

Upon recording, return to:
Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, AZ 86314

**INTERGOVERNMENTAL AGREEMENT
PROVIDING COMMUNITY ACCESS TO RESOURCES**

**TOWN OF PRESCOTT VALLEY
AND
HUMBOLDT UNIFIED SCHOOL DISTRICT NO. 22**

THIS AGREEMENT, entered into this 8th day of November, 2012, by and between the TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona (hereinafter the "Town"), and the HUMBOLDT UNIFIED SCHOOL DISTRICT NO. 22 OF YAVAPAI COUNTY, ARIZONA, a unified school district and political subdivision of the State of Arizona (hereinafter "HUSD" or "District");

WITNESSETH:

WHEREAS, ARS §15-341(A)(4) authorizes school district governing boards to manage and control school property within their districts; and

WHEREAS, ARS §15-341(A)(7) authorizes school district governing boards to furnish, repair and insure school property within their districts; and

WHEREAS, cities and towns are authorized to establish and maintain public parks, and implied therein is authority to establish and operate recreation programs for their citizens in those parks and in other public grounds and facilities [ARS §§9-494(A) and 11-932(A)]; and

WHEREAS, ARS §11-952 authorizes two or more public agencies (including school districts and towns) to contract for services or jointly exercise any powers common to the contracting parties, if the agreement meets certain requirements set forth in §11-952; and

WHEREAS, ARS §15-342(13) specifically authorizes school district governing boards to enter into intergovernmental agreements and contracts with other governing bodies as provided in ARS §11-952; and

WHEREAS, HUSD and the Town have determined it is in the best interest of the Town and District that their respective public facilities and grounds be made available to children, adults, and families in the Prescott Valley and Dewey-Humboldt area on a shared basis for the general benefit of both communities and for the particular purpose of helping young people learn and develop recreation skills and helping people of all ages participate in recreation activities;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, the parties hereto enter into this Agreement as follows:

I. PURPOSE.

In establishing this Agreement, the Town and the District seek to:

- A. Effectively and efficiently manage use of District and Town facilities and grounds for the benefit of students and other citizens of the communities served by the District and Town;
- B. Encourage joint use of their respective facilities and grounds as provided in this Agreement and give priority usage, after the owner's programming and/or on-going community obligations are met, to the requests submitted by the other party;
- C. Provide specific facilities and grounds usable for District and Town programs; and
- D. Establish procedures to encourage cooperative working relationships between District and Town personnel, and quickly resolve issues which may arise.

II. GENERAL PROVISIONS OF THE AGREEMENT

- A. The term of this Agreement shall commence on November 8, 2012 and shall remain in force from year to year unless sooner terminated as set forth in Section VIII hereinafter.
- B. The execution of this Agreement or extension of this Agreement must be authorized by both the District Governing Board and the Town Council.
- C. The District and Town acknowledge that:
 - 1. This Agreement is intended to enhance and not interfere with the primary mission of Town or District governance and operations;
 - 2. The ultimate responsibility for the use of facility space will remain with the owner of the facility;
 - 3. Town and District budget and administrative processes must be recognized in implementing the programs and services set forth herein; and

4. Town use typically includes use by third-party non-profit organizations under contract with the Town. In such cases, requests for use of District property under this Agreement shall be made through the Town's Parks and Recreation Department.

III. GENERAL GUIDELINES FOR JOINT USE

- A. Each party will make its buildings and grounds listed in Subsection C herein available for use by the other party on a first-priority basis after the scheduling requirements for its own programs have been met. Generally the District shall have priority use of the buildings and grounds, including parking areas, identified in Subsection C during the school year and during regular school hours and after school hours as required by the District athletic schedules and other school activities. The Town will generally have priority use of the school buildings and grounds, including parking areas, identified in Subsection C during the summer months and on weekends and holidays and weeknights and during the school year after the District's needs have been met.
- B. All joint-use programming and activities scheduled under this Agreement will comply with the owner's policies prohibiting discrimination and any applicable law.
- C. The parties agree that the following properties shall be made available for the use of the other party as indicated, pursuant to the schedule developed according to Section IV:
 1. Town Facilities to be Made Available for District Use:
 - * The general recreation areas (including restrooms and ramadas), all athletic fields, and all Town facilities with no limitations on year-round use, *subject to* (a) availability, (b) Town rules and regulations as amended from time to time, (c) HUSD general clean-up of the area after use; and
 - * Mountain Valley Splash for Bradshaw Mountain High School (BMHS) swim team use and HUSD end-of-school year parties, *subject to* a charge for actual Town costs for lifeguard staffing at end-of-school year parties as determined by the Designated Representatives; and
 - * The Civic Center (including amphitheater and outdoor plazas), *subject to* a written license agreement approved by the Town Manager; and
 - * The Joint Facility with Yavapai College (namely the auditorium and Crystal Room).
 2. District Facilities to be Made Available for Town Use:
 - * The Bradshaw Mountain High School West (BMHSW) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability,

(b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and

- * The Bradshaw Mountain High School East (BMHSE) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Bradshaw Mountain Middle School (BMMS) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Glassford Hill Middle School (GHMS) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Mountain View Elementary School (MVES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Coyote Springs Elementary School (CSES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Lake Valley Elementary School (LVES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Liberty Elementary School (LES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and

- * The Humboldt Elementary School (HES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use; and
- * The Granville Elementary School (GES) campus including, all athletic fields, athletic facilities, classrooms, and other agreed upon locations with no limitations on year-round use, *subject to* (a) availability, (b) HUSD rules and regulations as amended from time to time, (c) Town general clean-up of the area after use.

- D. Special requests such as kitchen facilities, audio-visual equipment, and non-operational hours use will be dealt with on a case by case basis *subject to* (a) availability, (b) general clean-up, (c) payment of costs to replace routine equipment as determined by the Designated Representatives, and (d) payment of other costs as determined by the Designated Representatives.
- E. Facilities will be made available to the other party at no charge.
- F. Each party will maintain its own property and equipment and shall each provide ordinary maintenance and services for its own property, buildings and facilities, including (but expressly not limited to) watering, fertilizing, mowing, weed control, maintenance and repair of irrigation systems, field repair and reseeded, maintenance and repair of fences, and maintenance and repair of bleachers. Where a party is required hereunder to repair or maintain any property, buildings or facilities of the other, the non-owning party shall supply the needed materials out of its own inventories to the extent they are available.
- G. Each Party shall furnish and supply all materials for carrying on its activities or programs at the property, buildings or facilities of the other, unless shared use of the equipment has previously been specifically agreed to. Any personal property placed in, on or about the real property, buildings, or facilities of one party by the other shall remain the property of the party placing said items thereon. However, all such property shall be removed by the party owning it within sixty (60) days after any termination of this Agreement.
- H. Each party will cooperate in expediting repair of damage which may occur as a result of scheduled programs. The owner shall repair or replace any and all damage to its facilities as soon as is practicable, regardless of fault or of whose activities caused such damage. In the event that the non-owner under this Agreement or any user of the facility during the non-owner's use causes damage to the facility, the non-owning party shall immediately notify the owner of that fact and shall be responsible for the cost or repair or replacement.

If the owner discovers the damage, or upon notice of damage by the non-owning party, the owner shall, as soon as is practicable but in no event later than fifteen (15) calendar

days, notify the non-owner in writing of the nature and extent of such damage, the date of discovery by owner (if applicable), and the estimated cost of repair or replacement (as necessary). The non-owner shall reimburse the owner for the cost of repair, within thirty (30) calendar days of delivery of an invoice unless the non-owner has sent a written notice of disagreement clearly identifying reasons for refusing responsibility for damages within five (5) working days of receipt of the written estimate from the owner. The parties shall use best efforts to investigate and resolve the disagreement in accordance with the Dispute Resolution section in this Agreement. The owner may proceed to make repairs or replacement without voiding the right to disagree. The term "damage" does not include ordinary wear and tear. Each owner will be responsible for routine maintenance and cleaning of its own property unless otherwise specifically agreed.

