

**INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF CLAY
COUNTY, FLORIDA, AND ROLLING HILLS COMMUNITY DEVELOPMENT
DISTRICT REGARDING USE OF DISTRICT'S AMENITY COMPLEX FACILITIES**

THIS AGREEMENT (“Agreement”) is effective nunc pro tunc to August 21, 2020, and is by and between:

ROLLING HILLS COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, with offices at 475 West Town Place, Suite 114, St. Augustine, Florida 32092 (the "District"), and

THE SCHOOL BOARD OF CLAY COUNTY, FLORIDA (“School Board”) **FOR THE USE AND BENEFIT OF THE CLAY HIGH SCHOOL SWIM TEAM** (“Swim Team”), 900 Walnut Street, Green Cove Springs, Florida 32043 (the School Board and the Swim Team together with the District, the “Parties”).

RECITALS

WHEREAS, it is the purpose and intent of this Agreement to permit and authorize the School Board and the District to make the most efficient use of their respective resources, authority and capabilities by enabling them to cooperate on the basis of mutual advantage and to achieve the results provided in this Agreement pursuant to Section 163.01, *Florida Statutes*, known as the Florida Interlocal Cooperation Act of 1969 (“Cooperation Act”); and

WHEREAS, it is the purpose of the Cooperation Act to provide a means by which the School Board and the District may exercise their respective privileges and authority which they may have separately, but which pursuant to this Agreement and Cooperation Act they may exercise collectively; and

WHEREAS, the District is a special-purpose unit of local government established pursuant to and governed by Chapter 190, *Florida Statutes*; and

WHEREAS, the District owns, operates and maintains certain recreational facilities, including a competition pool (“Aquatic Facilities”); and

WHEREAS, the School Board, on behalf of the Swim Team, approached the District and expressed desires to make use of the Aquatic Facilities for practices and the hosting of swim meets; and

WHEREAS, the District is willing to allow the Swim Team to make use of the Aquatic Facilities for practices and swim meets provided that such use does not impede the operation of the Aquatic Facilities and provided that the Swim Team complies with the provisions set forth herein, including but not limited to the special provisions for usage during the COVID-19 pandemic; and

WHEREAS, the District has determined that providing the School Board with the ability to use the competition pool is a benefit to the District, is a proper public purpose, and makes appropriate use of the Aquatic Facilities; and

WHEREAS, the District and the School Board warrant and agree that they have all right, power and authority to enter into and be bound by this Agreement.

NOW, THEREFORE, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

SECTION 1. RECITALS. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

SECTION 2. TERM. This Agreement shall be effective on or about August 24, 2020 or upon execution by the Parties, whichever is later and shall terminate on November 30, 2020, unless terminated early in accordance with Section 8 below. However, the covenants and obligations of School Board contained in this Agreement shall survive termination for acts and omissions which occurred during the effective term of this Agreement.

SECTION 3. USAGE BY SWIM TEAM.

A. **Usage; Generally.** The District hereby grants to the Swim Team a license to use the Aquatic Facilities for practices and meets in accordance with the schedules attached hereto as **Exhibit A**, as coordinated between the District's representative and the Swim Team representative, and with the guidelines provided in **Exhibit B**, both of which are incorporated herein by this reference ("License"). The License to use the Aquatic Facilities is limited to the hours provided in such schedules. In consideration of said use of the Aquatic Facilities, School Board and Swim Team agree to the following conditions:

- i. Access to the Aquatic Facilities is limited to the competition pool, the pool decks, parking lot serving the Aquatic Facilities and designated restrooms in case of emergencies. No other use of, or access to, the District's recreational facilities is permitted.
- ii. The District hereby designates the District Manager or his or her designee as the District's representative.
- iii. Swim Team's use of Aquatic Facilities shall be in conjunction with the use of the Aquatic Facilities by other members of the public and by other swim teams, if any, and the Swim Team use shall not interfere with the operation of the Aquatic Facilities as a public improvement.
- iv. All use of the Aquatic Facilities shall be subject to the policies and regulations of the District, including but not limited to the Rolling Hills Facilities and Amenity Policies, the Guidelines for the Swim Team Usage and Guidelines for Swim Team Meets, which are incorporated herein and attached as **Exhibit B**.

v. The District shall have the right to take such actions as are necessary to preserve the health, safety and welfare of its residents, landowners, lands and facilities.

vi. Persons identified as Coaches by the Swim Team, and any such Coach's minor children, may participate on the Swim Team and make use of the Aquatic Facilities during Swim Team practices and meets, regardless of the Coach's status as a paid user of the facilities, subject to the terms and conditions of this Agreement.

vii. The Swim Team shall (i) provide one (1) time payment of three hundred dollars and zero cents (\$300.00) to the District. If requested by the District, Swim Team shall (ii) provide a minimum of five volunteers for one resident event as arranged by the District; and (iii) provide at least ten (10) volunteer hours each week during the term of this Agreement (which may include resident events referenced above).

B. **Usage During the COVID-19 Pandemic.** Effective immediately and until the conclusion of the COVID-19 pandemic, the Swim Team must implement the following measures:

i. The Swim Team is responsible for enforcing social distancing among its participants, consistent with all federal, state, and local recommendations and/or requirements, guidelines, and best practices, including but not limited to those promulgated by the State of Florida through executive orders or otherwise, by the Center for Disease Control and Prevention, and by USA Swimming, Inc., the latter of which are available at the following links:

1. <https://www.usaswimming.org/home/covid-news>

2. <https://cdn.swimswam.com/wp-content/uploads/2020/05/facility-reopening-plan-guidelines.pdf>

ii. The Swim Team shall arrange the swimmers per lane to allow proper social distancing, while complying with the aforementioned guidelines and requirements, as depicted in **Exhibit C**. If participants are unable to comply with the guidelines, Swim Team shall limit swimmers per lane to that required for compliance with stated regulations, which may change from time to time.

iii. All individuals associated with the Swim Team must submit a waiver in substantially the form attached hereto as **Exhibit D** before accessing the District's Aquatic Facilities. Allowing use without an executed waiver is grounds for termination of this Agreement. This waiver is in addition to any other waivers required by the School Board, Swim Team or the District.

iv. Swim Team acknowledges and understands that the and Swim Team agrees to implement a safe and reasonable means to facilitate the entry and exit of swimmers between practice groups.

v. Parents, guests and other spectators shall be prohibited from the Aquatic Facilities during practices and meets, so long as COVID-19 conditions continue and there is a public health emergency declared by federal, state or local governments.

vi. Before allowing any individual to access the District's Aquatic Facilities or other facilities, the Swim Team shall ask the following screening questions, and if the answer to any is "yes," prevent that individual from accessing the Aquatic Facilities or other facilities:

1. Do you have or have you had in the past 48 hours a cough, shortness of breath, fever (100.4+), chills, repeated shaking with chills, muscle pain, headache, sore throat, new loss/change in taste/smell or diarrhea?

2. Have you been in close contact (within 6 ft for at least 5 minutes) with anyone with the beforementioned symptoms?

3. Have you been exposed to anyone who tested positive for COVID-19 in the past 14 days?

4. Have you been exposed to anyone who is currently waiting for COVID-19 test results?

5. Have you traveled internationally or been on a cruise during the past 14 days?

6. Have you traveled to an out-of-state hotspot or to an in-state hotspot (Miami-Dade, Broward or Palm Beach counties) during the past 14 days?

vii. In the event that any individual associated with the Swim Team who has used the District's Aquatic Facilities or other facilities tests positive for COVID-19, the Swim Team shall immediately notify the District and cease all use of the Aquatic Facilities or other facilities until the District notifies the Swim Team that use may resume.

viii. Swimmers shall show up changed and ready to swim and may not change at the District's facilities. Use granted herein is limited to the pool deck and the pool and no use of locker room or similar indoor facilities is permitted. Swimmers shall bring their own equipment and not use shared equipment.

SECTION 4. CARE OF THE PROPERTY. School Board agrees to use all due care to protect the property of the District, its residents and landowners from damage, and to require any meet participants invited to the Aquatic Facilities to do the same. School Board agrees that it shall assume responsibility for any and all damage to the District's facilities or lands as a result of School Board's use under this Agreement other than damage which may be attributable to ordinary wear and tear as determined by the District. In the event that any damage to the

District's facilities or lands occurs, the District shall notify School Board of such damage and shall allow the School Board's agents or employees the opportunity to examine the damage prior to repair. Swim Team agrees that the District may make whatever arrangements necessary, in its sole discretion, to promptly make any such repairs as is necessary to preserve the health, safety and welfare of the District's lands, facilities, residents and landowners. Swim Team agrees to reimburse the District for any such repairs within thirty (30) days of receipt of an invoice from the District reflecting the cost of the repairs made under this Section.

SECTION 5. ENFORCEMENT. A default by either Party under this Agreement shall entitle the other Party to all remedies available at law or in equity, which shall include, but not be limited to, the right of damages, injunctive relief and specific performance. Notwithstanding this, the School Board's right to recover damages from the District on any and all claims of any type shall be limited in all instances to no more than five-hundred dollars and zero cents (\$500.00).

SECTION 6. INDEMNIFICATION AND INSURANCE. The Swim Team agrees to indemnify and hold harmless the District and its officers, agents and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity for injuries, death or property damage of any nature, arising out of, or in connection with, wholly or in part by, the use of the District's facilities and lands by the Swim Team and its guests, including litigation or any appellate proceedings, both in and outside court proceedings, with respect thereto, and specifically including but not limited to claims arising out of or connected to alleged or actual exposure to the COVID-19 virus.

Notwithstanding any terms of this Agreement to the contrary, the Parties agree that nothing herein shall be construed as a waiver of either the School Board's or the District's sovereign immunity or limits of liability beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, *Florida Statutes*, or other statute. The School Board, subject to the School Board's self-insured retention, agrees and covenants to provide liability insurance with limits of One Million Dollars (\$1,000,000.00) applicable to bodily injury, sickness or death in any one occurrence and One Million Dollars (\$1,000,000.00) for loss or damage to property in any one occurrence and shall provide evidence of such insurance in the form of an insurance certificate prior to commencing use of the District's facilities under this Agreement. Additionally, the School Board agrees that its policy may not be canceled during the term of this Agreement without at least thirty (30) days written notice to the District.

Notwithstanding any language in this section to the contrary, nothing in this indemnification agreement shall be construed or interpreted to increase the scope or dollar limit of the Swim Team's or the School Board's liability beyond that which is set forth in Section 768.28, *Florida Statutes*, or to otherwise waive the Swim Team's/School Board's sovereign immunity, or to require the Swim Team/School Board to indemnify District or any other person, corporation, or legal entity of any kind or nature whatsoever for injury or loss resulting from any acts other than the negligent acts of the Swim Team or the School Board or its agents or employees. The Swim Team and the School Board shall not indemnify any party for attorney's fees or costs other than those court costs which are set forth by Florida Statute or other Florida law as recoverable costs of court.

SECTION 7. RECOVERY OF COSTS AND FEES. In the event either Party is required to enforce this Agreement by court proceedings or otherwise, then the substantially prevailing party shall be entitled to recover from the other party all costs incurred, excluding reasonable attorneys' fees.

SECTION 8. TERMINATION. Both Parties shall have the right to terminate this Agreement at any time without cause with written notice. However, the covenants and obligations of Swim Team contained in this Agreement shall survive termination for acts and omissions which occurred during the effective term of the agreement.

SECTION 9. ENTIRE AGREEMENT. This instrument, together with the attached Exhibits, shall constitute the final and complete expression of the agreement between the Parties relating to the subject matter of this Agreement.

SECTION 10. AMENDMENT. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing that is executed by both Parties hereto.

SECTION 11. ASSIGNMENT. Neither the District nor the Swim Team may assign their rights, duties, or obligations under this Agreement or any monies to become due hereunder without the prior written approval of the other. Any attempted assignment without such written approval shall be void.

SECTION 12. APPLICABLE LAW. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. The Parties consent to and agree that the exclusive venue for any litigation arising out of or related to this Agreement shall be in a court of appropriate jurisdiction, in and for Clay County, Florida.

