

REQUEST FOR PURCHASE IN EXCESS OF \$20,000/CHANGE ORDER



To: Mayor and City Council

From: Ann Kattreh, Parks and Recreation Director

Date: August 5, 2013

Subject: Request for Purchase – Edinborough Park Pool Shell Re-surfacing

Agenda Item #: IV. F.

The Recommended Bid is

Within Budget

Not Within Budget

Date Bid Opened or Quote Received:

June 1, 2013

Bid or Expiration Date:

August 29, 2013

Company:

Signature Aquatics

TMI Coatings

Northern Pool Restoration

Amount of Quote or Bid:

\$55,841

\$60,100

\$62,500

Recommended Quote or Bid:

Signature Aquatics

General Information:

This request is for the purchase of re-surfacing the swimming pool shell and replacing the tile lane lines at Edinborough Park. The pool shell was originally installed in 1987. It has had many patches and repairs, and it is badly discolored. Hard water has caused significant staining over the years and pool chemicals have worn the surface, occasionally leaving sharp edges and cracks on the pool floor. The Edinborough Park pool is seeing a substantial increase in usage and revenue as we partner with the Edina Swim Club. This project will restore the pool shell to a "like new" condition. Failure to complete this project would cause cracking and heaving and would compromise the structural integrity of the pool.

With the assistance of Tim Barnes, City Facilities Manager, the bid process was followed to ensure that the scope of work included proper cleaning of the pool surface to prepare for bond coating, replacement of tile lane lines and targets, application of a bonding agent, installation of Diamond Brite finish on pool floor and walls, and a confirmation that the work could be completed within the required time frame.

In addition to the Edina Swim Club, we also partner with Edina Community Ed and Tria Orthopedic to offer water exercise classes, swimming lessons and Adaptive Rec activities to the community. This improvement will also demonstrate our commitment to enhancing the facility for our Edinborough Association partners.

REQUEST FOR PURCHASE
IN EXCESS OF \$20,000/CHANGE ORDER

This project will be completed by August 30, 2013. There is \$71,000 in the 2013 CIP project to resurface the pool. This project was originally approved as a 2012 CIP but was delayed due to the Edinborough Park Feasibility Study.

ATTACHMENTS:

QUOTES

Signature Aquatics

PO Box 679, Delano, MN 55328
763-267-7552 Phone 763-972-5864 Fax

Proposal

To: Edinborough Park
7700 Xerxes Ave South
Edina, MN 55435

From: Ben Schaffer
Date: 7-29-13
Job: Edenborough Park Pool Finish

Attn: Patty McGrath

Signature Aquatics is pleased to provide the following quote.

Scope of Work:

Install new Diamond Brite finish on the indoor pool located in Edinborough Park.

- Cut and chip around gutter, main drains, and all other pool equipment
- Remove any delaminated pool finish to include marcite and ceramic tile. This includes up to about 100 sq/ft. Anything more than that will be considered excessive and will be billed on a time and material bases.
- Install new tile race lines and targets over the existing ones. The tile to be 1" x 1" and a closest match to the existing green tile.
- Prep entire pool using bonding agent.
- Install new Diamond Brite pool surface.
- We will begin filling the pool upon completion of installing the surface. The product needs to cure out under water. The owner will then be responsible for completing the filling and start up process. We will provide instructions and help during this process as the water chemistry is important while the material cures under water.

Exclusions:

- All permits and fees
- All taxes
- All electrical, gas and venting

Notes:

- Proposal valid for 30 days
- We will need access to the stair wells adjacent to the pool room and we will also need to use the loading dock to include a path to the pool.
- Price includes an \$1800.00 allowance for removing all tile from pool. This \$1800.00 would be deducted from project cost if tile is not removed
- Once the pool is empty we will review the surface with the owner to determine if sandblasting is necessary. **Sand blasting is not included in this proposal but can be added for \$12,060.00. Note that this includes tenting off the entire pool and venting through the rear stair well. This will**

ensure that dust created will not affect the rest of the facility.

Terms:

Projects exceeding \$10,000 require a 50% payment with signed contract. Balance is net 10 days

Total Quote:

\$55,841.00

Signature Aquatics Signature: <i>Ben Schaffer</i>	Accepted By Signature:
Print Name and Title: Ben Schaffer - Project Manager	Print Name and Title:
Date: July 29, 2013	Date:

Attn: Patty McGrath
7700 York Avenue South
Edina, MN 55435

Phone 952-833-9542/Fax 952-833-9541
E-mail pmcgrath@edinamn.gov

not accepted within 30 days.

Date: July 8, 2013
Regarding: Edinborough Pool

Edinborough Pool

TMI Coatings, Inc. (TMI) is certified as a woman owned business, so every dollar spent with TMI counts toward your diversity spending goals.

TMI has visited your facility and proposes the following scope of work:

Pool: 77' x 47' x 3.5-4'

1. Saw cut around all penetrations for professional termination.
2. Sound out, chip out and restore any loose, hollow plaster up to 10 square feet.
3. Remodel existing lane line tile and end targets.
4. TMI to repair with epoxy mortar filler suitable for constant immersion service.
5. Mechanically abrade entire pool interior using electric handheld grinding disks with vacuum attachments. High efficiency vacuum has a state-of-the-art filtration system that is 99.9% efficient. TMI to dispose of all debris in owner provided container.
6. Vacuum clean pool.
7. Install two to three coats epoxy pool coating. Protective coating is specifically suitable for constant immersion service in pools.
8. Install six 12" lane lines and targets at ends of pool. Owner to choose solid color glazed tile and grout color.

YOUR COST INCLUDING LABOR AND MATERIALS INSTALLED FOR POOL PAINTING \$24,600
YOUR COST INCLUDING LABOR AND MATERIALS INSTALLED FOR REMOVAL/REPLACEMENT
TILE SWIM LANES AND END TARGETS ADD TO BID ABOVE. \$35,500

NOTES:

1. Bid is based on one job mobilization/demobilization.
2. Bid is based on weekday work; add \$450 for weekend work.
3. TMI anticipates project from start to finish including cure to take 10-14 days.

Thank you for the opportunity to submit this proposal to you. You can check out our company history and other coating services at our website at www.tmicoatings.com. Visit TMI Coatings' blog at www.tmicoatingsblog.net to learn about problems we have solved for customers like you or become a fan of TMI Coatings on Facebook. If you have any questions about our bid, please call me at 1-800-328-0229.

If e-mail is an effective communication tool for you, feel free to contact me at tgliori@tmicoatings.com with any questions or comments regarding this proposal.

\\Secretary\ES (MF, EH, KN)\TMIP\EdinboroughPark01E

ACCEPTANCE

The undersigned hereby accepts TMI's proposal and authorizes TMI to furnish all materials and labor required to complete the work set forth in the proposal pursuant to the proposal terms and conditions set forth on the reverse side hereof, for which we agree to pay you the amount set forth in the proposal. If the proposal terms and conditions set forth on the reverse side hereof were not provided with transmission of TMI's proposal by facsimile, mail or email, the undersigned agrees to request a copy of the proposal terms and conditions before signing below. The undersigned agrees to be bound by the proposal terms and conditions set forth on the reverse side hereof regardless of whether the undersigned requested a copy or read them before signing below.

Accepted: _____ Date _____

Respectfully,

shon basis

3. **WORKING CONDITIONS.** There shall be safe and clean working conditions in compliance with federal, state and local safety, environmental and air pollution laws and ordinances. Unless specifically agreed otherwise in writing in this proposal, there shall be no interference with TMI of its work area by other trades and the Owner shall provide TMI reasonable access to the work area and reasonable setup and storage areas.

