

## **RIVERFRONT POOL LICENSE AGREEMENT**

This License Agreement (this "License Agreement") made as of this \_\_\_\_ day of May, 2018, by and between **City of Beacon** (hereinafter "Licensor"), having an address at One Municipal Plaza, Suite 1, Beacon, New York 12508 and between **River Pool at Beacon, Inc.** (hereinafter "Licensee"), having an address at P.O. Box 173, Beacon, New York 12508

**WHEREAS**, the Licensee has operated a floating pool in the Hudson River at the Pete and Toshi Seeger Riverfront Park in Beacon since 2007 (the "River Pool"); and

**WHEREAS**, the Licensee requires two storage sheds to store equipment and provide winter storage for the floating pool; and

**WHEREAS**, this Agreement sets forth the rights and obligations of the parties in connection with the operation of the Riverfront Pool and installation of the storage sheds.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties hereby agree follows:

1. **Grant of License.** Subject to all of the terms and conditions of this License Agreement, Licensor grants to Licensee a personal, revocable and non-assignable license to (1) operate a floating pool in the Hudson River at the Pete and Toshi Seeger Riverfront Park and (2) install two storage sheds at a location to be determined by the City Administrator.

2. **Term.** The term of this Agreement (the "Term") shall be for a period of ten (10) years commencing on the date hereof ("Commencement Date") and ending ten (10) years from the Commencement Date, unless sooner terminated in accordance with the terms and provisions of this License Agreement.

3. **License Fee.** Licensee shall pay the "License Fee" to Licensor of \$100 a year, which shall be due and payable each year on June 15th.

### **4. Operation of the Floating Pool.**

- (a) Access and entry to the River Pool shall be open to the general public from July 1 to Labor Day, Tuesday thru Sunday from 12 p.m. to 6 p.m.
- (b) Licensee shall be solely responsible for maintenance and operation of the River Pool.
- (c) Licensee shall comply with all local, county, state and federal laws.
- (d) The Licensee shall have lifeguards present during hours of operation. Licensee shall be responsible for hiring and supervising all staff in accordance with applicable county, state and federal employment laws. Licensee shall ensure all staff is properly certified and trained prior to beginning their duties. Licensee shall pay all staffing costs, i.e. salaries, withholding any employment taxes and worker's compensation insurance costs.
- (e) Licensee is required to maintain the River Pool in an orderly, clean and professional condition at all times. The Licensee is responsible for the maintenance and repair of the equipment and facilities at all times.
- (f) Licensee shall be required to maintain and provide all necessary and required signage for

the River Pool.

- (g) The Licensee shall take all appropriate and necessary steps to provide adequate risk management planning to minimize liability or negligence by the Licensee. Licensee shall be responsible for and take appropriate precautions for the protection of all persons using the River Pool.
- (h) Licensee shall secure the pool to prevent access to it when a lifeguard is not present.

**5. Installation of the Storage Sheds.** The storage sheds shall be used to store equipment used by the Licensee, and for no other purpose or use without Licensor's prior written consent, which may be given or withheld in Licensor's sole and absolute discretion. The Licensor shall have the right to request relocation of the sheds, for any reason, upon thirty (30) days written notice to the Licensee, at Licensee's cost and expense.

**6. Maintenance and Repairs.** Throughout the Term of this License Agreement, Licensor shall have no obligations to make any repairs concerning the River Pool or the storage sheds. Licensee, at its sole cost and expense, shall immediately make any repairs required to operate and maintain the River Pool and shall have three (3) weeks, upon written request from the City, to make any requested repairs to the storage sheds. If Licensee fails to perform any requested repair, Licensor shall have the right, but not the obligation, to perform the same, Licensee shall within five (5) days of Licensor's demand therefor, pay to Licensor, as an Additional License Fee, in an amount equal to the cost of such repair.

**7. Compliance with Laws.** Licensee shall, at its sole cost and expense, comply with all laws, statutes, ordinances, orders, rules and regulations of federal, state, city and municipal authorities, and with any direction of any public officer, pursuant to law, with respect to the Licensee's operation and maintenance of the River Pool and storage sheds. Licensee shall, at its sole cost and expense, obtain all licenses, permits and approvals which may be required for the conduct of its business within the provisions of this License Agreement.

**8. Insurance.** Licensee shall, at its sole cost and expense, maintain and keep in full force and effect during the Term (and any renewal thereof) the following types of insurance:

- a. General Liability Insurance, with limits of no less than \$1,000,000 each occurrence and \$2,000,000.00 annual aggregate limits. The City of Beacon shall be named as an additional insured on the policy. The insurance policy shall be written on a primary and non-contributing coverage basis, including any self-insured retentions. To the extent permitted by New York law, the Licensee waives all rights of subrogation or similar rights against the City of Beacon, members of its City Council, assigns, officers, employees, representatives and agents.
- b. Workers' Compensation and Employers Liability Insurance, covering operations in New York State. Policy shall include all employees, volunteers, owners/partners and provide statutory Workers Compensation limits. To the extent permitted by New York law, the Licensee waives all rights of subrogation or similar rights against City of Beacon, members of its City Council, assigns, officers, employees, representatives and agents.

Certificates shall provide that thirty (30) days written notice, by registered mail with return receipt requested, prior to cancellation or expiration be given to the City of Beacon. Policies that lapse and/or expire during term of work shall be recertified and received by the City of Beacon no less than thirty (30) days prior to expiration or cancellation. The cost of

furnishing the above insurance shall be borne by the Licensee. Copies of the required insurance certificates shall be provided by June 15<sup>th</sup> of each year.

9. **Modifications and Notices.** Wherever in this Agreement notices are required to be delivered by one party to the other, then the same shall be in writing by first-class mail or personal delivery and addressed to the Licenser at City Hall at 1 Municipal Plaza, Beacon, New York 12508, and to the Licensee at the address set forth above. Any modifications to this Agreement are required to be in writing and executed by both parties. This Agreement contains the entire understanding between the parties.

10. **Indemnification.** Licensee agrees to indemnify, defend with counsel acceptable to Licenser, and hold harmless Licenser, and Licenser's principals, members, officers, employees, directors, agents, ground lessors, mortgagees, and all of their successors and assigns, from and against all legal actions, liabilities, obligations, causes of action, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, which may arise in any manner out of Licensee's use or operation of the River Pool and storage sheds, or this License Agreement, and/or in connection with loss of life, bodily or personal injury or property damage arising from or out of all acts, failures, omissions or negligence of Licensee, or his or her agents employees or contractors. Licensee further agrees that in the event an action or proceeding is brought by Licenser to enforce any of the terms of this License Agreement, and Licenser prevails in such action or proceeding in whole or in part, Licensee shall be required to pay all reasonable attorney fees and expenses incurred by Licenser.

11. **Non-assignability:** It is expressly understood between the Parties herein that this License does not run with the land, it is not coupled with any other interest, is not assignable, and may be terminated by Licenser at any time for a breach of this Agreement, or without cause on thirty (30) days notice.

12. **Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the state in which the Property is located and shall not be modified, altered, or amended except in writing as agreed to by the parties hereto.

13. **Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

**IN WITNESS WHEREOF**, the undersigned have executed this License Agreement as of the date and year first above written.

LICENSOR:

**CITY OF BEACON**

By: \_\_\_\_\_  
Name: Anthony Ruggiero  
Title: City Administrator

LICENSEE:

**RIVER POOL AT BEACON, INC.**

By: \_\_\_\_\_  
Name:  
Title: