

**AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN
TEMECULA COMMUNITY SERVICES DISTRICT AND TEMECULA VALLEY
MUSEUM, INC. FOR THE OPERATION OF WEDDING CHAPEL, COURTYARD,
AND CONCESSIONS FACILITY**

This Amended and Restated Cooperation Agreement Between the Temecula Community Services District and **Temecula Valley Museum, Inc.** for the Operation of Wedding Chapel, Courtyard, and Concessions Facility ("Agreement") is made and entered into as of **February 12, 2019** by and between the Temecula Community Services District ("TCSD") and Temecula Valley Museum Inc., a California non-profit corporation ("Association"). The TCSD and the Association are referred to below collectively as the "Parties". In consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. **Recitals.** This Agreement is made with respect to the following facts and for the following purposes, which the Parties acknowledge are true and correct:

A. The City of Temecula is the owner of the real property located at 28314 Mercedes Street in the City of Temecula, which is more particularly described on Exhibit A attached hereto ("Property") and incorporated herein by this reference. The Property consists of the Temecula Valley Museum ("Museum") and the historic St. Catherine's Church. The Temecula Valley Museum represents the life of residents and visitors in the Temecula Valley through time and different cultures featuring permanent and special rotating exhibits and educational programs. St. Catherine's Church is a historic building originally constructed in 1917 and restored by the TCSD. Although St. Catherine's Church has been restored to its décor and style of the 1900s, it is a fragile historical structure and its restoration has not been designed to accommodate substantial public traffic.

B. The TCSD was formed, and established pursuant to the Community Services District Law, Title 6, Division 3 of the California Government Code.

C. The Association is a non-profit corporation duly incorporated and authorized to do business in the State of California that is dedicated to promoting the Museum and raising funds for exhibits in the Museum.

D. The TCSD is responsible for overseeing and managing the Property on behalf of the City.

E. The TCSD and the Association have partnered to operate the Property since 1999. Specifically, the TCSD and the Association entered into that certain License Agreement described below for the operation of the Property, which the Parties subsequently amended seven times to reflect the evolving needs of the City, Association, and the community. The operation of the Property included the Association's operation of a gift shop in the Museum building ("Gift Shop") and a wedding chapel in the St. Catherine's Church ("Wedding Chapel").

(1) On May 25, 1999, the TCSD and the Association entered into that certain Agreement entitled "License Agreement between the Temecula Community Services District and the Temecula Valley Museum, Inc. for Operation of Museum Gift Shop and Wedding Chapel" ("Original Agreement").

(2) On June 25, 2000, the TCSD and Association entered into that certain "First Amendment to License Agreement between the Temecula Community Services

District and the Temecula Valley Museum, Inc. for Operation of Museum Gift Shop and Wedding Chapel". The First Amendment amended Section 4 (License Fee) of the Original Agreement to suspend the license fee for the Gift Shop as of April 1, 2000. The First Amendment retained the license fee for the Wedding Chapel. It also provided for quarterly reporting of the Association's financial statements.

(3) On February 24, 2004, the TCSD and Association entered into that certain "Amendment No. 2 License Agreement Between the Temecula Community Services District and the Temecula Valley Museum, Inc. for Operation of Museum Gift Shop and Wedding Chapel." The Second Amendment amended Section 3 (Term) to extend the term to June 30, 2007 with an extension for one-two year option upon mutual agreement of the Parties.

(4) On June 26, 2007, the TCSD and Association entered into that "Amendment No. 3 to License Agreement Between the Temecula Community Services District and the Temecula Valley Museum, Inc. for Operation of Museum Gift Shop and Wedding Chapel." The Third Amendment amended Section 3 (Term) to extend the term to June 30, 2009, and to authorize either party to terminate the Agreement for any reason upon 60-day written notice.

(5) On February 9, 2010, the TCSD and Association entered into that certain "Fourth Amendment to License Agreement between Temecula Community Services District and Temecula Valley Museum, Inc. Operation of the Museum Gift Shop and Wedding Chapel." The Fourth Amendment amended Section 3 (Term) to extend the term to June 30, 2012. The Fourth Amendment also provided for an extension of the Agreement for two additional one-year terms.

(6) On October 23, 2012, the TCSD and Association entered into that certain "Fifth Amendment to Agreement Between Temecula Community Services District and Temecula Valley Museum, Inc. Operation of the Museum Gift Shop and Wedding Chapel." The Fifth Amendment amended Section 3 (Term) to extend the term to June 30, 2014. The Fifth Amendment provided for an extension of the Agreement for two additional one-year terms. The Fifth Amendment also amended Section 4 of the Agreement (License Fee) and Section 8 (Association, Officers, Employees, Agents and Volunteers).

(7) On June 23, 2015, the TCSD and Association entered into that certain "Sixth Amendment to Agreement Between Temecula Community Services District and Temecula Valley Museum, Inc. Operation of the Museum Gift Shop and Wedding Chapel." The Sixth Amendment amended Section 3 of the Agreement to extend the term to June 30, 2017. The Sixth Amendment also provided for two additional one-year terms.

(8) On May 23, 2017, the TCSD and Association entered into that certain "Seventh Amendment to Agreement Between Temecula Community Services District and Temecula Valley Museum, Inc. Operation of the Museum Gift Shop, Wedding Chapel, Courtyard and Concessions Facility." The Seventh Amendment changed the name of the Agreement to "Operation of the Museum Gift Shop, Wedding Chapel, Courtyard and Concessions Facility." The Seventh Amendment amended Section 3 of the Agreement to extend the term to June 30, 2020. The Seventh Amendment also provided for two additional one-year terms. The Seventh Amendment also amended Section 4 (License Fee), Section 5 (Use Permits), Section 7 (Use of Premises: Merchandise), Section 22 (Notice), and Exhibit B to the Original Agreement.

F. Pursuant to the Original Agreement, as amended by the First through Seventh Amendments, the Association was authorized to use and operate the approximate 511

square foot Gift Shop in the Temecula Museum, the Wedding Chapel, Courtyard, and adjacent Concessions Facility. The Parties intend that as of the Effective Date, the Association will relinquish its rights to use and operate the Gift Shop and that the TCSD will use and operate the Gift Shop at such time. The Association will have no right to use the Gift Shop or responsibility for operation of said Gift Shop as of the Effective Date. If TCSD determines not to operate the Gift Shop in the future, TCSD will provide written notice of said decision to Association and Association will have the first right of refusal to negotiate with TCSD the terms of the operation of the Gift Shop. Association will confirm in writing to TCSD within 60 days of the date of TCSD's notice whether Association wishes to exercise the right of first refusal to negotiate the terms of Association's operation of the Gift Shop. Failure by Association to provide written confirmation of its decision regarding the operation of the Gift Shop will be deemed a waiver by Association of said right of first refusal. TCSD will have no further obligations to Association in connection with the Gift Shop if the Parties do not reach an agreement regarding the terms of the operation of the Gift Shop. Any agreement regarding the change in the operation of the Gift Shop and the terms of such operation would be reflected in an Amendment to this Agreement executed by both Parties.

G. The Parties desire to enter into this Agreement to provide the terms by which Association will use and operate the Wedding Chapel, Courtyard, and adjacent Concessions Facility on the Property, which are depicted collectively on Exhibit A hereto (referred to collectively as "Premises"), which is incorporated herein by this reference.

H. The Parties intend that this Agreement will supersede and replace the Original Agreement, as amended by the First through Seventh Amendments, and that said Original Agreement, as amended by the First through Seventh Amendments and said Operating Memoranda, will have no force or effect.

2. **Grant of License to Use and Operate Premises; Merchandise.** The City hereby grants a license to Association to use and operate the Premises, consisting of the Wedding Chapel, Courtyard, and Concessions Facility depicted on Exhibit A hereto ("Property and Premises"), in accordance with, and subject to the terms and conditions of, this Agreement. The Wedding Chapel or Chapel of Memories and the Courtyard are approximately 3,400 square feet in size. The Concessions Facility is approximately 200 square feet in size.

A. *Use and Operation of Premises.* Except as specifically provided in this Agreement to the contrary, Association will have the exclusive right and obligation to use the Premises to offer weddings and memorials (events) in the Wedding Chapel, Courtyard, and Concessions, and to operate the Concessions Facility for Wedding Chapel events, Courtyard events, park events, and general park use. Association will not use the Premises for any uses other than those authorized for Association in this Agreement without the prior written consent of the Director of the City's Community Services Department ("Director"). Association will not interfere with the use and enjoyment of the portion of the Property outside of the area constituting the Premises.

