

City of Castroville Swim Facility Use Agreement With MVISD

THIS SWIM FACILITY USE AGREEMENT ("Agreement") is made and entered into by and between the **CITY OF CASTROVILLE, TEXAS**, a Home Rule Municipality and political subdivision of the State of Texas ("City"), and the **MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT**, a Texas Independent School District, also a political subdivision of the State of Texas ("MVISD" or "District" for use of the City Pool located at 816 Alsace Ave, Castroville TX 78009 ("Swim Facility"). City and District may be referred to individually as Party or collectively as the Parties.

Section 1. Grant of Right to Use and Term

1.1 Grant of Right. City hereby grants the District the right to use the Swim Facility and equipment specified in this Agreement, on an exclusive basis during Scheduled Dates and Times, as defined herein, on the terms and conditions set forth herein. This Agreement will remain in full force for a term of one (1) year[s], ("Initial Term") The Initial Term will automatically renew for successive one (1) year terms upon written request to continue with the license herein granted; unless, not later than sixty (60) days prior to the expiration of the then current term, either party notifies other, in writing, of its intention not to renew this Agreement. All terms and conditions contained in this Agreement shall apply to said renewal terms.

Section 2. Permitted Use and Responsibilities of the Parties.

2.1 District Uses and Responsibilities.

2.1.1 Swim Facility Use. The District shall use the Swim Facility only for the purposes of conducting its regular swim practices, competitions and other scheduled special events and activities directly related thereto. The Swim Facility may not be used for any other purpose by the District. Only authorized District swim team participants, District invitees, and District coaches and associated swim team personnel may use the swimming pool during the periods listed above. District will take necessary measures to assure that swim team participants do not use the swimming pool at any time, unless under the direct supervision of an authorized coach. With the exception of a parent or guardian, students may not bring any guests, visitors, or invitees with them to the Swim Facility, without making prior arrangement for such visit with the District and the City Parks and Recreation Director.

2.1.1.1 Practice Times: The District shall have use of the Swim Facility, each day during its regularly scheduled swim team practice times ("Practice Times"), as follows:

September 1st – 2nd Friday of February

DAYS	HOURS
Monday- Friday	6:30 AM – 8:30 AM

Practice Times reflected above may be changed by agreement of both The City and The District, and such change shall be documented by execution by both parties of an "Exhibit A", dated to reflect its effective date and which upon being appended to this document shall modify the Agreement.

2.1.1.2 Scheduled Special Events Use. The District shall have use of the Swim Facility, for District Swim Team competitions and other special events not a part of regularly scheduled practices ("Special Events").

a. Scheduling. Not later than __August 15th, each year of this Agreement, District shall provide requested practice times, and projected dates for all scheduled Special Events. Thereafter, District staff and City Parks and Recreation staff shall meet and arrive at a final schedule for the following School Term. The agreed dated Term Schedule shall be appended to this Agreement for each term of this Agreement as **Exhibit A-1** and shall become a part hereof by reference. Once such schedule is established the District shall be entitled to exclusive use of the Facility during the scheduled dates and times absent an emergency. To the extent the entire Facility is not needed for a particular date or time on the schedule, the District shall provide this information to City at the time of scheduling and the unused portions of the Facility may be used by City for its purposes. If an event is required to be cancelled, the District will provide reasonable notice to City based upon the circumstances requiring the cancellation. Additional dates can be added to the scheduled dates at any time but shall be subject to availability of the Facility on the date requested. The District and City agree to reasonably cooperate to schedule the use of the Facilities in a manner consistent with this Agreement, to provide the greatest benefit to the students of the District and City residents.

2.1.2 Equipment Use.

2.1.2.1 Use of City Equipment. The District agrees that to the extent it uses City Equipment at the Swim Facility, it will safeguard such property and exercise reasonable care in its utilization. The District shall instruct team members in the proper use and care of City equipment and agree to report any problems or repairs needed to such equipment to the appropriate City personnel. The District shall be responsible for the repair of damage to the Swim Facility or City equipment, which is not attributable to normal wear and tear, and is caused by its students, team members, volunteers or guests.

