

**Amendment No. 3**  
**Joint Facility Use Agreement**  
**The Perris Union High School District and the City of Perris**

This Amendment No. 3 ("Amendment") is effective this 17th day of May of 2018, between the Perris Union High School District ("District") and the City of Perris ("City").

Whereas, the District and the City entered into a Joint Facility Use Agreement dated October 15, 2014 ("Agreement"), for the planning, use, operation and/or maintenance of specified public facilities throughout the City of Perris; and

Whereas, the District and the City entered into Amendment No. 1 effective September 13, 2016 to provide California Military Institute ("CMI") the ability to utilize the Bob Glass Gymnasium for their athletic programs with no charge to the District or CMI, and the City to utilize the Perris High School Gymnasium for their youth sports programs with no charge to the City; and

Whereas, the District and the City entered into Amendment No. 2 effective January 1, 2017 to allow the City to also utilize the Pinacate Middle School Gymnasium; and

Whereas, the District and the City now desire to enter into Amendment No. 3 to allow for the City to utilize the Perris High School Pool to operate a summer community swim program; and

Whereas, the District and City also desire to modify certain terms of the Agreement to accommodate the best interests of both Parties and to ensure compliance with applicable state and federal laws, District policies, procedures, and applicable regulations as specifically provided herein.

Now, Therefore, the District and the City agree as follows:

1. The terms and conditions of the Agreement and any addenda are incorporated herein by reference.
2. The City shall have the ability to utilize the District's facility, Perris High School Pool for their summer community swim program in exchange for a facility use fee to be paid by the City to the District as specified in Section 3 below.
3. The fee for this use for the Summer of 2018 shall be a flat rate of \$1,700 which will cover the increased use of chemicals and cleaning. Summer use in subsequent years shall include fees to cover any increased costs for the District and shall be mutually agreed upon by the City and the District before use is granted.

4. All other operational costs to operate the summer community swim program, including lifeguards, shall be borne by the City.

5. Such use shall only occur during the regular operating hours of Perris High School, as determined solely by Perris High School and the District.

6. Should any use of the Perris High School Pool occur outside of regular operating hours, the City shall pay all costs in accordance with the previously approved Agreement.

7. To the best of their abilities, in advance of each fiscal year, the District, Perris High School and the City shall establish a master schedule of facilities use with the dates and times for the use of the Perris High School Pool.

8. Such use shall also be coordinated through the District's facilities use application processes.

9. Section 21, Indemnification, of the October 15, 2014 Agreement, which addresses the respective indemnification obligations of the Parties, is hereby modified to state as follows:

During the term of this Joint Use Agreement, the indemnification requirements in this Section 21 and the insurance requirements in Section 22 may be satisfied by a program of self-insurance, commercial insurance, or furnished through a joint powers insurance authority.

Each party will at all times protect, indemnify, and defend the other party against any and all loss, cost, damage, or expense arising from any accident or other occurrence to persons or property on or about premises belonging to the other party occurring while it has control of the premises; provided, however, that this provision shall not apply to injury arising by reason of a defective or dangerous condition where such condition was caused or allowed to exist or continue by an act or omission of the owning party.

Indemnification by District. District agrees to defend, indemnify and save City, its agents, licensees, invitees and employees harmless from any and all liability, claims, damages, or injuries to any person caused by the independent acts of District, its agents, licensees, invitees and employees in connection with the performance of this Joint Use Agreement and the use or maintenance of District Property and City Property, with the exception of any claims, loss, damages, costs, expenses, or liability which arises by reason of City's sole and exclusive negligence or willful misconduct.

In the event that the City seeks indemnification under this Section 21, it shall inform the District of a claim as soon as reasonably practicable after it receives notice of the claim (it being understood and agreed, however, that the failure by the City to give notice of a claim as provided in this Section 21 shall not relieve the District of its obligation under this Agreement except to the extent that District is actually damaged or prejudiced as a result of such failure to timely give notice), shall permit the District to assume direction and control of the defense of the claim, including the right to settle the claim, and shall cooperate as reasonably requested at the District's expense in the defense and/or settlement of the claim.

Indemnification by City. City agrees to defend, indemnify and save District, its agents and employees harmless from any and all liability, claims, damages, or injuries to any person caused by the independent acts of City, its agents, licensees, invitees and employees in connection with the performance of this Joint Use Agreement and the use or maintenance of City Property and District Property, with the exception of any claims, loss, damages, costs, expenses, or liability which arises by reason of District's sole and exclusive negligence or willful misconduct.

In the event that the District seeks indemnification under this Section 21, it shall inform the City of a claim as soon as reasonably practicable after it receives notice of the claim (it being understood and agreed, however, that the failure by the District to give notice of a claim as provided in this Section 21 shall not relieve the City of its obligation under this Agreement except to the extent that City is actually damaged or prejudiced as a result of such failure to timely give notice), shall permit the City to assume direction and control of the defense of the claim, including the right to settle the claim, and shall cooperate as reasonably requested at the City's expense in the defense and/or settlement of the claim.

10. Section 22, Insurance, of the October 15, 2014 Agreement, which addresses the respective insurance obligations of the Parties, is hereby modified to state as follows:

Each party shall maintain the following coverage:

- General Liability coverage \$5,000,000 per occurrence/\$10,000,000 aggregate including:
  - Additional Covered Party endorsement
  - Primary, Non-contributory endorsement
- Auto Liability coverage \$5,000,000 per occurrence/\$10,000,000 aggregate including:
  - Additional Covered Party endorsement
  - Primary, Non-contributory endorsement
- Abuse and Molestation Coverage \$5,000,000 per occurrence/\$10,000,000 aggregate
- Workers' Compensation including statutory coverage as required by the State of California and including Employers' Liability with limits no less than:
  - \$1,000,000.00 each accident
  - \$1,000,000.00 policy limit bodily injury by disease
  - \$1,000,000.00 each employee bodily injury by disease

Each party shall furnish the other party with a certificate of coverage, copy of the liability insurance policy or coverage document including all requested endorsements, required declarations and any exclusions.

The insurance coverage requirements in this Section 22 shall be subject to review and adjustment to reflect coverage recommended by the Parties' insurance advisors over the term of this Joint Use Agreement. Any such adjustment shall be set forth in a written amendment to the Joint Use Agreement signed by both Parties.

11. This Amendment constitutes the entire agreement between the Parties with respect to the subject matter herein. It supersedes, and the terms of this Amendment No. 3 govern, any and all previous oral and written communications between the parties, their affiliates, and their respective employees and representatives regarding these matters.

12. The modified indemnification language shall apply to Amendment Nos. 1 and 2, and as such, the City shall not be required to submit additional insurance and indemnification documentation through the facilities use application process.

13. Except as expressly modified by this Amendment, the terms of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Amendment No. 3 is executed by the duly authorized representatives of the Perris Union High School District and the City of Perris as of the date first herein above written.

**Perris Union High School District**

\_\_\_\_\_  
Candace Reines, Deputy Superintendent of Business Services

\_\_\_\_\_  
Date

“City”

ATTEST:

CITY OF PERRIS

By: \_\_\_\_\_  
Nancy Salazar, City Clerk

By: \_\_\_\_\_  
Richard Belmudez, City Manager

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Eric L. Dunn, City Attorney