4. **HAZARDOUS MATERIALS AND SPECIFIED MATERIALS.** TMI assumes no risk of hazardous materials (which shall be deemed to include, without limitations, asbestos, PCBs, lead paint, heavy metal paint, petroleum products, radioactive materials, harmful fumes, other pollutants, and materials contaminated by any of these things) at the site unless otherwise stated within this proposal. TMI has not included additional costs associated with the presence of hazardous materials. Concerning soil conditions, TMI's bid is based on the assumption that if the soil analysis of heavy metal increases after and due to TMI's work, beyond the current federal permissible level of 1,000 ppm, TMI's sole responsibility will be to scrape the topsoil and place it in Owner-provided dumpsters to be disposed of at Owner's cost. The Owner shall comply with all applicable federal, state and local governmental requirements relating to notification, monitoring, survey, evaluation, detection, remediation, removal and disposal of hazardous materials (hereinafter "Substance Requirements"). The Owner shall provide TMI with written evidence of compliance and results of all Substance Requirements. TMI may rely upon the Owner's representations and warranties regarding hazardous substances and Owner's compliance with Substance Requirements. TMI shall have no duty to identify, detect, evaluate, remediate, remove, or dispose of any hazardous materials. If TMI at any time has reason to believe that hazardous materials are present at the work site, TMI may demand that the Owner, at Owner's sole expense, perform appropriate evaluation and monitoring of suspected hazardous materials and provide written reports to TMI. TMI shall have the right to remove its employees from the work site until such evaluation and results are made. If hazardous material is present, TMI shall receive an extension of time and an equitable adjustment in the contract price in its favor. All material and product specifications are those of the Owner, and TMI shall not be responsible for any consequences of the installation of specified materials or products. If no materials are specified and TMI selects materials for the work, TMI has no duty to investigate or test for compatibility of proposed materials with existing materials. To the fullest extent permitted by law, the Owner shall defend, indemnify and hold harmless TMI from any and all penalties, fines, actions, liabilities, damages and costs (including reasonable attorneys' fees and expert fees) arising from or relating to hazardous materials at the project site, use of specified materials or products, or work performed as requested by Owner or the enforcement of this paragraph. TMI shall not be responsible for any hazardous materials that may be stored or exist within the work of TMI, and the Owner hereby releases and discharges TMI from any and all claims, causes of action, suits, demands for arbitration, and liability (including claims for subrogation) relating to the actual, alleged, or threatened discharge, dispersal, release, or escape of hazardous materials during performance or at any time thereafter, however caused, or to hazardous materials at the project site or use of specified materials or products.

5. **SITE UTILITIES.** The Owner shall make available drinking water and sanitary facilities. The Owner shall make adequate electrical power (460 or 230 volt and 110 volt power) available within 100 feet of TMI's work area.

6. **HEAT CONDITIONS.** The Owner shall maintain heat at 60° F minimum temperature in any enclosed facilities in which TMI's work will be performed. At TMI's sole discretion, coatings in unenclosed area may not be applied at temperatures less than 60° F, nor in excessive humidity, nor in high wind unless stated otherwise within this proposal. TMI shall not be responsible for providing temporary heat to satisfactorily perform work.

7. **SURFACE PREPARATION AND CLEAN-UP CONDITIONS.** This proposal excludes surface preparation and coating of inaccessible and/or difficult to reach areas (i.e. back to back angles, top side beam flange, under equipment) unless otherwise specified herein. Prior to, during and after TMI's performance of TMI's work, the Owner, without delaying or interfering with TMI's work, shall (unless otherwise included in TMI's proposal):

a. Remove from all surfaces to be coated all contaminants such as oil, grease, soluble salts, chemicals, man-hole covers, pipes, cathodic systems, dirt and debris, together with internal and other obstructions which interfere with TMI's performance of its work.

b. Perform all grinding, welding or patch work on surfaces to be worked on by TMI including honeycombs, roughness, blow holes, etc., sufficient to prepare and maintain a smooth surface acceptable for coating in the sole opinion of TMI.

c. Provide dumpsters and disposal for TMI's project refuse, including sandblast abrasive.

