

**JOINT USE AGREEMENT**

THIS AGREEMENT, entered into this 20<sup>th</sup> day of January, 1998, by and between the **DUVAL COUNTY SCHOOL BOARD**, a body politic and corporate, hereinafter referred to as "School Board", and the **CITY OF JACKSONVILLE**, a municipal corporation, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, the parties desire to provide for the joint use of selected governmental properties by the City, Department of Parks, Recreation and Entertainment and the School Board in order to provide greater access for the community;

WHEREAS, substantial savings to the public can be obtained through the joint use of both parties' facilities for recreational and educational purposes; and

WHEREAS, this Agreement is entered into for the purposes of expanding public recreational facilities within the city without impairing school facilities or disrupting the educational process and enhancing education by making City facilities more available to schools.

NOW THEREFORE, in consideration of the covenants hereinafter mentioned to be kept and performed by School Board and City, it is mutually agreed as follows:

1. **TERMINATION OF PRIOR AGREEMENTS**

This Agreement shall supersede and cancel that certain Primary Recreational Facility Agreement between the School Board and City dated November 3, 1972 and that certain Agreement for Use, Operation and Maintenance of Swimming Pools located on School Board Property between the School Board and City dated May 10, 1983, and all amendments thereto.

2. GOVERNMENTAL PROPERTIES

The School Board property listed on Exhibit A, attached hereto and made a part hereof, ("School Board property") and the City property listed on Exhibit B, attached hereto and made a part hereof, ("City property") shall be subject to this Agreement. Exhibits A and B may be amended from time to time by written amendment hereto by the Assistant Superintendent, Facilities Services on behalf of the School Board and by the Director, Department of Parks, Recreation and Entertainment on behalf of the City for the purpose of adding or deleting property or parts thereof.

3. TERM

This Agreement shall commence on January 1, 1998 and shall continue until terminated by either party as set forth hereinbelow.

4. REVIEW OF AGREEMENT

This Agreement shall be reviewed by the parties every five (5) years commencing October 1, 2001, and amended, if needed, by mutual agreement of the parties.

5. USE OF PROPERTIES

A. The School Board and the City shall have the right to jointly use the School Board property and City property for recreational and educational purposes in accordance with this Agreement and the limitations set forth herein. Such joint use shall be allowed only in those instances where the use will not interfere with the normal operations conducted on the property. Any increased operating cost shall be paid by the party for whom this increased cost has been incurred along with any required usage fees, with no indirect costs being assessed.

B. The School Board and City shall enter into a Memorandum of Understanding for each School Board property and City property setting forth in detail the extent of the use to be

made of each property. Each Memorandum of Understanding will be subject to ongoing review by the parties, and may be amended from time to time by written request and agreement of the parties. In the case of School Board property, the school principal shall be included in the review process. Each Memorandum of Understanding will include a plat diagram or site plan showing the areas designated for joint use and the approximate location of any improvements and equipment to be installed thereon. The plat diagram or site plan shall be supplied by the property owner and updated by the party requesting the joint use to show the areas designated for joint use and the approximate location of any improvements and equipment to be installed thereon. The plat diagram or site plan shall be reviewed and approved by the Director, Department of Parks, Recreation and Entertainment, or his/her designee, on behalf of the City and the Assistant Superintendent, Facilities Services, or his/her designee, on behalf of the School Board. The Director, Parks, Recreation and Entertainment and the Assistant Superintendent, Facilities Services are authorized to execute any and all Memoranda of Understanding and amendments thereto, on behalf of the City and School Board, respectively.

C. If joint use is to be made of a property not listed on Exhibit A or Exhibit B, the party requesting the joint use shall provide written notice of its request to the other party. If such joint use is agreed to by the parties, the appropriate Exhibit will be amended to reflect the addition of the property and a Memorandum of Understanding will be executed by the parties.

D. If a party desires to delete a property, or portion thereof, listed on Exhibit A or Exhibit B, the party requesting the deletion shall provide written notice to the other party. The appropriate Exhibit will be amended to reflect the deletion of the property.

E. In the event one party provides funding for construction of improvements on property not subject to this Agreement, the party constructing such improvements shall provide notice

prior to construction to the property owner.

F. The parties shall promulgate rules and regulations governing use of School Board property and City property by the public and shall regulate such properties so as to not interfere with educational or other operations conducted thereon.