(1) Association will operate the Wedding Chapel as a Chapel of Memories to provide non-denominational wedding and memorial chapel services with fenced courtyard, and adjacent Concessions Facility for events and concession sales.

(2) Association will not use the Wedding Chapel Courtyard, or Concessions Facility for any reason more than twenty (20) hours per week measured from 12:00

a.m. Monday until 11:59 p.m. on the following Sunday. Authorized uses include weddings and wedding practices, but exclude maintenance activities.

B. *Sale of Merchandise.* Association is authorized to sell merchandise related to the theme of the Wedding Chapel in connection with its operation of the Premises. Association agrees that all sales of said merchandise will be of good quality and condition. The TCSD retains the right to require Association to discontinue sale or use of those items that the Director reasonably determines are not of good quality and condition upon five calendar days written notice from the Director. For sales tax purposes, the point of sale for all merchandise will be the Property. The Parties agree and acknowledge that the City will also have the right to sell food or beverages on any portion of the Property, including the Premises in connection with City-sponsored activities or events.

C. *Relinquishment of Right to Use and Operate Museum Gift Shop and Museum Gift Shop Merchandise.* Association will relinquish, as of the Effective Date, any and all rights to use and operate the approximate 511 square foot Museum Gift Shop in the Museum that was the subject of the Original Agreement, as amended by the First through Seventh Amendments. All merchandise from the Museum Gift Shop will become the property of the City as of the Effective Date. Association will provide to TCSD a full accounting of merchandise from the Museum Gift Shop on the Effective Date.

D. *Electronic Equipment from Museum Gift Shop.* Association will retain all electronic equipment relating to the Museum Gift Shop sales for Association's use in connection with the Association's use and operation of the Premises. Association will, at its sole cost and expense, maintain, repair, and replace any such electronic equipment that is necessary for Association's operation of the Premises.

3. Term; Termination.

A. *Term.* This Agreement will remain and continue in effect from the **Effective Date until June 30, 2022**, unless sooner terminated by the Parties pursuant to Section 3.B. below. The Parties may mutually agree to extend the term for two additional three-year terms. If the Parties agree to extend the term by the first three-year extension, the Agreement will terminate on June 30, 2025. If the Parties agree to extend the term by the second three-year extension, the Agreement will terminate on June 30, 2028.

B. *Termination.* Either party may terminate this Agreement for any reason, with or without cause, by providing 60 calendar days prior written notice of termination to the other party at the addresses shown below in Section 15 (Notice). If the Parties terminate this Agreement in accordance with this Section 3.B., this Agreement will terminate on the date that is 60 calendar days from the date on which either party to this Agreement provides written notice of termination.

4. License Fee.

A. Association's primary mission is to lead revenue generating and fund-raising activities to enhance and assist with the operation and maintenance of the Temecula Museum and Wedding Chapel. Association will pay to the TCSD a license fee of ten percent (10%) of the net revenues (as described in Section 4.C. below), including but not limited to fees, services, and merchandise for events held on the Premises.

B. Association will pay the license fee to the TCSD within 30 calendar days of the end of each calendar quarter based on the net revenues of the Premises during the calendar quarter. Calendar quarters will end on March 30, June 30, September 30, and December 31 of each calendar year.

C. Association will keep complete and accurate records, in accordance with standard and customary retail business practices, of each transaction or receipt of revenue at the Premises by means of cash register receipts or numbered receipts so as to allow accurate determination of the gross revenues and expenses. The net revenues from which the license fee that the Association will pay to TCSD is the difference between the gross revenues of the Premises and the Association's expenses in connection with operating the Premises Association will keep and secure all records relating to the Premises, including but not limited to, cash register and revenue receipts, for three years from the end of Association's fiscal year in which the record was prepared. Association's revenue accounting procedures and documentation requirements will be approved in writing by the City's Director of Finance prior to the Effective Date. Any change in Association's revenue accounting procedures and documentation relating to the gross revenues in connection with the Premises will also be approved in writing by the City's Director of Finance prior to implementation.