SECTION 13. NOTICES. All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed by overnight delivery service or First Class Mail, postage prepaid, to the Parties, as follows:

1. If to Swim Team:	Clay High School Swim Team 2025 Highway 16 West Green Cove Springs, Florida 32043 Attn: Carol McDougall, Swim Team Coach
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With a copy to:	J. Bruce Bicker Attorney to Clay County School Board 900 Walnut Street Green Cove Springs, Florida 32043
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2. If to District:	Rolling Hills Community Development District 475 West Town Place, Suite 114
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St. Augustine, FL 32092
Attn: Jim Oliver, District Manager

With a copy to:

Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: Katie S. Buchanan, District Counsel

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the District and counsel for the Swim Team may deliver Notice on behalf of the District and the Swim Team. Any party or other person to whom Notices are to be sent or copied shall notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

SECTION 14. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

SECTION 15. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the District and the Swim Team, both the District and the Swim Team have complied with all the requirements of law, and both the District and the Swim Team have full power and authority to comply with the terms and provisions of this instrument.

SECTION 16. HEADINGS FOR CONVENIENCE ONLY. The descriptive headings in this Agreement are for convenience only and shall neither control nor affect the meaning or construction of any of the provisions of this Agreement.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have signed and sealed this Agreement on the day and year first written above.

ATTEST:

**ROLLING HILLS COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson, Board of Supervisors

**THE SCHOOL BOARD OF CLAY
COUNTY, FLORIDA**

By _____
CAROL Y. STUDDARD, Chairperson
Dated: _____

Witness:

By _____
BONNIE O'NORA
Secretary/Assistant Secretary

Dated: _____

Attest:

By _____
DAVID S. BROSKIE, Superintendent of
Schools

Dated: _____

[Signatures continued on next page]

Reviewed for legal sufficiency by:

J. BRUCE BICKNER, Attorney for The School
Board of Clay County, Florida

Dated:_____

Exhibit A Swim Team Practice and Meet Schedules
Exhibit B Guidelines for Swim Team Usage
Exhibit C USA Swimming Lap Lane Social Distancing Guide
Exhibit D Form of Waiver

EXHIBIT A

[INSERT NEW SCHEDULE]

EXHIBIT B

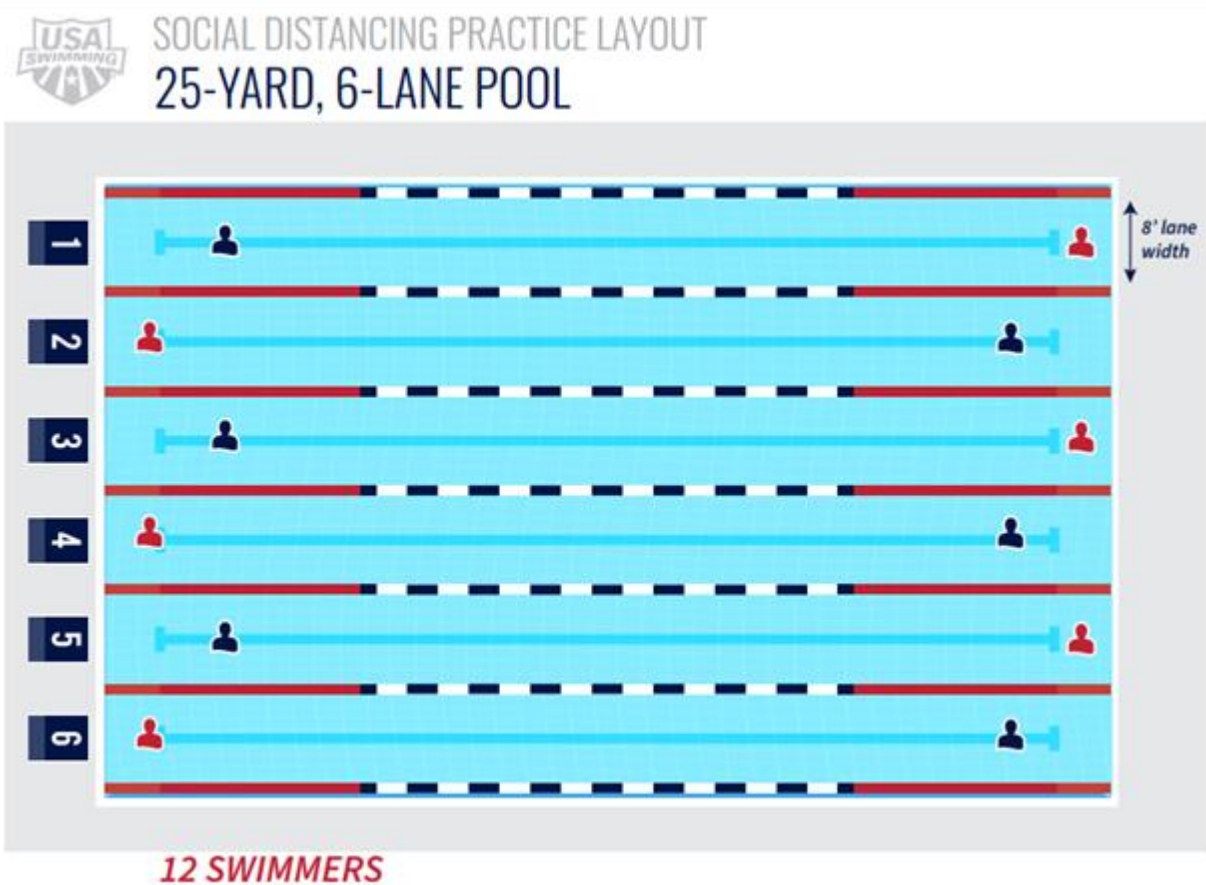
Guidelines for Swim Team Usage

1. All Swim Team usage of Aquatic Facilities must be pre-scheduled with District staff prior to the beginning of practices.
2. Usage of the District facilities is limited to the Aquatic Facilities named in the Agreement and this exhibit ONLY. The Swim Team shall not have access to any other District's recreational facilities, including but not limited to the clubhouse.
3. Spectators that are not District residents may be present and are allowed to attend Swim Team competitions subject to the conditions of this Agreement. However, the District, in its sole discretion, reserves the right to limit the number of such spectators (1) should the Aquatic Facilities exceed then-effective occupancy capacity or (2) should it be necessary to protect the health, safety or welfare of the District, its landowners, residents or its guests or the District property. Notwithstanding the foregoing, parents, guests and other spectators are prohibited from attending competitions and meets so long as COVID-19 conditions continue and there is a public health emergency declared by federal, state or local governments.
4. Spectators and/or guests that are not District residents shall not be present during swim practices.
5. Swim Team is responsible for ensuring that Swim Team members, visiting teams, guests and spectators, as applicable, abide by all District rules and policies, including but not limited to COVID-19 sanitation, social distancing and other requirements.
6. No Swim Team practices may be held on weekends or on days or times that the family pool is closed UNLESS the practices are held prior to facility opening to the public, or otherwise as permitted by the District. On those days, practice will end by 11:00 am and the Swim Team shall be responsible straightening any chairs, disposing of trash in trash receptacles and general clean-up after each practice, returning the Aquatic Facilities to the same condition as before the practice started. Other restrictions may apply during the COVID-19 public health emergency, or as otherwise required by the District.
7. Except with the prior approval of the District, no Swim Team competitions may be held on weekends or on days that the family pool is closed, unless otherwise as permitted by the District. Swim Team shall be responsible for straightening any chairs, disposing of trash in trash receptacles and general clean-up after each meet, returning the Aquatic Facilities to the same condition as before the meet started. Other restrictions may apply during the COVID-19 public health emergency, or as otherwise required by the District.
8. No outside vendors will be allowed to sell food at any time.
9. Swim Team practices may use all but one lane, which will remain reserved for District residents.

10. Swim Team roster must be provided to the District 15 days prior to practices beginning or as soon as practicable. Roster must include all coaching staff.
11. The District reserves the right to retain a security guard or guards for the swim meets at Swim Team's expense if the District, in its sole and unrestricted discretion, deems it desirable.
12. Swim Team shall be responsible for automobile parking on swim meet days. Swim meets are expected to surpass the District's parking lot capacity, and the Swim Team shall have volunteers available to manage such overflow parking. Swim Team Members, visiting teams or spectators are prohibited from parking on private property.
13. The Agreement with the District, the School Board and the Swim Team must be signed and provided to the District 15 days prior to practices beginning or as soon as practicable.
14. Proof of insurance must be provided to the District prior to practices beginning or as soon as practicable.

