

RESOLUTION NO. 2019-04

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE SEDONA-OAK CREEK JOINT UNIFIED SCHOOL DISTRICT NO. 9 FOR USE OF THE SEDONA COMMUNITY SWIMMING POOL.

WHEREAS, two or more public agencies may enter into an intergovernmental agreement pursuant to A.R.S. § 11-952.A, and

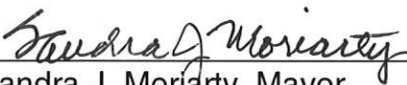
WHEREAS, the City of Sedona ("Sedona") and the Sedona-Oak Creek Joint Unified School District No. 9 ("District") have determined that it would be in their best interests to enter into an intergovernmental agreement regarding the use of the Sedona Community Swimming Pool at Posse Grounds Park, and

WHEREAS, Sedona has reviewed the terms of the proposed agreement for use of the community swimming pool and determined that it qualifies as an intergovernmental agreement under A.R.S. § 11-952.B,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA, THAT:

The City of Sedona, through its Mayor and Council, hereby approves the Intergovernmental Agreement between the City and the Sedona-Oak Creek School District No. 9 for the operation and maintenance of the Sedona Community Swimming Pool at Posse Grounds Park and authorizes the Mayor to execute said agreement.


PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona, this 26th day of March, 2019.


Sandra J. Moriarty, Mayor

ATTEST:


Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:


Robert L. Pickels, Jr., City Attorney

**INTERGOVERNMENTAL AGREEMENT WITH THE
SEDONA-OAK CREEK JOINT UNIFIED SCHOOL DISTRICT NO. 9
FOR OPERATION AND MAINTENANCE OF THE
SEDONA COMMUNITY SWIMMING POOL**

THIS AGREEMENT, made and entered into this 26th day of March, 2019, by and between the CITY OF SEDONA, Arizona, a municipal corporation of the State of Arizona, hereinafter called the "City," and the SEDONA-OAK CREEK UNIFIED SCHOOL DISTRICT NO. 9, a political subdivision of the State of Arizona, hereinafter called the "District," as follows:

WHEREAS, the District owns the Sedona Community Swimming Pool ("Pool"), located at 570 Posse Ground Road near Posse Grounds Park within the City, and

WHEREAS, the parties wish to renew the Agreement and allow the City to continue to be responsible for the operation, control and maintenance of the Pool, under the following terms and conditions; and

WHEREAS, the parties are empowered to enter into this Agreement pursuant to A.R.S. § 11-952.

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to each other, it is hereby agreed as follows:

1. *Obligations of the District.* The District shall:
 - a. Allow use of the Pool for programs to be sponsored and programmed by the City through the Parks and Recreation Department.
 - b. Provide parking and patron access to the Pool. During non-school seasons, the District will remove any District vehicles from the parking spaces located near the entrance of the pool.
 - c. Promptly notify the City of any evidence of vandalism or mechanical malfunctioning of the Pool or surrounding facilities.
 - d. Promptly notify the City of any scheduled fire drills or emergency campus shut-downs.
 - e. Promptly notify the City of construction projects, water shut-off or other District events which will affect the scheduling and use of the Pool or surrounding parking lots.
 - f. In the interest of safety, the District shall adhere to all rules and regulations as set forth by the City Parks and Recreation Department.
 - g. School District personnel supervising practice times and programs held for School District participants only, must hold current certifications in Basic Water Safety, CPR/AED, and First Aid issued by the American Red Cross or any nationally recognized organization, such as StarGuard Elite or Ellis & Associates. During events or programs that are open to the public, the City will provide lifeguard staff.
 - h. The District shall cover all costs of any District programs using the Pool. During the high school swim season, the District will pay \$32.75 per hour

for the use of the facility. Invoices will be submitted monthly and are due 30 days from date of invoice.

- i. On or before July 1 of each year that this Agreement is in effect, the parties shall develop a schedule for the School District's use of the pool for the upcoming season, including swim team practice times. On or before August 15, the District shall provide their requested dates for swim meets/tournaments, 24 Hour Relay and other educational programs or events for which the School District anticipates a need to use the pool. Requests for End of School pool parties must be turned in to the City a minimum of thirty (30) days before the requested date. Payment must be received by the City two (2) weeks before the event date. All proposed uses shall be subject to City review and approval.
 - j. Manage the upkeep of grounds maintenance outside of the pool perimeter fence, with the exception of the landscaped front entrance into the pool, which will be the responsibility of the City.
 - k. School District shall reimburse City for any repair or replacement of City property, equipment or fixtures damaged by School District or damaged during the School District's use of the pool or during use of the pool for any School District sponsored activity at the pool.
 - l. If damage to the pool requiring repair or replacement does not arise from the negligence or willful misconduct of either party and is of a type that under generally accepted accounting principles is to be capitalized or depreciated, and to the extent provided for in their annual budget appropriation the parties shall equally share the cost of such repair or replacement. The parties shall mutually determine when the cost of such repair or replacement will be incurred.
 - m. District shall monitor and log the utility meters and invoice the City monthly.
2. *Obligations of the City.* The City will have the following responsibilities:
- a. Pay all Pool management, operations, and general maintenance expenses.
 - b. Give priority to the District programs over private users of the Pool, provided District Programs do not interfere with City sponsored programming.
 - c. Pay all utility expenses to the District monthly.
 - d. Retain discretion to pass along the cost of chemicals, staff, and utilities to individuals and groups utilizing the Pool for non-City sponsored programs.
 - e. Retain discretion to sublet pool to other user groups.
 - f. Provide certified lifeguards when the pool is open to the public.
3. *General Provisions.* The parties will jointly review the capital improvements and costs involved in maintaining the Pool and adjacent facilities in a safe and working condition. The real property and fixtures which are the subject of the Agreement shall remain the property of the District. All items purchased for the benefit of programs shall remain the property of the purchaser. These items include but are not limited to: water aerobics equipment, swim lesson equipment, bleachers, deck chairs and stereo equipment. Funding for this