D. Association agrees that all revenues from the Premises will be used by the Association, in its discretion, to fund the Association's operating expenses for the Premises, to purchase materials for the Premises, and to fund events, programs, and services for the benefit of the Temecula Valley Museum. Association and Director will work cooperatively in the planning of such events, programs, and services. President of the Association and the Director will meet periodically to determine where additional revenue from the Premises may be used to support the Temecula Valley Museum's operations or programs.

E. The President of Association and the City Manager of the City of Temecula are authorized to enter into implementation agreements to establish accounting procedures and definitions for determining net revenues and other matters affecting this Agreement, provided the terms of such implementation agreements do not conflict with the terms of this Agreement.

5. **Licenses, Permits, and Approvals.** Association agrees that it will obtain a Use Permit or Outdoor Event Permit from the City for uses other than the operation of the Premises in accordance with the terms of this Agreement. Association will, at Association's sole cost and expense, obtain any and all licenses, permits, and approvals required for the performance or use of the Premises that may be required by other governmental entities. Association will comply with all governmental rules, regulations, statutes, ordinances, and conditions of approval of permits. Association agrees to pay all facility use fees applicable to any such Use Permits pursuant to such ordinances and resolution of the City of Temecula setting fees for use of City facilities. Association may obtain a temporary Alcoholic Beverage Control License Permit ("ABC permit") for use of the Premises and Property, subject to any conditions imposed in said ABC permit and any permits issued by the City.

6. **Association Officers, Employees, Agents, and Volunteers.** Association is responsible for ensuring that all of Association's officers, employees, agents, and volunteers ("Personnel") are fingerprinted through Live Scan for completion of a criminal record check by the State Department of Justice ("DOJ"), at TCSD's sole costs and expense. Personnel convicted of a misdemeanor or felony involving moral turpitude according to the DOJ report will not use the Premises on the terms and conditions and for the uses specified in this Agreement. If any Personnel have been convicted of a misdemeanor or felony involving moral turpitude according

to the DOJ report, TCSD may terminate this Agreement immediately. If TCSD terminates this Agreement under this Section 6, Association's rights under this Agreement shall be relinquished immediately.

7. **Third-Party Agreements.** Association, will not, without the express prior written consent of the City Manager of the City of Temecula or designee, enter into agreements with third parties concerning, among other things, advertising and signage on the Premises, operation of concessions, and sale of food, beverage, and concession items at the Premises.

8. **Damage to Premises.** Association will pay for the repair and/or replacement of any damaged structures, equipment, and facilities on the Premises that are occupied or used by Association and are damaged through any act of Association, or Association's officers, employees, agents, volunteers, subcontractors, and persons attending or participating in any Association event on the Premises.

9. **Liens.** Association will not directly or indirectly create or permit to be created or to remain, and will promptly discharge, at its sole expense, any mortgage, lien, encumbrance, charge, or pledge of the Premises or fixtures or furnishings, or any part thereof. Within 15 calendar days of the Effective Date, TCSD will cause to be posted and recorded on the Premises a "Notice of Non-Responsibility" in the manner required by law.

10. **Improvements, Repairs, and Maintenance.** Association will make no substantial alteration or repair to the Premises without the prior written consent of the Director, including but not limited to grading, carpentry, electrical, sewer, plumbing, paving, and painting. Association will, at its sole cost and expense, repair and maintain in good order the interior of the Wedding Chapel and the fixtures provided by the City, including but not limited to the church pews, lecterns, and lighting..

11. **Return of Premises.** Upon the termination of this Agreement, Association will return the Premises to the City in as good a condition and repair as the existing condition of the Premises, reasonable wear and tear excepted.

12. **Indemnification.** Association agrees to defend, indemnify, protect and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, their respective officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, their respective officers, agents, employees or volunteers may sustain or incur or that may be imposed upon them for injury to or death of persons, or damage to property arising out of the negligent or wrongful acts or omissions arising out of or in any way related to Association's use or occupancy of the Premises pursuant to this Agreement.

13. **Insurance.**

The Association shall secure and maintain from a State of California admitted insurance company, pay for and maintain in full force and effect for the duration of this Agreement an insurance policy of comprehensive general liability against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by **Feb 1, 2019**, its agents, representatives, or employees.

a. **Minimum Scope of Insurance.** Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Association owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Association has no employees while performing under this Agreement, worker's compensation insurance is not required, but Association shall execute a declaration that it has no employees.

