

RESOLUTION NO. 2011-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK
AUTHORIZING AND APPROVING A LICENSE AGREEMENT WITH THE
ROHNERT PARK PIRANHA SWIM TEAM FOR USE OF HONEYBEE POOL**

WHEREAS, the Rohnert Park Piranha Swim team is a non-profit youth organization that serves a large number of Rohnert Park youth,

WHEREAS, the City owns Honeybee Pool and has a desire for this pool to be used to its maximum capacity, and

WHEREAS, the City has a strong desire to provide recreational opportunities for the youth of Rohnert Park and recognizes that the Piranha Swim Team provides such opportunities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby approve the License Agreement in a form substantially similar to that attached hereto as Exhibit A with the Rohnert Park Piranha Swim Team for the use of space at Honeybee Pool, and authorize the Mayor to execute same for and on behalf of the City of Rohnert Park.

BE IT FUTHER RESOLVED that the City Manager is directed to implement the terms and conditions of said License Agreement.

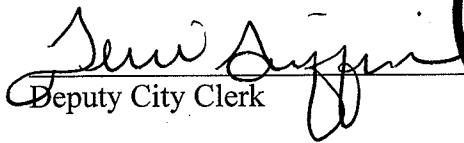
DULY AND REGULARLY ADOPTED this 11th day of January, 2011.

CITY OF ROHNERT PARK

Mayor



ATTEST:



Deputy City Clerk



AHANOTU: <u>AYE</u>	CALLINAN: <u>AYE</u>	MACKENZIE: <u>AYE</u>	STAFFORD: <u>AYE</u>	BELFORTE: <u>AYE</u>
AYES: (5)		NOES: (0)	ABSENT: (0)	ABSTAIN: (0)

**LICENSE AGREEMENT
BETWEEN THE CITY OF ROHNERT PARK AND
THE PIRANHA SWIM TEAM
FOR THE USE OF HONEYBEE POOL**

This agreement ("Agreement") is entered into by and between the City of Rohnert Park, a municipal corporation ("CITY") and the Piranha Swim Team, a non-profit youth organization, ("TEAM") effective January 1, 2011 ("Effective Date").

RECITALS

- A. CITY owns Honeybee Swimming Pool ("Pool"), which is available for use by citizens and organized groups of Rohnert Park.
- B. TEAM, a Rohnert Park community youth activity organization, needs a location for swimming practices and meets.
- C. CITY desires to maximize the use of the Pool and provide safe and beneficial programs and activities for youth.
- D. The purpose of this Agreement is for City to provide swimming pool access for TEAM at the Pool for practice sessions and swim meets in accordance with the terms specified herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, the parties agree as follows:

AGREEMENT

1. **INCORPORATION OF RECITALS.** The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth in full.
2. **CITY OBLIGATIONS.** City agrees to provide the following to TEAM:
 - a. Rent the Pool to TEAM beginning on January 1, 2011 until December 31, 2011 ("Term"), and provide access and use of Pool per the scheduled outlined in Exhibit "A."
 - b. Provide storage shelves located in the Pool's mechanical building.
 - c. Provide access to the Pool office to TEAM coaches only.
 - d. Provide and maintain competitive swimming pool components, which shall be limited to starting blocks, backstroke pennants, and lane line dividers.

3. TEAM OBLIGATIONS. TEAM agrees to the following conditions as part of this Agreement:

a. At all times during the term of this Agreement, TEAM shall maintain insurance coverage as follows:

1. Liability Insurance. Comprehensive general liability insurance with the following minimum limits:

\$2,000,000 per occurrence
\$4,000,000 annual aggregate
\$4,000,000 umbrella coverage

TEAM shall name CITY's officers, officials, employees and agents, as additional insureds. TEAM umbrella policies must be at least as broad as TEAMS' liability coverage. TEAM's insurance shall be primary as to liability arising from its use of the Pool. TEAM shall provide CITY with written proof of such coverage upon execution of this Agreement, and shall further provide CITY with thirty (30) days written notice of a material change to or cancellation of such coverage.

2. Workers Compensation Insurance. TEAM shall maintain Workers Compensation Insurance for its employees as required by State law.

b. To the fullest extent permitted by law, TEAM shall, at TEAM's sole expense and with counsel reasonably acceptable to CITY, defend, indemnify, and hold harmless CITY and CITY's officers, officials, employees and agents from and against all claims (including demands, losses, actions, causes of action, damages, liabilities, expenses, changes, assessments, fines or penalties of any kind, and costs including consultant and expert fees, court costs and attorney's fees) from any cause, arising out of or relating (directly or indirectly) to this Agreement, including without limitation:

1. The use or occupancy, or manner of use or occupancy, of the Pool by TEAM;
2. Any act, error, omission, or negligence of TEAM or of any subtenant, invitee, guest, contractor or licensee of TEAM in, on or about the Pool;
3. TEAM's conducting of its business in connection with Pool activities;
4. Any alterations, activities, work, or things done, omitted, permitted, allowed, or suffered by TEAM in, at, or about the Pool, including any violation of or failure to comply with any applicable laws, statutes, ordinances, standards, rules, regulations, orders, decrees, or judgments in existence on the Effective Date or enacted, promulgated, or issued after the date of this Agreement; and