- I. Each party agrees that use of the other party's facilities shall not interfere with the other party's usual conduct of its business, nor be inconsistent with the intended and normal use of the facilities used. Both the Town and District shall provide or arrange for adequate personnel to supervise its activities or programs held at the property, buildings or facilities of the other.

Each party agrees to be responsible for the expenses of supervision, security, and supplies unless otherwise noted in this Agreement, and to make reasonable efforts to inspect facilities for safety conditions and for damage at the beginning and end of each period of use.

- J. Workers hired by either party to provide services, whether providing those services on premises owned by the Town or the District, shall be the worker of the hiring party only. The Town agrees that any workers of the Town providing services at District facilities on a regular basis shall comply with fingerprinting and background check requirements pursuant to A.R.S. §15-512(H). The Town also agrees that all employees shall be in compliance with federal and state immigration law, including E-Verify requirements pursuant to A.R.S. §23-214.
- K. Each party shall observe and enforce all established rules and regulations of the other in connection with its use of the other's property, buildings or facilities.
- L. Neither party shall cancel reservations later than five (5) business days prior to the scheduled event, except in the case of actual emergency.
- M. Each party shall perform its duties and obligations hereunder in a timely fashion.
- N. Each party shall reasonably provide timely access to its property, buildings or facilities either by making its staff available to the other party or providing keys to the other party, at the discretion of the first party.
- O. Nothing in this Agreement shall preclude the Town from charging HUSD for domestic water, reclaimed water, and/or wastewater service in accordance with applicable Town regulations as amended from time to time.

- P. Nothing herein shall preclude the designated representatives from mutually agreeing, in a separate writing, to add additional HUSD or Town property, buildings, and other facilities to those listed in this Agreement.

IV. ANNUAL JOINT USE SCHEDULING CONFIRMATION PROCESS

- A. Each owner will be responsible for maintaining the schedule for its own facilities.
- B. Representatives of the parties will meet quarterly to discuss scheduling at least two (2) months in advance of when it will begin. Within 2 weeks of the meeting, each owner's representative shall prepare a joint use confirmation form for the quarter discussed and shall send the schedule to the other party. The receiving party will either approve the proposed schedule by returning it with a signature of approval or may within (1) week(s) contact the other representative to discuss changes or amendments which need to be addressed. A final, signed schedule should be in place at least 1 month(s) before the scheduled use begins.

While uses mentioned in Subsection III. C. will have priority for the named facilities, priority for other events at the facilities will be given first to the owner and second to the other party. The Town and the District will cooperate in dealing with unforeseen events and shall seek a mutually acceptable alternative in the event of the need for scheduling changes. The mutual goal in scheduling will be to maintain program continuity, give adequate notification of scheduling changes, and (where necessary) relocate programming. In the event of no mutually acceptable alternative, use by the owner shall take priority unless the change is necessary for a use already scheduled under Subsection III. C. and the date change is necessary due to uncontrollable events (such as a snow day, a change in the AIA sports scheduling, or similar occurrence).

If, at any time, the Town or the District determines that a facility does not meet applicable health and safety standards or that for any other reason the facility is unsafe for use, the Town or District will have the authority to cancel the scheduled event and to close the facility for the duration of the scheduled event. If this occurs, the party will take immediate steps to notify the owner of the cancellation/closure.

- C. During scheduling meetings, the parties shall discuss any issues that may have arisen that the parties will work to resolve. The parties will, in good faith, discuss how to maximize the mutual benefit of the shared use of Town and District facilities.
- D. The Designated Representatives of the respective parties shall initially be the Facilities Coordinator for HUSD and the Parks and Recreation Director for the Town. However, either party may designate a new Designated Representative at any time in accordance with the Notice procedures set forth hereinafter.

V. INDEMNIFICATION AND INSURANCE

- A. Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') for, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.
- B. The Town and the District shall, each year during the term of this Agreement (and any extension or renewal thereof), procure and maintain a certificate of commercial general liability insurance with a combined single limit of liability coverage not less than One Million Dollars (\$1,000,000) per occurrence. Each party's certificate of insurance shall be endorsed to show the other party as an additional insured with respect to any and all claims arising from or as a result of its use of facilities. Written notice shall be provided to the other party at least thirty (30) days prior to cancellation of the insurance, and failure to renew coverage shall constitute grounds for termination of the Agreement.