8. **WORK AREA CONDITIONS.** The Owner assumes sole responsibility for loss, damage, or injury to property (including without limitation vessel internals, light gauge metal equipment, automobiles or mechanical equipment) caused by ordinary sandblasting, solvent, insulation or coating operation and further assumes responsibility for the removal (or if acceptable to TMI the covering and protection) of any property from the work area prior to TMI's commencement of work. Unless specifically stated in writing otherwise on this proposal, TMI's proposal is based upon open abrasive blasting without containment of dust and sandblast debris. Overspray will exist to some extent on nearby areas. It is impractical to cover or clean surrounding areas in industrial applications. Owner to be responsible for removal of obstructions and items not to be coated including coils, grating, antennas, etc. The Owner warrants that any concrete to be coated or treated shall be free of any materials or conditions (including, without limitation, moisture, curing agents, finishing, additives, and spalling) that may cause or contribute to failure of specified materials applied to it. TMI shall not be liable for any failure caused by or contributed to by the existence of such conditions and shall not be responsible for correcting such conditions unless specifically agreed to otherwise in writing. Unless specifically stated in writing otherwise on this proposal, TMI's proposal is based upon removal (to the extent specified on the proposal) of thin-film coatings of the generic type typically utilized for the service type of the structure. Additional costs for removal of thick-film coatings, coal tar epoxy, 100% solids epoxy, polyurethane or polyurea and other difficult to remove coatings will require additional compensation per Section D Price Adjustments. Owner warrants that existing coatings which will remain are compatible with materials to be applied by TMI and have adequate adhesion to adhere to the substrate upon application of subsequent coat(s) required by this proposal. The Owner shall be responsible for identifying, locating, and relocating pipelines and utilities, unless otherwise provided in this Agreement. The Owner shall remove all person (other than employees of TMI or TMI's subcontractors), food products, and any other property sensitive to chemicals related to TMI's work or else shall otherwise fully protect all such persons, food products and property from chemicals related to TMI's work. The Owner is responsible for its employees and other persons that are on its premises where odorous and non-odorous chemicals are going to be applied. Such notice by the Owner shall be given to allow individuals that are chemically sensitive to leave the area prior to TMI applying such chemicals. Both TMI and the Owner agree that the parties expect that residual odors shall seep into adjacent areas. TMI is not liable for any damages, including injuries, death, or property damages caused by chemicals related to TMI's work used during installation. To the extent that the Owner fails to adhere to the above provisions, concerning the application by TMI of chemicals, and such failure by the Owner results in injuries or damages that subject TMI to claims of liability, to the fullest extent permitted by law, the Owner agrees to fully indemnify TMI for all expenditures paid by TMI to defend against and/or settle such claims, including attorneys' fees and expert fees.

9. **PROTECTION OF WORK.** The Owner shall protect, and be responsible for protection of lining material, insulation, coating, and other work during application or installation through completion and after completion from fire and physical damage, including damage by other trades.

10. **SECONDARY DIKES.** Industry guidelines often require secondary dikes or similar protection to contain spilled or leaked chemicals and/or to prevent ground contamination at a potentially future date. It is the sole responsibility of the Owner to determine the desirability of such protection and, if necessary, to provide it prior to commencement of the work. In no event shall TMI incur liability to the Owner or any other party, on the theory of negligence or otherwise, for failing to advise or warn the Owner or any other party of the need or advisability of such protection, for failing to provide such protection, or for proceeding with the work in the absence of such protection.

11. **DESIGN.** The Owner is responsible for the design of the project. Without limitation, the Owner is responsible for determining whether capacities, including dike capacities, are adequate, whether the work will meet regulations, whether design of the project is adequate for rain or snow run-off, and whether there is proper drainage. The Owner is responsible both during and after performance for drainage, including drainage of precipitation, and for preventing "floating" of tanks. The Owner shall be responsible for slippery conditions of dike lining and for any injuries that result.

12. **INFORMATION.** The Owner shall provide TMI with all information relevant to the performance of TMI's work and shall designate a representative who shall be fully acquainted with the work to be performed and who has authority to give approvals on behalf of the Owner and can render decisions promptly and furnish information promptly. TMI is entitled to rely upon information provided by the Owner as being complete and accurate.

B. **NOTIFICATION AND MOBILIZATION FOR COMMENCEMENT OF WORK.** The Owner shall give TMI at least 30 days advance written notification of the date upon which the Owner desires TMI to commence work. The Owner shall unload and store in a secure area materials that arrive at the job site before TMI workers. If the work is not ready to begin when TMI's crew arrives or delays occur once the work has started, the contract price will be equitably adjusted in TMI's favor in accordance with paragraph D below.

