



INTERLOCAL COOPERATIVE AGREEMENT BETWEEN CITY OF LYNNWOOD AND EDMONDS SCHOOL DISTRICT NO.15 FOR USE OF CITY AND DISTRICT RECREATIONAL FACILITIES AND SERVICES

This Interlocal Cooperation Agreement is entered into on this _____ by and between the Edmonds School District# 15 ("District") and the City of Lynnwood ("City"), both municipal corporations under the laws of the State of Washington (collectively, the "Parties").

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 RCW, provides for interlocal cooperation between government agencies; and

WHEREAS, the Parties are each Washington municipal corporations with authority under state law to provide recreational services and to own, operate, construct, maintain, and repair recreational facilities; and

WHEREAS, the City owns and operates an aquatic facility, including but not limited to, indoor swimming pools, locker rooms, showers, and related equipment and facilities, located at 18900 44th Avenue West, Lynnwood, Washington ("Aquatic Center") and provides recreational aquatic and related services; and

WHEREAS, this Agreement maximizes public benefit by implementing an agreement for the use of City and District facilities; and

WHEREAS, both the City and the District contemplate that the values associated with mutual use of each Parties' facilities and services will be approximately equal; and

WHEREAS, both the City and the District will benefit from using an Agreement which defines and protects the interests of both Parties; and

WHEREAS, the City and the District mutually desire to have an overarching agreement for the use of facilities and services, one to the other under the terms set forth herein.

NOW THEREFORE, IN CONSIDERATION of the benefits to be derived and the terms and conditions set forth herein the City and the District do hereby agree as follows:

- 1. City's Aquatic Center and Facilities.** The City agrees to make its Aquatic Center available to the District under the terms and conditions of the Interlocal Cooperation Agreement for Use of City Aquatic Facilities. The Aquatic Center facilities available to the District include, but are not limited to: the swimming pool, locker rooms, showers and related equipment owned by the City and located at 18900 44th Ave W. See Exhibit A.
- 2. District's Lynndale Elementary Gymnasium.** The District Agrees to make its Lynndale Elementary Gymnasium, located at 7200 191st Pl. SW, available to the City for the purpose of summer recreational use for providing a backup facility during weather events prohibiting the use if Lynndale Park from the end of the District's school year to one week before the beginning of the next school year. The exact number of days will vary depending on end and start date for the District's school year.
- 3. District's Meadowdale Middle School Gymnasium.** The District agrees to make its Meadowdale Middle School Gymnasium, located at 6500 168th St SW, available for City use on weekends (from 9:00am to 10:00pm on Saturdays and Sundays) from November 1st to March 31st.

4. Term and Termination

4.1 The term of this Agreement shall be from _____, 2024 through August 31, 2029 (the "Initial Term") unless terminated earlier or amended in accordance with this Agreement.

4.2 At the conclusion of the Initial Term, this agreement shall automatically be renewed for one additional five (5) year term, from September 1, 2029 through August 31, 2034, unless either Party provides the other with notice of non-renewal at least one hundred twenty (120) calendar days prior to the conclusion of the Initial Term.

4.3 This Agreement may be terminated by the City or by the District, with or without cause, upon written notice to the other Party at least one hundred twenty (120) calendar days in advance of the intended termination date; provided that the Aquatic Facilities Agreement may only be terminated in accordance with the provisions of those separate Agreements.

5. Schedules for Use of Facilities. The specific schedules for use of City and District facilities shall be determined in advance at a time designated so as to not interfere with City and District requirements or scheduled maintenance for the Lynnwood Aquatic Facility, Lynndale Elementary Gymnasium, and the Meadowdale Middle School Gymnasium.

6. Adjustment to Hours and Use of any Facility. Adjustments to the hours and used of any City or District facility may be made only upon reasonable notice to/from the Aquatics Center Supervisor to/from the school Principal affected and the Director of Facilities Operations, and only upon the Agreement that each Party to the adjusted hours and use.

7. Indemnification and Hold Harmless

7.1 District's Indemnity and Hold Harmless. The District shall protect, release, defend and hold harmless the City, and its officers, officials, employees, agents, contractors, consultants and volunteers, from any and all claims, demands, suits, penalties, losses, injuries, damages, judgments, attorneys' fees and costs of any kind whatsoever, arising out of or in any way resulting from any act or omission of the District, or its officers, officials, employees, agents, contractors, consultants and volunteers, in the District's use of the City's facilities or performance of any obligation under this Agreement, and including use of any third party authorized by the District to use the City's facilities.

