

JOINT USE AGREEMENT

CANYON SPRINGS HIGH SCHOOL SWIMMING COMPLEX

The Agreement is entered into as of the 12<sup>th</sup> day of April, 1988, by and between the Moreno Valley Unified School District of Riverside County, hereinafter referred to as "School District", the City of Moreno Valley, a municipal corporation of the State of California, hereinafter referred to as "City", and the Moreno Valley Community Services District, hereinafter referred to as "Services District"; and

WITNESSETH:

WHEREAS, Sections 10,900 and following of the Education Code of the State of California authorize and empower School Districts, Cities, public corporations and Districts to organize, promote and conduct programs of community recreation which will contribute to the attainment of general recreational and educational objectives for children and adults of this State; and

WHEREAS, the School District, the Services District and the City desire to enter into such a joint program pursuant to said provisions of the Education Code;

NOW THEREFORE, in consideration of the covenants, conditions, and provisions set forth herein, the parties hereto agree as follows:

1. General Purpose: The purpose and intent of this Agreement is to provide for the selected financing, construction aspects, maintenance, and use by residents of the

School District, the Services District and the City of a 25-meter swimming pool with appurtenant facilities at the Canyon Springs High School, owned by the School District and located at 23100 Manzanita Avenue, Moreno Valley, California. The swimming pool which is the subject of this Agreement shall be physically located at the school in the general area designated for such use on the master plans of the School District for the Canyon Springs High School. It is understood for the purposes of this Agreement that the term "appurtenant facilities" includes those facilities constructed pursuant to this Agreement for use in connection with the swimming pool, including, but not limited to, pool equipment, decking, fencing, lighting, restrooms, showers, and dressing rooms. The City shall construct a swimming pool at Canyon Springs High School approximately 25 meters in length and approximately 25 yards in width, with appurtenant facilities and the School District will maintain this pool in accordance with the terms of this Agreement. The swimming pool and the appurtenant facilities are sometimes hereinafter referred to collectively as the "Swimming Complex".

2. Plans and Specifications: The City has employed qualified architects and engineers who have been approved by the School District to prepare plans and specifications for the Swimming Complex.

All work performed by the architects and engineers shall be in accordance with design standards developed jointly by and mutually acceptable to the School District and the City.

A representative from each party shall administer this Agreement and shall coordinate the actions of their respective Agencies in the planning and construction phases of this project and make appropriate recommendations to the governing bodies of the Agencies. The plans and specifications for the Swimming Complex shall be approved by the respective governing bodies of the School District and the City prior to commencement of construction.

3. Construction: Following approval of the plans and specifications by each party, the City shall, in the manner prescribed by law, call for bids and let contracts for construction of the Swimming Complex. Supervision of construction and all dealings with the contractors constructing the improvements shall be the responsibility of the City. The City shall establish the schedule for construction of the improvements which are the subject of this Agreement. However, the City shall fully advise the School District of its plans for the scheduling of construction and follow reasonable School District recommendations whenever possible. Coordination of matters associated with construction shall be the responsibility of the agency representatives described in Section 2.

4. School District Contribution to Construction:

The contribution of the School District to construction shall be the property described on Exhibit "B" attached hereto and incorporated herein by this reference. Said property is approximately 0.36 acres in size and is dedicated to helping

carry out the purposes of this Agreement during the effectiveness hereof.

5. Title: Title to the Swimming Complex and the land upon which the Swimming Complex is located is and shall remain vested in the School District. The City shall have the right to use the pool and facilities in accordance with this Agreement during the term of this Agreement.

6. Coordinating Advisory Committee: A Coordinating Advisory Committee ("Committee") of six members shall be established following construction of the swimming pool. The Committee shall be composed of an equal number of representatives from the School District and City, appointed by their respective governing bodies. In the event of an impasse in any matter coming before the Committee for action, the matter shall be referred to the Superintendent of Schools and the City Manager for consultation and resolution. The Committee shall coordinate and evaluate the recreational and instructional programs of the two Agencies as related to the Swimming Complex. The Committee shall also coordinate and develop recommendations relative to the types and schedules of use to be made of the Swimming Complex and its component facilities. The Committee shall have the authority to consider and approve applications for use of the Swimming Complex during times not scheduled for or relinquished by a Party hereto. The Committee shall also have the authority to make temporary or minor changes in the scheduling of usage of the Swimming Complex. The Committee shall meet as needed, but

no less than quarterly. It shall also meet upon the giving of ten (10) days written request for a meeting by any party. Subject to reasonable adjustments for the mutual convenience of the Committee members, the agency requesting a meeting of the Committee may set the specific time and place of such a meeting, provided that all meetings of the Committee shall be held within the geographical boundaries of the agencies.

