

**Agreement for Joint Use, Maintenance, Operation, and  
for Maintaining a Strong Collaborative Relationship  
Between The City of Burlingame and The Burlingame  
School District**

This Agreement is entered into as of July 1, 2017 (the "Effective Date") by and between the City of Burlingame (the "City") and the Burlingame School District (the "District") (Together, "Parties").

Recitals

- A. Whereas, the Parties exist to serve compatible community needs of the same residents; and
- B. Whereas, the Parties desire to continue to grow and increase City programs throughout the City in locations close and convenient to all residents; and
- C. Whereas, the Parties wish to replace space previously utilized at Burlingame High School that has become cost prohibitive; and
- D. Whereas, the citizens of Burlingame elect representatives to the two different governmental entities to serve as policy makers for their respective responsibilities of education and city services; and
- E. Whereas, the Parties agree that Burlingame's residents expect that governmental agencies will maintain cooperative and supportive relationships that will serve as a basis for collaboration to better serve the community; and
- F. Whereas, the Parties have worked together well in the past, and continue to desire to work together in the future to provide facilities and support for appropriate recreation and after-school programs, crossing guards and other services for the benefit of Burlingame's citizens; and
- G. Whereas, the community's needs are best served through cooperation among elected and appointed public officials; and
- H. Whereas, the provisions of California Education Code sections 10900 through 10914.5, inclusive, (the "Community Recreation Act") support joint action by the City and the District to organize, promote and conduct programs in order to improve the health and general welfare of the citizens of the City of Burlingame, and to cultivate the development of good citizenship by provision of adequate programs of community recreation; and
- I. Whereas, the City acknowledges that between 2009 and 2011 the District expended over \$2.5 million to improve the District facilities that are subject to this Agreement, including installing synthetic fields; and

- J. Whereas, both Parties understand and acknowledge the financial challenges and realities of presenting and running a quality sustainable athletic and enrichment program for the community and the need for each agency to maximize its potential revenue stream in order to meet the core of their respective missions; and
- K. Whereas, the elected and appointed officials for each entity are called upon to use their in-depth knowledge to prioritize the allocation of financial resources to respond to competing community demands for their respective responsibilities of education and city services.

NOW, THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:

1. Description of Joint Services. Set forth as Exhibit A to this Agreement is a description of some of the resources invested by each party, and the operating guidelines currently followed by the Parties, to provide recreation and after-school programs, crossing guards and other services requiring cooperation between the Parties for the benefit of the citizens of Burlingame (the "Joint Services"). This description is not meant to be exhaustive of all the areas in which the Parties currently work together for the benefit of Burlingame's citizens. The Parties agree that as of the date of this Agreement, the contributions made by each party to the Joint Services are appropriate.
2. City/District Liaison Committee. The Parties agree to appoint representatives to a City/District Liaison Committee. The City's representatives shall be two City Councilmembers, the City Manager, and the Parks and Recreation Director. The District's representatives shall be two District Trustees, the Superintendent, and the Chief Business Officer. Other City and District staff may attend meetings as necessary to provide information. The Liaison Committee shall meet at least twice annually. City staff and District staff shall work together to provide a report regarding programming and other matters contained in this agreement. The report shall be presented to the Liaison Committee annually.
3. Annual Meeting. The City and District will hold an annual joint meeting of the full Council and Board to review high-level building and planning issues.
4. Changes in Contributions to Joint Services. The Parties acknowledge that circumstances can change and that either the City or the District may request a revision in the resources contributed to the Joint Services or the operating guidelines concerning such Joint Services. Should that be the case, both parties agree to work through the City-District Liaison Committee (the "Liaison Committee") to discuss the proposed revision. The Liaison Committee shall meet at least once annually, at a time and place agreed to by the Parties.
5. Rules of Conduct. In order to achieve and maintain the desired collaborative relationship between the Parties, the Parties agree that the elected and appointed officials for each entity will act according to the following guidelines:

a) The parties will use the Liaison Committee as the forum to communicate and gain information to better understand any issues that may arise between the Parties pertaining to the Joint Services.

b) Each party will provide timely notice to the other when circumstances may require a change in the delivery of the Joint Services. If circumstances so require, the Parties agree to convene an emergency meeting of the Liaison Committee to discuss the proposed change.

c) In the event that an issue pertaining to the Joint Services cannot be resolved to the satisfaction of the City and the District after they have used their best efforts to address the matter through the Liaison Committee, the City and the District will promptly convene a joint meeting of all available members of their respective governing boards with a mutually agreed upon date and time to discuss the issue further (the "Joint Meeting"). The Parties agree to use their best efforts to keep their discussion of the issue in dispute to the following circumstances:

- (i) By an official who serves on the Liaison Committee, while he or she provides a factual update about the issue during a public meeting of his or her governing board;
- (ii) At the Joint Meeting;
- (iii) At a public meeting of his or her governing board that takes place subsequent to the Joint Meeting; and
- (iv) At any time following a determination by a majority vote of that official's governing board that it is appropriate to comment publicly about the issue.

d) Unless required by statutory requirements, regulatory requirements, or other applicable authority with jurisdiction related to the party's actions, no action will be taken by either party pertaining to the Joint Services until the parties have used their best efforts to address the matter through the Liaison Committee and the Joint Meeting.

e) The elected and appointed officials of each party will take positive steps to encourage adherence to this Agreement. For example, should an official observe behavior by one of his or her colleagues that is not in accord with this Agreement (e.g., discussing a matter publicly except as permitted above), the official will ask his or her colleague to refrain from such behavior.

6. Major Projects. When appropriate, the District will present its plans for large projects, such as new schools or expansions of existing schools, with the City's Planning Commission as an informational item only as the Planning Commission has no jurisdiction over District projects. When potential impacts on schools is foreseeable, the City will also present its plans for large projects with the District Board of Trustees or another District committee.

7. Term. This Agreement shall commence as of the Effective Date and shall continue until June 30, 2020 unless the Agreement is otherwise terminated. In the event either party does not want to renew this Agreement, the parties agree to discuss the matter at a Liaison Committee within thirty (30) days following the notice of termination as indicated herein.

8. Termination. The City or the District may terminate this Agreement at any time by written notice of election to terminate delivered to the other party at least ninety (90) days in advance of the effective termination date elected, but existing programs (e.g., enrichment, after-school sports) shall continue at least through the end of already scheduled programs, not to exceed a period of six months.

9. Operative Provisions. The Parties agree that the following provisions are applicable to this Agreement and to the terms indicated in Exhibit A, which is incorporated herein by this reference.

a) Responsibility for Supervision. The City shall be responsible for supervision and control at all times when the District's facilities are used by the City. The District shall be responsible for supervision and control at all times when the City's facilities are used by the District.

b) Fingerprinting and Criminal Background Verification. If the City uses any portion of the District's facilities during school hours, the City shall be responsible for ensuring compliance with all applicable fingerprinting and criminal background investigation requirements for its employees described in Education Code section 45125.1, which may be met under the fingerprinting provisions of Title 22 of the California Code of Regulations and applicable provisions of the California Health and Safety Code relevant to community care facility licensing (Health & Safety Code, § 1500 et seq.).

c) Hold Harmless/Indemnification

(i) City Indemnification Obligations. To the fullest extent permitted by California law, City shall defend indemnify, and hold harmless District, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "District Parties") from any and all losses, liabilities, claims, suits, and actions of any kind, nature, and description, including, but not limited to, attorneys' fees and costs directly or indirectly arising out of, connected with, or resulting from the performance of this Agreement or from any activity, work, or thing done, permitted, or suffered by City in conjunction with the performance of this Agreement or on the School Site, to the extent caused by the negligence or willful misconduct of the City, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "City Parties"); and in case any action or proceeding be brought against District, City shall defend the same at City's expense, including counsel acceptable to District.



- (ii) District's Indemnification Obligations. To the fullest extent permitted by California law, District shall defend, indemnify, and hold harmless the City Parties from any and all losses, liabilities, claims, suits, and actions of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of this Agreement or from any activity, work, or thing done, permitted, or suffered by District in conjunction with the performance of this Agreement or on the School Site, to the extent caused by the negligence or willful misconduct of the District Parties, and in case any action or proceeding be brought against City, District shall defend the same at District's expense, including counsel acceptable to City.

d) Liability Insurance. City and District shall, during the term of this Agreement, each maintain in force, a combined, single-limit liability insurance policy in the amount of not less than two million dollars (\$2,000,000) with the other party, its employees and agents, named as additional insured under those policies. All policies shall provide for a thirty (30) day written notice of any cancellation or reduction of that insurance. A party may satisfy this obligation by providing to the other party, evidence of self-insurance and of participation in a liability "pool" for excess liability coverage. In addition, the self-insured party shall provide the other party an "additional insured" endorsement naming the other party as an additional covered party.

e) Entire Agreement of Parties. This Agreement constitutes the entire agreement for the joint use of the District's facilities between the Parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.

