

BOARD OF EDUCATION

Attachment: Consent

8

PALO ALTO UNIFIED SCHOOL DISTRICT

Date:

02.09.10

TO: Kevin Skelly, Superintendent of Schools

FROM: Bob Golton, Co-CBO and Bond Program Manager

SUBJECT: Agreement Between the Palo Alto Unified School District and the City of Palo Alto Concerning the Public Use, Brokering, and Maintenance of District-Owned Athletic Fields, Tennis Courts, and Basketball Courts Jointly Used by School Students and the General Public

STRATEGIC PLAN INITIATIVE

Budget Trends and Infrastructure

BACKGROUND

The School District and the City of Palo Alto have entered into a series of agreements regarding maintenance and use of fields, tennis courts, and basketball courts, starting in 1992. The latest multi-year agreement ended on June 30, 2009. A six month extension, to provide time for a new agreement to be put in place, was approved in June 2009. The new proposed three year agreement is attached. There are two significant changes.

First, this agreement adjusts the split of fees from 50% City/50% PAUSD to 60% City/40% PAUSD. The City reports that staff time spent on brokering fields has increased due to the growing number of youth sports groups and participants, and sports moving toward year round play as opposed to seasonal play. The City has therefore increased field use fees for both adults and youth, and has changed the Palo Alto based youth sports fee from a \$5.00 per player per season fee to a per hour field use fee of \$1.00 - \$2.00 per hour. The PAUSD 40% share of the revenue using the new fee schedule is estimated to be greater than the 50% using the old fee schedule.

Second, over the past ten years of the agreement, the City has systematically improved irrigation systems, controls, tennis surfaces, fencing, and field-related amenities at all of the District elementary schools and middle schools, with costs for these projects being shared on a 50%/50% basis. Since the infrastructure cycle of improvements is considered complete, no new capital improvements are proposed in this agreement. The agreement does continue all regular mowing, turf and sprinkler maintenance for the sports fields, and the cleaning maintenance of the tennis courts.

PROPOSAL

It is proposed the Board authorize the Superintendent or his designee to execute this agreement with the City of Palo Alto.

FISCAL IMPACT

It is estimated there will be an increase of \$4,800 per year in fee revenue to PAUSD.

RECOMMENDATION

It is recommended the Board of Education authorize the Superintendent or his designee to execute this agreement between the Palo Alto Unified School District and the City of Palo Alto concerning the public use, brokering, and maintenance of District owned athletic fields, tennis courts, and basketball courts jointly used by school students and the general public

**AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE
PALO ALTO UNIFIED SCHOOL DISTRICT OF SANTA CLARA
COUNTY CONCERNING THE PUBLIC USE, BROKERING AND
MAINTENANCE OF DISTRICT-OWNED ATHLETIC FIELDS,
TENNIS COURTS AND BASKETBALL COURTS JOINTLY USED
BY SCHOOL STUDENTS AND THE GENERAL PUBLIC**

This Agreement is entered into as of _____, 2010 (the "Effective Date"), by and between the CITY OF PALO ALTO, a California chartered municipal corporation (the "CITY") and the PALO ALTO UNIFIED SCHOOL DISTRICT OF SANTA CLARA COUNTY, a unified school district organized and existing under the Laws of the State of California (the "DISTRICT") (individually, a "Party" and, collectively, the "Parties"), in reference to the following facts and circumstances:

RECITALS:

WHEREAS, Section 10900 et seq. of the California Education Code authorizes public authorities (e.g., cities and school districts) to organize, promote and conduct programs of community recreation, establish systems of playgrounds and recreation, and acquire, construct, improve, maintain and operate recreation centers within or without the territorial limits of such public authorities; and

WHEREAS, Section 10905 of the California Education Code authorizes public authorities to enter into agreements with each other for the maintenance of recreation centers; and