C. **INSPECTION AND PERFORMANCE STANDARDS.** The following inspection standards will be used to judge the quality of TMI's work:

1. Sandblasting will be inspected using The Society for Protective Coatings (SSPC) Visual Standards for Abrasive Blast Cleaned Steel (VIS 1-89) photographic standard as the basis for accepting or rejecting sandblasting work. The Owner shall commence inspection immediately after TMI begins sandblasting using nhotnranhic SSPC VIS 1-89 standards. If the Owner fails to inspect sandblasting immediately after TMI

b. Insulation thickness may vary but average thickness will not be less than minimum specified on the contract.

c. The Owner shall inspect insulation immediately after application begins each day and if no objections are raised then, insulation shall be assumed to have been accepted.

d. The maximum operating temperature for normal urethane foam is 190° F and the Owner shall raise or lower the temperature of the insulated tank as necessary from ambient to desired temperature over a minimum of a 48 hour period. We reserve the right to install "temp-tabs" at our discretion. Owner assumes responsibility for maintaining operating temperature and assumes all liability in the event the temperature limitations for the insulation used are exceeded.

e. An acceptable application is based on 90% adhesion of the urethane foam.

4. Coatings over foam are commercial application, defined as appreciably pinhole-free. Substantially pinhole-free application is available at additional cost. Pinhole-free steel coatings depend on steel preparation, substrate grinding and other necessary preparation work other than sandblasting and is not included unless otherwise specified in TMI's proposal.

5. Damage caused by an inspection will be repaired at the Owner's expense as an "extra" to the contract amount.

D. **PRICE ADJUSTMENTS.** The contract price and schedule shall be equitably adjusted to compensate TMI for its additional costs (with reasonable markup) and delay incurred as a result of any of the following:

1. Any breach of contract by the Owner.

2. Concealed or unknown conditions encountered in the performance of the work at variance with the conditions indicated by the drawings, specifications, or Owner-furnished information or differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement.

3. Events beyond the control of TMI, including without limitation, acts of God, earthquakes, floods, high winds, terrorism, vandalism, labor disputes, fire, unusual delay in deliveries, casualties, unusual weather, or changes in law and rules of government.

4. Any additional work ordered or requested by the Owner.

5. Unless otherwise specified in this proposal, TMI's bid includes only one mobilization/demobilization. In addition to the contract price and any other monies due TMI, TMI is entitled to collect a minimum of 10% of the total price of TMI's work on this project for each subsequent mobilization/demobilization if TMI is not permitted to complete all work in one mobilization/demobilization.

The price adjustment shall include an increase for the following:

a. Labor and supervision payroll costs plus all applicable taxes, insurance and other fringe benefits.

b. Material costs at TMI's invoice cost for material, fuel, tax and freight, including costs for returned or damaged material and freight charges, less any returned credit allowed by the manufacturer.

c. Cost of equipment furnished to the job by TMI computed at Professional Coating Management, Inc.'s weekly rental rates.

d. Employee travel expenses between the job site and TMI's home office, along with related expenses, including hotels and meal costs.

e. Subcontractor costs.

f. Freight and transportation charges for equipment.

g. Insurance and bond costs.

h. Construction overhead charged as a percentage of direct labor in accordance with TMI's regular accounting practices.

i. Markup of 25% on all of the above changes and any other costs incurred by TMI.

j. Such other costs and damages as TMI may incur.

E. **ESCALATION.** Quoted prices are based on labor rates and material prices in effect as of date of the proposal. Material price or labor rate increases will be invoiced as they occur on the following basis:

1. For each 1% increase in average labor rate on the job, or fraction thereof, an additional sum of 0.7% of contract price will be invoiced.

2. Increases in material prices will be invoiced at actual cost plus a 25% markup. Upon request, TMI will furnish average labor rate and material prices as a basis for escalation.

