

INTERLOCAL AGREEMENT BETWEEN
CITY OF PROSSER AND THE PROSSER SCHOOL DISTRICT
REGARDING USE OF PUBLIC FACILITIES

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CITY OF PROSSER

This agreement is made entered into this 13th day of December, 2011, by and between The City of Prosser, (City), a municipal corporation, and the Prosser School District, #116 (District), a municipal corporation;

WHEREAS, the District desires to use the City's competition swimming pool and old bathhouse located within the City's Aquatic Center during the School Year while the City's Aquatic Center is open to the public; and

WHEREAS, the District desires to use the City's competition swimming pool and old bathhouse located within the City's Aquatic Center after the date on which the City would normally close its Aquatic Center; and

WHEREAS, the City and District desire to set forth their agreement regarding the consideration the District must pay for the use of the City's facilities; and

WHEREAS, the parties hereto are authorized by RCW 39.34.080 to enter into this agreement; and

WHEREAS, no separate entity will be created pursuant to this agreement; and

WHEREAS, no jointly owned property will be acquired pursuant to this agreement;

NOW THEREFORE, in consideration of the mutual benefits to be derived hereby and the terms, conditions and covenants contained herein, City and District agree as follows:

1. For the 2011-2012 school year commencing on August 29, 2011, and continuing through June 8, 2012, District shall pay City the sum of Three Thousand Five Hundred Dollars (\$3,500) on or before December 1, 2011 for use of the competition pool and old bathhouse within the City's Aquatic Center. Each year thereafter that this agreement is in effect, the City shall send an invoice to District on or before the first of February, commencing on or before February 1, 2012, stating the amount due for the following school year. Unless District terminates this agreement within sixty (60) days following the receipt of this invoice, the agreement shall continue for an additional year with the payment due to the City in the amount of the invoice and payable on or before the 1st day of September each year, commencing September 1, 2012, for the 2012-2013 school year.
2. While the Aquatic Center is open to the public, District shall schedule any dates it needs to use the competition pool and old bathhouse with the City at least sixty (60) days in advance of such usage. After the Aquatic Center is closed to the public, District may use the competition pool and old bathhouse provided the District schedules such usage with City at least ten (10) days prior to such usage.

3. District shall supply a certified coach that has the legal authority to act as a lifeguard at all swim practices. City shall not be responsible to staff lifeguards during the District swim team practices. During swim team meets, City shall staff the meets with two lifeguards and an assistant manager.
4. City shall be responsible to maintain the competition pool and bathhouse, including but not limited to testing the pool water for compliance with State requirements, cleaning the pool, and paying all costs not specifically allocated to District to operate the competition pool and bathhouse.
5. The Deputy City Administrator or Finance Director will act as the administrator of this agreement.
6. This agreement will not result in a separate agency being created.
7. This agreement will not result in the acquisition of property.
8. The District will indemnify, defend and hold harmless the City, its agents, officers, and employees from and against any and all liability, expense, including defense costs and attorney fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, personal injury or property damage arising out of or in any manner connected with the sole negligence or sole intentional misconduct of the District connected with the District's use of the swimming pool and aquatic facilities.

The City will indemnify, defend and hold harmless the District, its agents, officers, and employees from and against any and all liability, expense, including defense costs and attorney fees, and claims for damages of any nature whatsoever including, but not limited to, bodily injury, death, personal injury or property damage arising out of or in any manner connected with the sole negligence or sole intentional misconduct of the City as owner of the swimming pool and aquatic facilities.

As between the parties, each party specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51, RCW. The indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under Workers' Compensation Acts, disability benefits acts, or other employee benefits acts; provided that each party's waiver of immunity by the provisions of this paragraph extend only to claims against the negligent party by the non-negligent party, and does not include, or extend to, any claims by the negligent party's employees directly against the negligent party. The parties have mutually negotiated this waiver. The provisions of this paragraph survive the expiration or termination of this Agreement.

9. Each party shall secure, and continuously carry in effect, with an insurance company or companies reasonably acceptable to the other, the following insurance policies:

Each party shall maintain insurance for bodily injury and property damage. Such insurance shall include: provisions or endorsements naming the other party and its elected

officials, officers, agents, employees, and volunteers as additional insureds; provisions that such insurance is primary insurance with respect to the interest of each party, and that any insurance maintained by the party is excess and not contributory insurance with insurance required hereunder; and provisions or endorsements to include broad-form comprehensive liability and blanket contractual liability. Initial limits of liability for all requirements under this paragraph shall be \$1,000,000 each occurrence and \$2,000,000 general aggregate.

All insurance policies required hereunder shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior written notice to the other party. Each party shall provide the other with a Certificate of Liability Insurance naming the other, and its elected officials, officers, agents, employees, and volunteers as additional insureds. Each party shall secure a waiver and release of any and all subrogation rights, as to the other party, which may be available under such insurance policies.

10. This agreement shall continue indefinitely. District may terminate this agreement as provided for in paragraph 1 above. City may terminate this agreement by sending a notice of termination, in lieu of the invoice provided for in paragraph 1 above.
11. The terms and conditions of this agreement shall be interpreted under the laws of the State of Washington and any action brought to enforce this agreement shall be brought in Benton County Superior Court.
12. This agreement may be amended or modified only by written agreement duly executed by the parties hereto. This agreement shall be executed in duplicate originals. One original shall go to each party.
13. This agreement shall not be effective until it is either filed with the Benton County Auditor or it is listed by subject on the City's and the District's web sites, or other electronically retrievable public source in compliance with RCW 39.34.040.
14. NOTICE: All notices, requests, demands and other communications required by or permitted under this Agreement shall be reduced in writing and deemed to have been duly given when received by the party to whom directed. Provided, however, that notice shall be deemed conclusively given at the time of its deposit when sent by Certified or Registered Mail, Return Receipt Requested, at the address as set forth below, or such other address as is hereafter designed by either party by written notice thereof to the other party.

CITY: City of Prosser
601 Seventh Street
Prosser, Washington 99350
Attn: City Clerk
(509) 786-2332

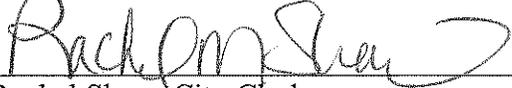
DISTRICT: Prosser School District
1126 Meade Avenue, Suite A
Prosser, Washington 99350
(509) 786-3323

City of Prosser by:



Paul Warden, Mayor

Attest:



Rachel Shaw, City Clerk

Approved as to form:



Howard Saxton, City Attorney

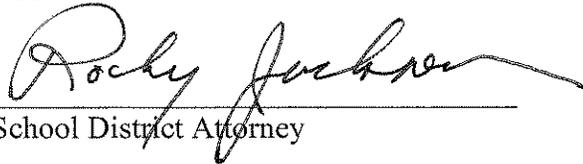
Date:

Prosser School District by:



Ray Tolcacher, Superintendent

Approved as to form:



School District Attorney

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