

**INTERLOCAL AGREEMENT FOR JOINT USE OF FACILITIES BETWEEN CITY OF  
SAN MARCOS AND SAN MARCOS CONSOLIDATED INDEPENDENT SCHOOL  
DISTRICT**

This Agreement is made and entered into on February 18, 2020 (the “Effective Date”), by and between the City of San Marcos, Texas, a Texas Municipal Corporation, ("City"), and the San Marcos Consolidated Independent School District ("District"), individually referred to as a “Party,” and jointly referred to as the “Parties.”

**RECITALS**

**Whereas**, the City and the District are mutually interested in meeting youth and community demands for more developmental and recreational opportunities.

**Whereas**, the City and the District wish to enter into an agreement for the City’s shared use of facilities owned by the District.

**Whereas**, the Texas Interlocal Cooperation Act, Section 791.001, *et seq.* of the Texas Government Code authorizes the Parties to contract with each other to perform governmental functions and services. This Agreement concerns the performance of governmental functions and services.

**Whereas**, for the reasons stated in these Recitals and the mutual benefits and obligations herein, the Parties wish to enter into this Agreement

**AGREEMENT**

In consideration of the foregoing recitals and the terms, conditions, covenants, and agreements set forth herein, the Parties agree as follows:

**1. Purpose.** The purpose and intent of this Agreement is to provide for the use of District owned facilities for the purpose of providing recreational activities in a manner that does not interfere with the specific educational and/or recreational purposes for which the facility was intended.

**2. Duration.** This Agreement shall commence on the Effective Date and continue for a period of one year. This Agreement shall be extended automatically for four (4) additional one-year periods unless: a) either Party provides written notice to the other Party of its intention to not renew at least 30 days before the end of the applicable one-year period, or b) terminated earlier upon a breach of this Agreement by a Party pursuant to Section 2.1 below.

**2.1** Upon breach of this Agreement by either Party, the other Party shall give written notice of the intent to terminate the Agreement specifying the claimed breach and action required to cure the breach. If the breaching Party fails to cure the breach within five (5) calendar days from receipt of said written notice, the other Party may terminate the Agreement upon written notification to the breaching Party.

**3. Joint Board.** This Agreement shall be administered by a joint board composed of the City Parks and Recreation Director, or another designated City representative, and the \_\_\_\_\_, or another designated District representative.

**4. Facilities.** District Facilities are comprised of Tennis courts at Mendez Elementary as shown in Exhibit A.

**5. Use of Facilities.**

**5.1** The City shall have priority use of the District Facilities for the purpose of hosting adult Pickleball practices, games, tournaments and events when not scheduled for use by the District. The District shall have priority use of the City Facilities when not scheduled for use by the City. The Parties agree that the facilities will not be available during school hours.

**5.2** The District shall attempt to provide at least ten (10) calendar days' notice of shutdowns of the District Facilities for preventative or emergency maintenance.

**5.3** The City's use of the District Facilities is subject to the rules in Exhibit B.

**6. Scheduling.** The City shall submit all requests for use of District Facilities, including season schedules for practices, games and tournaments, to the District fourteen (14) calendar days or more prior to the start of the season.

**7. Maintenance of Facilities.**

**7.1** Unless otherwise provided by the mutual written agreement of the Parties, it is agreed that the City shall make all improvements as deemed necessary by the City for its proposed use under paragraph 5.1, subject to the District's review and approval of the plans and scope of work for such improvements. The Parties acknowledge that the City's improvements will include the creation of sixteen pickleball courts by repairing all cracks in the current surface to ensure the safety of participants and repainting of the surface where needed and the placement of pickleball nets.

**7.2** No other alterations or changes of any kind shall be made by the City without the written agreement of the District.

**8. Indemnification and Liability. TO THE EXTENT AUTHORIZED BY THE TEXAS CONSTITUTION AND LAWS OF THE STATE OF TEXAS, AND WITHOUT WAIVING ANY LIMITATIONS ON LIABILITY, OR IMMUNITY FROM LIABILITY OR SUIT, EACH PARTY AGREES TO HOLD HARMLESS, DEFEND, AND INDEMNIFY THE OTHER PARTY, ITS OFFICERS, OFFICIALS, EMPLOYEES, AND VOLUNTEERS FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, ACTIONS, OR LIABILITIES FOR ANY ACTUAL OR ALLEGED INJURY OR DEATH OF ANY PERSON, OR FOR ANY ACTUAL OR ALLEGED LOSS OR DAMAGE TO PROPERTY,**

**WHICH ARISES OUT OF THE PARTY'S USE OF THE DISTRICT FACILITIES.**

**8.1 It is expressly understood and agreed that under this Agreement, neither the District nor the City of San Marcos waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.**

**9. Insurance.** The City shall procure and maintain for the duration of the Agreement, general liability insurance through a governmental risk pool covering premises, products-completed operations, and contractual liability with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate against claims for injuries to persons or damage to property which may arise from or in connection with the use of the District Facilities. The City shall also secure general liability insurance coverage for participant liability with limits of not less than \$250,000 per occurrence. The District shall be named as an additional insured on the insurance policy and such policy shall provide that the City's insurance coverages shall be primary insurance in favor of the District. The City shall provide a certificate of insurance evidencing the required insurance prior to use of the District Facilities.

