

AGREEMENT REGARDING THE MAINTENANCE AND SCHEDULING OF ATHLETIC FIELDS AT TIERRA LINDA, CENTRAL, AND HEATHER SCHOOLS

THIS AGREEMENT is entered into this _____ day of _____ 2016 by and between the City of San Carlos and San Carlos School District, hereinafter respectively referred to as “City” and “District.”

The City and District hereby agree to the following specific provisions regarding the maintenance and scheduling of the athletic fields at Tierra Linda, Central, and Heather schools.

1. Field Maintenance

1.1. Minimum Maintenance Standards. The City shall maintain the fields and irrigation system in accordance with the agreed maintenance standards. Any additions, alterations, changes or amendments to the minimum maintenance standards shall be subject to prior approval of the City Public Works Director (Director) or the Director’s designee and the District Superintendent or the Superintendent’s designee. The City shall schedule and monitor field use so as to prevent overuse and destruction of the turf.

1.2. Field Closure for Maintenance. The City and the District shall evaluate proposed schedules for field closure needed for renovation to determine appropriate lengths of time and scope of work. The City Public Works Maintenance Supervisor shall be responsible for oversight for the work, and confirmation that work is completed within its proposed timeframe.

1.3. Integrated Pest Management. The City shall utilize Integrated Pest Management (IPM) principles and practices in the maintenance of the athletic fields in accordance with the San Carlos School District’s Administrative Regulation 3514.2. The City shall utilize all applicable least toxic measures including mechanical, cultural and pesticide alternatives prior to resorting to the use on a pesticide when treating weeds, insects, fungus, gophers and any other pest that would harm the safety and quality of play on the athletic fields.

1.4. Contracting/Work Performance. The City may contract with a third party to perform the field maintenance work, in which case the City will be responsible for the bidding and administration of the contract. The City is responsible for assuring that all maintenance is performed in accordance with the approved Minimum Maintenance Standards and that the contractor complies with all applicable federal, state and local regulations, laws and ordinances.

1.5. Maintenance Funding. The District shall be responsible for all costs of maintaining the sports fields including, but not limited to, irrigation system management, water costs, fertilization, aeration and mowing. The District agrees to reimburse the City \$3,905 per month for the fields at Tierra Linda, Central and Heather Schools to be maintained to meet the minimum maintenance standard. If the City's contract costs change, the District will be notified of the new amounts and allowed to terminate the agreement if not acceptable.

1.6. Maintenance Oversight. The City Public Works Supervisor and the District Supervisor of Facilities, Maintenance, Operations and Transportation will together evaluate the field maintenance for consistency with the Minimum Maintenance Standards. The two representatives shall evaluate the condition of the fields and make recommendations to the City and District on field maintenance projects, length of closure for said projects and compliance in meeting satisfactory conditions consistent with the Minimum Maintenance Standards.

1.7. Field Closure and Re-opening Procedures. Following a significant rain event ($\frac{1}{4}$ of an inch or more) it is standard policy to close fields for a minimum of one day. City Staff will determine field closures after a local rain period and will do the following to ensure fields are closed:

- i. Send a designee to visit each field to evaluate the field condition to determine if the field should be closed.
- ii. Notify District personnel via e-mail regarding the field closure and anticipated re-opening day.
- iii. Close all District fields simultaneously.
- iv. Update the Sports Fields hotline (650) 594-2626 by 2:00 pm each day with field closure information.
- v. Contact large user groups to communicate field closures.

After field closure, the School District shall close and lock school gates when fields are closed due to poor weather.

2. Term

- 2.1 The initial term of this agreement shall commence on February 1, 2016 and shall continue for until June 30, 2018 unless otherwise terminated pursuant to this agreement.

3. Termination

- 3.1 Either party may terminate this agreement with or without cause upon forty-five (45) days notice to the other party. Upon the termination of this agreement, the District shall reimburse the City for any unreimbursed costs incurred up until the termination date.

4. Hold Harmless.

- 4.1 City shall defend, hold harmless and indemnify District, its officers, agents, and/or employees from any and all claims for injuries to persons and/or damage to property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of City, its officers, agents and/or employees.
- 4.2 District shall defend, hold harmless and indemnify City, its officers, agents and/or employees from any and all claims for injuries to persons and/or damage to

property, which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of District, its officers, agents, and/or employees.

- 4.3 In the event of the concurrent negligence of City, its officers, agents and/or employees, and District, its officers, agents and/or employees, then the liability for any and all claims for injuries or damages which arise out of the terms and conditions of this Agreement shall be apportioned under California's Theory of Comparative negligence as presently established or may be hereafter modified.

5. Insurance

- 5.1 Both parties shall maintain sufficient insurance, self-insurance or a combination thereof to comply with the following requirements, and, if requested, each party shall furnish the other party with certificates of insurance evidencing the required coverage. Thirty (30) days' notice must be given, in writing, to District of any pending change in the limits of liability or of any cancellation or modification of the policy.

5.1.1 Worker's Compensation and Employer's Liability Insurance. Both parties shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance, or an acceptable program of self-insurance providing full statutory coverage. In signing this Agreement, parties certify, as required by Section 1861 of the California Labor Code, that they are aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and parties will comply with such provisions before commencing the performance of the work of this Agreement.

5.1.2 Liability Insurance. City and District shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance for services covered work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from City's and District's operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified on the following page.

Such insurance shall include:

- Comprehensive General Liability \$5,000,000
- Motor Vehicle Liability Insurance \$5,000,000

6. Non-Discrimination and Other Provisions

- 6.1 Section 504. City and County shall comply with § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, as amended, which provide that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement, and that reasonable and legally-specified accommodations will be made to serve individuals with disabilities.

- 6.2 General Non-discrimination. No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- 6.3 Equal Employment Opportunity. City and County shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. City's and County's equal employment policies shall be made available to either party upon request.
- 6.4 Violation of Non-discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and may result in termination of this Agreement, and /or legal action to recover any Court-imposed damages incurred as a result of said violation(s). To effectuate the provisions of this section, the County Manager and City Manager may request authorization to examine City's or County's employment records relating to this Agreement, as the case may be with respect to compliance with this paragraph, and City and County shall not unduly withhold authorization.
- 6.5 Compliance with Equal Benefits Ordinance. With respect to the provision of employee benefits, City shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- 6.6 Other Statutory Compliance. City and County shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5 (a), which is incorporated herein as if fully, set forth. All services to be performed pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended.
- 6.7 Compliance with Contractor Employee Jury Service Ordinance. City and County shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the City, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the City or that the City deduct from the employees regular pay the fees received for jury service.

7. Merger Clause

- 7.1 This Agreement the Exhibits attached to each constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications to either Agreement shall be in writing and signed by the parties.

8. Controlling Law

- 8.1 The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

9. Dispute Resolution

9.1 Should any dispute arise out of this Agreement, the parties shall first meet and confer in an attempt to resolve the dispute. Should such efforts fail to resolve the dispute within twenty (20) days, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

IN WITNESS WHEREOF, the parties have executed this agreement on the date and year first above written.

CITY OF SAN CARLOS
A Municipal Corporation

SAN CARLOS SCHOOL DISTRICT

Jeff Maltbie
City Manager

Craig Baker, Ed.D
Superintendent

ATTEST:

ATTEST:

Crystal Mui, CMC
City Clerk

Robert Porter
Chief Operations Officer

APPROVED AS TO CONTENT:

APPROVED AS TO CONTENT:

Jay Walter
Public Works Director

Chelle Pell
Supervisor of Facilities, Maintenance,
Operations and Transportation

APPROVED AS TO FORM:

APPROVED AS TO FORM:;

By _____
City Attorney

By _____
District Legal Counsel