

**INTERLOCAL AGREEMENT
BETWEEN THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA,
AND THE CITY OF NORTH PORT, FLORIDA,
REGARDING USE OF THE NORTH PORT AQUATIC CENTER**

THIS INTERLOCAL AGREEMENT FOR THE USE OF THE NORTH PORT AQUATIC CENTER (the "Agreement") is made and entered into by and between the School Board of Sarasota County, Florida, a body corporate under the laws of the State of Florida (the "School Board") and the City of North Port, Florida, a political subdivision of the State of Florida (the "City") (together "the Parties").

WITNESSETH:

WHEREAS, the School Board and the City acknowledge the advantages and the importance of providing adequate facilities and amenities that serve a public purpose in promoting affordable athletic programs for the community; and

WHEREAS, the School Board desires to have North Port High School's swim teams and water polo teams use the competition pool located at the North Port Aquatic Center for team practice; and

WHEREAS, the North Port Aquatic Center is located in close proximity to North Port High School and is designed to accommodate competitive swimming and pool-based competitions; and

WHEREAS, the School Board and the City are mutually interested in making the competition pool and supporting amenities within the North Port Aquatic Center available pursuant to the provisions of this Agreement; and

WHEREAS, the School Board and the City have the authority pursuant to the provisions of general law, including Section 163.01, Florida Statutes, to enter into this Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the School Board and the City mutually covenant and agree as follows:

1. **RECITALS:** The above recitals are true and correct and by this reference, are incorporated herein.
2. **DEFINITIONS:** The following definitions apply to this Agreement:
 - A. *Premises* – The Premises is the North Port Aquatic Center, located at 6205 West Price Boulevard, North Port, Florida.
 - B. *Authorized Use Area* – The following areas of the Premises, as specifically identified in "Exhibit A," which is attached hereto and incorporated as if set forth herein, are included as part of this Agreement for use by the North Port High School's swim teams and/or water polo teams:
 - 1) Competition Pool;
 - 2) Bulkhead and Starting Blocks;
 - 3) Scoreboard;
 - 4) Dive Well and Diving Boards;

- 5) Covered Pavilion;
- 6) Restroom/Locker-room Facilities;
- 7) Stands; and
- 8) Common areas located adjacent to the other Authorized Use Areas.

C. *Unauthorized Use Area* – All areas located at the Premises that are not identified as an Authorized Use Area. When performing under the terms of this Agreement, the School Board, the North Port High School’s swim teams and water polo teams, and their invitees, guests, agents, and employees are not permitted to be in any unauthorized use area.

3. USAGE AND SCHEDULING:

A. Limitations on Use. The use of the Authorized Use Areas is limited to and only for the use of the North Port High School’s swim teams (collectively “Swim Team”) and the North Port High School’s water polo teams (collectively “Water Polo Team”) to conduct team practice and competitions. No other use by the School Board or North Port High School is permitted under the terms of this Agreement. Except as otherwise provided herein, any use of the Premises scheduled outside of the regular operating hours of the North Port Aquatic Center will be billed at the applicable admission fee charged to the public.

B. Swim Team Practice.

1) Use. Pursuant to the limitations described above, the School Board shall have non-exclusive use of the Authorized Use Areas to conduct Swim Team practice as follows:

a) June through July: From June 1 through July 31, the Swim Team shall be authorized to use the Competition Pool for 120 hours. During these hours, no more than four (4) lap lanes will be provided to accommodate a minimum of four (4) swimmers per lap lane. Where the Swim Team has fewer than four (4) swimmers per lap lane, the number of lap lanes provided will be reduced to accommodate a minimum of (4) swimmers per lap lane.

b) August through October: From August 1 through October 31, the Swim Team shall be authorized to use the Competition Pool for 150 hours. During these hours, no more than six (6) lap lanes will be provided to accommodate a minimum of four (4) swimmers per lane. Where the Swim Team has fewer than four (4) swimmers per lane, the number of lap lanes provided will be reduced to accommodate a minimum of four (4) swimmers per lap lane.

2) Scheduling. The School Board must provide the City with a list of proposed dates and times for the Swim Team’s use of the Competition Pool within 30 days of approval of this Agreement by the City Commission, and by May 31 annually thereafter. The City will approve or deny the proposed use dates and times and notify the School Board of its decision within 15 days of receiving the School Board’s proposal.

3) Fee. The School Board shall pay a fee of \$ _____ per hour for each lap lane of the Competition Pool used under this Agreement. The School Board may purchase additional lap lane hours at the rate charged to the general public.