The Committee shall act in an advisory capacity to the governing bodies of the parties, and, except as herein provided, it shall have no independent power or authority. Each member of the Committee serves at the pleasure of the governing body of the party which appointed the member.

7. Scheduling of Use: During the term of this Agreement both the School District and the City shall be entitled to use the Swimming Complex for their instructional and recreational programs. As used in this Section 7, "City" includes both the City and the Services District. Unless written notice to the contrary is given to the School District by the Services District, the City shall have the authority to bind the Services District in respect to scheduling and planning for the Swimming Complex. It is the intent of the parties to secure the maximum use of the pool and facilities and to establish schedules for such use which will permit both agencies to develop long-range plans. The annual scheduling of use shall be considered by the Committee each January, which shall submit its recommendations to the governing bodies of each party by the following April 30th to be effective as

of the next July 1st. The scheduling of use of the Swimming Complex may be altered from time to time as necessary or convenient for the parties upon the mutual agreement of the School District and the City. Persons or entities other than the party scheduled to use the Swimming Complex at a particular time may submit a written proposal to the Committee, on a form approved by the School District and the City, for non-exclusive use of all or part of the Swimming Complex. In considering such other proposals, the following order of priorities shall be utilized in the event of multiple requests for the same time period: (a) the party scheduled for use; (b) another party to this Agreement; (c) Persons or entities located or regularly active in the City. Until revised by mutual written agreement of the School District and City, the attached schedule (Exhibit "A") shall be in effect for use of the Swimming Complex.

The Parties recognize that during the term of this Agreement, the school year may be extended to include substantially all of the calendar year, including the period designated as "Summer Months" on Exhibit A hereto as originally adopted and approved by the Parties. In such event, Exhibit A shall be renegotiated by the Parties to the end that the City will be entitled to ~~exclusive~~ use of the Swimming Complex for a total number of scheduled hours reasonably comparable to the entitlement provided to the City hereby.

8. Instructional Swimming Program: The School District, the Services District, and the City may jointly establish instructional swimming programs. Coordinating, staffing and scheduling of the instructional programs shall be considered by the Committee, and the recommendations of the Committee shall be considered by the governing bodies of the parties.

9. Costs of Staffing, Scheduling of Maintenance, Standards: The School District shall staff, operate, maintain, repair, and provide supplies for the swimming pool and appurtenant facilities constructed under this Agreement. For the purposes of this paragraph and this Agreement, expenses of "staffing", are those direct personnel expenses incurred in operating the programs sponsored or sanctioned by the City or the Services District.

Performance of maintenance work shall be scheduled, to the greatest extent consistent with non-interrupted use of the Swimming Complex in a manner acceptable to both parties. Scheduled replacement, maintenance or repair work which would take the Swimming Pool out of use for more than forty-eight (48) hours shall be subject to approval by the Superintendent of Schools and the City Manager or the respective designees of such persons.

Supplies: Expenses for supplies are those expenses related to the operation of the Swimming Complex, such as brooms, mops, lubricating oil, light bulbs and fixtures, toilet supplies, detergents, swimming pool chlorine,

diatomaceous earth, neutralizing alkaline, similar custodian's supplies, equipment or other items, all chemicals reasonably necessary to properly maintain the swimming pool, stationery, and other items and materials normally consumed in the operation and maintenance of facilities similar to the Swimming Complex.

Standards: The School District shall at all times maintain the pool in a manner recommended by required or generally accepted guidelines for the operation and maintenance of public swimming pools. A complete schedule of maintenance activities shall be developed by the School District and provided to the City for informational purposes prior to initial scheduling of public use of the Swimming Complex. Scheduled or required non-scheduled maintenance shall not be deferred past the time therefor unless such deferral has been approved in writing by the City and the Services District.

As recited above in Section 4, the School District is providing land for the Swimming Complex and the City is providing funds for its construction. In consideration of the funding by the City, School District shall bear the expense of staffing its own programs, and of operating, maintaining, repairing, and providing supplies for the Swimming Complex during all use of the Swimming Complex.

The City and the Services District, respectively, shall bear the expense of staffing the programs which are sponsored

or sanctioned by such Party, either by direct payment to the staff persons or by reimbursement to the School District if the School District funds such expense originally. The method of payment or funding shall be determined for each or all City and Services District programs by agreement between the Superintendent of Schools and the City Manager or by the respective designees of such persons.