F. **LIMITED WARRANTY.** For one year after installation, TMI warrants only to the original Owner that materials have been applied or installed as required by this contract. TMI will repair defective work of which TMI is notified in writing within a period of one year after application, provided the work has not been damaged by Owner or used for a purpose for which it was not intended. TMI is not responsible for conditions beyond its control including but not limited to hydrostatic pressure, vapor, moisture, frost, ice, groundwater, water and/or moisture pressure or emissions, capillary action, soil or slab stability, substrate cracking, the absence or presence or condition of vapor or moisture barriers and/or weather barriers, fork truck or other traffic damage, or use for which the work is not intended. Coatings are not considered a failure if concrete or old existing coatings are attached to the delaminated materials; this is considered a substrate failure. TMI SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, INCLUDING IMPLIED WARRANTIES OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OWNER AGREES THAT ITS SOLE REMEDY FOR DEFECTIVE WORK OR ANY DAMAGE RESULTING FROM SUCH DEFECT, WHETHER OR NOT CAUSED BY THE NEGLIGENCE OF TMI, SHALL BE REPAIRED BY TMI UPON THE NOTICE PROVIDED HEREIN. OWNER FURTHER AGREES THAT IN NO EVENT SHALL TMI BE LIABLE FOR CONSEQUENTIAL DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE OR LOST REVENUES, LOSS OF REPUTATION, COSTS OF FINANCING, LOST BUSINESS, BUSINESS INTERRUPTION, DAMAGE TO THE STRUCTURE, DAMAGE TO OR LOSS OF CONTENTS, GROUND OR GROUNDWATER CONTAMINATION, DAMAGE RESULTING FROM SPILLAGE OR LEAKAGE, OR DAMAGE RESULTING FROM POLLUTION OR RELEASE OF HAZARDOUS MATERIALS. THE FOREGOING WARRANTY IS THE ONLY WARRANTY MADE BY TMI AND IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, GUARANTEES OR REPRESENTATIONS, WHETHER EXPRESSED OR IMPLIED. THIS WARRANTY RUNS BETWEEN TMI AND THE OWNER ONLY; IT IS NOT ASSIGNABLE OR TRANSFERABLE TO A SUCCESSOR, ASSIGN OR ANOTHER OWNER, AND ANY SUCH ASSIGNMENT IS VOID AND UNENFORCEABLE.

G. **PAYMENT TERMS.** TMI shall invoice the Owner monthly for labor and materials furnished during the preceding 30 days. Invoices shall be paid by the Owner within 30 days after submission. No retainage shall be withheld from payments unless otherwise stated in this proposal. Payment withheld by the Owner shall bear interest at the rate of 18% per annum from the due date or, if less, the maximum rate permitted by law. TMI shall be entitled to recover all costs, including attorneys' fees and expert fees, incurred in collecting amounts owed it or in enforcing this Agreement.

H. **ARBITRATION.** All claims, disputes and other matters in question arising out of or relating to this contract or the breach thereof (except those claims released or waived by the terms of this Agreement) shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. At TMI's sole discretion, if TMI elects to have the arbitration conducted outside the American Arbitration Association, then the arbitration shall be administered by the arbitrator, in which case the arbitrator shall be elected by the mutual agreement of the parties. If the parties fail to agree upon an arbitrator within ten days of TMI's election to proceed outside the American Arbitration Association, then Owner shall present TMI with a list of ten proposed arbitrators within 20 days of TMI's election to proceed outside the American Arbitration Association with resumes and who will be fair and impartial, from which list TMI shall select the arbitrator. If Owner fails to deliver the list of 10 proposed arbitrators to TMI within 20 days, then TMI shall appoint the arbitrator in TMI's discretion. All arbitration proceedings shall be conducted in Minneapolis, Minnesota, and shall include pre-arbitration hearing discovery in accordance with the Minnesota Rules of Civil Procedure. Unless otherwise expressly agreed to by TMI, no other person or parties shall be joined or consolidated with proceedings commenced hereunder. The award of the arbitrator shall be final and may be reduced to judgment pursuant to the Minnesota Uniform Arbitration Act and Federal Arbitration Act. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Minnesota and applicable federal law without regard to conflicts of laws principles. In no event shall a demand for arbitration by the Owner be made after the date when institution of a legal or equitable proceeding based on such claim, dispute or matter in question would be barred by any applicable statute of limitations, including Minnesota Statute § 541.051. This Agreement to arbitrate shall be specifically enforceable under the Minnesota Uniform Arbitration Act and Federal Arbitration Act.