4) Liquor Liability for bodily injury, personal injury, and property damages.

b. Minimum Limits of Insurance. Association shall maintain limits no less than:

1) General Liability: Two million (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: One million (\$1,000,000) per accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

4) Liquor Liability: One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.

Worker's Compensation insurance is required only if Association employs any employees. Association warrants and represents to the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency that it has no employees and that it will obtain the required Worker's Compensation Insurance upon the hiring of any employees.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Association; products and completed operations of the Association; premises owned, occupied or used by the Nonprofit; or automobiles owned, leased, hired or borrowed by the Association. The coverage shall contain no special limitations on the scope of protection afforded to the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

2) For any claims related to this project, the Association's insurance coverage shall be primary insurance as respects the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees or volunteers shall be excess of the Association's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

4) The Association's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state: should the policy be canceled before the expiration date the issuing insurer will endeavor to mail thirty (30) days prior written notice to the City.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Association shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Association shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Association's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

14. TCSD's Reservation of Right of Entry. TCSD, through the Director or the Director's designee, will have the right to enter the Premises at all times during the period covered by this Agreement in order to ensure compliance with this Agreement.

15. Notice. All notices and demands will be given in writing by personal delivery, certified mail, postage prepaid, and return receipt requested, or by Federal Express or other overnight carrier. Notices will be considered given upon the earlier of (i) personal delivery, (ii) two business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested, or (iii) one business day following deposit with Federal Express or other overnight carrier. If notice is received on a Saturday, Sunday, or legal holiday, it will be deemed received on the next business day. The Parties will address such notices as provided below or as may be amended by written notice:

TCSD: Temecula Community Services District
41000 Main Street
Temecula, California 92590
Attention: Director

Association: Temecula Valley Museum, Inc.
28314 Mercedes Street
Temecula, California 92590
Attention: President

16. **Default.**

A. *Default by Association.* If Association should fail to perform, keep, or observe any of the terms, conditions or covenants as set forth in this Agreement, TCSD will give Association written notice to correct the failure within 30 calendar days of said notice. If Association does not cure such default within the 30-calendar day period, Association will be in default of this Agreement and Association's rights under this Agreement, at the sole discretion of TCSD, may be terminated and forfeited. Such election to terminate will not be construed as a waiver of any claim that TCSD may have against Association, consistent with such termination. If, however, any failure is of such nature that it cannot be physically remedied within 30 calendar days of the date of the TCSD's notice, except for the payment of money, and if Association has commenced the elimination of such failure promptly after the receipt of such notice, and continuously and diligently proceeds in good faith to eliminate such default, then the period for correction will be extended for such length of time as is reasonably necessary to complete such correction. The failure of Association to fund the necessary corrections will not justify an extension of the time to cure beyond the initial 30-calendar day period.

B. *Surrender of Possession Upon Termination by Default.* Upon the termination of this Agreement pursuant to any such default under Section 16.A. Association covenants and agrees to surrender and to forfeit this Agreement, and deliver up the Premises to the TCSD immediately upon any such termination. If Association remains in possession of the Premises after any such termination of this Agreement based on such default, Association will be deemed guilty of an unlawful possession of the Premises.

C. *Default by TCSD.* Notwithstanding any other provision of this Agreement to the contrary, TCSD will not be deemed to be in default under this Agreement until 30 calendar days after notice of default is given by Association to TCSD. If such default cannot be cured within such 30-calendar day period, TCSD will not be deemed to be in default provided that, within such 30-calendar day period, TCSD commences and thereafter diligently prosecutes efforts to cure the default.

17. **Independent Contractor.** The relationship of the Parties to this Agreement is that of independent contractors and in no event will Association be considered an officer, agent, servant or employee of TCSD. Association is solely responsible for any workers' compensation, withholding taxes, unemployment insurance and any other employer obligations associated with the Association's employees, agents and performers.

18. **Acknowledgements; Disclaimer of Warranties.** Unless otherwise set forth in this Agreement, Association acknowledges that Association has operated all or part of the Premises since 1999, subject to the terms of the Original Agreement and Amendments thereto. Association further acknowledges it has had the opportunity to inspect the Premises and that it will use and operate the Premises "As Is" without any representations or warranties from the City or TCSD.

