

In light of the current public health crisis and the Federal, State, and County Emergency Declarations, and in accord with the provisions of Sec. 610.020, RSMo., the Clayton Recreation Sports and Wellness Commission recognizes that it would be dangerous and impractical, if not impossible, for its meeting to be physically accessible to the public. The Commission also recognizes the need for the public's business to be attended to in order to protect the public health, safety, and welfare. In order to balance both the need for continuity of government and protection of the health and safety of our residents, business persons, and employees, this meeting of the Clayton Recreation Sports and Wellness Commission will not be open to public attendance in person. The meeting will be accessible by the public in real time ONLY by following the instructions in the box below.

You are invited to a Zoom webinar.

When: Apr 13, 2022 09:00 AM Central Time (US and Canada)

Topic: Special CRSWC Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89683290292>

Or One tap mobile :

US: +19292056099,,89683290292# or +13017158592,,89683290292#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 896 8329 0292

International numbers available: <https://us02web.zoom.us/j/89683290292>

Persons interested in making their views known on any matter on the agenda should send an email with their comments to the Assistant Director of Parks and Recreation at [tsiering@claytonmo.gov](mailto:tsiering@claytonmo.gov). All comments received will be distributed to the entire Commission/Board before the meeting.

Thank you for your understanding and patience as we all try to get through these difficult and dangerous times.



**Clayton Recreation Sports & Wellness Commission  
Wednesday, April 13, 2022  
Virtual Zoom Meeting – 10:00am**

**Call to Order**

**Addresses from the Audience**

**Reports/Discussions**

1. Center of Clayton Natatorium Roof Project

**City/CSD Employee Memberships**

- Motion – To approve a contract with Superior Waterproofing & Restoration Company for the Center Natatorium Roof Project.

**Adjourn**

**Upcoming Meetings**

**CRSWC Meeting:**

**Date: Friday, May 20, 2022**

**Time: 8:30 – 9:30am**

**Location: TBD**

**CRSWC Meeting:**

**Date: Friday, August 19, 2022**

**Time: 8:30 – 9:30am**

**Location: TBD**

The Clayton Recreation Sports and Wellness Commission may also hold a closed meeting, with a closed vote and record, as authorized by Section 610.021(1),(2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., and/or proprietary information pursuant to Section 610.021(15).

Agenda topics may be added or deleted at any time prior to the Clayton Recreation, Sports and Wellness Commission meeting without further notice. To inquire about the status of agenda topics, call 314.290.8506. Individuals who require an accommodation (i.e., sign language, interpreter, listening devices, etc.) to participate in the meeting should contact the Superintendent of Parks & Recreation Operations at 314.290.8506 at least two working days prior to the meeting.



# Clayton Recreation, Sports and Wellness Commission

## Request for Commission Action

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**To:** Clayton Recreation, Sports, and Wellness Commission

**From:** Toni Siering, Director of Parks & Recreation

**Date:** April 13, 2022

**RE:** Center of Clayton Natatorium Roof Project

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On March 15, 2022, a Request for Bids was issued for repairs to the Natatorium Roof at the Center of Clayton. The project includes Exterior Roof Flashing and Air Barrier System repairs along with repairs to the Interior Natatorium Ceiling.

We received one bid from Superior Waterproofing and Restoration Company (Superior). While we normally strive to get multiple bids, in this case, the project is comparatively small, required a specific timeline (this summer) and also requires specialized skills. To complete the work this summer we recommend moving forward with Superior. Their bid of \$203,490 is reasonable and is only 3.5% more than the estimate we received for this work in 2021.

If approved today, the work will commence on June 27, 2022. Superior estimates that it will take five to six weeks for each pool so this work may take up to three months to complete. We are working with them to explore options to condense the schedule; if that is not possible, we intend to phase the work so that the Competition Pool is completed first, followed by the Leisure Pool. This will allow us to keep one of the pools open throughout the duration of the project, with the Competition Pool available by or before the start of the Fall High School Sports Season.

**Recommendation:** That the CRSWC authorizes the execution of the contract attached as Exhibit A with Superior Waterproofing and Restoration Company in the amount of Two Hundred and Three Thousand Four Hundred and Ninety Dollars (\$203,490.00) with a contingency of Fifteen Thousand Dollars (\$15,000.00) for the Center of Clayton Natatorium Roof Project.

**EXHIBIT A**

**CRSWC-CONTRACTOR AGREEMENT**

This Agreement is made and entered into the 13<sup>th</sup> day of April 2022, by and between the Clayton Recreation, Sports and Wellness Commission (hereinafter the "CRSWC") and Superior Waterproofing and Restoration Company, a corporation with offices located at 3001 Washington Avenue, St. Louis, MO 63103 (hereafter the "Contractor"). The project shall be identified as the Center of Clayton Natatorium Roof Project.