CITY OF BURLINGAME


By: 

Name: LISA R. GOLDMAN

Title: CITY MANAGER

Date: 7/13/17

BURLINGAME ELEMENTARY  
SCHOOL DISTRICT

By: 

Name: Maggie MacIsaac, Ed. D.

Title: Superintendent

Date: 6/27/17

## Exhibit A

### Description of Joint Services

#### A. Recreation Programs and Fields

##### 1. Resurfacing of Franklin and Osberg Fields

- a. FY 2017-18 Resurfacing: The City will contribute \$350,000 toward the resurfacing of Franklin and Osberg Fields if the work is done in FY 2017-18, \$400,000 if the work is done in FY18-19, and \$450,000 if the work is done in FY 19-20.
- b. Future Resurfacing (2027, 2028, or 2029): In order to help with the future resurfacing of Franklin and Osberg Fields, the City agrees that it will contribute toward the future cost, currently estimated at \$3.4M in 2027 or \$3.76M in 2029. The City's contribution will be 50% of the future cost. The City will set aside its funds each year in a dedicated City sub-fund within the Capital Projects Fund. The Parties understand and agree that the obligations set out in this section regarding the financial contribution to future field replacement survives the termination of this agreement unless otherwise agreed to in writing by both parties and provided Sections 3 and 4 remain in effect (City scheduling the fields, collecting fees and paying District associated fees).

##### 2. Field Maintenance Responsibility

- a. Beginning with the resurfacing of both Osberg and Franklin fields in the summer of 2017, the District will bear sole responsibility and cost for the maintenance of both fields following the manufacturer's and installer's recommended maintenance schedule for such fields. Once a year the Liaison Committee will receive an update from the Parks and Recreation Department and the BSD Facilities Department on the condition of Franklin and Osberg Fields. As partners, the City/District can ensure the maintenance and upkeep and use of the fields is appropriate for establishing practices to maximize the longevity of our mutual investment.
- b. The City will continue to pick up trash at Osberg and Franklin Fields on Mondays.

##### 3. Use and Scheduling of BIS and Franklin Fields

- a. The City shall be responsible for scheduling the use of Franklin and Osberg Fields for use by the District, City, Validated Youth User

Organizations, and other potential users during all non-school hours. Non-school hours are defined as after school, on weekends, and during vacation hours. "Non-school hours" does not include time the District uses the Fields for either District activities or District-sponsored after-school or extra-curricular activities ("District Use").

- b. In order to provide sufficient time for City staff to reschedule user groups to other locations, the District will make every effort to notify the City field scheduling representative if a conflict arises.
- c. All Fields use shall be pursuant to and compliant with the Civic Center Act (Education Code section 38130 et seq.) Use of the District's facilities, including, without limitation, access times, cost, and insurance coverage shall be in accordance with the Civic Center Act and policies and procedures of the District governing public use of District facilities.
- d. The City will use its best efforts to achieve a fair and equitable allocation of field time among all user groups with regards to the use of the District's fields (Osberg and Franklin).

#### 4. Field Fees

- a. Charging of Fees and Updates: For all use of Franklin and Osberg Fields except for District use, the City is responsible for charging the applicable fees for use of the fields, as shown on the City's and District's facilities rate schedules, which may be reviewed and updated at any time by the District and City following a Liaison Committee discussion. The Parties agree to review and update their facilities rental rate schedules at least once per year after review by the 3-3-2 Committee (described below) of field rental rates charged by the San Mateo Union High School District and other nearby jurisdictions. (Validated Youth User Organization fees are reviewed by the City's Parks and Recreation Commission and approved by the City Council.) In order to provide sufficient advance notice to field users so that they can notify their participants in a timely fashion, the parties will provide at least 60 days' notice prior to implementing any changes in the City or District fee schedules.
- b. Payment: The City will pay the District \$50,000 annually for the use of Franklin and Osberg Fields during non-school hours.

#### 5. After-school Sports Programs

- a. Elementary Schools: The City will manage the elementary school after-school sports program. The City will pay the District 10% of the activity fees for each participant in the elementary sports program at any of

the District's facilities.

- b. Middle School: The City will manage the middle school sports program. The City will pay the District 10% of the activity fees for each participant in the middle school sports program at any of the District's facilities.