ASSOCIATION AGREES AND ACKNOWLEDGES THAT THE CITY AND TCSD MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY ASSOCIATION OF THE PREMISES, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO SAID PREMISES. IN NO EVENT WILL THE CITY, TCSD, AND THEIR RESPECTIVE ASSIGNS BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, OR THE EXISTENCE, FURNISHING, FUNCTIONING OR ASSOCIATION'S USE OF THE PREMISES.

Association Initials: 

19. **Taxes and Assessments.** Association will pay all applicable Federal, Sstate, or local taxes, fees, charges, or assessments, including any possessory interest taxes, arising from Association's use and operation of the Premises in accordance with the terms of this Agreement.

20. **Legal Responsibilities; Non-Discrimination.** Association will keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services described in this Agreement. Association covenants by and for itself and any successors in interest that there will be no discrimination against or segregation of any person or group of persons on account of race, color, ancestry, national origin, religion, creed, age, disability, handicap, sex, gender, sexual orientation, gender identity, marital status, medical condition, genetic information, military, or veteran status in the use or enjoyment of the Premises. Nor will the Association itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of licensees, sub-licensees, or vendees of the Premises. Association will at all times observe and comply with all such ordinances, laws and regulations. The City, TCSD, and their respective officers and employees, will not be liable at law or in equity occasioned by failure of Association to comply with this Section.

21. **Legal Remedies.** Each of the Parties to this Agreement will have all remedies that may be allowed by law or equity to enforce its rights under this Agreement. No legal action will be filed by one party against the other party until such time as the other party has received a notice of default and provided time for cure of said default as provided in this Agreement.

22. **Miscellaneous.**

A. **Assignment.** Association will not assign its interest in this Agreement or in the right to use and operate the Premises to any person or entity without first obtaining the City Manager's or designee's written consent. Any assignment without the City Manager's or designee's prior written consent will be voidable and, at the City Manager's or designee's election, will constitute a default under this Agreement.

B. *Governing Law and Venue.* This Agreement will be interpreted and enforced according to, and the Parties' rights and obligations, including any non-contractual claims, will be governed by the domestic law of the State of California, without regard to its laws regarding choice of applicable law. Any proceeding or action to enforce this Agreement will occur in the federal court with jurisdiction over Riverside County and the state courts located in Riverside County, California.

C. *Attorneys' Fees.* In the event any litigation is filed by one party against the other to enforce the party's rights under this Agreement, the prevailing party, as determined by the court's judgment, will be entitled to reasonable attorneys' fees and litigation expenses for the relief granted.

D. *Counterparts.* This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed to be an original, and all of which, taken together, will be deemed to be one and the same instrument.

E. *Amendments.* Any modifications or amendments to this Agreement will be in writing executed by both Parties.

F. *Interpretation.* Each party had the full opportunity to participate in the drafting of this Agreement and, therefore, the Agreement will not be interpreted against any party on the ground that the party drafted the Agreement or caused it to be prepared.

G. *Entire Agreement.* This Agreement with its attached Exhibits is the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement. It is the intent of the Parties to supersede the Original Agreement, as amended by the First through Seventh Amendment.

H. *Authority to Execute Agreement.* Association has expressly authorized the execution of this Agreement on its behalf and bind said party and each party's respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers, and any others who may claim through it to this Agreement. The person executing this Agreement on behalf of Association warrants and represents to TCSD that this Agreement has been duly approved by the Association and that all applicable notices and procedures were complied with and that he is duly authorized by the Association to execute this Agreement on behalf of the Association.

Wherefore, the Parties have executed this Agreement as of the date set forth below.

TEMECULA COMMUNITY SERVICES DISTRICT

TEMECULA VALLEY MUSEUM, INC., a California non-profit corporation

(Two signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

Dated: _____

Dated: January 16, 2019

By: _____
James Stewart, TCSD President

By: Bette B. Martland
Bette (Bonnie) Martland, President

ATTEST:

Dated: 1/17/2019

By: _____
Randi Johl, Secretary

By: Dale Garcia
Dale Garcia, Vice President

APPROVED AS TO FORM:

Peter M. Thorson, General Counsel

1/29/19

Exhibit A
Description of Property and Premises

