

**AGREEMENT BETWEEN  
THE CITY OF TEMECULA AND TEMECULA VALLEY UNIFIED  
SCHOOL DISTRICT FOR INTERIM USE OF TEMECULA  
VALLEY HIGH SCHOOL POOL FACILITIES**

**THIS AGREEMENT** is made and entered into as of May 24, 2022, by and between the City of Temecula, a municipal corporation ("City"), and the Temecula Valley Unified School District ("District"). In consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

**1. Recitals.** This Agreement is entered into with respect to the following facts and for the following purposes, each of which is acknowledged as true and correct by the parties:

a. Title I, Division 1, Part 7, Chapter 10, commencing with Section 10900 of the Education Code, authorizes public school districts and cities to cooperate with one another for the purpose of authorizing, promoting and conducting programs of community recreation which will contribute to the attainment of general recreational and educational objectives for children and adults of the State. In this regard, school districts and cities may enter into agreements with each other to aid and cooperate in carrying out these objectives. The governing body of any school district is authorized by these provisions to use the buildings, grounds, and equipment of the district, or any of them, to carry out the recreational and educational objectives, or may grant the use of any building, grounds, or equipment of the district to any other public authority for such purposes, whenever the use of the buildings, grounds, or equipment for community recreational purposes will not interfere with use of the buildings, grounds, and equipment for any other purpose of the public school system. Accordingly, the District and City are authorized to enter into this Agreement.

b. The City and District entered into a "Joint Use Agreement between the City of Temecula and Temecula Valley Unified School District for the Joint Use of a Portion of Temecula Elementary School," which as amended, currently allows the City to use the pool facilities located at Temecula Elementary School and Chaparral High School.

c. The District is currently renovating the pool facilities at Chaparral High School and such pool facilities will not be available for the City to use during the 2022 summer season.

d. The District has agreed to allow the City to use the pool facilities at Temecula Valley High School on an interim basis while the Chaparral High School pool facilities are unavailable. The pool facilities ("Pool Facilities") are located on the Temecula Valley High School property, 31555 Rancho Vista Road, Temecula, CA 92592, and are described and depicted on Exhibit A, attached hereto and incorporated herein by this reference ("Property").

**2. Term of Agreement.** The term of this Agreement shall begin on June 1, 2022 and shall terminate on August 31, 2022 ("Term"), unless sooner terminated or extended pursuant to the provisions of this Agreement.

**3. Use of Pool Facilities.** District hereby grants the City a license for use of the Pool Facilities during the Term of the Agreement. City shall have exclusive access to the pool Facilities pursuant to the schedule set forth in Exhibit B, attached hereto and incorporated herein by this reference. Use of the Pool Facilities includes the pool and surrounding fenced-in pool area, the storage room on the west side, and the equipment room on the east side, the parking lot adjacent to the fenced-in pool area and the restrooms located outside the fenced-in pool area. The City will use its own pool equipment, except that the City may use the lifeguard towers located in the fenced-in pool area. City may store its pool equipment in the storage room and equipment room at any time during the Term of this Agreement. City shall be responsible for the safe storage and maintenance of its pool equipment during the term of this Agreement. With the exception of lifeguard towers, the District shall not leave any District pool equipment at the Pool Facilities during the City's hours of use. Notwithstanding the above, all safety equipment, including but not limited to items such as life rings, throw ropes, rescue poles, first aid kits, backboards, operating phone, and AED units, shall remain at the Pool Facilities and be available for use by the City during the City's use. City shall be responsible for staffing life guards, attendants and other staff necessary for the City's use of the Pool Facilities at its sole cost and expense. City agrees to provide lifeguard staff while the Pool Facilities are used by the District's Temecula Valley High School students during the hours outside of City use listed in Exhibit B at its sole cost and expense.

**4. Maintenance and Cleanup of Pool Facilities.**

a. During the term of this Agreement, the District shall, at its sole cost and expense, perform all routine and major maintenance at the Pool Facilities. Such maintenance shall include, but not be limited to: (1) the maintenance and repairs of the deck and pool, pump room equipment, filtration and chlorination systems, restrooms and locker rooms, and other structures and facilities on the Property; and (2) payment of all utility costs for operation of the pool and (3) emptying trash receptacles.

b. During the term of this Agreement, the City shall, at its sole cost and expense, perform daily cleanup of the Pool Facilities after each use. Such clean up shall include picking up and throwing away trash and cleaning any spills.

**5. Fees.** Fees paid by the City to the District pursuant to the "Joint Use Agreement between the City of Temecula and Temecula Valley Unified School District for the Joint Use of a Portion of Temecula Elementary School" shall cover City's use of the pool Facilities and no additional fees shall be due under this Agreement.

