

CITY OF BETHLEHEM

DEPARTMENT OF PUBLIC WORKS INTER-OFFICE MEMORANDUM

SUBJECT: Request for Approval by City Council to Accept a Donation from the Bethlehem Aquatic Club of a Pavilion at Memorial Pool

TO: City Council, all members, and Council Solicitor

FROM: Michael Alkhal, P.E., Director of Public Works & City Engineer

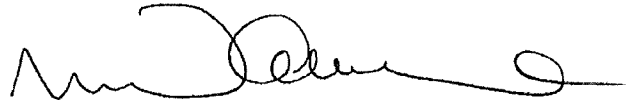
DATE: April 30, 2025

This is to request approval of a donation from the Bethlehem Aquatic Club, Inc. of a pavilion to be erected at the Memorial Pool facility, located at 259 Illick's Mill Road, 18017. The club received a Community and Economic Assistance Program Grant from the Pennsylvania Department of Community and Economic Development and would like to utilize a portion of their funds to purchase and donate a 30 foot by 30 foot pavilion to be erected near the concession area at the site.

If you have any questions or would like to discuss, please let me know.

MA/at

cc: Mayor J. William Reynolds
B. Yandem
J. Evans
file/xc



By: _____
Title: Director of Public Works & City Engineer

DONATION AGREEMENT
(MEMORIAL POOL PAVILION)

This **DONATION AGREEMENT** (this "Agreement"), effective as of the date fully executed by both Parties hereto, by and between the **CITY OF BETHLEHEM**, a Pennsylvania municipal corporation and city of the third class with a principal place for doing business located at 10 E Church Street, Bethlehem, Pennsylvania 18018 (the "City");

A N D

BETHLEHEM AQUATIC CLUB, INC., a Pennsylvania nonprofit corporation with a registered office located at 226 Moreland Avenue, Bethlehem, Pennsylvania 18017 (the "Club") and referred to collectively with the City as the "Parties"), is as follows.

RECITALS

WHEREAS, the Club is the licensee of a certain portion of real property presently owned by the City bearing Northampton County Tax Map Parcel Identification Number N6 16 4 0204E, presently improved with, *inter alia*, a municipal public swimming pool which is presently operated by the Club and known as "Memorial Pool" (the "Pool Premises"); and

WHEREAS, the Club has applied for and received grant funding from the Commonwealth of Pennsylvania in the amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00) for use in the acquisition of a structure to provide shade to the Pool Premises' guests; and

WHEREAS, the Club has or will enter into an agreement with Pioneer Pole Buildings, Inc. ("Pioneer"), providing for the purchase by the Club of a thirty feet (30') wide, thirty feet (30') long, and ten feet four inches (10' 4") tall pavilion structure (the "Pavilion"), and the subsequent installation of the Pavilion at the Pool Premises by Pioneer, all as more particularly described in that certain price quotation prepared by Pioneer for the Club, dated April 04, 2025, a copy of which is attached hereto as **Exhibit A** and made a material part hereof; and

WHEREAS, the City, as a Pennsylvania third class city, is subject to the statutory provisions contained in Pennsylvania's Third Class City Code, *as amended and codified*, 11 P.S. § 10101 *et seq.*, and Pennsylvania's Optional Third Class City Charter Law, *as amended and codified*, 53 P.S. § 41101 *et seq.*; and

WHEREAS, Subsection 2402(a)(4) of the Third Class City Code, 11 P.S. § 12402(a)(4), authorizes the City to "accept gifts or grants of money, other property or services from public or private sources for the exercise of powers expressed or implied in this chapter or any other applicable law;" and

WHEREAS, Subsection 3703.1.(a) of the Third Class City Code authorizes the City's Council to "equip, operate, supervise and maintain a recreation place," and Section 2425 of the Third Class City Code, 11 P.S. § 12425, specifically authorizes the City's Council to "construct, maintain, and manage recreational swimming establishments;" and

WHEREAS, the Club desires to donate to the City, and the City desires to accept from the Club, the Pavilion upon the terms and conditions contained herein; and

WHEREAS, by Resolution No. 2025-_____, duly adopted on _____, 2025, at a regularly-scheduled, public meeting, the City's Council did conditionally approve the City's acceptance of the donation of the Pavilion by the Club to the City upon the terms and condition contained herein.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and agreements contained herein, the legal sufficiency of which are hereby acknowledged by Parties, as well as for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by the Parties, the Parties hereto, intending to be legally bound hereby, agree as follows.