2.1.2.2 District Equipment. District agrees to safeguard, maintain and inventory its equipment brought onto Swim Facility premises ("District Equipment") and promptly report any incidence of stolen, missing, damaged or destroyed District Equipment. Notwithstanding the foregoing, in the event that any District Equipment is damaged, destroyed or stolen, while it is on Swim Facility premises, the District shall be solely responsible for repair or replacement of such equipment. A District Equipment Inventory shall be provided annually to the Parks and Recreation Department.

2.1.2.3 Storage. City shall allocate reasonable space for the storage of the District Equipment.

2.2 City of Castroville Use and Responsibilities.

2.2.1 Use. Except in emergency situations, for those periods of time during which the District and City have agreed that the District shall have the exclusive use of the Swim Facility, City's right to use the Swim Facility shall be subordinate to the District's right and the District shall

have exclusive use of the Swim Facility unless the District consents, in writing to another person or entities' use of the Swim Facility during the District's scheduled use. City's right to schedule use of the Swim Facility shall otherwise be absolute at all other times.

2.2.2 Responsibilities.

a. City shall be responsible for providing all day to day operation, maintenance and upkeep of Swim Facility, including responsibility for insurance, major repair, routine custodial services and utilities required for normal operation of the Swim Facility. Notwithstanding the foregoing, following its use of the Swim Facilities, the District shall ensure that the pool area and restrooms are returned in the condition in which it was delivered to the District for that period of use.

b. City will operate and manage the Swim Facility in compliance with Texas Administrative Code Chapter 265.

Section 3. Lifeguard and Safety Issues.

3.1 Lifeguard and Second Responder. For safety of its team members, their guests and their opponents in any competition, the District in compliance with the Lifeguard Personnel Standards set out in Texas Administrative Code Chapter 265, Rule 165.199 (g) and will assign during each competition and Special Event, at no cost to City , at least one assigned lifeguard but at all times will assure that lifeguard coverage adequate to provide supervision, continuous surveillance, and close observation of pool users in all areas of the pool and at all times when the pool is in use. City will provide lifeguards during regular scheduled practices. The assigned lifeguard(s) shall hold an ARC "Lifeguard Training" certificate or the equivalent certification from an aquatic safety organization, which also includes training in ARC "Adult, Infant, and Child CPR" and "Community First Aid" or their equivalent. District shall also assign during practice times and Special Events, at a minimum, an additional lifeguard or a Second Responder assigned as a monitor, who is readily available at the pool, and who has a minimum training in (ARC) "Adult, Infant, and Child CPR" and "Community First Aid" or equivalent training during practices and Special Events, shall also be in the pool area when the pool is in use.

3.2 Pool Rules. District, its students and employees, shall at all times maintain proper decorum while using the Swim Facility, shall abide by and observe the rules, regulations and policies adopted by the District and City , particularly those applicable to extracurricular and off-campus activities, shall comply with all applicable laws, ordinances, orders, rules and regulations, now or hereafter in effect, of all governmental authorities and shall not permit any use or manner of use of the Swim Facility in violation of the foregoing. The District agrees to use best efforts to assure that its participants, guests, and invitees abide by all Pool Rules and policies of the City, regarding the use of facilities or equipment and shall at all times enforce such rules regulations, and policies. Any uncorrected breach of pool rules or Facility policies shall be grounds for immediate termination of this Agreement and/or expulsion of user and user's guests, at the sole discretion of City.

Section 4. Usage Fees and Covenants.

4.1. User Fee: The District shall pay a User Fee in the amount of **One- Hundred and Fifty Dollars (\$150.00) per swimmer plus an additional fee for lifeguarding (Number of Practices X \$60.00)**. Such User Fee shall be payable to the City not later than the 15th of February.