**WITNESSETH:**

The Contractor and the CRSWC or the consideration set forth herein agree as follows:

**ARTICLE I**

**The Contract Documents**

The Contract Documents consist of the General Conditions of City-Contractor Agreement, Non-Collusion Affidavit, the Contractor's Affidavit, Performance and Payment Bond, Specifications, the Construction Schedule, all Addenda and all Modifications issued after execution of this Agreement, which together with this Agreement form the Contract, and are all as fully made a part of the Contract as if attached to this Agreement or repeated herein. This Contract cannot be modified except by duly authorized and executed written amendment.

**ARTICLE II**

**Scope of Work**

The Contractor, acting as an independent contractor, shall do everything required by the Contract Documents. Contractor represents and warrants that Contractor has special skills which qualify Contractor to perform the Work in accordance with the Contract and that Contractor is free to perform all such Work and is not a party to any other agreement, written or oral, the

performance of which would prevent or interfere with the performance, in whole or in part, of the Work. The Scope of Work includes those items referenced in ARTICLE X.

### **ARTICLE III**

#### **Time of Completion**

All time limits stated in the Contract Documents are of the essence. The Work to be performed under this Contract shall be completed in accordance with the time limits set forth in the construction schedule as stated in Article V- Performance of the Work. It is anticipated that this work will commence on June 27, 2022, and will be substantially completed prior to August 29, 2022, with final completion not later than September 30, 2022. Companies who cannot meet this timeline will not be considered. This contract will be valid for up to two years from date of execution.

### **ARTICLE IV**

#### **The Contract Sum and Payments**

Based upon Applications for Payment and an Invoice duly delivered by the Contractor to the CRSWC by the twentieth day of the month for work performed, in accordance with the Contract, the CRSWC shall pay the Consultant for the performance of the Work, the sum of Two Hundred Three Thousand Four Hundred and Ninety dollars (\$203,490.00) as follows:

(a) On or about the tenth day of each following month, ninety percent (90%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work, and ninety percent (90%) of the portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site to be incorporated into the Work, through the period ending up to the twentieth of the preceding month, less the aggregate of all previous progress payments;

(b) Within thirty (30) days of substantial completion of the Work, a sum sufficient to increase the total payments to ninety percent (90%) of the Contract Sum; and

(c) Final payment within thirty (30) days after the Work is certified by the CRSWC as fully completed and accepted by the CRSWC including any required documentation.

(d) The foregoing schedule shall not apply if contrary to federal funding requirements or unless funds from a state grant are not timely received.

(e) Estimates of work performed and material delivered shall be finally determined by the CRSWC.

(f) The foregoing retainage amounts are agreed to be required to ensure performance of the Contract.

(g) Payment shall be deemed made when mailed or personally delivered, whichever is earlier.

## **ARTICLE V**

### **Performance of the Work**

(a) Within fourteen (14) calendar days after being awarded the Contract, the Consultant shall develop and prepare for the CRSWC's approval a Construction Schedule for the Work in a bar chart format.

(b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of this Contract. If the Contractor fails to complete the Work in accordance with the Construction Schedule, unless the delay is excusable under the provisions of Article VI thereof, the Contractor shall pay the CRSWC as liquidated damages and not as a penalty, the sum of **\$1,000.00** for each calendar day the Contractor fails to comply with the Construction Schedule. The total amount so payable to the CRSWC as liquidated damages may be deducted from any sums due or to become due to the Contractor from CRSWC.

(c) After Commencement of the Work, and until completion of the Work, the Contractor shall report to the CRSWC as such intervals as the CRSWC may reasonably direct, the actual progress of the work compared to the Schedule. If the Contractor falls behind the Schedule for services for any reason for which the Contractor is responsible, the Contractor shall promptly take such action as is necessary to remedy the delay. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof shall be borne by the Contractor.

(d) Contractor will comply and satisfy the requirements of Sec. 285.530.2, RSMo. Supp. 2008, which requires as a condition for the award of any contract or grant in excess of five thousand dollars by any political subdivision of the State of Missouri to a business entity, that the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted service, and requires every such business entity to also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

## **ARTICLE VI**

### **Delays Beyond Contractor's Control**

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule solely as a result of the act or neglect of the CRSWC, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, the Contractor shall not be required to pay liquidated damages to the CRSWC pursuant to paragraph (b) of Article V hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of Work is so great that it cannot be remedied without incurring additional cost which the CRSWC does not authorize, then the time of

completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the CRSWC.