## 6. ALTERATIONS AND IMPROVEMENTS

A. The City may install improvements for recreational or educational use in accordance with Florida Department of Education safety standards on School Board property. The design, construction and location of any and all improvements must be approved by the Facilities Division of the School Board prior to installation or construction.

B. The School Board may install improvements for recreational or educational use on City property. The design, construction and location of any and all improvements must be approved by the Department of Parks, Recreation and Entertainment of the City prior to installation or construction.

## 7. MAINTENANCE OF IMPROVEMENTS AND PROPERTY

A. The City shall maintain, at its sole cost and expense, the improvements constructed by the City on School Board property. The City shall also provide for prompt cleaning of School Board property which has been devoted to joint use in such a manner that said property is free from debris, trash or other unsightly refuse associated with congregations of persons as spectators and participants in recreational or other activities.

B. The School Board shall maintain, at its sole cost and expense, the improvements constructed by School Board on City property. The School Board shall also provide for prompt cleaning of City property which has been devoted to joint use in such a manner that said

property is free from debris, trash or other unsightly refuse associated with congregations of persons as spectators and participants in recreational or other activities.

C. Each party recognizes that it is in the best interests of both parties to provide a safe recreational and educational area, and each party agrees to utilize its best efforts to provide proper supervision and safe conditions during its respective use of the other party's property. In the event that either party becomes aware of an unsafe condition, it will correct same, or if the correction of the condition is the responsibility of the other party, will notify the other party by using the system currently in use of the hazard and the need for corrective action. The party responsible for maintaining the property shall correct the condition immediately, or take proper and reasonable precautions until corrective action can be taken.

#### 8. UTILITIES

Neither party will provide or maintain any utilities for use by the other party on School Board property or City property unless an appropriate utility charge is mutually agreed to by the parties.

#### 9. DESIGNATED NAME OF SCHOOL BOARD PROPERTY

The City agrees that in making known to the public the recreational areas on School Board property, it will designate such property by the name of the nearest school such as "Hogan-Spring Glen Recreation Area" and explicitly state on all signs "Constructed on Duval County School Board Property".

#### 10. SWIMMING POOLS LOCATED ON PROPERTY OWNED BY SCHOOL BOARD

A. This Agreement shall also govern and control the use, operation and maintenance of the jointly constructed swimming pools (hereinafter "pools") at locations generally described in

Exhibit C, attached hereto and by this reference made a part hereof. Exhibit C may be amended from time to time by written amendment hereto by the Assistant Superintendent, Facilities Services on behalf of the School Board and by the Director, Department of Parks, Recreation and Entertainment on behalf of the City for the purpose of adding or deleting pools.

B. The School Board and the City shall have the right to jointly use the pools for recreational and educational purposes in accordance with this Agreement and the limitations set forth herein. The School Board and the City shall enter into a Memorandum of Understanding for each pool setting forth in detail the extent of the use to be made of the pool by each party. Each Memorandum of Understanding will be subject to ongoing review by the parties, including the school principals, and may be amended from time to time by written agreement of the parties. The periods during which the School Board and the City shall use the pools will be mutually agreed upon and set forth in each Memorandum of Understanding. The Assistant Superintendent, Facilities Services or his/her designee on behalf of the School Board and by the Director, Parks, Recreation and Entertainment or his/her designee on behalf of the City are authorized to execute any and all Memoranda of Understanding and amendments thereto.

C. If joint use is to be made of a pool not listed on Exhibit C, the party requesting the joint use shall provide written notice of its request to the other party. If such joint use is agreed to by the parties, Exhibit C will be amended to reflect the addition of the pool and a Memorandum of Understanding will be executed by the parties.

D. If a party desires to delete a pool listed on Exhibit C, the party requesting the deletion shall provide written notice to the other party. Exhibit C will be amended to reflect the deletion of the pool.

E. The School Board shall provide both an instructor and a sufficient number of certified lifeguards as required by Section 514.071, Florida Statutes and Rule 10D-5.137, Florida Administrative Code, to safely manage the pools, during those times when the pools are being used for or in conjunction with school activities or educational purposes and programs; and the City will provide a pool manager and a sufficient number of certified lifeguards as required by the above stated statute and rule to safely manage the pools, during those periods when the pools are being used for or in conjunction with its recreational or instructional programs and by the general public. The respective schools will be responsible for basic cleaning of the pool area and restrooms during school use, and the City will be responsible for such cleaning during City use. Each party shall be responsible for visually inspecting the pool basin and deck area for safety hazards and for water testing the pool to ensure the chemical balance is within accepted standards prior to usage by that party.