5. Any breach or default in performance of any obligation or TEAM's part to be performed under this Agreement, whether before or during the Term or after its expiration or earlier termination.
6. This indemnification extends to and includes, without limitation, claims for:
 - i. Injury to any persons (including death at any time resulting from that injury);
 - ii. Loss of, injury or damage to, or destruction of property (including loss of use at any time resulting from that loss, injury, damage, or destruction); and
 - iii. All economic losses and consequential or resulting damage of any kind.

TEAM's indemnification obligation hereunder shall survive the expiration or earlier termination of this Agreement.

- c. TEAM shall, at its sole cost and expense, maintain the premises in a manner satisfactory to CITY which includes but is not limited to: keeping bathroom and dressing rooms, pool deck area, offices and storage rooms clear of litter, debris, clothing, etc.
- d. TEAM shall prevent parents and swimmers from entering the Pool office except in the case of emergency or, with CITY'S written approval, during special events.
- e. TEAM may not allow anyone to use the Pool, other than for regular practices or competitions conducted by TEAM, without written approval of CITY.
- f. TEAM shall adhere to all safety rules as set forth by CITY for safe operation of the pool.
- g. TEAM shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of CITY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
- h. TEAM shall, at its sole cost and expense, comply with all applicable federal, state and local laws, codes, ordinances and regulations now in force or which may hereafter be in force. TEAM shall not use or allow anything to be done in or about the Pool, Pool office, Pool mechanical building, or any other location contemplated being used by TEAM under this Agreement that will in any way conflict with any law, ordinance or governmental regulation now in force or hereafter enacted or promulgated.

- b. Either party may terminate this Agreement by submitting to the other party written notice thirty (30) days prior to the termination date. In the case of the termination of this Agreement, TEAM shall be liable for any obligation hereunder, including payment of rent through and until the date of termination.
- c. Failure of TEAM to abide by any of the provisions of this Agreement ("Default") will be grounds for immediate termination by CITY and forfeiture of all moneys paid by TEAM through the date of such Default. Upon notice of such Default to TEAM, CITY may, at any time thereafter and without further notice to TEAM, exercise any right or remedy that CITY may have at law or in equity, including without limitation immediate termination of this Agreement.
- d. CITY shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of TEAM to perform any of its obligations under this Agreement. If suspension is due to TEAM's failure to perform any of its obligations under this Agreement, TEAM shall continue to pay the Rental Fee in accordance with the terms of this Agreement.
- e. CITY is not responsible or liable for TEAM's failure to comply with any and all of the requirements set forth in this Agreement.
- f. This Agreement constitutes the complete and exclusive statement of the agreement between CITY and TEAM and supersedes any previous agreements, whether verbal or written, concerning the same subject matter. This Agreement may only be amended or extended from time to time by written agreement of the parties hereto.
- g. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with.
- h. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the parties hereto have affixed their names and seals of day and year first above written.

Date: City of Rohnert Park,
a Municipal Corporation

By: _____
Mayor

Authorized by Resolution No. _____

Date: Piranha Swim Team

By: _____
President

Approved as to form by: _____
City Attorney

EXHIBIT "A"
DATES AND HOURS OF POOL USE

HONEYBEE POOL

January 1, 2011 through February 6, 2011

Mon. – Fri.	4:00 pm-7:30 pm	4-6 lanes (shared with Lap Swim at 6:30 pm)
Sat.	7:00 am-9:00 am	6 Lanes

February 7, 2011 through May 13, 2011(RCHS swim season)

Mon. – Fri.	4:00 pm-6:30 pm	6 lanes
	6:30 pm-7:00 pm	4 lanes (shared with Lap Swim)
	7:00 pm-7:30 pm	3 lanes (shared with lap swim and RCHS)
Sat.	7:00 am-9:00 am	6 Lanes

May 14, 2011 through June 12, 2011

Mon. – Fri.	4:00 pm-7:30 pm	4-6 (shared with Lap Swim at 6:30 pm)
Sat.	7:00 am-9:00 am	6 Lanes

June 13, 2011 through August 19, 2011

Mon. – Fri.	5:30 pm-6:30 pm	2 lanes
	6:30 pm-9:00 pm	6 lanes
Sat.	7:00 am-9:00 am	6 Lanes

August 20, 2011 through December 31, 2011

Mon. – Fri.	4:00 pm-7:30 pm	4-6 lanes (shared with Lap Swim at 6:30 pm)
Sat.	7:00 am-9:00 am	6 Lanes

Note: City agrees to allow TEAM access to the pool from 6:00 a.m. to 8:00 a.m. Monday, Wednesday, and Fridays if available at no extra cost. Lanes would be limited.