(b) Notwithstanding the foregoing paragraph (a), no extension of time or other relief shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefore is made in writing by the Contractor to the CRSWC, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather shall constitute a cause for granting an extension of time.

(d) In the event a delay is caused by the CRSWC, the Contractor's sole remedy shall consist of his rights under this Article VI.

## **ARTICLE VII**

### **Changes in the Work**

(a) The CRSWC may make changes within the general scope of the Agreement by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the General Conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the CRSWC in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General Conditions.

(b) If the requested change would result in a delay in the Schedule, the provisions of paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would



result in a decrease in the time required to perform the Work, the completion date and the Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified; to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the CRSWC, be determined by an acceptable sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost-plus percentage or fixed fee.

## **ARTICLE VIII**

### **Termination**

(a) If the Contractor is adjudged insolvent or bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors for material or labor, or persistently disregards laws, ordinances or the instructions of the CRSWC, or otherwise breaches any provision of the Contract, the CRSWC may, without prejudice to any other right or remedy, by giving written notice to the Contractor, terminate the Contract, take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the CRSWC may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the CRSWC promptly upon demand.

In the event of termination pursuant to this paragraph, the Contractor, upon the request of the CRSWC, shall promptly

(i) assign to the CRSWC in the manner and to the extent directed by the CRSWC all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party, and which relate to the Work or to construction equipment required therefore, and

(ii) make available to the CRSWC to the extent directed by the CRSWC all construction equipment owned by the Contractor and employed in connection with the Work.

(b) Performance of the Work hereunder may be terminated by the CRSWC by giving three (3) days prior written notice to the Contractor. In the event of termination, under this paragraph (b) the Contract Sum shall be reduced by the percentage of work not completed on the date of termination.

## **ARTICLE IX**

### **Indemnities**

(a) **Liability**: To the greatest extent permitted by Statute, Contractor indemnifies, defends, and holds the CRSWC harmless for all third-party claims or suits for libel, slander, property damage, and bodily injury, including death, because of the Contractor's negligence, or anyone directly or indirectly employed by the Contractor. These obligations include all judgments or awards recovered from the claims or suits, including court costs and attorney fees.

(b) **Professional Liability**: To the greatest extent permitted by Statute, Contractor CRSWC harmless for all third-party claims or suits for damages, including consequential or economic damages, to the extent caused by the negligent acts, errors or omissions of the

Contractor, its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in performing professional services under this Agreement. These obligations include all judgments or awards recovered from the claims or suits, including court costs and attorney fees.

(c) Other Indemnities: To the greatest extent permitted by Statute, Contractor indemnifies, defends, and holds the CRSWC harmless for all third-party claims or suits for fines, penalties, liquidated damages or any other damages of whatsoever nature to the extent caused by the negligence or wrongdoing of the Contractor, its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. These obligations include all judgments or awards recovered from the claims or suits, including courts costs and attorney fees.

(d) Contractor agrees that its indemnity obligations set forth in this Article will not be affected in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CRSWC, the Contractor, or any of the subcontractors under workers' compensation acts, employer's liability insurance, or other employee benefit acts.

## **ARTICLE X**

### **Insurance**

Contractor's Insurance shall be endorsed to cover the contractual liability of the Contractor under the General Conditions referring to Property Insurance. In addition,

(a) Except to the extent set forth in Section (b) of this Article, the Contractor will purchase and maintain the following insurance to cover its operations under this Agreement without limiting the liability of the Contractor under this Agreement. This insurance will be provided by insurance companies acceptable to the CRSWC and licensed to do business in each jurisdiction where the Work is performed.

1. Workers' Compensation Insurance in full compliance with workers' compensation laws of the State of Missouri together with Employer's Liability Coverage with minimum limits of liability in the amount of \$3,000,000.00 for each accident and each disease.

2. Commercial Automobile Liability Insurance under Form CA 00 01, covering all owned hired, and non-owned vehicles, with minimum combined single limits of liability of \$1,000,000 for each accident.

3. Commercial General Liability Insurance, and, if necessary, excess liability insurance on a "true following-form" basis, all of which is written on an occurrence basis, with the following minimum limits of liability:

General Aggregate	\$3,000,000.00
Products/completed operations aggregate	\$3,000,000.00
Personal and advertising injury	\$3,000,000.00
Each occurrence	\$3,000,000.00
Fire damage legal liability	\$3,000,000.00
Medical expenses	\$ 5,000.00

4. Professional Liability Insurance with minimum limits of liability of \$3,000,000.00 each claim, \$3,000,000.00 aggregate.

5. Owner's and Contractor's Protective Liability Policy, including Death \$3,000,000.00 each occurrence; Property Damage \$3,000,000.00 each occurrence, \$3,000,000.00 aggregate.