I. **CONCILIATION COURT.** At TMI's sole discretion, all claims, disputes, and other matters in question arising out of or relating to this contract or the breach thereof (except those claims released or waived by the terms of this Agreement) that are within the jurisdictional limits of Minnesota Conciliation Court may be filed and decided in Conciliation Court in Dakota County, Minnesota. If TMI elects to resolve any matter in Conciliation Court, the provisions of Paragraph H shall not apply.

J. **COMPLETE AGREEMENT AND MODIFICATIONS.** This document and other documents incorporated herein by reference constitute the complete, entire and integrated understanding of the parties and supersedes all prior and/or contemporaneous negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written amendment signed by both parties and may not be amended in any other manner. If any provision of this Agreement is determined to be unenforceable or invalid, that provision shall be deemed severed from this Agreement and the remaining portions of this Agreement shall be enforced with the same force and effect as if the severed portion had never been a part of this Agreement. This Agreement shall be governed by Minnesota law and the Federal Arbitration Act.

K. **TERMINATION.** In the event of default by the Owner or stoppage of work for a period of thirty days by direction of the Owner, or any other public authority having jurisdiction, TMI may terminate this Agreement without further written notice and the Owner shall pay to TMI all sums due under this Agreement together with TMI's anticipated profits and all other related damages, expenses and legal fees.

L. **INSURANCE AND TAXES.** TMI shall maintain in force during performance of this Agreement Workers' Compensation Insurance and Public Liability Insurance as required by law. The Owner shall carry at its expense "all risk" Builder's Risk insurance upon the entire project site to the full insurable value thereof on a replacement cost basis. This insurance shall include the interests of the Owner, TMI, and TMI's subcontractors and suppliers, and shall insure against "all risks" of physical loss or damage caused by fire, extended coverage perils, flood, earthquake, theft, vandalism, malicious mischief, and other insurable

NORTHERN POOL RESTORATION, LLC.

P.O. Box 309 - Moose Lake, MN 55767
(612) 490-7186

PROPOSAL

Edinburgh Park 7700 York Ave. S. Edina, MN 55435	PHONE (952) 833-9540	DATE July 23, 2013
	JOB NAME / LOCATION same	
	CONTACT Patti McGrath	JOB PHONE

REMODEL INDOOR LAP POOL AS FOLLOWS:

1. Water to be drained by others.
2. Saw-cut & chip out several inches around pool inlets.
3. Remove existing Racing Lane tile and Wall Targets.
4. Clean pool thoroughly to prep for base coat.
5. Install a bonded plaster base coat and let cure.
6. Install (6) new 12" wide Racing Lanes & (12) Wall Targets. *-(tile to be chosen by owner from our samples)*
7. Install 2" wide "white" tile transition lines, as needed for our work.
8. Install a smooth troweled "Pearl Blue" or "Pearl White" Diamond Brite finish.

NOTES: 1)Pool was full of water when checked. Bid is based on the lap pool being in sound condition and not needing additional preparation such as jack-hammering or sandblasting. We can determine this when pool is drained. We will not proceed with work involving extra costs without written approval of the owner or owner's agent. 2)Owner to be responsible for sealing room from rest of building and dust clean-up. 3)Price is good for our 2013 work season.

*** THIS PROPOSAL INCLUDES NOTES ON THE BACK...IF THIS IS A FAX, THE INCLUDED NOTES ARE ON A SECOND PAGE ***

We Propose hereby to furnish material and labor - complete in accordance with the above specifications, for the sum of: **\$ 62,500/00**

Payment to be made as follows: 50% Down; The final 50% drawl to be paid within 30 days of our work completion.

All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control.