**6. Indemnification.**

a. District agrees to defend, indemnify, protect, and hold harmless, City, its officers, agents, and employees, against all actions, claims, or demands for injury, death, loss, or damages, regardless of fault or cause, by anyone whomsoever, whenever such injury, death, loss, or damage is a consequence of, or arises out of, or incidental to, the use or maintenance of the Property by District or any other persons or parties (other than City) authorized to so use the Property by District pursuant to this Agreement, except to the extent said damage is caused by the misconduct or active negligence of the City, its officers, agents and employees.

b. City agrees to defend, indemnify, protect, and hold harmless, District, its officers, agents, and employees, against all actions, claims, or demands for injury,

death, loss or damages, regardless of fault or cause, by anyone whomsoever, whenever such injury, death, loss or damage is a consequence of, or arises out of, or is incidental to, the use or maintenance of the Property by City or any other persons or parties (other than District) authorized to so use or maintain the Property by City pursuant to this Agreement, except to the extent said damage is caused by the misconduct or active negligence of the District, its officers, agents and employees.

**7. Defaults and Remedies.**

a. Subject to the extensions of time approved in writing by a party, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. A party claiming a default (claimant) shall give written notice of default to the other party, specifying the default complained of.

b. The claimant shall not institute proceedings against the other party nor be entitled to damages if the other party within fourteen (14) days from receipt of such notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within thirty (30) days from the date of receipt of such notice. Such cure, correction and remedy shall include payment of any costs, expenses (including attorney fees) or damages incurred by the non-defaulting party resulting from the default or during the period of default.

c. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

d. Any failure or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

e. If a default is not fully cured by the defaulting party as provided in this Paragraph, the defaulting party shall be liable to the other party for any damages caused by such default, and the nondefaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

f. If a default under this Agreement is not fully cured by the defaulting party as provided in this Section, the nondefaulting party at its option may thereafter (but not before) commence an action for specific performance of terms of this Agreement.

g. In the event litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses incurred in pursuing its remedies and prosecuting or defending the litigation.

**8. Insurance.** Each party to this Agreement shall carry public liability insurance in a reasonable amount satisfactory to the other party to protect itself and the other party, its officers, agents, servants, and employees, against claims for damage to persons and/or property,

including death, arising from that party's use of the Property as provided in this Agreement. The form of the insurance shall be satisfactory to the other party and may include self-insurance at levels reasonably acceptable to the other party. The City will provide the District with an insurance certificate naming the District as an additional insured

**9. Force Majeure.** Except as otherwise expressly provided in this Agreement, if the performance of any act required by this Agreement to be performed by either District or City is prevented or delayed by reason of any act of God, strike, lockout, pandemic, labor trouble, inability to secure materials, or any other cause (except financial difficulty or inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing contained in this Section shall excuse the prompt payment by a party as required by this Agreement or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

**10. Notices to Parties.** Written notices, demands and communications among the District and City, shall be sufficiently given by either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

District:  
Temecula Valley Unified School District  
31350 Rancho Vista Road  
Temecula, California 92592  
Attention: Superintendent

City:  
City of Temecula  
4100 Main Street  
Temecula, California 92590  
Attention: City Manager

Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section.

**11. Agreement Binding on Successors.** This Agreement shall be binding on and shall inure to the benefit of the successors and lawful assigns of the parties hereto.

**12. Assignment.** Neither Party shall assign or transfer this Agreement or any portion thereof without the prior written amendment of this Agreement by City and District.

**13. Sole and Only Agreement.** With the exception of the Joint Use Agreement between the City of Temecula and Temecula Valley Unified School District for the Joint Use of a Portion of Temecula Elementary School noted above, this Agreement constitutes the sole and only agreement between District and City respecting the use of the Pool Facilities. Any agreements or representations, either oral or written, respecting the matters discussed in this

Agreement pertaining to the Property which are not expressly set forth in this Agreement are null and void.

**14. Time of Essence.** Time is expressly declared to be of the essence of this Agreement.

**15. Authority to Execute.** Each person executing this agreement expressly warrants and represents that he or she has the authority to execute this Agreement on behalf of his or her governmental entity and warrants and represents that he or she has the authority to bind his or her entity to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF TEMECULA**

**Temecula Valley Unified School District**

By: \_\_\_\_\_  
**Matt Rahn, Mayor**

By: \_\_\_\_\_  
**President of School Board**

**ATTEST:**

By: \_\_\_\_\_  
**Randi Johl, City Clerk**

By: \_\_\_\_\_  
**Secretary to School Board**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
**Peter M. Thorson, City Attorney**

**DISTRICT**

**Temecula Valley Unified School District**

**31350 Rancho Vista Road**

**Temecula, CA 92592**

**Attn: Superintendent**

<b>PM Initials:</b> <b>Date:</b>
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## EXHIBIT A

### DESCRIPTION/MAP OF PROPERTY AND POOL FACILITIES



**EXHIBIT B**  
**CITY USE SCHEDULE**

**Summer Schedule for Temecula Valley High School for City of Temecula Use from  
June 1, 2022 through August 14, 2022**

Monday through Thursday: 8:00 a.m. to 10:00 p.m.

Friday: 6:30 a.m. to 2:00 p.m. and 5:00 p.m. to 10:00 p.m.

Saturday and Sunday: 6:30 a.m. to 8:00p.m.

TVHS will have use of the facility during the following times, however, the City will provide Lifeguard staff during these times:

Monday through Thursday: 6:00 a.m. to 8:00 a.m. (Staff will arrive at 5:30 a.m.)

Friday: 2:00 p.m. to 5:00 p.m.