Section 5. Insurance and Property Damage.

5.1. Insurance Coverage. The District agrees to obtain and maintain in full force and effect, during the term of this Agreement, a policy or policies of insurance, or risk pool coverage, in amounts sufficient to save, protect, and insure itself, its property, its employees, officers, trustees and agents from claim, cause of action, liability arising out of the acts or omissions of the District, its employees, officers, trustees, and agents. The City agrees to obtain and maintain in full force and effect, during the term of this Agreement, a policy or policies of insurance, or risk pool coverage, in amounts sufficient to save, protect, and insure itself, its property, its employees, officers, and agents from any claim, cause of action, or liability arising out of the actor omissions of the City, its employees, officers, or agents.

5.2 Property Damage. If the Swim Facility or property of City located thereon is damaged or destroyed by reason of the negligence of District students or employees during the times that the Swim Facility are subject to the sole use of District, reimbursement for replacement or repair thereof shall be made by District to City; provided, however, that nothing herein contained shall be construed to obligate District to make repairs for damage which is due to ordinary wear and tear. District personnel must immediately notify facility staff of any damage to City property that has occurred during the times District has use of the Swim Facility.

Section 5.3 Liability. It is understood and agreed between the parties that each party hereto shall be responsible for its own acts of omissions, including the acts of omissions of its employees, officers, trustees, and agents. Where injury or property damage result from the joint or concurring negligence of both parties, liability, if any, shall be shared by each party on the basis of comparative responsibility in accordance with the applicable laws of the State of Texas, subject to all defenses, including governmental immunity.

Section 6. Termination.

6.1. If the District fails to timely pay any User Fee or other consideration, or fails to cure a material default in the performance of this Agreement within thirty (30) days after written notice thereof is received by the District, City may terminate this Agreement by written notice. If City fails to cure a material default in the performance of this Agreement within thirty (30) days after written notice thereof is received by City, the District may terminate this Agreement by written notice. Upon such default by City, the District shall have no liability for Consideration after the date of written notice of default.

6.2 Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other Party. Upon such termination and neither Party will have any duty to perform the obligations nor did covenants set forth in this Agreement.

Section 7. General Provisions.

7.1. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between or among the Parties relating to the subject matter hereof which are not fully expressed herein. This Agreement may not be modified or amended except by written agreement executed by the Parties hereto. This Agreement supersedes and makes void all prior Agreement agreements between the Parties regarding use of the Swim Facility. No failure of a Party to enforce any provision hereof shall be deemed to constitute a waiver of such provision or of any of that party's rights hereunder.

7.2. No Assignment. Neither Party shall assign all or any portion of this Agreement without the prior written consent of the other. Any attempted assignment without prior written consent shall be void.

7.3. Severability. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision. It is the intention of the parties that each provision hereof be construed in a manner designed to effectuate the purposes of such provision to the maximum extent enforceable under applicable law.

7.4. No Waiver of Immunity. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, its officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein. No provision of this Agreement is consent to suit. Nothing in this Agreement shall be deemed to create a partnership, agency, or joint venture relationship.

7.5. No Third-Party Beneficiary. This Agreement inures to the benefit of and obligates only the Parties executing it and their respective heirs, successors, assigns and legal representatives. No term or provision of this Agreement shall benefit or obligate any person or entity not a party to it. The parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this Agreement.

7.6. Law and Venue. This Agreement shall be governed by the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. This Agreement is deemed performable entirely in Medina County, Texas. Any litigation to enforce or interpret any terms of the Agreement or any other litigation arising out of or as a result of the Agreement shall be brought in the State courts of Medina County, Texas.

Signed this 10th day of December, 2024.

**FOR THE BOARD OF TRUSTEES OF
MEDINA VALLEY INDEPENDENT
SCHOOL DISTRICT**

FOR THE CITY OF CASTROVILLE, TEXAS

By: _____
Superintendent

By: _____
Mayor

Date

Date