**10. Cost and Fees.**

**10.1** The City shall bear its own cost for ordinary maintenance of the District Facilities after its authorized improvements are completed and while using the District Facilities during the Term.

**10.2** User registration fees may be set for the use of District facilities by the City. Such registration fees shall be used for the purpose of maintaining and repairing District Facilities. City shall make all records and accounts relating to the user registration fees available to the District. The user registration fees shall be retained as revenue by the City.

**11. Inspection.** Each Party and its authorized officers, agents, and employees shall have the right to enter and inspect the District Facilities at reasonable times. No inspection may take place between the hours of 7:00 am and 4:15 p.m. without prior approval of District.

**12. No Third-Party Beneficiaries.** The Parties hereto do not intend to confer on any third parties any benefits hereunder. Therefore, no third party may utilize any provision hereof as a third-party beneficiary or otherwise.

**13. Entire Agreement.** The terms and conditions written herein constitute the entire understanding between the Parties. This Agreement supersedes all prior agreements, whether written or oral. This Agreement shall not be modified or amended except in writing and executed by the Parties hereto.

**14. Governing Law and Venue.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, and venue for any dispute arising under this Agreement shall be in the state courts having jurisdiction in Hays County, Texas.

**15. Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Any waiver of the terms and conditions of this Agreement shall, if requested, be provided in writing.

**16. Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when mailed via United States Postal Service or certified mail, return receipt requested addressed to the respective party at the address provided below or at such other address as the receiving party may have provided by written notice to the other party.

CITY: City of San Marcos  
Attention: City Manager  
603 E. Hopkins  
San Marcos, Texas 78666

DISTRICT: San Marcos Consolidated ISD  
Attention: Superintendent  
631 Mill Street  
San Marcos, Texas 78666

**EXECUTED** by the Parties to be effective as of the Effective Date first written above.

**CITY:**

**DISTRICT:**

**By:** \_\_\_\_\_  
Bert Lumbreras, City Manager

**By:** \_\_\_\_\_

**EXHIBIT "A"**

**EXHIBIT "B"**  
**RULES AND REGULATIONS FOR USE OF SCHOOL FACILITIES**

**The building and grounds of the District are primarily for public school purposes, which include all activities of the school involved in carrying out its programs. No other use shall be permitted to interfere with the primary purpose for which these buildings and grounds are intended.**

1. The District reserves the right to deny/cancel any permit, and/or discontinue use of the facility by the applicant/user at any time if, in their sole discretion, the use of a facility is in the conflict with District use policies or regulations.
2. Satisfactory sponsorship and adequate adult supervision, which may include appropriate police and security personnel, shall be required of all activities within District facilities. Personal use of space, such as birthday parties, private sales parties, or personal meetings/banquets will not be permitted.
3. It is the responsibility of the applicant/user to report to the District by the close of the next business day all non-emergency injuries and damages due to the activities of the applicant/user. If the incident (damage to the facility or injury to a participant or attendee) is an emergency, the incident is to be reported immediately. The point of contact for any injury or damage to the property shall be [PROVIDE A NAME AND POINT OF CONTACT WITH NUMBER]

**CONDITIONS**

1. Keys to buildings of facilities shall not be issued to any individual or group for entering a district facility without authorization. Unless previously arranged, facilities must be opened and closed by custodians or other authorized District personnel at the times arranged during the application process.
2. Decorations that create damage to walls, ceilings, floors, or furniture are not allowed in district facilities. Nails, tacks, duct tape, glue and other adhesives, are not permitted. Open flames including, candles, briquettes, and wood fires are not permitted on District property. All costs for such removal of decorations or damages caused by decorations or open flame shall be directly billed to the user.

**RESPONSIBILITIES**

1. Adult leaders of organizations using District facilities shall remain with their groups throughout activities and shall be financially responsible for the proper care of the facility used, and any District materials, furniture, or equipment therein.
2. In the event of damage or loss of District property, the applicant must accept the District's estimate of replacement/repair and pay all costs associated therein within 30 days. The District is not responsible for property lost by individuals or groups using school facilities.

**RESTRICTIONS**

1. The use of tobacco, alcoholic beverages, or illegal drugs is strictly prohibited in all District facilities and upon all District properties.
2. Food is limited to certain facilities and the vending and/or serving of such must be approved in advance.
3. All State and local laws and fire codes are in effect for use of District facilities.