The District's obligations under this section shall include, but are not limited to: (!) the duty to promptly accept tender of defense and provide defense to the City at the District's expense; (2) indemnification for such claims arising from the sole negligence of the District. The District's obligations under this section shall not extend to claims arising from the sole negligence of the City; and (3) the duty to indemnify and defend the City from any claim, demand, or cause of action brought by or on behalf of any of the District's employees or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of the District's immunity under Washington's Industrial Insurance Act, Title 51 RCW, as respects the City only, and only to the extent necessary to provide the City with a full and complete indemnity and defense of claims made by the District's employees.

7.2 City's Indemnity and Hold Harmless. The City shall protect, release, defend and hold harmless the District, and its officers, officials, employees, agents, contractors, consultants and volunteers, from any and all claims, demands, suits, penalties, losses, injuries, damages, judgments, attorneys' fees and costs of any kind whatsoever, arising out of or in any way resulting from any act or omission of the City, or its officers, officials, employees, agents, contractors, consultants and volunteers, in the City's use of the District's facilities or performance of any obligation under this Agreement, and including use of any third party authorized by the City to use the District's facilities.

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8. **No Assignment without Authorization.** Neither Party shall assign or sublet its rights or responsibilities under this Agreement without the written authorization of the other Party. Written authorization shall not be unreasonably withheld.
9. **Notice.** Each notice or communication which may be or is required to be given under this Agreement shall be in writing and shall be deemed to have been properly given when delivered personally during the normal business hours to the Party to whom such communication is directed or three working (3) days after being sent by regular mail, to the following address:

**City of Lynnwood
c/o PRCA Director
18900 44th Ave. W.
Lynnwood, WA 98036**

**Edmonds School District #15
c/o Director, Facilities Operations
20420 68th Ave. W
Lynnwood, WA 98036**

10. **Dispute Resolution.** If either Party claims that the other Party has breached any term of this Agreement, the following procedures shall be followed if and when informal communications, such as telephone conversations, emails, or face to face meetings shall fail to satisfy the claiming Party, or one of the Parties elects to trigger the dispute resolution process at any time, in the event of disputes or disagreements concerning programming or uses:
 - A. The claiming Party's Designated Representative shall provide a written notice to the other Party's representative of the alleged breach. The notice shall identify the act or omission at the issue and the specific term(s) of the Agreement which the complaining party alleges violated.
 - B. The responding Party's Designated Representative shall respond to the notice in writing within fifteen (15) working days. The response shall state the responding Party's position as well as what, if any, corrective action the responding Party agrees to take.
 - C. The complaining Party shall reply in writing, indicating either satisfaction or dissatisfaction with the response. If satisfied, any corrective action shall be taken within fourteen (14) working days of receipt of the responding Party's reply unless otherwise mutually agreed upon. If dissatisfied, the complaining Party shall call an in-person meeting to include the respective department directors. The meeting shall occur within a reasonable period of time and shall be attended by the designated representatives of each Party, and such others as they individually invite.
 - D. If the complaining Party remains dissatisfied with the results of the meeting, it shall then refer the matter to the District's Superintendent and City's Mayor, or their designees, for resolution. If the issue is not resolved at this level within thirty (30) days, then either Party may require in writing that the matter shall be reviewed in a non-binding, structured mediation process developed on a cooperative basis by the Parties and the Parties shall consider in good faith any recommendations or settlements arising from such process. All of the steps preceding shall be a prerequisite to either Party suing under this Agreement for breach, specific performance, or any other relief related to this Agreement.
11. **Severability.** If any term of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected but continue in full force.
12. **Designated Representative.** Each Party shall designate a person who shall be responsible for handling the administrative needs regarding the use of any facilities subject to this Agreement and the implementation of this Agreement. The City's Designated Representative shall be the Recreation Superintendent. The District's Designated Representative is the Director of Facilities Operations.

- 13. Real and Personal Property.** The City owns the real property on which the Aquatic Facilities are located, and the District owns the real property on which the Lynndale Elementary Gymnasium and Meadowdale Middle School Gymnasium are located. This Agreement does not contemplate the transfer of ownership of any of the real property and does not limit the District's ability to comply with its statutory obligations regarding use and disposition of school district property under Chapter 28A.335 RCW. By entering into this Agreement, the Parties do not intend to jointly acquire or hold any real or personal property; provided, the Parties may make available to each other, as a matter of convenience, athletic equipment and other personal property items are shared, the Parties shall maintain records indicating the nature and quantity of the items shared. Ownership of any such personal property shall remain with the Party who purchased the property.
- 14. Non-Waiver.** The failure by either Party to insist on strict performance of or compliance with any term or condition of this Agreement by the other Party shall not constitute or be construed as a waiver or relinquishment of the Party's right thereafter to insist on strict performance of or compliance with the term or condition, or any other term or condition of this Agreement, and the same shall continue in full force and effect.
- 15. Records.** Each Party shall maintain records necessary to carry out the purposes of this Agreement in accordance with generally accepted accounting principles. Such records shall be available during normal working hours for review by the other Party, its accounting representatives, and the State Auditor.
- 16. No Conflict; Controlling Provisions.** The terms and conditions set forth in this Agreement are not intended to conflict with the terms and conditions of the Aquatic Facilities Agreement. Unless stated otherwise in this Agreement, in the event of an irreconcilable conflict between a provision in this Agreement and the provisions of the Aquatic Center Facilities Agreement, the provisions of the Aquatic Center Facilities Agreement shall control with respect to the City's Aquatic Center Facilities, and the provisions of this Agreement shall control with respect to all other facilities that are the subject of this Agreement.
- 17. Amendment.** This Agreement may only be amended or modified by a written instrument executed by an authorized representative of each Party.
- 18. No This Party Rights.** Nothing in this Agreement shall be interpreted to create any right or liability with respect to any person or entity not a signatory to this Agreement.
- 19. No Agency Relationship.** The Parties to this Agreement are independent entities. This Agreement does not and shall not be interpreted or construed to create any agency relationship between the Parties.
- 20. Interpretation/Venue.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Washington. Venue for any action arising out of or related to this Agreement shall be in the Snohomish County Superior Court.

<p>CITY OF LYNNWOOD</p> <p>_____ Christine Frizzell Mayor</p> <p>_____ Date</p>	<p>EDMONDS SCHOOL DISTRICT NO. 15</p> <p>_____ Name: _____ Title: _____</p> <p>_____ Date</p>
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EXHIBIT A - FACILITIES USE AGREEMENT

CITY OF LYNNWOOD (the "City") AQUATIC FACILITIES:

1. **Use of Aquatic Facilities.** The City agrees to make its Aquatic Facilities available to the Edmonds School District (the "District") and the District agrees to use the Aquatic Facilities from the City on the following terms and conditions. "Aquatic Facilities" include, but are not limited to, the swimming pool, locker rooms, showers and related equipment owned by the City of Lynnwood and located at 18900 44th Avenue West in Lynnwood.

2. **City Responsibilities. The City shall:**

- A. Provide a minimum of two lifeguards for all hours the Aquatic Facility is used by the District. The role of the City lifeguards shall be to support the District personnel's enforcement of Aquatic Facility rules and to respond to emergencies requiring lifesaving assistance.
- B. Provide for the operation and maintenance of the Aquatic Facility in conjunction with its operation maintenance and repair of the Recreation Center, and to make necessary repairs.
- C. Be responsible maintaining and repairing the equipment permanently installed in the Aquatics Facility, such as lane lines, flags, and starting blocks.
- D. Provide a copy of the City's Aquatics Facility Rules and Regulations, and any amendments to the District Athletic Director for use by the District.

3. **District Responsibilities. The District shall:**

- A. Provide supervisory personnel for all District aquatic activities. The District has lead responsibility for the safety of its students, staff, athletes, event volunteers, and spectators at the events while they are using the Aquatic Facility. For the purposes of this agreement, the term "personnel" means all officers, employees, agents, contractors, volunteers or any other person acting under the authority of the District.
- B. Ensure that all District personnel with on-site supervision and/or responsibility for the various school aquatic programs shall have current lifeguard training certification, current CPR certification and current first aid certification. District personnel acting as dive coaches must be certified US Diving Safety Training for Competitive Diving Coaches, which certification may substitute for lifeguard training. District personnel acting as swim coaches must be certified as United States Swimming Safety Training for Swim Coaches, or WIAA swim

coach certification may substitute for lifeguard training. Such certifications will be obtained prior to use of the Aquatic Facility.

In the event that coaches are employed by the District prior to the start of the season, the City will allow 60 days to obtain certifications, provided that certifications shall be obtained and provided to the City during the first season of employment with the District, and further provided that there is at least one coach on site with all required certifications.

- C. Provide the City with copies of all required certifications before use of the Aquatic Facility, and assume sole responsibility for ensuring compliance with the above subsection B.
- D. The District shall assume all responsibility for conduct of all student athletes, coaches and event staff at District aquatic activities, interscholastic practices, and meets.
- E. District personnel shall read Aquatic Facility Rules and Regulations and shall acknowledge the rules and regulations by signing the rules and regulations document provided by the City.
- F. Inform out-of-District personnel of Aquatic Facility Rules and Regulations prior to District use of Facilities.
- G. The District shall inspect the Aquatic Facility prior to all swim activities, practices, and meets to determine the fitness of the Facility for the District activity. District shall immediately report and inform City of any conditions of concern regarding the fitness of the Facility and equipment for the District's use prior to using the Facility. This obligation is independent of and in addition to the City's responsibilities in paragraphs 2B and 2C of Exhibit A.
- H. The District shall bear all responsibility for the use of the physical facility as it relates to the District activity and shall indemnify and hold the City harmless for such use as set forth in Section 7 of this agreement.
- I. The District agrees to pay for all damages to City-owned property resulting from the District's activities conducted at the City-owned Aquatic Facility. Further, the District agrees to return the City-owned property to the City in the same or better condition, minus reasonable wear and tear, at the conclusion of the District's use of the Aquatic Facility.
- J. Conclude all regularly scheduled swim meets by 5:00 PM at which time City swim lesson programming will promptly begin.

4. **Equipment.** The District shall provide equipment necessary for District's aquatics programs, except when the City provides equipment for use in the District's programs. Equipment used exclusively by the District may be stored on City property during the boys and girls swim team seasons only, with prior verbal agreement by both parties each season. Designated representatives of both parties shall meet annually prior to the City's and District's budgeting processes to discuss purchase, repair, and replacement of expendable and permanently installed equipment.

Expendable equipment owned by the City and used by the District shall include kickboards, hand paddles, and pull buoys. The City shall budget for and purchase the expendable equipment listed above at no cost to the District.

The City and the District shall together mutually determine the need for repair and replacement of permanently installed equipment. Permanently installed equipment shall include lane lines, flags, and starting blocks. The City shall obtain cost estimates for repair and replacement of permanently installed equipment. The District shall reimburse the City for the District's proportionate share of all sums expended for purchase, replacement, and repair of such equipment. The District's share shall be mutually determined at the annual meeting and shall be based on the percentage of district use of the equipment when compared to the overall public use of the equipment, not to exceed 50% of the overall use and cost. Permanently installed equipment shall become the property of the City.

5. District Liability Coverage for Use of City Aquatics Facility.

A. Nature of Coverage. The district shall maintain commercial general liability coverage or shall obtain a coverage agreement approved by the City, and attached to this agreement, shall provide liability coverage to the District and the City for the liabilities arising from this agreement, and arising out of the activities pertaining to this agreement. By requiring such liability coverage, the City of Lynnwood shall not be deemed to or construed to have assessed the risks that may be applicable to the District in this agreement. The District shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage than is herein specified.

B. Scope and Limits of Liability Coverage.

1. Commercial General Bodily Injury and Property Damage Insurance shall be written with limits of liability of no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 in aggregate and shall include coverage for:

Premises & Operations
Contractual liability (including specifically liability assumed herein)
Commercial Form (to include Extended Bodily Injury)
Broad Form Property Damage
Independent Contractors
Personal Injury
Stop Gap (limited to \$100,000 per occurrence and \$500,000 aggregate)

2. Automobile Bodily Injury and Property Damage shall be written with limits of liability for limits not less than \$1,000,000 combined single limit per occurrence and shall include coverage for:

All owned automobiles
Non-Owned automobiles
Hired automobiles
Any Automobiles

3. Excess coverage shall be written on a following form basis with limits of no less than \$15,000,000
4. Bodily Injury Liability Insurance shall be written on an occurrence basis for damage to or destruction of property, including the loss of use thereof.
5. Property Damage Liability Insurance shall be written on an occurrence basis for damage to or destruction of property, including the loss of use thereof.
6. Workers' Compensation coverage as required by the Industrial Insurance Act of the State of Washington, Title 51 RCW and statutory limits.

C. **Deductibles and Self-Insured Retentions.** Any deductible and/or self-insured retention shall be the sole responsibility of the District.

D. Other Provisions. The coverages required by this agreement are to contain or be endorsed to contain the following provisions where applicable.

1. **Liability Coverages.** The District's liability coverage shall be primary coverage as respects the City of Lynnwood, its officer, officials, employees, and agents. In the event of District negligence, any insurance and/or self-insurance maintained by the City of Lynnwood, its officers, officials, employees and agents shall not contribute to the District's coverage or benefit the District in any way.
2. **All Policies and Coverage Agreements.** Coverage shall not be suspended, voided, canceled, materially reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice, sent by registered mail, has been given to the City of Lynnwood.
3. **Acceptability of Insurers.** Unless otherwise accepted by the City of Lynnwood, insurance coverage is to be placed with insurers possessing a Best's rating of no less than A: VIII, or, if not rated by Best's, with a minimum surplus the equivalent of Best's surplus size VIII.
4. **Verification of Coverage and Additional Named Insured.** The District shall furnish the City with certificates of coverage. The certificates for each policy or coverage agreement are to be signed by a person authorized to bind coverage. The District agrees to defend and indemnify the City for any and all claims that are a result of District use of the facility, in the same manner as if the District had purchased liability insurance with the City as additional named insured.