10. Control of Swimming Complex: During such times as the Swimming Complex is scheduled for exclusive use by one party, that party shall have control over and the beneficial use thereof. During times when the swimming pool or appurtenant facilities are not specifically scheduled for use by any party, or when the City relinquishes any portion of its scheduled exclusive use, the School District shall be responsible for the control and supervision of the unscheduled facilities.

11. Health and Safety: The facility shall at all times be operated in accordance with established health and safety standards. The Swimming Complex shall be inspected by County Health Department or a qualified professional on a regular basis, not less frequently than every three months. Certified lifeguards shall be provided at all times during which the Swimming Complex is in public use.

12. Indemnification: Each party shall indemnify and hold the other parties, their governing bodies, officers, agents and employees, free and harmless from liability for loss, damage, or injury to persons or property (including the

property of such other party) arising out of maintenance, operation or use of the swimming pool and appurtenant facilities, or any portion thereof, and arising out of an act or omission attributable to the indemnifying party and not being attributable to a party claiming indemnification.

13. Insurance: Each party shall carry liability insurance covering its use of the swimming pool and appurtenant facilities equal to or greater than the sum of \$5,000,000, combined single-limit. Upon request, each party shall provide the other with a Certificate of Insurance from a reliable insurance company indicating the type of insurance and the amount of insurance carried. Each Agency shall notify the other of any cancellation, renewal, or expiration of insurance applicable to use of the swimming pool and appurtenant facilities. A certificate of legal self-insurance in the minimum amount set forth above shall be considered compliance with this Section.

14. Collection and Apportionment of Fees: Any party may impose fees for its public and third-party programs. When a party charges fees for such programs, the revenues therefrom shall be deposited with the sponsoring party and used at its discretion for any lawful purpose.

15. Additional Coordinated Activities: It is the intent of the parties that this Agreement may from time to time be expanded to include other joint or coordinated recreational activities as mutually agreed upon by two or more of the parties. In the event such other or additional activities are

considered, they shall be first reviewed by the Committee and appropriate recommendations shall be made by the Committee to the respective governing bodies of the parties. Such other activities shall be commenced only upon written agreement of the governing bodies of the participating parties.

16. Term of Agreement: This Agreement shall be in full force and effect for a period of ninety-nine (99) years. The City and the Services District shall each have the right to terminate their interest in this Agreement upon the giving of at least twelve months advance written notice of termination to the other Parties. Should the School District sell the Swimming Complex, the City shall be reimbursed for the full costs of construction of said Complex.

17. Availability of Records, Audit: The School District shall conduct an annual independent audit of the expenses of staffing programs sponsored or sanctioned by the City and by the Services District under this Agreement and shall furnish a copy of the report of such audit to the City and to the Services District promptly after the completion of such report. The records of the School District involved in such expense shall be reasonably available to the other Parties.

18. Successors in Interest: This Agreement shall be binding upon the assigns, transferees, and successors in interest of the Parties.

19. Assignment: Neither all nor any portion of the interest of a Party to this Agreement may be assigned to a

non-party except pursuant to the prior written consent of the other Parties.

20. Amendment of Agreement: It is recognized that the passage of time may make amendment of this Agreement desirable in order to provide for the most effective use of the Swimming Complex, to provide effective management and control of the pool and facilities, and to provide for the equitable sharing of responsibility for and the costs of staffing and operating the Swimming Complex. Accordingly, the governing bodies of the School District, the Services District and the City may, at any time, by written mutual agreement amend the covenants, conditions, and provisions set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement as of the date first above written.

BOARD OF EDUCATION  
MORENO VALLEY UNIFIED  
SCHOOL DISTRICT

By

  
Board President

CITY OF MORENO VALLEY

By

  
Mayor

ATTEST:

  
Valerie A. Duran  
City Clerk

MORENO VALLEY COMMUNITY  
SERVICES DISTRICT

By

  
Chairperson

ATTEST:

*Taleric A. Bunnocues*

Secretary of the  
Board of Directors

APPROVED AS TO FORM:

*Edad Ley*

City Attorney

MVAG9

04/08/88/ED/ar

EXHIBIT "A"

1988-89

School Year

Monday through Friday

6:30 a.m. - 5:30 p.m.

School District use.

\*\*6:00 p.m. - 9:00 p.m.

City use.

Saturday, Sunday and School Holidays

8:00 a.m. - 12:00 p.m.

School District use. The District may reserve the pool for special events or athletic events on weekends as needed.

1:00 p.m. - 6:00 p.m.