C. Water Polo Team Practice.

- 1) Use. Pursuant to the limitations described above, the School Board shall have non-exclusive use of the Authorized Use Areas to conduct Water Polo Team practice as follows:
 - a) From the first day school resumes following winter break through April 30, the Water Polo Team shall be authorized to use the Dive Well for 120 hours. During these hours, a minimum of eight (8) members of the Water Polo Team are required to be present during the same practice session for School Board use of the Dive Well.
 - b) Where the Water Polo Team has fewer than eight (8) members present during the same practice session, the number of lanes within the Dive Well will be reduced to accommodate the members present.
- 2) Scheduling. The School Board must provide the City with a list of proposed dates and times for the Water Polo Team's use of the Competition Pool within 30 days of approval of this Agreement by the City Commission, and by May 31 annually thereafter. The City will approve or deny the proposed use dates and times and notify the School Board of its decision within 15 days of receiving the School Board's proposal.
- 3) Fee. The School Board shall pay a fee of \$_____ per hour for use of the Dive Well under this Agreement. The School Board may purchase additional Dive Well hours at the rate charged to the general public.

D. Exclusive Use for Competition.

- 1) Scheduling. No later than _____ annually, the School Board must provide the City with a list of proposed dates and times for the Swim Team and Water Polo Team to have exclusive use of the Competition Pool, Dive Well and Diving Boards, Bulkhead and Starting Blocks, and the Stands to hold competitions. Once approved by the City, the exclusive use of these areas may occur during both the regular operating hours and/or non-regular operating hours of the North Port Aquatic Center.
 - a) Approval. The City will approve or deny the proposed competition dates and times and notify the School Board of its decision within 30 days' of receiving the School Board's proposal. Where a requested date or time is unavailable, and upon agreement of the parties, the School Board will be provided alternative dates or times to accommodate scheduling needs.
 - b) Other exclusive use. The exclusive use of the North Port Aquatic Center may be made available to the School Board for events that are not for the Swim Team or Water Polo Team competition through the execution of a separate agreement.
- 2) Fee. The School Board shall pay a fee of \$_____ per hour for the exclusive use of the Competition Pool, Dive Well and Diving Boards, Bulkhead and Starting Blocks, and the Stands during an approved competition.
- 3) Admission. During an approved competition, the School Board may charge spectators and competitors for admission to the Premises, and is responsible for coordinating admission and

collection of any admission fees for such events. The School Board is not authorized to charge for parking at the Premises.

- 4) Concession. During an approved competition, the School Board may set up and manage a concession area on the pool deck of the Competition Pool to sell snacks and sundry items. The use of grills, hot plates, popcorn machines, snow cone machines, cotton candy machines, crock pots, fryers, and similar items within the Premises is prohibited. Any item requested to be removed from the Premises by City staff must be removed immediately.
- 5) Shade Structures. No tent, canopy, or similar shade structure used by the School Board, spectator, or invitee may be larger than ten feet (10') by ten feet (10'); the legs of such structures must be securely weighted down; and no structure may be affixed, tied, or otherwise connected to any structure on the Premises, including but not limited to the fencing.
- 6) Trash. The School Board is responsible for the proper disposal of all waste generated during a competition. The area used during a competition must be kept neat and orderly at all times and, upon the conclusion of the competition, left in the same or better condition as it was provided. The School Board will be responsible to pay for any necessary cleaning or remediation that the City determines to be specialty cleaning or beyond what is normal.

4. RESPONSIBILITIES:

- A. The City is not responsible for providing any supplies, materials, or equipment to the Swim Team or Water Polo Team during their scheduled use. The School Board must ensure that all supplies, materials, equipment, and items used by the Swim Team and Water Polo Team are removed from the Premises following each use.
- B. Except during the exclusive use for competition as provided in this Agreement, the School Board must ensure that use of the Authorized Use Areas by the Swim Team and Water Polo Team do not preclude or interfere with use of the Premises by the general public, and must ensure that all team property and items are kept neat and tidy at all times.
- C. Use of the Authorized Use Areas by members of the Swim Team or Water Polo Team is limited to the hours of use as scheduled under this Agreement. Any use of the Premises by a member of the Swim Team or Water Polo Team outside of a scheduled use will require payment of the general admission rate as charged to the public.
- D. The School Board must ensure that proper and responsible supervision of the Swim Team and Water Polo Team is provided at all times.
- E. Scoreboard. The School Board is responsible for providing scoreboard operators when needed for its use under this Agreement. Before operating the scoreboard, a person must complete the City's training on the proper use of the scoreboard system. All scoreboard operators must complete annual training. The City will provide training prior to the beginning of each season, scheduled within regular operating hours of the North Port Aquatic Center. The School Board or designee must provide the names and contact information of the persons to be trained to operate the Scoreboard a minimum of 15 days prior to first requested Scoreboard use.

- F. Use Report. On or before December 1, and annually thereafter, the School Board must provide the City with a Use Report, that includes but is not limited to the following:
 - 1) The number of participants on the girl's Swim Team and girl's Water Polo Team;
 - 2) The number of participants of the boy's Swim Team and boy's Water Polo Team;
 - 3) The total number of practice hours each team held during the previous year at the Premises;
and
 - 4) Contact information for all coaching staff for the upcoming year.
- G. Parking. Parking at the Premises is on a first-come first-served basis. The City makes no guarantee that parking spaces adjacent to the Premises will be available at any time.
- H. Lifeguards. Required lifeguard coverage will be provided by the City as required by the approved Department of Health Emergency Action Plan for the North Port Aquatic Center.

5. PAYMENT:

- A. Payment for use by the Swim Team is due in full no later than 15 days after the City approves the School Board's proposed use dates and times.
- B. Payment for use by the Water Polo Team is due in full no later than 15 days after the City approves the School Board's proposed use dates and times.
- C. Failure to make payment in full when due will result in forfeiture of any scheduled use until full payment is received.

6. TERM AND TERMINATION:

- A. Effective Date and Term. This Agreement shall commence on August 1, 2020, and shall continue until terminated.
- B. School Board. The School Board may terminate this Agreement with or without cause, by providing the City with advance written notice of termination at least ninety (90) days before the date of termination.
- C. City. The City Manager may terminate this Agreement with or without cause, or whenever the City Manager determines that termination is in the City's best interest. Any such termination shall be effected by the delivery to the School Board of a written notice of termination at least ninety (90) days before the date of termination.

7. INSURANCE: The City acknowledges that the School Board is self-insured.

8. **INDEMNIFICATION: THE SCHOOL BOARD AND CITY AGREE TO INDEMNIFY AND SAVE HARMLESS THE OTHER PARTY, ITS AGENTS, OFFICIALS, AND EMPLOYEES AGAINST ALL INJURIES, DEATHS, LOSSES, DAMAGE CLAIM, SUITS, LIABILITIES, JUDGMENTS, COSTS, ATTORNEY FEES, AND EXPENSES WHICH**

MAY ACCRUE AGAINST THE OTHER PARTY AS A CONSEQUENCE OF THE INTENTIONAL OR NEGLIGENT ACTS OF THE INDEMNIFYING PARTY’S EMPLOYEES, AGENTS, OR LICENSEES ARISING OUT OF THE PERFORMANCE OF EACH PARTY’S OBLIGATIONS UNDER THIS AGREEMENT UP TO THE MAXIMUM LIMITS PROVIDED BY SECTION 768.28, FLORIDA STATUTES. NOTHING CONTAINED IN THIS SECTION SHALL CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY OR OF THE LIMITATIONS ON LIABILITY PROVIDED TO EITHER PARTY UNDER THE FLORIDA CONSTITUTION OR GENERAL LAW. IN THE EVENT OF ANY THREATENED OR IMPENDING ACTION THAT MAY GIVE RISE TO A CLAIM UNDER THE TERMS OF THIS SECTION, THE PARTY SEEKING INDEMNIFICATION FOR SUCH CLAIM MUST PROMPTLY GIVE NOTICE TO THE OTHER PARTY IN WRITING BY CERTIFIED MAIL. THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY SETTLEMENT AGREEMENT ENTERED INTO BY ONE PARTY WITHOUT THE CONSENT OF THE INDEMNIFYING PARTY. THE TERMS OF THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

9. DISPUTE RESOLUTION: In the event of a dispute between the School Board and the City under this Agreement, the School Board Superintendent and the City Manager or their respective designee(s) shall review the dispute and negotiate a mutually acceptable resolution. Any dispute not resolved by the designee(s) shall be referred to the School Board Superintendent and the City Manager to come to a mutually acceptable resolution. In the event the School Board Superintendent and the City Manager are unable to agree, the matter shall be referred to their respective Commissions, who must hold a joint meeting to resolve the matter. If the matter is not resolved at the joint meeting of the Commissions, the parties may avail themselves of any other available legal rights or remedies available. This process shall substitute for the dispute resolution process set forth in Chapter 164 of the Florida Statutes.
10. ASSIGNMENT AND SUBLETTING: This Agreement cannot be assigned, and no portion of the Premises can be sublet without the prior written consent of the City. Any attempted assignment of this Agreement or subletting of the Premises without such written consent shall be void.
11. NOTICE: All notices required or desired to be given pursuant to the terms of this Agreement must be in writing and delivered to:

For the City:

City of North Port:
City Manager
City of North Port
4970 City Hall Boulevard
North Port, Florida 34286
ContactNorthPort@cityofnorthport.com

With copies of Notices and Demands to:
City Attorney
City of North Port
4970 City Hall Boulevard
North Port, Florida 34286
northportcityattorney@cityofnorthport.com

Contact for Scheduling:
Aquatic Supervisor
6205 W. Price Boulevard
North Port Fl, 34291
tsturgess@cityofnorhtport.com

For the School Board:

School Board:
Superintendent
Sarasota County School Board
1960 Landings Boulevard
Sarasota, Florida 34231
schoolboardmembers@sarasotacountyschools.net

Contact for Scheduling:

12. FORCE MAJEURE:

- A. If either Party is unable to perform, or is delayed in the performance of any obligation under this Agreement, by reason of any event of Force Majeure as defined below, such inability or delay is excused during any time which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for the Party to correct the adverse effect of such event of Force Majeure. If a Force Majeure event results in the cancellation of either practice time(s) or competition(s), for which the School Board has pre-paid, City will refund School Board the amount paid for the canceled practice time(s) or competition(s).
- B. An event of "Force Majeure" means the following events or circumstances to the extent that they delay a Party from performing any obligation under this Agreement:
- 1) Strikes and work stoppages unless caused by a negligent act or omission of either Party;
 - 2) Acts of God, tornadoes, hurricanes, floods, sinkholes, fires, explosions, landslides, earthquakes, epidemics, pandemics, quarantine, pestilence, and extremely abnormal and excessively inclement weather;
 - 3) Acts of public enemy, acts of war, terrorism, effects of nuclear radiation, blockages, insurrection, riots, civil disturbances, or national or international calamities; and
 - 4) Suspension, termination, or interruption of utilities necessary to the performance of the obligation.
- C. In order to be entitled to the benefit of this section, the Party claiming an event of Force Majeure must give prompt notice to the other Party specifying in detail the event of Force Majeure and must diligently proceed to correct the adverse effect of any Force Majeure. The terms of this section shall survive the termination of this Agreement.
- D. Weather Related Closures.
- 1) Whenever lightning is detected within ten (10) miles of the Premises, all portions of the Premises shall close and remain closed until 30-minutes pass without a lightning strike within ten (10) miles of the Premises.
 - 2) No refund will be issued for the loss of scheduled use time due to a non-force majeure weather-related closure of the Premises. To reschedule such use time, the School Board must provide a written request to the City within 48-hours of the non-force majeure weather-related closure.

The parties will cooperate to reschedule the impacted use time, if scheduling and capacity allows, to occur within thirty (30) days of the weather-related closure. No refund or credit will be issued if the parties are unable to reschedule use time within thirty (30) days of the weather-related closure.

13. NON-DISCRIMINATION: Neither Party discriminates on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Parties must not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family, or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.
14. GOVERNING LAW AND VENUE: The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement is the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida.
15. NO AGENCY: Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
16. SEVERABILITY: In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the Parties. One or more waivers by either Party of any breach of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach by the other Party.
17. BINDING EFFECT: By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.
18. HEADINGS: The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.
19. AUTHORITY TO EXECUTE AGREEMENT: The signature by any person to this Agreement shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
20. COMPLETE AGREEMENT: This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the Parties, whether oral or written, with respect to the subject matter.
21. AMENDMENT: No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both Parties and incorporated into this Agreement. Either party may request that an amendment be made to this Agreement by notifying the other party no less than sixty (60) days prior

to the date such amendment would become effective. The City Manager or designee may agree to amendments that do not reduce or increase the fees paid by the School Board.

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Approved by the School Board of Sarasota County, Florida on the ____ day of _____ 2020.

**SCHOOL BOARD OF SARASOTA COUNTY,
FLORIDA**

By: _____
Caroline Zucker, Chair

ATTEST

School Board Clerk

APPROVED AS TO FORM AND CORRECTNESS

School Board Attorney

Approved by the City of North Port City Commission on the ____ day of _____ 2020.

CITY OF NORTH PORT, FLORIDA

By: _____
Debbie McDowell, Mayor

ATTEST

Heather Taylor, CMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

Amber L. Slayton
City Attorney

**EXHIBIT A
INTERLOCAL AGREEMENT FOR USE OF
NORTH PORT AQUATIC CENTER**