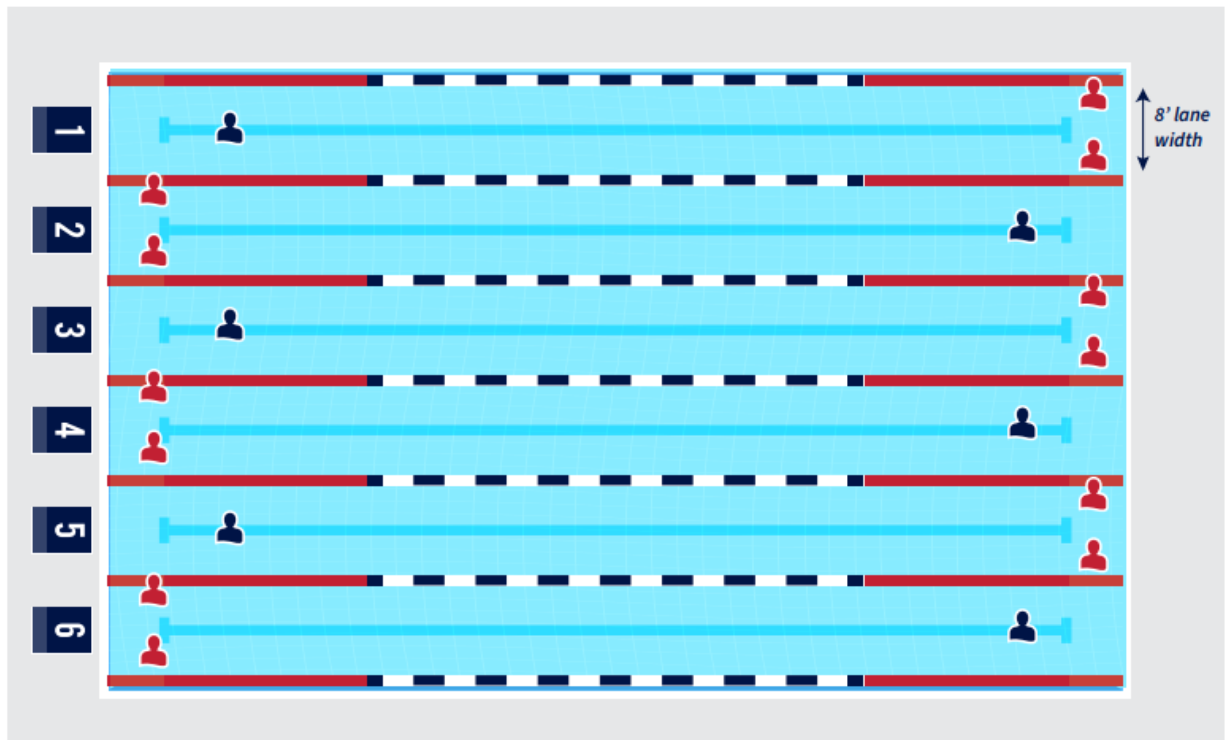
EXHIBIT C

Lap Lane Social Distancing Guide





SOCIAL DISTANCING PRACTICE LAYOUT 25-YARD, 6-LANE POOL



18 SWIMMERS



SOCIAL DISTANCING PRACTICE LAYOUT

25-YARD, ON-DECK, SIT DOWN SLIDE SETS IN CIRCLES

Swimmers maintain 6 feet apart. Mark deck with 2-inch wide colored duct tape.

Sit down/slide in to enter water.

End of set climb out and go to assigned spot.

The more "eyes" on deck the better.

Use cones or other barriers to help with separation - deck needs to be wide enough to accommodate 6' of social distance.