WHEREAS, Section 10910 of the California Education Code provides that the governing body of any school district may use or grant the use of any grounds of the school district to any other public authority for the organizing, promoting and conducting of community recreation whenever such use will not interfere with the use of those facilities for any other purpose of the public school system; and

WHEREAS, the Parties have jointly kept open for school student and general public use in Palo Alto the athletic fields, basketball courts and tennis courts at the elementary and middle schools and the tennis courts at Palo Alto and Gunn High Schools, and they desire to continue arrangements for their common use;

WHEREAS, the Parties are interested in continuing a long-term, joint funding arrangement under which the CITY will undertake the maintenance of the athletic field areas of the twelve elementary schools and the two middle schools and the eight shared-use exterior basketball court areas and the two tennis courts at Terman Park to enhance their usability by school students and the general public, and the DISTRICT will make such areas available to the general public at reasonable times when such areas are not being used exclusively for school purposes;

NOW, THEREFORE, in consideration of the Provisions of this Agreement, the parties agree:

SECTION 1. DEFINITIONS

The terms used in this Agreement will have the meanings set forth below, unless the context clearly indicates otherwise.

1.1 "Agreement" means this "AGREEMENT BETWEEN THE CITY OF PALO ALTO AND THE PALO ALTO UNIFIED SCHOOL DISTRICT OF SANTA CLARA COUNTY CONCERNING THE PUBLIC USE, BROKERING AND MAINTENANCE OF DISTRICT-OWNED ATHLETIC FIELDS, TENNIS COURTS AND BASKETBALL COURTS JOINTLY USED BY SCHOOL STUDENTS AND THE GENERAL PUBLIC".

1.2 "Board of Education" means the Board of Education of the DISTRICT.

1.3 "Business Manager" means the Chief Business Official of the DISTRICT, including any authorized representative.

1.4 "Capital Improvement" means any Improvement which has a standalone cost exceeding \$25,000, or which has a useful life of, or whose useful life can be extended, at least five to seven years, or which has a useful life of at least five to seven years after it is capable of providing a new functional use.

1.5 "City Manager" means the city manager of the CITY, including any authorized representative.

1.6 "Council" means the city council of the CITY.

1.7 "Court" (collectively, the "Courts") means any one of the tennis or basketball court areas depicted in Attachment A and Section 1.9.

1.8 "Director" means the Director of Community Services of the CITY, including any authorized representative.

1.9 "Facilities" mean the Courts and Fields, the dimensions of which for reference purposes are outlined below:

<u>School Site</u>	<u>Fields</u>	<u>Courts</u>	<u>Basketball</u>	<u>Exhibit</u>
Addison	1.58 acres	0		A
Barron Park	2.34 acres	0		B
Briones	1.25 acres	0		C
Duveneck	1.80 acres	0		D
El Carmelo	1.81 acres	0		E
Escondido	2.44 acres	0		F
Fairmeadow	2.06 acres	0		G
Greendell	1.79 acres	0		H
Gunn High School	0 acres	6		I
Hoover	1.60 acres	0		J
J.L. Stanford Middle	10.45 acres	6		K

Jordan Middle	6.68 acres	5		L
Nixon	3.71 acres	0		M
Ohlone	1.53 acres	0		N
Palo Alto High School	0 acres	7		O
Palo Verde	.62 acres	0		P
Walter Hays	2.71 acres	0		Q
Terman Park	4.00 acres	2	5	R*

*The DISTRICT has use of the two tennis and eight exterior basketball courts located at Terman Park in accordance with the joint use agreement, dated December 10, 2001. The CITY is responsible for only the maintenance of the outdoor basketball courts at Terman Park. The DISTRICT is responsible for the maintenance of the interior basketball courts and other facilities on the school grounds.

1.10 "Field" (collectively, the "Fields") means any one of the athletic field areas referred to in Attachment A and Section 1.9.

1.11 "Improvement" means any physical addition, alteration, or betterment to the Facilities.

1.12 "Law" (collectively, the "Laws") means any code, statute, constitution, ordinance, resolution, regulation, rule, judicial decision, administrative order, or other requirement of any municipal, county, state, federal, or other governmental agency or authority having jurisdiction over the parties or the Schools, in effect at the time of execution of the Agreement or at any time during the term hereof, including, without limitation, any regulation or order of an official entity or body.

1.13 "Provision" (collectively, the "Provisions") means any agreement, clause, condition, covenant, qualification, recital, restriction, reservation, term, or other stipulation in this Agreement that defines or otherwise controls, establishes, or limits the performance required or permitted by any party to this Agreement. All Provisions, whether covenants or conditions, which are applicable to the DISTRICT, will be deemed to be both covenants and conditions.

1.14 "School" (collectively, the "Schools") means any one of the following elementary, middle or high schools: Addison, Barron Park, Briones, Duveneck, El Carmelo, Escondido, Fairmeadow, Greendell, Gunn, Hoover, J.L. Stanford, Jordan, Nixon, Ohlone, Palo Alto High, Palo Verde, Walter Hays and Terman Park.

1.15 "Superintendent" means the Superintendent of schools for the DISTRICT, including any authorized representative.

SECTION 2. TERM AND TERMINATION

2.1 The term of this Agreement will be for approximately three (3) years commencing at 6:00 a.m. on January 1, 2010, and expiring at 12:00 a.m. midnight on December 31, 2012, subject to the earlier termination of this Agreement by any Party hereto upon ninety (90) days' advance written notice. The preceding sentence notwithstanding, this Agreement is subject to the fiscal provisions of the Charter of the CITY and other Laws of the CITY and the DISTRICT, and this Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that

funds are not appropriated by the Council or Board of Education for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are not appropriated by the Council or Board of Education for a portion of the fiscal year and funds for this Agreement are no longer available. The CITY or the DISTRICT will use reasonable efforts to give the other Party reasonable notice of termination in the event that funds will not be appropriated. No provision is made for the automatic extension or renewal of the term.

2.2 If the DISTRICT fails to install or construct any Improvement which is deemed reasonably necessary by the CITY to adequately perform its maintenance obligations under this Agreement, the CITY may terminate this Agreement upon ninety (90) days' advance written notice to the DISTRICT. For the purposes hereof, the Director may give notice to the Business Manager.

SECTION 3. PERFORMANCE OF MAINTENANCE BY THE CITY

3.1 To the extent the authorized representatives of the Parties have not conferred at the commencement date of this Agreement, the authorized representatives of the Parties will meet with each other at a mutually acceptable location to identify the Facilities and discuss and coordinate the times and manner in which the orderly transition of the maintenance obligations will be put into effect. The authorized representatives shall meet regularly to review the maintenance schedule for the Facilities. They will meet not less than once a year to discuss the use and maintenance of the Facilities.

3.2 Commencing on January 1, 2010, or thereafter, as practicable, the CITY will mow, trim, fertilize, and irrigate, and perform other maintenance work of a general nature at the Fields at the frequencies and times in accordance with the field maintenance standards adopted by the CITY for its own district and neighborhood parks and public recreation areas. The obligation of the CITY to perform Field maintenance work is conditioned upon the functional condition and operation of the infrastructure of the Fields, including, without limitation, the underground water irrigation system, at the time such maintenance work is to commence. Any or all services required to maintain and renovate the Fields and irrigation systems may be performed by contractors hired and managed by the CITY.

3.3 In performing its maintenance obligations: the CITY will use its best efforts to prevent interference with the DISTRICT's use of the Facilities during regular school hours. The CITY shall publish a maintenance schedule six months in advance of any planned maintenance activity and make that schedule known to the Business Manager for dissemination to the Schools involved. This schedule will be adhered to by the Schools and no school activities will be planned which would interfere with these maintenance activities. All maintenance activities will be performed between the hours of 6:00 a.m. and 4:00 p.m. on any day. The CITY will coordinate its scheduled maintenance activities with the DISTRICT's academic calendar for each of the Schools. The Business Manager and the Director will coordinate on the behalf of the parties. Standard or routine maintenance work will be scheduled so as to be for a maximum of one day at a time; other maintenance work will be coordinated between the Parties.

3.4 In the event of an emergency, including, without limitation, earthquakes, fires, flooding, or other events of force majeure, the CITY may perform non-scheduled maintenance at any of the Facilities without prior notification to the DISTRICT. The CITY will give notice of any

action it has taken in the event of an emergency within a reasonable time. In such event, the CITY will use its best efforts to provide the access to the affected Facilities for the DISTRICT.

3.5 With the exception of safety concerns, any concern of the DISTRICT about the general maintenance or use of the Facilities will be communicated to the Director by the Business Manager.

3.6 In undertaking the necessary turf and grounds maintenance renovations, if scheduled six (6) months in advance, the CITY may curtail and preempt the DISTRICT's use of up to one-half of any Field up to four (4) times during the academic year for any single period not exceeding eight (8) consecutive weeks in duration.

SECTION 4. PERFORMANCE OF MAINTENANCE BY THE DISTRICT

4.1 Any areas of the Facilities and all other areas of the Schools, including, without limitation, the turf, grounds, landscaped areas, buildings, parking lots, fences, sidewalks, and trees, not expressly identified in the exhibits or in this Agreement as areas to be maintained by the CITY will be maintained or cause to be maintained by the DISTRICT, at its sole cost and expense, in accordance with the DISTRICT's standards.

4.2 Notwithstanding any Provision to the contrary, the DISTRICT, at its sole cost and expense, will provide or cause to be provided special preparation and maintenance services with respect to any of the Facilities to be used in connection with special events or other similar functions staged by the DISTRICT, including, without limitation, graduation ceremonies, athletic events, tennis tournaments, and other inter-scholastic activities.

4.3 The DISTRICT, at its sole cost and expense, will continuously provide services in connection with the removal of garbage, refuse, debris, rubbish, litter and other solid waste which have accumulated at the Facilities.

4.4 At all times during the term of this Agreement, the DISTRICT will timely notify the CITY of any condition of the Facilities and all other areas of the Schools, of which it has actual or constructive knowledge, which may constitute or present a danger or threat to person or property. The tender of such timely notice shall not compromise any Provision of indemnification set forth in Section 11.

SECTION 5. PAYMENT OF COSTS OF MAINTENANCE

5.1 The allocable annual costs of maintenance and water (plus equipment costs and salary and benefits costs, as appropriate) for the Facilities are estimated by the CITY to be the following:

<u>Year</u>	<u>Maintenance</u>
2009 - 10	\$730,420
2010 - 11	\$752,332
2011 - 12	\$774,901
2013 - 14	\$822,092

Costs shall be shared in the ratio of 50:50 between the CITY and the DISTRICT.

5.2 In lieu of billing and payment procedures to be adopted by the Parties under this Agreement, the Parties agree that the CITY will credit fifty percent (50%) of its actual costs incurred in performing its maintenance obligations under this Agreement against any and all monthly lease payments due and payable by the CITY under its lease agreement with the DISTRICT entitled "Lease and Covenant Not to Develop".

SECTION 6. INSTALLATION OR CONSTRUCTION OF IMPROVEMENTS

6.1 In nonemergency situations, the CITY will not install or construct, or cause to be installed or constructed, any Improvement at any of the Facilities without the express written approval of the Superintendent. To the extent an Improvement which is deemed by the CITY to be reasonably necessary to adequately perform its maintenance obligations hereunder cannot be installed or constructed or cause to be installed or constructed by the DISTRICT, the CITY may undertake such installation or construction at the written request of the DISTRICT. Any Improvement installed or constructed by the CITY will be deemed the property of the DISTRICT.

6.2 The installation or construction of an Improvement in the event of an emergency may be conducted by the CITY in accordance with Section 3.4.

SECTION 7. USAGE OF FACILITIES

7.1 In attempting to maximize the use of the Facilities by school students and the general public, the Director and the Business Manager may jointly adopt and promulgate and amend written rules and regulations governing the use of the Facilities.

7.2 The DISTRICT will have use priority of the elementary and middle school fields and tennis courts between the hours of 8:00 a.m. and 4:00 p.m. on scheduled school days. Use priority will be extended to interscholastic activities occurring at the Facilities until the completion of those scheduled activities, even if such activities are completed after 4:00 p.m. This priority will apply Mondays through Fridays of each week from September to mid-June of each academic year and Saturdays for the duration of any regularly scheduled inter-scholastic competition, provided, however, no priority will be extended to practice sessions for such competition.

7.3 The CITY will have use priority of the elementary and middle school fields, basketball courts and tennis courts after 4:00 p.m. on scheduled school days and at all other times, including weekends, holidays and summer vacation periods. Exceptions to this use priority schedule may be agreed upon, in writing, by the Director and the Business Manager. The CITY will cooperate with the DISTRICT in any manner which will afford the DISTRICT an adequate opportunity to use the Schools for its activities, programs and other needs.

7.4 The CITY will administer public use reservations of the elementary and middle school fields, basketball courts and tennis courts in accordance with the CITY's Field Use Policy, which will be provided to the DISTRICT. The CITY will be solely responsible for determining the parameters of the use priority system, as well as rental or user fees to be charged to members of the general public, including individuals and organized groups, for the use of the Facilities during such times as the CITY may exercise use priority over the elementary and middle school playing

fields and tennis courts. Such fees will conform to the Laws governing school grounds and those which are applicable to the CITY's property. All fees for the use of the Facilities covered by this Agreement collected by the CITY will be equally shared, and will be accounted for in a manner as may be mutually acceptable to the parties.

7.5 Any person who leases a School building of the DISTRICT will be entitled, upon submission of a written request to the CITY, to use the Facilities in order to meet any special recreational needs. Any such request may be granted by the Director provided reasonable prior written notice of such need is given and the Director reasonably determines that such use will not unreasonably interfere with scheduled public recreational activities.

7.6 The City Manager shall be the representative of the CITY for all purposes under this Agreement. The Division Manager, Recreation, of the CITY'S Community Services Department is designated as the Project Manager for the City Manager, and shall supervise the progress and implementation of Facility brokering, and shall be assisted by the designee, the Program Supervisor. The Business Manager of the DISTRICT schools shall be the representative of the DISTRICT for all purposes under this Agreement, shall be designated as the Project Director, and shall have overall responsibility for the progress and implementation of this Agreement for the DISTRICT.

7.7 The CITY shall provide the following services under this Agreement:

7.7.1 Schedule, reserve and license the DISTRICT'S Facilities located at the Schools listed in Attachment A to individuals or groups for use by adult and youth athletic groups at such times and dates when school is not in session and school activities are not taking place ("Public Use"). The CITY shall be solely responsible for the coordination and scheduling of requests for the reservation and use of the Facilities for Public Use, subject to the DISTRICT'S prior approval, during the term of this Agreement.

7.7.2 Bill and collect all user fees for each Facility in accordance with the fee schedule, attached hereto as Attachment B. The Parties agree the user groups will be assessed fees as may be established by the CITY. Such fees will conform to the Laws governing school grounds and those applicable to the CITY's property. The CITY shall retain sixty percent (60%) of the fees generated by this surcharge to defray the cost of coordinating youth group use of the Fields.

7.7.3 Issue a completed Facility Use Permit to each user, in the form of Attachment F, prior to such use of the Facility.

7.7.4 Monitor and enforce the use of the Facilities to determine whether such uses comply with conditions of the permits. If such use of a Facility does not comply with the conditions of the particular permit or other applicable Laws, the CITY shall terminate the further use of the Facility by the user.

7.7.5 Upon request, provide the DISTRICT with one (1) copy of every permit issued for the use of the Facilities.

7.7.6 Provide the DISTRICT on or before October 1 (for the period July 1 to December 31 of the preceding calendar year and January 1 to June 30 of the current calendar year) with a

financial report that accounts for the fees that the CITY has collected from the Athletic Field use under this Agreement during the preceding time period.

7.7.7 Notify the Facilities' permit holders of the DISTRICT'S intended Facilities maintenance and improvement projects and of any Facilities closures that may become necessary to effect the construction of the projects.

7.8 The DISTRICT shall provide the following services under this Agreement:

7.8.1 Make the Facilities available to the CITY as set forth above for the purposes of scheduling, reservations and usage to private individuals or groups for Public Use.

7.8.2 All fees that the DISTRICT will receive under this Agreement will be used by the DISTRICT only for the benefit or betterment of DISTRICT athletic facilities, including, but not limited to, the maintenance, repairs or improvements of the Facilities.

7.9 The CITY shall not be responsible or liable for any maintenance, repairs, or improvements of the Fields which are required to be performed, conducted, or constructed by the DISTRICT, and the DISTRICT shall not be responsible or liable for any maintenance, repairs, or improvements of the Fields which are required to be performed, conducted or constructed by CITY.

SECTION 8. LAWS TO BE OBSERVED

8.1 The Parties shall cooperate in procuring all permits and licenses, paying all charges and fees, and giving all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed under this Agreement.

SECTION 9. FEES

9.1 In consideration of its use of the Facilities under this Agreement, the CITY will pay the DISTRICT forty percent (40%) of all fees that the CITY collects from the Facilities' permit holders. The CITY shall make payments related to the Facilities usage to the DISTRICT on February 1 (for the period July 1 to December 31 of the preceding calendar year) of each year during the term of the Agreement. This obligation shall survive the expiration of this Agreement.

SECTION 10. ASSIGNMENT; SUBCONTRACTORS; EMPLOYEES

10.1 The Parties shall give their personal attention to the faithful performance of this Agreement and shall not assign, transfer, convey, or otherwise dispose of this Agreement or any right, title or interest in or to the same or any part thereof without the prior written consent of the other Party, and then only subject to such terms and conditions as the other Party may require. The consent to one assignment shall not be deemed to be consent to any subsequent assignment. Any assignment without such approval shall be void and, at the option of the other Party, shall terminate this Agreement and any license or privilege granted herein. This Agreement and any interest herein shall not be assignable by operation of law without the prior written consent of the other Party.

10.2 The DISTRICT shall be responsible for employing or engaging all persons necessary to perform the services of the DISTRICT hereunder. The CITY shall be responsible for employing or engaging all persons necessary to perform the services of the CITY hereunder.

SECTION 11. INDEMNITY

11.1 The CITY shall protect, indemnify, defend, and hold harmless the DISTRICT, its employees, agents, and Board members from and against any demands, claims, liability or expense on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with, the CITY's performance or nonperformance under this Agreement, including the CITY's operations on, possession, use, management, alteration or control of the DISTRICT's property under this Agreement except for any claims or liability, or portions thereof, arising from the concurrent or sole negligence or intentional malfeasance of the DISTRICT, its directors, officers, employees or agents.

11.2 The DISTRICT shall protect, indemnify, defend and hold harmless the CITY from and against any demands, claims, liability or expenses on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with, the DISTRICT's performance or nonperformance under this Agreement, including the DISTRICT's operations, possession, use, management, maintenance, improvement, renovation, repair, alteration or control of the DISTRICT's property, including the Facilities, under this Agreement, except for any claims or liability, or portions thereof, arising from the concurrent or sole negligence or intentional malfeasance of the CITY, its directors, officers, employees or agents.

SECTION 12. INSURANCE

12.1 The DISTRICT, at its sole cost and expense, will obtain and maintain, in full force and effect, during the term of this Agreement, commercial general liability insurance coverage described in Attachment C, in the amount of one million dollars (\$1,000,000), insuring the Parties, and their officers, employees, and agents, and each of them, with respect to the DISTRICT's participation and the services performed by the DISTRICT under this Agreement. Concurrently with the execution of this Agreement, a certificate of insurance will be filed with the CITY's risk manager, and will contain the endorsements which state that the DISTRICT will insure the Parties, and each of them, for any claims or liability arising from the DISTRICT's participation and services performed hereunder, and will not be canceled by the insurer except after the filing with the CITY's City Clerk thirty (30) days prior written notice of cancellation or alteration, and that the CITY is named as an additional insured under such policies required above or concerning the DISTRICT's performance or lack of performance under this Agreement.

12.2 Certificates of the DISTRICT's insurance, required by Section 12.1 hereof, shall be filed with the CITY, to the attention of the CITY's Risk Manager, concurrently with the execution of this Agreement. The certificates shall be subject to the approval of the CITY's Risk Manager and shall contain endorsements stating that said insurance will cover the DISTRICT and the CITY for any claims or liability arising from the DISTRICT's participation, activities, and services performed under the Provisions. Current certificates of such insurance shall be kept on file at all times during the term of this Agreement with the City Clerk.

SECTION 15. MISCELLANEOUS PROVISIONS

15.1 Time is of the essence. For the purposes of this Agreement, all times of the day are determined according to Pacific Time.

15.2 No party will be deemed in default on account of any delay or failure to perform its obligations under this Agreement, where the delay or failure is the direct result of an event of force majeure. For the purposes of this Agreement, the term "force majeure" will mean an event which is not within the reasonable control of a party claiming the existence of such event.

15.3 No Party will discriminate in the employment of persons engaged in the performance of this Agreement on account of race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of that person. The DISTRICT agrees to comply with the requirements of Chapter 2.30 of the Palo Alto Municipal Code pertaining to nondiscrimination in employment, including the completion and submission to the CITY of the Certification of Nondiscrimination, as described in Attachment E.

15.4 Any disputes regarding this Agreement will be resolved according to the Laws of the State of California. Any legal proceeding will be instituted in the courts of the State of California and County of Santa Clara, irrespective of any claim of diversity of citizenship or other possible jurisdictional conditions.

15.5 The prevailing party in any action brought to enforce the provisions of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

15.6 All attachments referred to in this Agreement and any addenda, appendices, exhibits, and schedules which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be part of this Agreement.

15.7 This Agreement constitutes the entire agreement between the parties concerning its subject matter, and there are no other oral or written agreements between the parties not incorporated in this Agreement.

15.8 This Agreement will not be construed as nor deemed to be an agreement for the benefit of any third party or parties, and no third party or parties will have any right of action herein for any cause whatever. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns and subcontractors of each Party.

15.9 This Agreement may be amended only by a written instrument signed by both parties. The City Manager is duly authorized to negotiate and execute any amendment to this Agreement.

15.10 Any agreement, covenant, condition, clause, qualification, term, or other stipulation in this Agreement will define or otherwise control, establish, or limit the performance required of or

permitted by any party. All provisions of this Agreement, whether covenants or conditions, will be deemed both covenants and conditions.

15.11 This Agreement confers no legal or equitable rights until it is approved by the DISTRICTS Board of Trustees at a lawfully conducted public meeting.

IN WITNESS WHEREOF, the Parties hereto by their duly authorized representatives have duly executed this Agreement as of the Effective Date.

APPROVED AS TO FORM:

CITY OF PALO ALTO

Senior Asst. City Attorney

Assistant City Manager

APPROVED:

PALO ALTO UNIFIED SCHOOL
DISTRICT

Director of Administrative Services

President, Board of Education

Director of Community Services

APPROVED:

Chief Business Official

Attachments:

- ATTACHMENT A: List of District's Athletic Fields, