

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 ____ day of ____ 2022, 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 (the "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”), 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

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 June 30, 2022, and shall terminate on November 30, 2022, 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”). Swim Team shall hold no more than five (5) “Home” meets (four already scheduled and possible one more where indicated as “pending”) as indicated in the schedule provided in Exhibit A. 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. Swim Team understands and acknowledges that there are limited parking spaces available at the District’s facilities, which is primarily available for District residents wishing to utilize the District’s recreational facilities. During the meets, the Swim Team will leave at least one (1) row of parking spaces closest to the Aquatic Facilities open and available to residents who want to use the District facilities. Swim Team shall be responsible for redirecting the traffic to enforce the same. No parking shall impede the flow of traffic on the streets. Swim Team staff shall inform its team members and the visiting teams and spectators coming to the meets of the limited parking available at the District facilities and shall encourage them to carpool to the District facilities. Swim Team shall, to the maximum extent possible, carpool to the District facilities for practices and meets, and whenever feasible, shall utilize a school bus or similar mode of mass transportation to arrive at the District facilities.

iii. The District hereby designates the District Manager or his or her designee as the District's representative.

iv. 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.

v. All use of the Aquatic Facilities shall be subject to the policies and regulations of the District, including but not limited to the South Village 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**.

vi. 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.

vii. 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.

viii. The Swim Team shall (i) provide one (1) time payment of five hundred dollars and zero cents (\$500.00) 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).

ix. All individuals associated with the Swim Team must submit a waiver in substantially the form attached hereto as **Exhibit C** 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.

B. Usage During an Endemic or Pandemic. In the event of a known endemic or pandemic affecting the locality whereupon the District is located, the Parties agree that additional procedures may apply to the Swim Team's usage of the Aquatic Facilities, which shall apply by an amendment to this Agreement to be executed by the Parties and Swim Team agrees to enter into same, as necessary.

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: Middleburg High School Swim Team
2025 Highway 16 West
Green Cove Springs, Florida 32043
Attn: Carol McDougall, Swim Team Coach

- With a copy to: J. Bruce Bickner
Attorney to Clay County School Board
900 Walnut Street
Green Cove Springs, Florida 32043

2. If to District: South Village Community
Development District
475 West Town Place, Suite 114

St. Augustine, FL 32092
Attn: Jim Oliver, District Manager

With a copy to:

Kutak Rock LLP
107 W. College Avenue
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 School Board may deliver Notice on behalf of the District and the School Board. 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 School Board, both the District and the School Board have complied with all the requirements of law, and both the District and the School Board 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.

SECTION 17. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, and such counterparts together shall constitute one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

SECTION 18. ACCESS TO RECORDS. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, *Florida Statutes*), and other applicable State or Federal law. Access to such public records may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

SECTION 19. FILING. After approval of this Agreement by the respective governing bodies of the School District and the District, and its execution by the duly qualified and authorized officers of each of the Parties, the District shall cause this Agreement to be filed with the Clerk of the Circuit Court of Clay County, Florida, in accordance with the requirements of Section 163.01(11), *Florida Statutes*.

[Signatures on next page]

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**

By _____
Mary S. Bolla, 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:_____

SOUTH VILLAGE COMMUNITY
DEVELOPMENT DISTRICT

By_____

Chairperson, Board of Supervisors

Dated:_____

Witness:

By_____

- Exhibit A** Swim Team Practice and Meet Schedules
- Exhibit B** Guidelines for Swim Team Usage
- Exhibit C** Form of Waiver

EXHIBIT A

Practice Schedule:

July 25th through July 29th: 7:30 am–9:30 am

Remainder of Regular Season: Monday through Friday, 2:30pm-4:30 pm

Middleburg Swimming

Coach Sandra Rechis
srechis@hotmail.com
 904-477-2263

Coach Andrea Wilhite
coachwilhite369@gmail.com
 904-589-0360

2022 Schedule

Date	Opponent	Home/Away	Warm Up	Meet Time
AUG 23	ST JOHN'S CLASSICAL ACADEMY HILLARD	HOME	3:30PM	4:30PM
AUG 30	ST JOHNS COUNTRY DAY	AWAY	4PM	4:30PM
SEP 6	CLAY COUNTY RELAY INVITE	AWAY	TBD	TBD
SEP 13	ST AUGUSTINE	HOME	4:30PM	5:30PM
SEP 17?	FRANK HOLLEMAN INVITE	AWAY		
SEP 20	CLAY	AWAY	4:00PM	4:30PM
SEP 29	RIDGEVIEW	HOME	3:30PM	4:30PM
OCT 4/6	PENDING			
OCT 11	ORANGE PARK (SENIOR NIGHT)	HOME	3:30PM	4:30PM
Oct 17-22	Districts	TBD	TBD	TBD
Oct 24-29	Regionals	TBD	TBD	TBD
Nov 4	3A State	Stuart	7:00am	TBD

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 and meets 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.
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, which may be amended from time to time in the District's sole discretion.
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 a public health emergency, such as the an endemic or a pandemic, 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 a public health emergency, such as an endemic or a pandemic, 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

WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT

(“ACKNOWLEDGEMENT AND RELEASE”)

I _____, on behalf of my minor child _____ (“Participant”) acknowledge that I have freely chosen to have my child participate in certain recreational activities (the “Activities”) sponsored by the Middleburg High School Swim Team (“Swim Team”) at the South Village Community Development District (“District”) amenity facilities (“Facilities”). I understand that neither the Swim Team nor the Swim Team instructor(s) (“Instructor”) are affiliated in any way with the District and that the District does not endorse any such third parties, and that the District makes no representations concerning the qualifications or ability of any such third parties to conduct, teach, or lead the Activities.

On behalf of Participant, I acknowledge that Participant willfully and voluntarily assumes and accepts sole responsibility for all risks related to participation in the Activities, including, but not limited to, the risks mentioned above, damage to, loss or theft of real or personal property, or other loss or harm of any kind or nature. I acknowledge on behalf of Participant that he or she is voluntarily participating in the Activities with knowledge of the dangers involved, and Participant agrees to assume and accept sole responsibility for Participant’s safety and for any and all harm that may occur.

I acknowledge on behalf of Participant that the District recommends that the Participant consult a physician prior to engaging in the Activities and that Participant has either had a physical examination and been given a physician’s approval to participate in the Activities or otherwise has elected to participate in the Activities; therefore, Participant assumes all risk and responsibility for participation in the Activities.

I further acknowledge and agree that participating in the Activities may increase the Participant’s exposure to the COVID-10 virus, or other contagions. I acknowledge that the participant voluntarily assumes all risks associated with such exposure and resulting illness.

I agree that by participating in the Activities, I will fully comply with all of District’s rules, policies and orders, which may be amended from time to time, or face ejection from the Facilities.

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 _____, 2022.

SIGNATURE: _____

NAME: _____

NAMES OF MINOR CHILD(REN): _____