VI. BUDGETING AND FINANCING

The District and the Town shall each provide for its own costs under this Agreement, except as expressly provided herein for reimbursement of excessive maintenance or property damage. The District and the Town shall each include in its annual budget the necessary appropriations to meet the cost of its performances hereunder.

VII. DISPUTE RESOLUTION

In the event of any dispute between the parties arising out of any activity or program conducted pursuant to this Agreement, such dispute shall be directed to the Designated Representatives and resolved by them. If necessary, their resolution shall be presented for approval to the Town Manager and the HUSD Superintendent. If necessary, the resolution of the Town Manager and the HUSD Superintendent shall be presented for approval to the respective governing boards of the parties.

VIII. TERMINATION

This Agreement may be terminated by either party for any reason whatever, effective upon receipt of thirty (30) days' written notice.

IX. NO PARTNERSHIP; NOT EMPLOYEES

Nothing herein is intended to create a partnership or joint venture between the parties, nor does it create an employment relationship between either the personnel of HUSD and the Town or the personnel of the Town and HUSD. Solely for purposes of workers compensation, ARS §23-1022(D) and (E) shall apply and HUSD and the Town shall be solely liable for the payment of

workers' compensation benefits for their respective employees providing services in accordance with this Agreement.

X. NOTICES

All notices provided in connection with this Agreement shall be in writing and shall be deemed to have been sufficiently delivered or served when presented personally or upon the third (3rd) day after being deposited in the United States mail, postage prepaid, by registered or certified mail, addressed as follows:

HUSD: Humboldt Unified School District No. 22
6411 N Robert Rd
Prescott Valley, AZ 86314
Attn: Facilities Coordinator

Town: Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, AZ 86314
Attn: Parks and Recreation Director

XI. LAWS AND REGULATIONS

In their respective performances under this Agreement, the parties shall comply with all applicable laws, statutes, rules, regulations, and ordinances including, without limitation, those governing wages, hours, employment discrimination, and safety.

XII. FURTHER INSTRUMENTS

Each party hereto shall, promptly upon the request of the other, have acknowledged and delivered to the other any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement.

XIII. AMENDMENT AND CONSTRUCTION

This Agreement sets forth the entire understanding of the parties as to the matters set forth herein as of the date of this Agreement and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by the authorized representatives of each of the parties hereto. This Agreement is intended to reflect the mutual intent of the parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any party.

XIV. NO WAIVER

No waiver by any party of a breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein-contained.

XV. ATTORNEYS' FEES

In the event any action shall be instituted between any of the parties in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs, including reasonable attorneys' fees.

XVI. SAVINGS CLAUSE

In the event any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

XVII. MERGER CLAUSE

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

XVIII. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed under the laws of the State of Arizona, and shall be deemed made and entered into in Yavapai County.

XIX. CONFLICT-OF-INTEREST

This Agreement may be canceled pursuant to ARS §38-511 in the event of a conflict-of-interest as described therein.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement by and through their authorized representatives.

TOWN OF PRESCOTT VALLEY, a municipal corporation of Arizona, (Town)

Harvey Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

The foregoing Intergovernmental Agreement has been submitted to me as Prescott Valley Town Attorney for review prior to its execution, pursuant to ARS §11-952(D), and I have determined that it is in proper form and is within the powers and authority granted to the Town under the laws of Arizona.

Ivan Legler, Town Attorney

**HUMBOLDT UNIFIED SCHOOL DISTRICT
NO. 22 OF YAVAPAI COUNTY, ARIZONA**, a
unified school district and political subdivision of the
State of Arizona, (District)

Howard Moody, President Governing Board

ATTEST:

Mary Diaz, Secretary Governing Board

The foregoing Intergovernmental Agreement has been submitted to me as Attorney for the Humboldt Unified School District No. 22 of Yavapai County, Arizona, for review prior to its execution, pursuant to ARS §11-952(D), and I have determined that it is in proper form and is within the powers and authority granted to the District under the laws of Arizona.

Patrice M. Horstman, District Attorney