agreement will be determined by budgeted appropriations by the governing body of each party.

4. *Term.* The term of this Agreement shall be for a period of three (3) years, beginning upon execution by the parties and filing with the County Recorder pursuant to ARS 11-952.G, and terminating on March 26, 2022. The parties may, by mutual agreement, agree to extend the Agreement for one (1) additional term of not more than one (1) year.
5. *Conflict of Interest.* Pursuant to ARS § 38-511, the parties may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on behalf of that party is, at any time while the Agreement or an extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity, or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.
6. *Indemnification and Insurance.* Each party agrees to indemnify and hold harmless the other for any and all claims, expenses and damages due to that party's negligence arising out of the Agreement and the use of the Pool by the District, and the use, maintenance, and operation of the Pool by the City. The parties each agree to provide proof of liability insurance in the amount of not less than one million (\$1,000,000), naming the other party as an additional insured, and issue a certificate of insurance. Written notice shall be provided to the other party at least thirty (30) days prior to cancellation of the insurance, and failure to renew the coverage may be deemed by the additional insured as grounds for termination of the agreement for cause.
7. *Notice.* Notice concerning the application and interpretation of the Agreement shall be provided in writing by mail, FAX, or email to the following representatives:

For the City
Justin Clifton, City Manager
City of Sedona
102 Roadrunner Drive
Sedona, AZ 86336

For the District
Dennis Dearden, Superintendent
Sedona-Oak Creek Joint
Unified School District No. 9
225 Brewer Road
Sedona, AZ 86336

8. *Termination.* This Agreement may be terminated by either party with or without cause by providing ninety (90) days written notice.

CITY OF SEDONA, a municipal corporation of the State of Arizona

By: Sandra J. Moriarty
Sandra J. Moriarty, Mayor

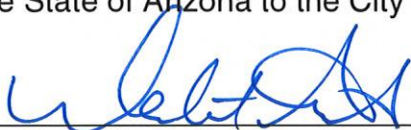
Dated: 4/1/19

ATTEST:

Susan L. Irvine
Susan L. Irvine, CMC, City Clerk

Dated: 4/1/19

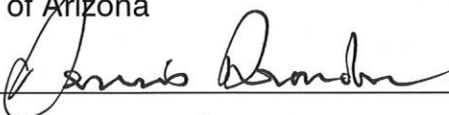
Pursuant to A.R.S. § 11-952(D), the undersigned City Attorney has determined that this Agreement is in proper form and within the powers and authority granted under the laws of the State of Arizona to the City of Sedona.



Robert L. Pickels, Jr., City Attorney

Dated: 4/11/19


THE SEDONA-OAK CREEK UNIFIED SCHOOL DISTRICT, a political subdivision of the State of Arizona

By: 

Its: Superintendent

Dated: 3-13-19

ATTEST:



Dated: 3-13-19

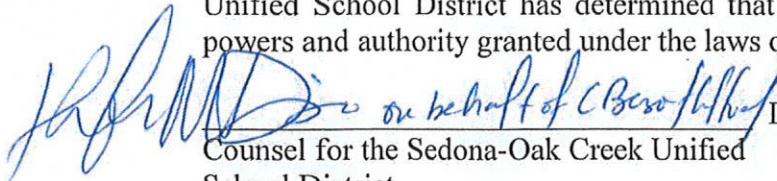
Pursuant to A.R.S. § 11-952(D), the undersigned attorney as counsel for the Sedona-Oak Creek Unified School District has determined that this Agreement is in proper form and within the powers and authority granted under the laws of the State of Arizona to the District.



Counsel for the Sedona-Oak Creek Unified School District

Dated: _____

Pursuant to A.R.S. § 11-952(D), the undersigned attorney as counsel for the Sedona-Oak Creek Unified School District has determined that this Agreement is in proper form and within the powers and authority granted under the laws of the State of Arizona to the District.

 on behalf of C. Bero / [unclear]

Dated: 3-13-19

Counsel for the Sedona-Oak Creek Unified School District