

## USE AGREEMENT

### Tiger Splash and City of Dripping Springs for Founders Memorial Park Pool

THIS USE AGREEMENT (the “Agreement”) is entered into by and between the City of Dripping Springs, Hays County, Texas, (the “City”), a general law municipality organized and operating under the general laws of the state of Texas, and Tiger Splash, a registered Texas non-profit organization.

#### I. RECITALS

- A. Tiger Splash is a registered Texas non-profit in good standing whose purpose is to provide the youth of Dripping Springs and surrounding areas swim programs that encourage confidence, positive self-esteem and good sportsmanship.
- B. Tiger Splash wishes to enter into a use agreement with the City to allow Tiger Splash to use Founders Memorial Park Pool (“Pool”) for Tiger Splash practices and swim meets.
- C. The City desires to aid Tiger Splash and, accordingly, agrees to allow Tiger Splash to use the Pool for their practices and swim meets.

#### II. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants described herein, the parties hereto agree as follows:

##### A. Duties of Tiger Splash

- a. Tiger Splash will collect all Swim Team Registration fees.
- b. Tiger Splash will provide all equipment needed for Swim Meets including, but not limited to, timing systems, and will provide for set-up and take down.
- c. Tiger Splash representatives may be called upon to assist aquatics staff to remove the pool covers prior to usage and replace the pool covers after each usage. Tiger Splash representatives shall timely comply with such requests.

##### B. Duties of the City

- a. The City will allow Tiger Splash to use the on-site storage shed at the pool for storing swim meet items.

- b. Tiger Splash shall not operate or allow the sale of concessions without City written approval, which shall be requested in advance of any sale, unless otherwise specifically authorized by this agreement.
- c. The City will allow Tiger Splash to sell coffee and breakfast tacos on Swim Meet Days: May 20, June 3, June 10, June 17, June 24, and July 1. Concessionaires may be required to obtain a food handlers permit and shall comply with the City's Food Establishment Regulations (Chapter 10 Health and Sanitation, Article 10.02 Food Establishments, City of Dripping Springs Code of Ordinances)
- d. Costs for heating the pool are covered by the facility rental fee.
- e. A minimum of 2 lifeguards will be present at every swim practice (provided that junior aquatic volunteers are present in the water during practice) and a minimum of 3 lifeguards at every swim meet or swim team party
- f. The city will allow Tiger Splash to hang one (1) canvas banner on the inside of the fence facing the pool area at Founders Memorial Pool at no cost. The banner must include the City of Dripping Springs provided logo and the design must be pre-approved by the City Administrator or other designee.

#### **D. Rental Fees and Payment**

- a. Total Rental Fee for practices, parties and meets \$18,000 as outlined in Exhibit "A".
- b. Additional Lifeguard required at meets \$1,125 as outlined in Exhibit "A".
- c. Pavilion use for pre-scheduled swim meets, practices, and team social events covered by this Agreement will be provided at no cost to Tiger Splash. (Discount of \$85 per use).
- d. Total Facility Rental Fee due to the City of Dripping Springs is \$19,125 (equivalent to ~\$96/hr which includes lifeguard staffing, use of the facilities, utilities, propane, and promotion of Tiger Splash in the 2023 Parks and Community Services Guide, website, and social media outlets).
- e. Tiger Splash will receive City Administrator approved 10% off of rental fees due to non-profit status and service to community qualifications.
- f. Payment to the City shall occur in full before the end of the first week of practice or by Friday, May 5, 2023.

#### **E. Access to Facilities**

- a. Tiger Splash swim team is permitted access to Founders Memorial Park Pool during reserved times for swim team practices and meets. If a pre-scheduled practice or swim meet

time is going to be utilized for a team social event that is not already documented in this agreement, the use change and supporting details must be communicated at least two weeks in advance, in writing to the Pool Manager to allow for proper staffing and accommodations.

