

## LEASE OF RANCHO ISABELLA SWIMMING POOL

### STATE OF TEXAS

### COUNTY OF BRAZORIA

This Lease is made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2009 by and between Rancho Isabella Homeowners Association d/b/a Sonora Homeowners Association, hereinafter referred to as “Lessor” and the City of Angleton, Texas, hereinafter referred to as “Lessee”.

**WHEREAS**, Lessor now owns, controls and desires to lease that certain swimming pool and related facilities located at 1040 Ranch House Loop in the City of Angleton, Brazoria County, Texas; and

**WHEREAS**, Lessee desires to lease the swimming pool and related facilities.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises, covenants and agreements setforth herein, Lessor and Lessee agree as follows:

**SECTION ONE: LEASED PREMISES.** Lessor, for and in consideration of the covenants and agreements herein contained, does hereby demise and lease unto Lessee and Lessee does hereby lease from Lessor, the following described premises located in the City of Angleton, Brazoria County, Texas:

The swimming pool, club house, including the club house changing area, and related facilities located at 1040 Ranch House Loop, as more fully shown and described on Exhibit A, which is attached to and made a part of this Lease for all purposes, hereafter described as the “Leased Premises”, together with the full right of ingress and egress to the property.

**SECTION TWO: TERM.** The term of this Lease shall be for three months from June 1, 2009 through August 31, 2009.

**SECTION THREE: USE OF LEASED PREMISES.** Lessee shall have the full use of the leased premises from 9:00 a.m. to 1:00 p.m., Monday through Friday, during the term of the Lease for providing swimming lessons and any other activities directly related to the swimming lessons including, without limitation, the storage of a swimming lesson platform on the Leased Premises. During the swimming lesson instruction periods, the Lessee shall provide one swimming instructor and a supervisor who shall walk on and supervise the lessons from the deck surrounding the swimming pool. The Lessee shall not have more than 16 students in the pool at one time for any swimming lesson class.

**SECTION FOUR: RENTALS AND OTHER CONSIDERATION.** In consideration of the Lease of the premises by Lessor, the Lessee agrees to pay the Lessor a one-time rental of \$10,000 and, during the term of this Lease, to allow members and residents of the Sonora Homeowners Association (Sonora HOA) to have pool passes to the swimming pool in the Lessee's Recreation Center located at 1601 Valderas, Angleton, Texas 77515. Provided these passes shall be issued only with the approval of both the Lessor and Lessee during the three month term of this Lease, the persons requesting the passes must provide Lessee with adequate proof that they are residents and members of the Sonora HOA and any such persons issued the passes shall fully comply with all Lessee's regulations and requirements for using the pool at the Recreation Center. The Lessor agrees that the Lessee shall have the right to remove or deny access to the Recreation Center to any such persons who are not complying with these regulations and requirements or who do not provide adequate proof that they are residents and members of the Sonora HOA.

**SECTION FIVE: INSURANCE.**

- (A) During the term of the Lease only, Lessor shall be covered under the Lessee's liability insurance policy with the Texas Municipal League Risk Pool for the sole purpose of providing insurance coverage for any claims of loss or damages, including death, personal injury or property damage, that result from the Lessee's negligent use of the Leased Premises for providing swimming classes during the hours setforth in Section Three.
- (B) During the term of the Lease only, Lessee shall be covered under any Lessor's liability policy for the sole purpose of providing insurance coverage for any claims of loss or damages, including death, personal injury or property damage, that result from the Lessor's residents' and members' negligent use of the Lessee's Recreation Center.
- (C) That nothing in this Section creates any rights for persons who are not a party to this Lease. Neither the Lessor nor Lessee hereby waive any defenses to such claims of loss or damage that they may have in law or in equity, including, without limitation, the defense of governmental immunity from such claims.

**SECTION SIX: FAILURE TO PERFORM AND TERMINATION.** Should either party fail to perform any of the provisions of the Lease, the non-breaching party shall give the breaching party written notice of such non-performance or breach. The breaching party shall have ten days to cure the breach. If at the end of the ten days the breaching party has not cured the breach to the satisfaction of the non-breaching party, the non-breaching party may terminate the Lease or pursue any other remedies it may have at law or in equity. In the event of a termination under this clause, the consideration under Section Four will be prorated and the Lessee shall be entitled to a full refund of the prorated portion of the consideration for the period of the term not used by Lessee as a result of the termination.

**SECTION SEVEN: NOTICES.** All notices to the parties shall be given by regular United States mail at the addresses shown below.

**SECTION EIGHT: APPLICABLE LAW AND VENUE.** This Lease shall be governed by and construed in accordance with the laws of the State of Texas. The obligations and understandings of each of the parties to this Lease shall be performed at Angleton, Brazoria County, Texas, and any legal actions under this Agreement shall be filed in a court of competent jurisdiction sitting in Brazoria County, Texas.

**IN WITNESS WHEREOF,** the parties have executed this Lease through their duly authorized representatives as of the day, month and year first above written.

LESSOR:

Rancho Isabella Homeowners Association  
d/b/a Sonora Homeowners Association  
Attn: Debbie McMullen  
921 Crossing  
Angleton, Texas 77515

BY: \_\_\_\_\_  
Its: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

LESSEE:

City of Angleton, Texas  
City Hall  
121 South Velasco  
Angleton, Texas 77515

BY: \_\_\_\_\_  
Greg Smith, City Manager

ATTEST:

\_\_\_\_\_  
Shelly Deisher, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Herbert L. Prouty, Interim City  
Attorney