(b) The Commercial General Liability and the Commercial Automobile Liability Insurance coverages and their respective limits set forth in Section (a) of this Article are being explicitly

required and obtained to insure the indemnity obligations set forth in Section (a) of Article X to meet the requirements of 434.100.2(8) R.S.Mo. The parties further acknowledge that the cost of these insurance coverages is included in the Contract Price and that the limits and coverages afforded by them is the Contractor's total aggregate liability under the indemnity obligations set forth in Section (a) of Article X.

(c) Contractor's Commercial Automobile Liability, Commercial General Liability, and Professional Liability policies – and any excess policies necessary to meet the required limits – will include contractual liability coverage. The CRSWC will be named as an additional insured on the Contractor's Commercial General Liability policy by using ISO Additional Insured Endorsement (Form B), CG 20 10 11 85. The Commercial General Liability, Commercial Automobile Liability and required excess policies will include a severability or cross-liability clause and such insurance will be endorsed to make such insurance primary with respect to any applicable insurance maintained by the CRSWC. The Contractor's Workers' Compensation and Employer's Liability policy will include the Owner as an alternate employer by using ISO Alternate Employer WC 00 03 01A.

(d) Contractor waives any rights of subrogation under its Professional Liability Insurance policy for the CRSWC's benefit and is doing so before commencing any of the Work.

(e) Contractor will furnish an insurance certificate to CRSWC evidencing that it has met the insurance requirements of this Article, including attaching the requisite additional insured, primary and alternate employer endorsements. These documents must be provided before beginning the Work and upon each renewal of the coverage during the performance of the Work. The certificate will provide that thirty-day written notice will be given to CRSWC before any policy is canceled. Contractor will give written notice to CRSWC as soon as it receives written notice of cancellation from any of its insurance carriers. The certificate of insurance must clearly designate the name of the Project.

## **ARTICLE XI**

### **The Work**

The Contractor shall furnish all labor, materials and equipment necessary to complete all aspects of the Work described in the Job Special Provisions. Generally, the Project calls for the Contractor to furnish all material, labor, equipment and supplies necessary to complete the following work:

- Provide site safety barricades and signage at all locations affected by the Work.
- Install protection of existing building and ground surfaces. Complete job site daily clean-up and trash removal.
- Provide a combination of stationary frame scaffolding, hydraulic man lift(s), and temporary protection as required to access the bottom of the acoustical metal roof deck above the pools, pool decks and observation area. The pool will be drained, and this work shall be coordinated closely with the Center of Clayton maintenance staff. This Scope of Work applies to both the north leisure pool and the south competition pool natatorium.
- Inspect the underside of the acoustical metal deck for all inadvertent holes that were left behind from roof fasteners above. Fill holes with a minimal expanding, closed cell, spray foam polyurethane. Trim any excess foam that expands beyond the flush surface of the metal deck after curing. Prime and paint as necessary to match the surrounding white deck.
- Clean, prime and paint any rust and water stains on the bottom of the metal roof deck and walls. Coordinate paint colors to match the existing with Center of Clayton staff.
- At the exterior roof to parapet and roof to skylight perimeter, remove the existing shingles and associated flashing/sheathing of the ThermaCal system as necessary to gain access to the vapor barrier. Continue the air barrier up onto the parapet wall and skylight curb (It was cut short and not properly terminated during construction). Terminate per approved manufacturer's method and details to create an airtight seal for the roof system. Consult with the Owner and BECx agent prior to closing up any cavities or concealed work. After approval to proceed, reinstall the ThermaCal system, flashing and shingles as necessary to complete the installation per manufacturer's recommendations.

## **ARTICLE XII**

### **Notices**

Any notice hereunder shall be personally delivered or mailed, postage prepaid, by certified mail, return receipt requested addressed to:

Clayton Recreation, Sports and Wellness Commission  
50 Gay Avenue

Clayton, Missouri 63105

Attention: Toni Siering

or to Contractor at:

Superior Waterproofing and Restoration Co.

3001 Washington Avenue

St. Louis, MO 63103

Attention: Stephen Schmitt

\*In making out this form the proper name and title should be used. For example, if the Contractor is a corporation, and this form is to be executed by its president, the words President should be used under Title. Attestation should be done by the Secretary of the Corporation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

Clayton Recreation, Sports and Wellness Commission

By: \_\_\_\_\_  
President, CRSWC

(SEAL)

Attest:

\_\_\_\_\_  
CRSWC Registered Agent

DATE: \_\_\_\_\_

By: \_\_\_\_\_  
Contractor

\_\_\_\_\_  
Title

(SEAL)

Attest:

\_\_\_\_\_

DATE: \_\_\_\_\_