

BEYER HIGH SCHOOL SWIMMING POOL SUMMER 2020 USE MOU
BETWEEN THE MODESTO CITY SCHOOLS AND THE CITY OF MODESTO

This Memorandum of Understanding (“MOU” or “Agreement”) is made and entered into in the City of Modesto, County of Stanislaus, State of California as of the 12th day of February, 2020 by and between the MODESTO CITY SCHOOLS (“District”) and the CITY OF MODESTO (“City”). The District and City shall collectively be referred to hereinafter as the “Parties.”

RECITALS:

WHEREAS, the District is the owner of real property in the City, at 1717 Sylvan Avenue, Modesto (Beyer High School), that includes the Beyer High School Swimming Pool, swimming pool deck, gates, locks, mechanical systems, storage areas, restrooms and adjacent parking (“Pool”), and other facilities that are capable of being used by the City; and

WHEREAS, the Parties entered into that certain Agreement on June 5, 1972 (“Master Agreement”), wherein the City agreed to pay 50% for the cost of the construction of the Pool; and

WHEREAS, in consideration of City’s payment for the cost of construction of the Pool, the Master Agreement gave the City the right, among other things, to use the Pool for not less than twelve (12) continuous weeks during summer vacation for the useful life of the Pool; and

WHEREAS, the City hereby intends to utilize the Pool for the Summer 2020 season and memorialize the mutually agreed Pool schedule and other terms and conditions in furtherance of the Master Agreement.

NOW, THEREFORE, the District and the City agree to cooperate with each other as follows:

1. Term of Use:

The term of use for this Agreement (“Term”) will begin on June 1, 2020 and will continue through July 31, 2020. This Agreement may be terminated by either party with written notice.

2. City Use:

City shall be entitled to the exclusive use of the Pool during the dates set forth above, during the day and hours identified generally as:

a) Summer Program

June 1-5, 2020

- Monday-Friday: 9:30 am – 6:00 pm, City staff orientation and training.
(Not open to the public)

June 8 – July 31, 2020

- Monday-Friday: 9:30 am - 7:30 pm
- Saturday: 12:30-4:30 pm

- closed July 3rd and 4th for Holiday

**Fridays are scheduled for Staff Trainings (9:00 am-12:00 pm) and Recreational Swim only (1:00-4:00 pm) with no swim lessons; however Friday may also be utilized in the morning and evening IF make-up swim lessons are required due to Pool closures for any reason or for staff training. City will notify District Pool Maintenance staff of any schedule changes.*

3. City Charges to Public for Use:

During the Term of this MOU, the City may charge rental or participant fees to users of the Pool to cover any administrative, maintenance or other charges for the operation of the City's aquatic program.

4. Supervision and Safety:

City shall provide an adequate number of competent and trained personnel (Certified Lifeguard training, swimming and water safety), to supervise all activities on District property during the Term of this Agreement. The City shall enforce all of the District's rules, regulations and policies while supervising activities on the District's property.

5. Custodial:

District shall provide regular custodial service during the Term of this Agreement. City agrees to ensure reasonable trash and restroom clean-up during the hours of use. District shall be responsible for testing water for proper levels of chemical content and temperature. District staff shall be responsible for adjusting heat and adding chemicals as needed.

6. Security and Damage:

City shall provide adequate security to ensure the Pool, and related equipment and buildings are locked and secured upon daily closing. City shall provide District immediate notification in the event there is any damage to District property or equipment during the Term of this Agreement. City agrees to pay District for all property damage to the Pool which may result from City's use. City shall not be liable for normal wear and tear to the Pool.

7. Indemnification and Insurance:

City shall hold District, its agents, officers, employees and volunteers harmless from and save, defend and indemnify them against any and all claims, losses, liabilities and damages from every cause, including but not limited to injury to person or property, wrongful death and all the costs and expenses (including reasonable attorney's fees) arising directly or indirectly from City's use of the Pool during the Term of this MOU. City shall cause a Certificate of Insurance to be issued to District in which the District is shown as an additional

insured and certificate holder under the City's GENERAL LIABILITY POLICY. Such certificate must show coverage the minimum amount of \$5,000,000.

8. Rent:

City shall not be required to pay rent to District for its Pool use during the Term of this Agreement.

9. Governing Laws:

This MOU shall be interpreted under and be governed by the laws of the State of California.

MODESTO CITY SCHOOLS

By: _____ Date: _____
Tim Zearley, Associate Superintendent, Business Services
Chief Business Official

CITY OF MODESTO

By: _____ Date: _____
Joseph P. Lopez, City Manager

ATTEST:

By: _____ Date: _____
Stephanie Lopez, City Clerk

APPROVED AS TO RISK:

By: _____ Date: _____
Christina Alger,
Human Resources Manager (Risk)

APPROVED AS TO FORM:

By: _____ Date: _____
Adam Lindgren, City Attorney