1. **Recitals**. The foregoing Recitals are incorporated herein by reference and made a material part hereof.
2. **Donation of Pavilion**. The Parties acknowledge and agree that the Club shall convey the Pavilion to the City for the nominal sum of One Dollar (\$1.00).
3. **Installation of Pavilion by Pioneer**. The Parties acknowledge that Pioneer will install the Pavilion at the Pool Premises in a location mutually agreed upon by the Parties (the "Work").
4. **Inspection and Acceptance of Structure; Conveyance by Bill of Sale**.
 - a. Following final completion of the Work, the City, acting through its authorized representative(s) or employee(s), shall inspect the Work to ensure that the Pavilion has been installed in a good and workmanlike fashion and that the Pavilion, as installed, complies with all applicable construction and/or building codes governing structures within the City.
 - b. Upon being satisfied with the results of the inspection described in Subsection 4.a., above, the City, acting through its authorized representative(s) or employee(s), shall notify the Club that the Pavilion's installation has been deemed acceptable by the City.
 - c. Following notification of the Club by the City as described in Subsection 4.b., above, the Club shall execute the Bill of Sale attached hereto as **Exhibit B** and

deliver same to the City at 10 E Church Street, Bethlehem, Pennsylvania 18018, Attention: Legal Bureau, by U.S. certified mail (return receipt requested), or by personal delivery (preferred). Upon delivery of said Bill of Sale to the City, the Bill of Sale shall be deemed accepted by the City's Council on behalf of the City.

5. **Permitting and Approvals.** To the extent applicable, the City shall be responsible for obtaining any necessary permit(s) or approval(s) to authorize the Work; provided, however, that the City agrees to waive any applicable fees related thereto.
6. **Assignment of Warranty.** To the extent that the Club receives any form of warranty from Pioneer relating to the condition or quality of the Pavilion, the fitness of the Pavilion for its intended use, or the performance of the Work, the Club shall assign such warranty to the City. The City shall comply with all reasonable requests of the Club or Pioneer in accomplishing the assignment of such warranty or warranties. The acceptance of such assignment shall be evidenced by the signature of an authorized representative of the City.
7. **Insurance.** The Club shall purchase, and maintain through the completion of the Work and the approval of same by the City in accordance with Subsection 4.b., above, comprehensive general liability insurance coverage naming the "City of Bethlehem, its officials and employees" as additional insureds for a minimum of One Million Dollars (\$1,000,00.00) per occurrence and general aggregate of Two Million Dollars (\$2,000,000.00). The Club shall furnish a Certificate of Insurance (Acord 25 form or equivalent) to the City at the time of signing this Agreement. The said insurance shall cover public liability, property damage, and personal injury, and the Certificate of Insurance required by this Section 7 shall be approved by the City's Legal Bureau prior to the commencement of the Work (including the delivery of the Pavilion to the Pool Premises). The Club shall cause Pioneer and any other contractor or subcontractor performing the Work on behalf of the Club or Pioneer to purchase, and maintain through the completion of the Work and the approval of the same by the City in accordance with Subsection 4.b., above, the insurance coverages required by this Section 7 naming "the City of Bethlehem, its officials, and employees" as additional insureds on the policy or policies providing such coverages. The Club shall require that Pioneer provide a Certificate of Insurance (Acord 25 form or equivalent) to the Club for subsequent forwarding to the City's Legal Bureau for review and approval. Pioneer shall not be authorized to commence any Work (including delivery of the Pavilion to the Pool Premises) until its Certificate of Insurance has been approved by the City's Legal Bureau.
8. **Indemnification.** The Club agrees to indemnify and hold the City harmless from any losses, liabilities, claims, and damages incurred by the City arising out or relating to the Work performed pursuant to this Agreement, except to the extent such losses, liabilities, claims, and damages are caused by the gross negligence or willful misconduct of the City or the City's agents or invitees.