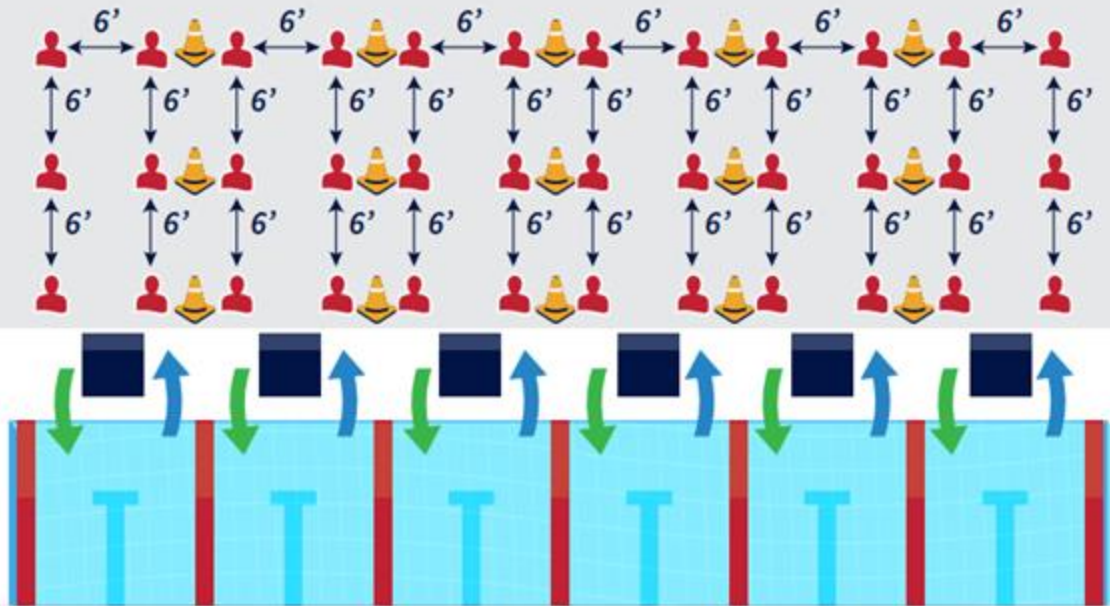


EXHIBIT D

WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT

(“ACKNOWLEDGEMENT AND RELEASE”)

I acknowledge that I have freely chosen to have my child participate in certain recreational activities (the “Activities”) sponsored by the Clay High School Swim Team (“Swim Team”) at the Rolling Hills Community Development District (“District”) amenity facilities (“Facilities”). I understand that the District and the Swim Team have taken reasonable precautions to protect parents, participants, staff, and spectators from exposure to COVID-19 during these Activities. Those measures include, but are not limited to, verbal screening of attendees and staff and reasonable enforcement and implementation of social distancing and sanitization.

I agree that by participating in the Activities, I will fully comply with all such measures or face ejection from the Facilities. I further acknowledge that my attendance may result in risk of exposure to COVID-19 in spite of the above measures, and I assume any such risk that may arise therefrom. I accept full responsibility for all medical expenses for any injuries, illness, or exposure I might receive by reason of my attendance and/or participation.

By signing this Acknowledgment and Release, I also hereby release the District and its Supervisors, officers, staff, employees, agents, assigns and volunteers (“Released Parties”) from and against any and all claims, demands, actions, complaints, suits or other forms of liability that any of them may sustain arising out of or related to, wholly or in part by, my or my child(ren)’s (a) participation in the Activities, (b) failure to comply with the measures imposed by the Clay County School Board, the Swim Team or the District, (c) failure to comply with local, state, and federal laws and policies, procedures, effective guidance regarding COVID-19, and the District amenity rules and policies; or (d) any damage, injury, or illness caused by me or my child(ren) (together, the “Released Claims”).

I also agree to indemnify and hold harmless the Released Parties from the Released Claims, including any and all related costs, attorneys’ fees, liabilities, settlements, and/or judgments. I confirm that I have carefully read this Acknowledgement and Release, fully understand the above conditions, and agree to its terms knowingly and voluntarily. I also confirm that I am the parent or legal guardian of the child(ren) named below and that I am 18 years of age or older.

IN WITNESS WHEREOF, I have signed this Acknowledgement and Release on this _____ day of _____, 2020.

SIGNATURE: _____

NAME: _____

NAMES OF MINOR CHILD(REN): _____
