

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

This Agreement ("Agreement") is effective *nunc pro tunc* to August 2, 2021, and is by and between:

South Village 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 (hereinafter "District"), and

The School Board of Clay County, Florida ("School Board"), for the use and benefit of the Middleburg High School Swim Team ("Swim Team"), 3750 County Road 220, Middleburg, Florida, 32068 (the School Board and Swim Team together the District, the "Parties").

RECITALS

1. 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 powers, 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").

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

3. The District is a special purpose unit of local government established pursuant to and governed by Chapter 190, *Florida Statutes*.

4. The District owns, operates, and maintains amenity complex facilities, including a competition pool ("District Amenities").

5. The School Board approached the District and desires to make use of the District's competition pool at the District's amenities complex located at Eagle's Landing for practices and the hosting of swim meets.

6. The District is willing to allow the School Board to make use of the District's competition pool for practices and meets provided that such use does not impede the operation of the District's Amenities.

7. 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 District's Amenities.

8. 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 as of August 2, 2021, and shall terminate on November 30, 2021, unless canceled early in accordance with Section 8 below. However, the covenants and obligations of School Board contained in sections 3, 4, 6, 7 and 8 shall survive termination for acts and omissions which occurred during the effective term of the agreement.

SECTION 3. USAGE BY SWIM TEAM. The Swim Team may use the competition pools for practices and meets. The Swim Team's practice schedule and meet schedule shall be coordinated with the District at all times and are incorporated herein and attached as Exhibit "A." The School Board agrees that such use shall be in conjunction with the use of the District Amenities by other members of the public and by other swim teams, and the Swim Team use shall not interfere with the operation of the District's Amenities as a public improvement. The School Board agrees that all use of the District's Amenities shall be subject to the policies and regulations of the District, including, but not limited to, the Guidelines for the Swim Team Usage and Guidelines for Swim Team Meets, which are incorporated herein and attached as Exhibit "B." School Board further agrees that 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. The District and School Board agree that in consideration of the School Board's acceptance of the covenants and obligations contained in this Agreement, including without limitation sections 4 and 6, the 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 District's Amenities during Swim Team practices and meets, regardless of the Coach's status as a paid user of the facilities.

In exchange for the Swim Team's usage of the District's aquatics complex facilities, Swim Team shall complete the following:

- a. Payment of \$200.00 (Two Hundred Dollars) to the District;
- b. Attendance of a minimum of five (5) volunteers for one (1) resident event as arranged by the District; and
- c. Provision of at least ten (10) volunteer hours each week during the term of this agreement (which may include resident events referenced above).

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 District's Amenities 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 \$100.00 (One Hundred Dollars).

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, property damage or of any nature, arising out of, or in connection with, the use of the District's facilities and lands by the Swim Team and its guests, including litigation or any appellate proceedings with respect thereto.

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 \$1,000,000.00 (One Million Dollars) applicable to bodily injury, sickness or death in any one occurrence and \$1,000,000.00 (One Million Dollars) 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 prevailing party shall be entitled to recover from the other party all costs incurred, excluding reasonable attorneys' fees.

SECTION 8. CANCELATION. Both Parties shall have the right to cancel this Agreement at any time without cause. However, the covenants and obligations of Swim Team contained in sections 3,4,6,7 and 8 shall survive cancelation for acts and omissions which occurred during the effective term of the agreement.

SECTION 9. ENTIRE AGREEMENT. This instrument, together with the attached Exhibit A, 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.

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:

If to Swim Team: Middleburg High School Swim Team
3750 County Road 220
Middleburg, Florida 32068
Attention: Jay Stillianou

With a copy to: Attorney for Clay County School Board
900 Walnut Street
Green Cove Springs, Florida 32043

If to District: South Village Community
Development District
475 West Town Place, Suite 114
St. Augustine, Florida 32092
Attention: District Manager

With a copy to: Hopping, Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301
Attention: Katie S. Buchanan

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 5:00p.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.

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

THE SCHOOL BOARD OF CLAY COUNTY,
FLORIDA

SOUTH VILLAGE COMMUNITY
DEVELOPMENT DISTRICT

By _____
MARY BOLLA, Chairperson

By _____
_____ Chairperson

ATTEST:

ATTEST:

Printed Name: _____
Title: _____

Printed Name: _____
Title: _____

EXHIBIT A

[Insert Schedule]

EXHIBIT B

Guidelines for Swim Team Usage

1. All Swim Team usage of District Amenities must be pre-scheduled with District staff prior to the beginning of practices.
2. There shall be no spectators during practice that are not District residents. Spectators are allowed to attend Swim Team competitions subject to the conditions of this agreement. The District reserves the absolute right to limit the number of such spectators (1) should the District's Amenities exceed posted occupancy capacity or (2) should it be necessary to protect the property of the District, its landowners, or its guests.
3. Swim Team is responsible for ensuring that Swim Team members and visiting teams abide by all District rules and policies.
4. 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. On those days, practice will end by 11:00 a.m. and the Swim Team shall be responsible for straightening chairs, disposing of trash in pool side trash receptacles and returning the District's Amenities to the same condition as before the practice started.
5. The Swim Team shall not sell any items that are similar to items found in the concession stand, including, but not limited to, candy, water, sport drinks, soda, ice creams, chips, caps, goggles, or sunscreen. Swim Team shall not sell goods or merchandise of any kind whatsoever at any time when it is utilizing the District 's aquatics facility. No outside vendors will be allowed to sell food at any time.
6. Swim Team practices may use all lanes; however, one lane will remain reserved for District residents.
7. Swim Team roster must be provided to the District 30 (thirty) days prior to practices beginning or as soon as practicable. Roster must include all coaching staff.
8. Proof of insurance must be provided to the District prior to practices beginning or as soon as practicable.
9. Swim Team contract with the District must be signed and provided to the District 30 (thirty) days prior to practices beginning or as soon as practicable.
10. Swim Team is responsible for ensuring that children ages 1 (one) through 12 (twelve) are accompanied by a parent or person 16 (sixteen) years old or over at all times.
11. 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.
12. 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.

EXHIBIT B