9. **Limitation on Damages.** In no event shall the Club or the City be liable to each other under this Agreement for any consequential, liquidated, incidental, special, or exemplary damages including, without limitation, loss of use, loss of profit, or diminution in value.
10. **Notices.** Any notices required to be made under this Agreement will be made in writing and transmitted by certified U.S. mail (return receipt requested), hand delivery, electronic mail (e-mail) delivery, or by a nationally-recognized overnight mail service to the following addresses:

IF TO THE CLUB:

Bethlehem Aquatic Club, Inc.
c/o Sara Collins, President
226 Moreland Avenue
Bethlehem, Pennsylvania 18017
E-mail Address: saradysoncollins@gmail.com

IF TO THE CITY:

City of Bethlehem
c/o Jodi M. Evans, Director of Recreation
10 E Church Street
Bethlehem, Pennsylvania 18018
E-mail Address: JEvans@bethlehem-pa.gov

WITH A COPY TO:

City of Bethlehem
Attn: Legal Bureau
10 E Church Street
Bethlehem, Pennsylvania 18018
E-mail Address: CBartera@bethlehem-pa.gov

11. **Governing Law; Construction; Venue.** This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The Parties acknowledge and agree that the Court of Common Pleas of Northampton County, Pennsylvania, shall be the sole and exclusive venue for any legal action brought by either of the Parties arising out of or relating to this Agreement.
12. **Effect of Section Headings/Captions.** The Section headings/captions contained herein are for convenience of the Parties only and are not considered a material part of this Agreement nor shall they be considered in interpreting this Agreement.
13. **No Assignment.** This Agreement may not be assigned by either Party, and no purported or attempted assignment of this Agreement shall be effective against either of the Parties.

- 14. **Integrated Agreement.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes all written and oral communications between the Parties prior to its execution.
- 15. **Amendment; Severability; No Waiver.** This Agreement may not be amended, except in writing signed by both Parties hereto. The provisions of this Agreement are severable. If any term or portion of this Agreement will be held to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected, and each remaining term or portion will be valid and enforced to the fullest extent permitted by law. Any failure to enforce any provision of this Agreement will not operate as a waiver of such provision or of any other provision.
- 16. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have hereunto set their hand(s) and official seal(s) as of the date(s) indicated below.

BETHLEHEM AQUATIC CLUB, INC., a Pennsylvania nonprofit corporation

CITY OF BETHLEHEM, a Pennsylvania third class city

By: _____
(Signature)

By: _____
J. William Reynolds, Mayor

Name: _____

Date: _____

Title: _____

ATTEST

Date: _____

By: _____
George Yasso, Controller

ATTEST:

By: _____
(Signature)

Date: _____

Name: _____

- Attachments:**
Exhibit A – Price Quotation
Exhibit B – Bill of Sale

EXHIBIT A
(See attached)

[Insert Price Quotation]



PRICES SUBJECT TO CHANGE AT
TIME OF CONTRACT DUE TO
VOLATILITY IN THE LUMBER

Prepared For:
Bethlehem Aquatic Club
Sara Collins
Bethlehem, PA

QUOTE NUMBER:
PQS-690746-003

Page: 1 of 1
Quote Date: 4/4/2025
Quote By: Samantha
Customer ID: 690746

Phones: Home: (610) 844-7690

Building

Dimensions: 30'W x 30'L x 10'4"H(Pavilion)
4x6 poles .23 MCA treated, poles 8' on center in all areas except where 10' is allowable on gable ends
Siding: Pavilion, No side steel or purlins
Roofing: Architectural 30 year shingles with 5/8" OSB
30' Standard Trusses, 2' on center, 4/12 pitch, snow load by code and design

Overhangs

Eaves Overhang: OH 1', Gables Overhang: OH 1'

Insulation

Liner Panel: Ceiling White

Miscellaneous

2 x 6 Skirtboard .60 Treated with barrier tape

Additional

- Pioneer to layout post positions and cut holes in existing asphalt for drilling of footers. Pioneer is not responsible for damage caused to existing asphalt during construction of building.
- All posts to be 3 PLY 2x6 Glu-Lams
- Dutch corners to be installed on all posts- wrapped with metal.
- Add vinyl post wraps

Total for above building erected on your level, compacted site: \$25,734

Additional Options

Miscellaneous

Trash Removal, If Needed	\$350
Engineered Sealed Blueprints (If Required By Township/County)	\$1,000
Non Stamped Blueprints	Free

Ask about our Excavation services!