6. Enrichment Programming (excluding sports)

- a. The City will provide non-sports enrichment programming at District school sites. The City shall pay the District 15% (prior amount was 10%) of the activity fees for each participant enrolled in a City non-sports enrichment program conducted at any of the District's sites. The remainder of the fee is split 70% to the instructor and 15% to the City.) Such payment will be made once a year in June/July.
- b. The District has an interest in renting its facilities for after-school programming. The City has an interest in providing programming that does not compete with other programs that may rent space at the school sites. In order to facilitate this, the 3-3-2 Committee described below shall meet prior to the Parks and Recreation Department's finalizing of each recreation brochure to discuss what programs, if any, have approached the District about renting space at the school sites. The City will then plan its programming accordingly so that any programs the City may offer are not in competition with the District's rentals.
- c. The District will guarantee the City a minimum of two classrooms at each school site for enrichment (non-sports) programming. In addition, the City will request the Lincoln Auditorium and the BIS Theater for Foxhoven Community Theater Programs as needed.
- d. Once the District has confirmed the City's room requests for enrichment programming, the City program cannot be moved to an alternate space unless an emergency arises or the District can provide an alternate location that is of sufficient size and can accommodate the needs of the particular class (e.g., a cooking class that requires an oven cannot be moved to a space without an oven; a science class cannot be moved to a room with carpet; a class that requires a blank wall or screen for projection must be moved to a room with this feature.)

7. Adult Sports Programs

- a. Sunday Drop In: The City will manage the Sunday Drop In adult sports program. The City will pay the District 10% of the activity fees for each participant in the Sunday Drop In sports program at the BIS Old Gym.



- b. Adult Basketball League: The City will manage the Adult Basketball League. The City will pay the District 10% of the activity fees for each team in the Adult Basketball program at the BIS Old Gym.
- c. Future Programs: If the Parks and Recreation Department receives requests from the community to add additional sports programs (e.g., volleyball or softball), the City will arrange facility usage with the District, and the City will pay the District 10% of the activity fees for each team.

8. Use of Other Facilities

- a. The District shall be responsible for scheduling the use of District gymnasiums, multipurpose rooms, libraries, and other common areas or classrooms by the District, City, nonprofit organizations and other potential users.
- b. The City shall submit its school year requests by June 1 and its summer requests by February 1 of each year. The District will confirm the schedule request for the school year by July 1 and the summer request by March 1.
- c. The City shall be responsible for scheduling the use of City facilities by the District, City, nonprofit organizations and other potential users. The City will give the District (defined as activities managed by BSD employees and approved by the District) first priority for use of City facilities when they are not being used for City sponsored activities.
- d. The parties will not charge each other any additional fees for use of facilities provided for under this Agreement, or for maintenance personnel associated with such use, unless such use results in required overtime costs.

B. Storm Drain Fees

- 1. In recognition of the long standing relationship between the City and District, the City agrees to provide additional payment to the District equal to the amount of the annual storm drainage fee paid by the District to the City. However, in lieu of such payment or portion thereof, and by mutual agreement, the Parties may opt to provide consideration of equal value.

C. 3-3-2 Committee

The working committee consisting of three District representatives (including the Chief Business Officer), three City representatives (including the Parks and

Recreation Director), and two community members will continue to meet to discuss the enrichment and athletic programs offered at the school sites. Other District and City staff may be asked to attend as needed to provide information. The community members will be mutually agreed upon. A survey will be conducted once every two years to evaluate the programs.

D. City/Police Safety Services

1. The City will provide crossing guards at agreed-upon intersections in proximity to BSD school sites. The City will pay 100% of the cost of 7 crossing guards and will split the cost of 3 crossing guards with the District 50/50.
2. The City shall at its expense and through its Police Department, provide police resources for District schools to handle crime prevention programs and police incidents involving students.

E. Community Events/Programming

The District shall continue to support significant community events, such as the Holiday Tree Lighting, where the District provides staging and other equipment for student musical presentations for this long-standing holiday event. In addition the District shall distribute information at school sites via electronic school newsletters. School newsletters are sent home weekly. City-offered recreation programs and other City-offered community events, such as the shoreline and downtown volunteer clean-up events can be advertised in the weekly newsletters. In addition, a minimal number of flyers can be dropped off at the school sites' front office for informational purposes but not for classroom or student distribution.

F. City Scholarships

The District will send out a letter from the City to families on free and reduced lunch informing them of the City scholarship program available to help defray the cost of City recreation programs, including those offered at school sites. The City will provide the District the letter in English and Spanish to be distributed 3 times per year to coincide with the Parks and Recreation brochure.