City use.

Summer Months

Monday through Friday

8:00 a.m. - 1:00 p.m.

School District/City instructional programs.

1:00 p.m. - 5:30 p.m.

City use.

6:30 p.m. - 9:30 p.m.

School District special swim classes (Adult education, life-saving, water ballet, etc.).

7:00 p.m. - 10:00 p.m.

City use when School District special swim classes not scheduled.

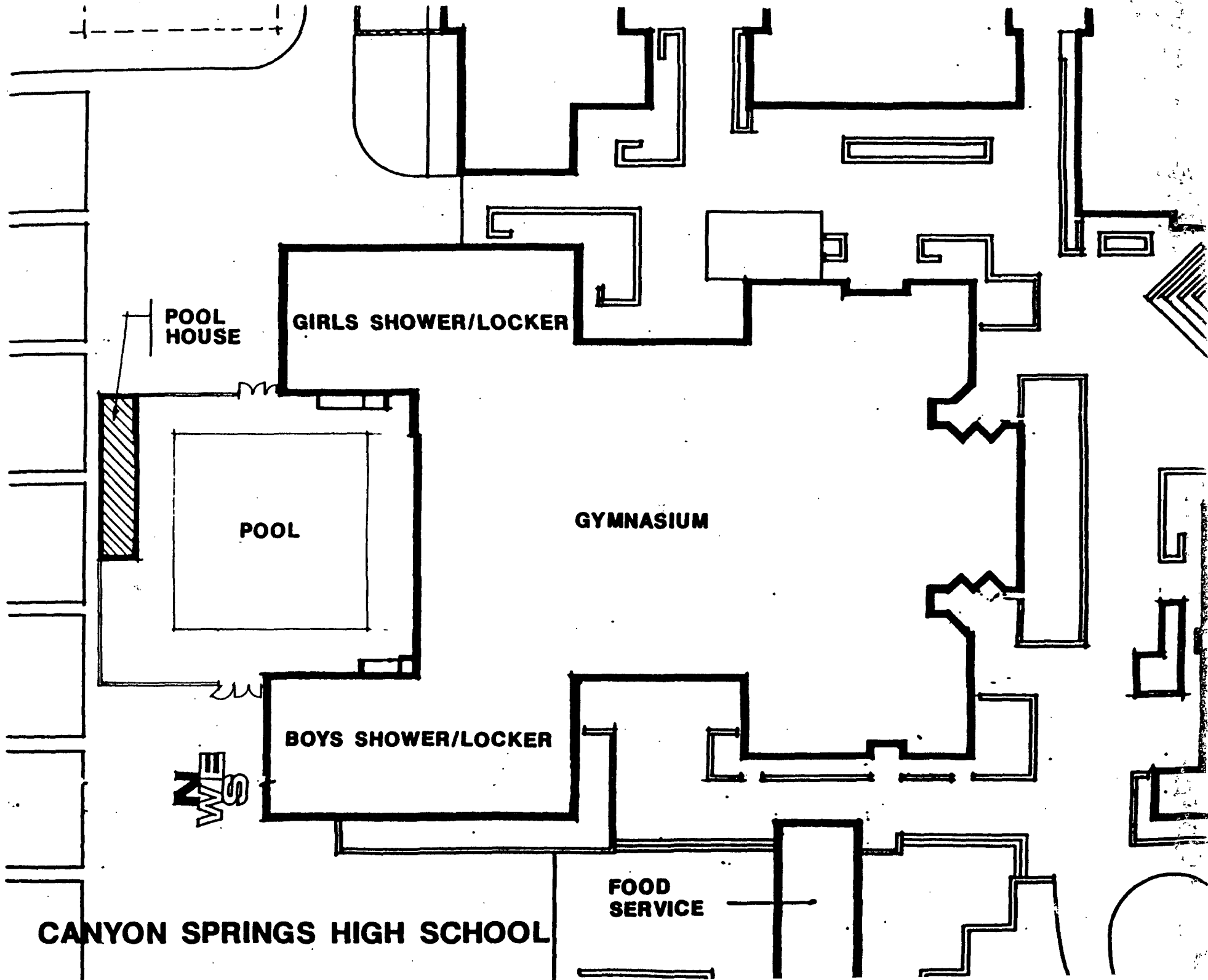
Saturday and Sunday

8:00 a.m. - 10:00 p.m.

City use.

\*\* Hours to be extended on certain dates as necessary to complete School District athletic events.

EXHIBIT B



CANYON SPRINGS HIGH SCHOOL