evaluated the expenses the operator will be asked to pay directly or reimburse the City for per the lease agreement. The table below provides a list of the average annual expenses for these items. Other General Fund savings from *not* operating the Burgess Pool more difficult to calculate since the City did not operate the Burgess Pool after the Measure T renovations. However, it is estimated that an additional \$300,000 or more would be needed to cover the full-time staff costs and benefits, seasonal staff and other general operations expenses.

**Annual Aquatic Expenses**

<b>Burgess Pool</b>	<b>Average Annual Expense</b>
Utilities	\$120,000
Chemicals	\$60,000
Maintenance	\$75,000
<b>Belle Haven Pool</b>	<b>Average Annual Expense</b>
Utilities	\$10,000
Chemicals	\$8,000
Maintenance	\$20,000
Staff	\$45,000
Supplies & Misc	\$7,000
<b>TOTAL</b>	<b>\$345,000</b>

While the Burgess Pool programs have grown rapidly over the past 5 years, most of the programs are now at or close to their full capacity and growth will likely be limited in the next 10 years. While there is some potential for expanded programming at the Belle Haven pool, the programming will likely continue to be subsidized and has less opportunity to operate as a full cost recovery facility.

Additional consideration for long-term sustainability for the operator and the rental payment are maintenance costs. Unlike the original lease agreement, which was for a new facility, the costs for routine maintenance and repairs will likely increase in the next decade as the facility ages. The proposed lease payment attempts to ensure the City receives an appropriate return on investment from the facility while balancing the need to ensure reasonable fees for the community rather than forcing the operator to pass on any undue costs to end users in order to maintain program quality.

The final consideration for the rental payment is the need to ensure the highest level of participant safety. The pool operator must be able to staff the pools appropriately to maintain a standard of care that is acceptable and reasonable in the aquatics industry. This will help ensure everyone's safety and reduce the city's liability with a high risk

program. Again, a reasonable return for the operator ensures the ability to maintain adequate, quality staffing levels.

### **Determining a fair rental payment**

Following analysis of other communities' subsidy levels, above additional considerations, and a complete review of the confidential financial information provided by Team Sheeper, staff feel that the proposed rental payment represents a fair payment to the City while balancing a fair return to Team Sheeper and ensuring continuation of high quality programming. Under the lease agreement, Team Sheeper would absorb all costs of operations at Belle Haven and operate that pool for at least three months each year, resulting in annual savings of approximately \$90,000. In addition, rent of \$3000 would be paid monthly for use of the Burgess site, as well as utilities, chemicals and other maintenance and repair costs. *(THE SECTION IS STILL UNDER NEGITATIONS BETWEEN THE CITY AND TEAM SHEEPER)* -- The rental payment may be adjusted each year thereafter to the Consumer Price Index ("CPI") for all Urban Consumers in the San Francisco-Oakland-San Jose Area (U.S. Department of Labor, Bureau of Labor Statistics), with a minimum increase of two percent (2%) and a maximum increase of five percent (5%) per year. If, at some point during the contract, the operator chooses to discontinue offering aquatic programs at Belle Haven pool, the rental payment shall be adjusted to the then-prevailing FMV rental rate (which under no circumstances shall be less than the rental rate paid in the preceding year), with consideration given to the terms and conditions of this Lease. The FMV rental rate shall be determined by mutual agreement.

### **Scope of Services**

In order to continue to meet the increasing demands from a wide variety of aquatics user groups, the lease agreement requires, at the Burgess site: year-round lap swimming seven days per week; adequate seasonal open swim; instructional lessons; competitive swim team, and aqua fitness. At the Belle Haven site the required scope of services includes: adequate seasonal open swim; seasonal lap swimming; instructional lessons, and competitive opportunities. All of these programs will be charged fees that are comparable to rates in surrounding communities. The operator is also required by the agreement to provide programs and reasonable accommodation for all ages and abilities at both sites. The agreement requires the operator to continue expanded winter usage at the Burgess Pool by providing the winter dome over the instructional pool. In addition, the provider is encouraged to expand aquatics programming at Belle Haven pool by either moving impacted programming from Burgess to Belle Haven or by offering new programs to increase the overall utilization at both pool sites.

In order to meet the often competing needs of the diverse pool users (and potential future users) the provider is asked to use similar allocation methodology for the pool schedule that is utilized at all city recreation facilities. Due to limited space at sports fields, gymnasiums, and community centers, the city prioritizes user groups by the following criteria: 1) total number of participants in a program, 2) percentage of Menlo Park residents vs. non-residents in a program, 3) returning vs new programs, and 4) financial impact to the program. As part of the annual review, the provider is required to

demonstrate their ability to balance these community needs to ensure a fair and reasonable allocation of the pool space.

### **Community Rentals**

The lease agreement continues to allow outside community groups access to these community resources. The provider is expected to maintain a reasonable amount of pool space for community user groups to rent the Burgess and Belle Haven Pools. The provider has the option to offer similar programs as a part of their services portfolio if desired, or if community need is evident. In addition, the provider and the City have the right to choose which renters best meet the needs of the Menlo Park community.