- b. Tiger Splash is permitted to host social events outside the dates detailed in this Agreement. However, the organization will have to reserve amenities and pay the associated fees at the current Fee Schedule rates and terms.
- c. In order to provide the safest operational standards, no more than 150 people can be in the facility at one time including swimmers, spectators, and volunteers.
- d. A designated spectator area for families and guests is preferred. The designated location will be in an area that does not prevent ingress or egress around the pool and through the facility.
- e. Tiger Splash shall have access to the Pool for the following times on the following dates as outlined in Exhibit “A” and as follows between Monday, April 24, 2023 – Tuesday, July 25, 2023, and:
  - i. April 24, 2023 - April 25, 2023: Monday & Tuesday, 5:00 p.m. – 8:00 p.m.
  - ii. April 26, 2023 - April 27, 2023: Wednesday & Thursday, 5:00 p.m. – 7:00 p.m.
  - iii. May 1, 2023 – May 25, 2023: Monday – Thursday, 5:00 p.m. – 8:15 p.m.
  - iv. May 30 , 2023 – June 29 , 2023: Monday – Thursday, 6:00 p.m. – 9:15 p.m.
  - v. July 5,2023 – July 25, 2023: Monday – Thursday, 6:00 p.m. – 9:15 p.m.
  - vi. Six Meet Dates:
    - i. Saturday, May 20, 2023: 6:30 a.m. – 12:30 p.m.
    - ii. Saturday, June 3, 2023: 6:30 a.m. – 2:30 p.m.
    - iii. Saturday, June 10, 2023: 6:30 a.m. – 12:30 p.m.
    - iv. Saturday, June 17, 2023: 6:30 a.m. – 12:30 p.m.
    - v. Saturday, June 24, 2023: 6:30 a.m. – 12:30 p.m
    - vi. Saturday, July 1, 2023: 6:30 a.m. – 12:30 p.m
  - vii. Tiger Splash may also have exclusive use of Founders Memorial Park Pavilion for the above outlined dates and times for team social events, parent meetings, and during swim meets and practices.

- f. If there is an emergency such as inclement weather, public health emergency, or an unforeseen circumstance, the City may decide to close the Pool or limit access to the Pool on impacted days. If the pool is closed, the City will work with Tiger Splash to reschedule the canceled practice or swim meet date during the season barring that the pool space and staff is available.
- g. Tiger Splash will not have access to the pool Memorial Day, May 31, 2023, or Independence Day, July 4, 2023.

**F. It is understood and agreed between the parties that:**

- a. Tiger Splash will maintain its own liability insurance through Texas Amateur Athletic Federation (TAAF) and will name the City as an additional named insured and provide a copy of such policy prior to the beginning of the terms of this Use Agreement.
- b. It is specifically agreed that nothing herein is intended to convey any real property rights of the Pool to Tiger Splash.
- c. The City assumes no responsibility for any property placed by Tiger Splash or any Tiger Splash member, agent, or guest, at the Pool or in the storage facilities or any part thereof, and the City is hereby expressly released and discharged from any and all liability for any loss, injury, or damage to persons or property that may be sustained by reason of the use of the Pool and related facilities under this Agreement.
- d. Tiger Splash accepts the premises as-is. Tiger Splash may not change any part of the Pool or layout of its related facilities unless it receives prior written approval from the Aquatics and Athletics Manager or the Parks and Community Services Director for the proposed changes.
- e. Tiger Splash will cooperate with the City to comply with all applicable laws (federal, state, and local), including ordinances of the City. Tiger Splash agrees to abide by and conform with all rules and regulations from time to time adopted or prescribed by the City for the government and management of the Pool.
- f. TIGER SPLASH AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, SERVANTS, AND EMPLOYERS, FROM AND AGAINST ANY AND ALL CLAIMS FOR DAMAGES OR INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR INCIDENT TO THEIR USE OF, OR THE USE AND OCCUPANCY OF, THE POOL BY TIGER SPLASH, AND TIGER SPLASH DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR DAMAGES TO PERSONS OR PROPERTY WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING THE TERM OF THIS AGREEMENT IN CONNECTION

WITH THE USE OR OCCUPANCY OF THE POOL BY TIGER SPLASH OR ITS AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, MEMBERS, GUESTS OR INVITEES.

- g. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor must fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: <https://www.ethics.state.tx.us/filinginfo/QuickFileAReport.php>
- h. Tiger Splash shall not assign this Agreement, or any rights, obligations dates, discounts, or entitlements created under this Agreement to any other person or entity.
- i. Either party may terminate this Agreement without cause upon the terminating party giving the non-terminating party thirty (30) days written notice.
- j. This Agreement will automatically terminate if Tiger Splash fails to make any required payment or if Tiger Splash fails to adequately respond and remedy any complaints or concerns from the City within thirty (30) days of a written request by the City.
- k. All notices in connection with this Agreement shall be in writing and shall be considered given as follows:

When delivered personally to the recipient's address as stated in this Agreement; or Five (5) days after being sent by certified mail in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement:

**To the City:**  
City of Dripping Springs  
Attn: City Administrator  
PO Box 384  
Dripping Spring, TX 78620

**To Tiger Splash:**  
Tiger Splash  
Attn: Vice - President  
1521 Kemp Hills Dr.  
Austin, TX 78737

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Tiger Splash.

- l. This Agreement shall be effective upon final signing by both parties.

**IN WITNESS WHEREOF, The City of Dripping Springs and Tiger Splash have executed this Agreement on the dates indicated.**

**CITY OF DRIPPING SPRINGS:**

**TIGER SPLASH:**

\_\_\_\_\_  
Michelle Fischer, City Administrator

\_\_\_\_\_  
James Landrum, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Andrea Cunningham, City Secretary

**EXHIBIT A**  
**Tiger Splash 2023 Calendar & Fees Outline**

**Tiger Splash Calendar 2023**

<b>Date</b>	<b>Day</b>	<b>Time</b>	<b>Event</b>	<b>Location</b>
April 24 & 25	Mon & Tues	5:00pm – 8:00pm	JAV Training (6hrs)	Founders Pool
April 26 & 27	Wed & Thurs	5:00pm – 7:00pm	NEW Swimmer Evaluations (4hrs)	Founders Pool
May 1-4	Mon - Thurs	5:00pm – 8:15pm	Practice (13hrs)	Founders Pool
May 8-11	Mon - Thurs	5:00pm – 8:15pm	Practice (13hrs)	Founders Pool
May 15-17	Mon - Wed	5:00pm – 8:15pm	Practice (9.75hrs)	Founders Pool
May 18	Thursday	5:00pm – 8:15pm	Kick-Off Swim Party (3.25)	Founders Pool
May 20	Saturday	6:30am - 12:30pm	Time Trials Swim Meet (6hrs)	Founders Pool
May 22-25	Mon - Thurs	5:00pm – 8:15pm	Practice (13hrs)	Founders Pool
May 30-June 1	Tues - Thurs	6:00pm - 9:15pm	Practice (9.75hrs)	Founders Pool
June 3	Saturday	6:30am - 2:00pm	Founder’s Swim Meet & JAV Refresher (7.5hrs)	Founders Pool
June 5-8	Mon - Thurs	6:00pm - 9:15pm	Practice (13hrs)	Founders Pool
June 10	Saturday	6:30am - 12:30pm	Home Swim Meet (6 hrs)	Founders Pool
June 12-15	Mon - Thurs	6:00pm - 9:15pm	Practice (13hrs)	Founders Pool
June 17	Saturday	6:30am - 12:30pm	Pentathlon Swim Meet (6)	Founders Pool
June 19-22	Mon - Thurs	6:00pm - 9:15pm	Practice (13hrs)	Founders Pool
June 24	Saturday	6:30am - 12:30pm	Color Splash Swim Meet (6)	Founders Pool
June 26-28	Mon - Wed	6:00pm – 9:15pm	Practice (9.75hrs)	Founders Pool
June 29	Thursday	6:00pm - 9:15pm	Team Swim Party (3.25hrs)	Founders Pool
July 1	Saturday	6:30am - 12:30pm	PR Swim Meet (6)	Founders Pool
July 5-6	Wed & Thurs	6:00pm - 9:15pm	Practice (6.5hrs)	Founders Pool
July 10-13	Mon - Thurs	6:00pm - 9:15pm	Practice (13hrs)	Founders Pool
July 17-20	Mon - Thurs	6:00pm - 9:15pm	Practice (13hrs)	Founders Pool
July 24-25	Mon & Tues	6:00pm - 9:15pm	Practice (6.5hrs)	Founders Pool

<b>Event Type</b>	<b>Total Hours for 2023 Season</b>
JAV Training	6 hrs
Swimmer Evaluation	4 hrs
Swim Practice	146.25 hrs
Swim Party	6.5 hrs
Swim Meet	37.5 hrs
<b>TOTAL HOURS:</b>	<b>200.25 hrs</b>

**2023 Swim Season Proposed Fee Outline**

- Practices, Parties & Meets = 200hrs x \$90/hr (\$100/hr Rate – 10% discount) = \$18,000
- Additional Guard for meets \$30/hr x 37.5hrs = \$1,125
- Pavilion Rental for Meets/Practices (\$85/4hr block) 200hrs = \$4,250 (Fee Waived)
- TS Equipment and Program Supply On-Site Storage = No Charge
- City Admin Non-profit Discount 10%

Total for season = \$19,125

(Based on current Fee Schedule + including 10% discount + Lifeguard + Propane + 0 pavilion rental fee)

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**2022 Swim Season Fee Summary (Comparison)**

- Practices & Meets = 180hrs x \$76.50/hr = \$13,770 (Includes 15% Discount off NP Rate)
- Additional Guard for meets \$25/hr x 32hrs = \$800
- Pavilion Rental for Meets/Practices (\$75/4hr block) 180hrs = \$3,375 (Fee Waived)
- TS Equipment and Program Supply On-Site Storage = No Charge
- City Admin Non-profit Discount 10% + PRC Recommended 5%

Total for season = \$14,570

(Based on current Fee Schedule + including 15% discount + Lifeguard + Propane + 0 pavilion rental fee)

**2021 Swim Season Fee Summary (Comparison)**

- Meet Fees = \$1,200.00
- 30% of enrollments = \$9,072 (189 swimmers @ \$160)
- Propane Reimbursement = \$2,014.95 (Council approved discounted payment, TS did not pay actual owed)

Total \$13,486.95