F. Upon receipt of prior reasonable notice, and if not in conflict with school activities, the School Board agrees to permit the use of its shower and locker rooms at the schools in connection with special events sponsored by the City, provided a member of the school staff appointed by the school principal is employed and paid by the City for each hour of City use. The School Board will not be required to permit the use of its shower and locker room for the use by the general public for general type swimming pool activity. At school sites where restrooms were not constructed as part of the pool areas, access to school restroom during public swimming may be made available, provided a member of the school staff, appointed by the principal, is employed and paid by the City during the hours of public use.

G. The School Board shall be responsible for obtaining and paying for water and

utilities for the pools. The City shall be responsible for obtaining and paying for chemicals, chemical treatment and other treatment of the pool water in compliance with requirements imposed by the public health authorities.

H. The City shall be responsible for obtaining and paying for the maintenance and repair of the pools, including but not limited to motors, pumps, electrical, plumbing, fencing, and other features of the pools themselves. The pools are to be maintained in a safe economical condition at all times. The City shall notify the School Board Facilities Department prior to repair or maintenance when the cost of any such repair or maintenance to be performed by City exceeds \$5,000. The School Board shall be responsible for obtaining service to and paying for the inspection, maintenance and repair of utilities supplying the pools from the fence out, including, but not limited to, water, sewage, all backflow preventors, and electric. The School Board shall provide reasonable, safe public access to the pool facilities during the time periods the pools are utilized by the City.

I. The School Board shall have the right to make alterations to the pools or pool utilities. The School Board shall notify the City in writing when any construction, demolition, renovation or activity affecting the pool or pool utilities is planned. A representative of the Department of Parks, Recreation and Entertainment will be notified and invited to attend all meeting concerning construction, demolition, renovations or activity affecting the pool or pool utilities.

J. Any additional expense for custodial services, including but not limited to any overtime compensation, required by the operation of the pools by the School Board or the City during the respective activities carried out by each shall be borne by whichever party creates the need for such expense. In the event the City makes it necessary to keep the School Board custodian overtime occasioned by its use of the pools, then in such event, the City shall reimburse the School Board for



such additional expense upon receipt from the School Board of any appropriate statement therefor.

K. City shall notify the school principal seven (7) days in advance when City schedules usage at a pool that generates fees.

#### 11. INDEMNIFICATION

The City shall hold the School Board harmless for any injuries or damages arising out of the use by the City of the property and pools covered by this Agreement and will defend any claims for injuries or damages, even if such claims be groundless or fraudulent, except that the City's liability in such cases shall not exceed the limitations set forth in Section 768.28, *Florida Statutes*, as it now exists or as it may be amended from time to time. The School Board shall hold the City harmless for any injuries or damages arising out of the use by the School Board of the property and pools covered by this Agreement and will defend any claims for injuries or damages, even if such claims be groundless or fraudulent, except that the School Board's liability in such cases shall not exceed the limitations set forth in Section 768.28, *Florida Statutes*, as it now exists or as it may be amended from time to time.

#### 12. DEFAULT

In the event that either party shall fail to perform any of its obligations hereunder, the other party shall deliver written notice thereof to such party specifying the nature of the failure with reasonable detail. Upon receipt thereof, such party shall forthwith proceed to correct any such failure to perform and shall be allowed reasonable time to do so.

#### 13. NO WAIVER

Any failure or refusal of either party to enforce any term or condition hereof shall not be any waiver thereof, or any waiver of any right to enforce any term or condition in the future.

14. RIGHT TO TERMINATE

Each party shall have the right to terminate this Agreement, with or without cause, upon giving three (3) months written notice to the other party.

15. AUTHORITY TO TERMINATE

A. The Mayor and Corporation Secretary, on behalf of the City, shall have the authority to terminate this Agreement in accordance with the provisions hereof.

B. The Superintendent of Schools, on behalf of the School Board, shall have the authority to terminate this Agreement in accordance with the provisions hereof.