As a long term renter of the pool, specific requirements for the SOLO swim team have been included as a separate addendum to the agreement. The addendum will ensure that, for the term of the lease, SOLO will have adequate, predictable and reasonable pool access at a very reasonable rate, given the many competing user groups and the need for the Provider to balance all program needs.

### **Lease Term**

A ten year term with a fair market rent adjustment in year six and the ability to terminate at any time should the Provider not satisfy community needs with respect to public access, service and program quality, public safety, noise restrictions and/or parking requirements is proposed in the agreement. Termination of the agreement shall be effective ninety (90) days after the receipt of notice by the City.

Based on the performance of the existing operator for the past several years, there is a high level of confidence in the ability of Team Sheeper to continue providing quality programming for the Menlo Park community. To ensure that quality and safety is maintained, the proposed agreement requires City staff to conduct annual reviews and periodic audits. There are reasonable methods to correct issues or terminate the lease if these audits reveal areas needing correction.

Additionally, the proposed ten year term allows the operator an opportunity to receive an increased return on investment should they make any capital improvements to either facility. Secondly, the staff time and costs for the RFP and contract negotiation process is estimated to be \$40,000 and needs to be considered in tight budget times. For a complete timeline for the Aquatics Contract Process, see Attachment C.

### **Safety & Risk Management**

The lease agreement formalizes requirements that the Provider allow periodic safety inspections and regular maintenance inspections to ensure the Provider is following the manufacturer's specifications and complying with regulations and generally accepted maintenance procedures relating to pool chemistry, pool equipment, and safety practices. Additionally, an observational annual audit will be conducted every year and operational audit will be conducted every two years by an external expert or industry professional approved by the City, with costs covered by the Provider.

These additions to the lease agreement were significant improvements from the former agreement. The goal is to ensure that the operator is maintaining an acceptable and appropriate standard of care in the aquatics industry. In addition, the goal is to reduce the City's liability for this high risk program while having specific criteria to monitor the provider's operations.

In 2010, a comprehensive external audit was conducted of Team Sheep and Burgess Pool operations. It was proven to be very helpful not only to the City but to the operator as well. Team Sheep received high scores and remarks on the lifeguard skills tests, operational manuals and documentation, and compliance with regional, state, and federal laws. The auditor provided feedback indicating improvements would only enhance the existing programs and facility. It provided reassurance for the City that the Provider is meeting all of the aquatics standards and proved to be a useful technique to help oversee operations in future years.

### **Maintenance**

The proposed agreement requires that the Provider maintain the Burgess Pool and Belle Haven Pool in an orderly, clean and professional condition at all times. The Provider will be responsible for the maintenance and repair of the equipment and facilities. Standardized record keeping, preventative maintenance contracts, and staff training to perform pool operations are also required and will be monitored by city staff. The Provider will also be responsible for replacement of all equipment due to failure or damage where the cost is less than \$X,XXX per item. The Provider will also be responsible for any damage outside normal wear and tear of the Premises. If damage beyond normal wear and tear of the Premises is determined by the City, the Provider will be required to make the appropriate repairs within thirty days of written notice. The City is responsible for any large capital replacement of equipment due to normal wear and tear or major site improvements.

### **City Oversight**

The lease agreement requires an annual report no later than June 30 of each contract year to the Parks & Recreation Commission including program hours by program area, participation statistics, customer survey results, pool schedule and allocation by program, fees by program area and fee comparison to other pools in the region, and audit results. The agreement also requires the Provider attend monthly meetings with City staff and attend semi-annual meetings of an Aquatics Users Group which would be convened should the user/customer surveys indicate a below average score or two or more user groups are unsatisfied with the current operations. This Aquatics Users Group, if needed, would be convened and facilitated by City staff. The group would function similar to other user groups using city facilities, such as the semi-annual field user group meeting.

### **IMPACT ON CITY RESOURCES**

Since the current contract with Team Sheep was implemented in May of 2006, the City's General Fund savings is estimated to have been between \$450,000 and \$550,000 annually. At the time the contract was negotiated, there were few contractors available

for this type of work and the estimated annual savings was seen as a fair and appropriate return for the contractor's use of a city facility. In addition, compared to other cities in the area providing an average subsidy of \$340,000 per year, the City benefited from the ability to offer high quality programs with little financial impact to the City. Since the current contractor now has experience and other potential providers exist in the area, the new lease agreement will require a rental fee for the Burgess facility as well as the operator to assume expenses for operating the Belle Haven Pool for a minimum of three months of the year. The total General Fund savings will be \$90,000 annually for Belle Haven Pool and an additional \$36,000 annually revenue for Burgess Pool for an annual net impact of \$126,000.

## **POLICY ISSUES**

This recommendation continues the current policy of providing aquatics programming through a contract with an outside Provider. The recommendation also allows the City to expand the programming approach for the Belle Haven Pool.

## **ENVIRONMENTAL REVIEW**

Approval of the recommendation does not represent a project under the California Environmental Quality Act.

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Katrina Whiteaker  
Recreation Services Manager  
Report Author

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Cherise Brandell  
Director of Community Services

**PUBLIC NOTICE:** Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. [SOLO Letter for reducing hours during summer](#)
- B. [Aquatics Lease Agreement](#)
- C. [Aquatics Contract Timeline](#)