EXHIBIT B
(See attached)

[Insert Bill of Sale]

BILL OF SALE FOR POOL PAVILION STRUCTURE
(MEMORIAL POOL)

KNOW ALL MEN BY THESE PRESENTS that **BETHLEHEM AQUATIC CLUB, INC.**, a Pennsylvania nonprofit corporation with a registered office at 226 Moreland Avenue, Bethlehem, Pennsylvania 18017 ("**Seller**"), for the nominal consideration of One Dollar (\$1.00), good and valuable consideration in hand paid at or before the sealing and delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, conveyed, transferred, assigned, and delivered to the **CITY OF BETHLEHEM**, a Pennsylvania municipal corporation and city of the third class having a principal place for doing business located at 10 E Church Street, Bethlehem, Pennsylvania 18018 (the "**City**"), and its successors and assigns, all of Seller's right, title, and interest in and to that certain pavilion structure more particularly described in that certain price quotation prepared by Pioneer Pole Buildings, Inc. for Seller, dated April 04, 2025, a copy of which is attached hereto as **Exhibit B-1** and made a material part hereof (the "**Pavilion**"). The Pavilion is conveyed pursuant to a certain "Donation Agreement (Memorial Pool Pavilion)," dated _____, 2025, by and between Seller and the City, wherein Seller agreed to convey the same to the City.

TO HAVE AND TO HOLD, the same unto the City and its successors and assigns, to and for the City's own proper use, benefit, and behoof forever.

AND Seller hereby warrants and represents to the City that Seller has the right and authority to convey the Pavilion to the City, free and clear of any liens, charges, security interests, or encumbrances of any nature whatsoever.

[SIGNATURE PAGE FOLLOWS]

[Signature Page to Bill of Sale for Pool Pavilion Structure (Memorial Pool)]

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day
of _____, 2025.

SELLER

BETHLEHEM AQUATIC CLUB, INC.,
a Pennsylvania nonprofit corporation

By: _____
(Signature)

Name: _____

Title: _____

Date: _____

ATTEST

By: _____
(Signature)

Name: _____

Date: _____

Attachment:
Exhibit B-1 – Price Quotation

EXHIBIT B-1
(See attached)

[Insert Price Quotation]



PRICES SUBJECT TO CHANGE AT
TIME OF CONTRACT DUE TO
VOLATILITY IN THE LUMBER

Prepared For:
Bethlehem Aquatic Club
Sara Collins
Bethlehem, PA

QUOTE NUMBER:
PQS-690746-003

Page: 1 of 1
Quote Date: 4/4/2025
Quote By: Samantha
Customer ID: 690746

Phones: Home: (610) 844-7690

Building

Dimensions: 30'W x 30'L x 10'4"H(Pavilion)
4x6 poles .23 MCA treated, poles 8' on center in all areas except where 10' is allowable on gable ends
Siding: Pavilion, No side steel or purlins
Roofing: Architectural 30 year shingles with 5/8" OSB
30' Standard Trusses, 2' on center, 4/12 pitch, snow load by code and design

Overhangs

Eaves Overhang: OH 1', Gables Overhang: OH 1'

Insulation

Liner Panel: Ceiling White

Miscellaneous

2 x 6 Skirtboard .60 Treated with barrier tape

Additional

-Pioneer to layout post positions and cut holes in existing asphalt for drilling of footers. Pioneer is not responsible for damage caused to existing asphalt during construction of building.

All posts to be 3 PLY 2x6 Glu-Lams

-Dutch corners to be installed on all posts- wrapped with metal.

-Add vinyl post wraps

Total for above building erected on your level, compacted site:

\$25,734

Additional Options

Miscellaneous

Trash Removal, If Needed \$350
Engineered Sealed Blueprints (If Required By Township/County) \$1,000
Non Stamped Blueprints Free

Ask about our Excavation services!