Authorized
Signature

Linda Standage

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

ACCEPTANCE OF PROPOSAL - The above prices, specifications and Conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

PROPOSAL NOTES:

- a) Owner to take necessary measures and full responsibility to prevent staining of the new plaster finish with water borne minerals, organic matter, or other contaminates.
- b) Any structural cracks in the existing shell may surface through the new finish, however this will not affect its integrity.
- c) Any plaster finish itself, usually Marblite or Diamond Brite, is not designed to prevent leakage. When finishing or refinishing a pool with a new plaster finish we do not guarantee for any reason the pool (or spa) **not** to leak. Sometimes jack-hammering or other preparation is required that creates vibration. In a sound concrete structure this is not a problem. If the structure is weak in any areas, the chipping or jack-hammering could cause cracking or make evident, areas where additional work is required. This additional work is not covered in our contract. We will not proceed with work involving any extra costs without the written approval of the owner or owner's agent.
- d) Our region of the country has a relatively high water table. Owner to take full responsibility if in the unlikely event the pool should float up. Our bid does not include the cost of lowering the water table around pool if this becomes necessary.
- e) Our work may create some dust. Owner to be responsible for any dust clean up, if necessary.
- f) Owner is responsible for filling the pool with water, all start-up procedures and balanced water chemistry.
- g) There is no warranty against shrinkage checks, mottling (lighter and darker areas and streaks in the surface) and the caustic action at the surface of the plaster as explained below.
- h) All plastered pools (and spa's) have shrinkage checks and mottling associated with them to varying degrees. This is considered normal and is not covered by warranty.
- i) Price does not include the repair of deteriorated cement under the coping, waterline tile or under the existing plaster finish. If in the unlikely event there is deterioration, we can determine this during our work. We will not proceed with work involving extra costs without written approval of the owner or owner's agent.
- j) If waterline tile is not being replaced under this contract, and if any tile should be damaged due to our work, we will repair the damaged tile with the closest matching locally available tile. In some cases, the tile may not be a close match.
- k) Owner to take full responsibility for any staining or surface damage due to use of Ionizers or Chlorine generator systems.

MOTTLING – The plaster finish is usually a white portland cement product, and is troweled with steel trowels. The new finish remains active (hydrating and releasing minerals) for several years after installation. Because of this, and the chemistry of the pool water acting on the minerals moving out of the surface of the plaster, the new finish will not be an even white surface (or in cases where color is used, will not be an even colored surface). It will be mottled, with varying degrees of light and dark areas (this usually evens out in 2 or 3 years). This “mottling” may be very visible in some pools and spas, while not so visible in others.

SHRINKAGE CHECKS – All portland cement products from concrete to pool plaster have shrinkage checks. Sometimes visible, and sometimes not. Due to the smooth texture of pool plaster, shrinkage checks are often visible. These are normal, and do not affect the integrity of the plaster.

CAUSTIC ACTION – On all new pool and spa plaster finishes, for the first few months, there are minerals coming out of the surface that are strong alkalis. Any bathers that use the pool (or spa) for long periods of time, with contact to the plaster surface, may develop sores on their toes and feet. After a couple of months, this caustic action at the plaster surface will have decreased and will eventually disappear.

DIAMOND BRITE / COLOR QUARTZ / MARBLITE GUARANTEE: - Our *Diamond Brite & Color Quartz* finish is covered by a five (5) year limited warranty. The first two (2) years covers labor and materials. The remaining three (3) years are covered for materials, not labor. Our *Marblite* finish is covered for labor and materials by a two (2) year limited warranty. If problems should arise during the period covered by our warranty, the labor and/or materials will be supplied to repair the affected area. This warranty does not cover problems arising from normal wear, chemical actions, stains from pool water or pool water minerals, organic matter or other contaminates, neglect, abuse, or acts of God. On resurfaced pools and spas, this guarantee is limited to covering only the delamination of the new finish from the old surface. It does not cover de-lamination from itself, as this is caused by chemical action beyond our control. This guarantee is VOID if pool is drained for more than 5 days at a time except for lowering the water level just below the returns for normal winterization of outdoor pools. This warranty does not include spas, whirlpools, fountains, or wading pools. They are covered by the one (1) year “Other Work” Guarantee.

OTHER WORK GUARANTEE: - All other work, with the exception of crack repair (which has no guarantee) is covered for labor and materials by a one (1) year limited warranty. Occasional cracks that occur in concrete work are considered to be normal and are not covered. It does not cover leakage, problems arising from normal wear, chemical action, stains from pool water or pool water minerals, organic matter or other contaminates, neglect, abuse or acts of God. - Spas, whirlpools, fountains, and wading pools are included in this Guarantee.