16. RESTORATION OF SCHOOL BOARD PROPERTY AND CITY PROPERTY

A. Upon the termination of this Agreement by either party, or the deletion of any property from Exhibit A, the School Board, at its option, may keep any or all of the improvements and equipment constructed or installed by the City on School Board property or the property deleted from Exhibit A, whichever is applicable, and the City shall convey its right, title and interest in the improvements and equipment "as is" with no warranties as to merchantability or fitness to the School Board, or the School Board may require the City to demolish and remove the improvements and equipment constructed or installed by City and return the School Board property or the property deleted from Exhibit A, whichever is applicable, as completely as practicable to its original condition prior to the installation of the improvements and equipment.

B. Upon the termination of this Agreement by either party, or the deletion of any property from Exhibit B, the City, at its option, may keep any or all of the improvements and equipment constructed or installed by the School Board on City property or the property deleted from Exhibit B, whichever is applicable, and the School Board shall convey its right, title and interest in

the improvements and equipment "as is" with no warranties as to merchantability or fitness to the City, or the City may require the School Board to demolish and remove the improvements and equipment constructed or installed by School Board and return the City property or the property deleted from Exhibit B, whichever is applicable, as completely as practicable to its original condition prior to the installation of the improvements and equipment.

17. NOTICES

All notices required under this Agreement shall be made in writing and served upon City by registered or certified mail, return receipt requested, addressed to Director of Department of Parks, Recreation and Entertainment, 851 N. Market Street, Jacksonville, Florida 32202-2798, and served upon School Board by registered or certified mail, return receipt requested, addressed to Assistant Superintendent, Facilities Services, 1701 Prudential Drive, Jacksonville, Florida 32207-8181.

18. USE OF SCHOOL BOARD PROPERTY AND CITY PROPERTY BY ASSOCIATIONS

A. The City may allow associations, groups or individuals to use School Board property and City property for public purposes but only upon written agreement between City and the association, group or individual. In the case of School Board property, the written agreement must be approved by the school principal, or his/her designee. The City or School Board may in its sole discretion deny such use. The written agreement shall set forth the terms and conditions of the use and shall contain the plans and specifications for any improvements or equipment to be constructed or installed by the association, group or individual. All improvements and equipment installed or constructed on School Board property must be in accordance with the Florida

Department of Education safety standards. The design, construction and location of all improvements and equipment must be approved by the Facilities Division of the School Board prior to installation or construction.

B. Neither School Board nor City shall be responsible for the maintenance of any improvements or equipment constructed or installed on School Board property or City property by any association, group or individual, unless specifically agreed to by City or School Board. The association, group or individual shall provide to City and School Board an estimate of the cost of maintenance of the improvements or equipment and shall be solely responsible for all maintenance costs unless otherwise agreed to by School Board or City.

C. Neither School Board nor City will provide or maintain any utilities or other municipal services for use by any association, group or individual on School Board property or City property unless specifically agreed to by School Board or City.

D. Any association, group or individual using School Board property or City property shall be required, at the option of School Board, in the case of School Board property, or City, in the case of City property, to remove or demolish the improvements or equipment and restore the property as completely as practical to its original condition prior to the installation of the improvements or equipment or convey to City, if the improvements or equipment are on City property or to School Board if the improvements or equipment are on School Board property, its right, title, and interest in the improvements or equipment upon request by School Board or City.

E. The Director, Parks, Recreation and Entertainment, on behalf of the City and the Assistant Superintendent, Facilities Services, on behalf of the School Board are authorized to execute any documents required or needed pursuant to this Paragraph 18; provided however, the school principal or his/her designee is authorized to approve the written agreement between the City and any association, group or individual for use of School Board property.

IN WITNESS WHEREOF, the parties hereto have executed this agreement for the uses expressed therein the day and year first above written.

**ATTEST:**

**DUVAL COUNTY SCHOOL BOARD**

Donald S. Van Fleet  
Donald S. Van Fleet  
Interim Superintendent of Schools and  
Ex Officio Secretary

By: Cheryl G. Donelan  
Cheryl G. Donelan, Its Chairman

(Corporate Seal)

**APPROVED BY BOARD**

ON 11-19-96

*PSSC*

**ATTEST:**

**CITY OF JACKSONVILLE**

Linnie C. Williams  
Linnie C. Williams  
Corporation Secretary

By: John A. Delaney  
John A. Delaney, Mayor



(Corporate Seal)

**FORM APPROVED**

James A. Hill  
ASSISTANT COUNSEL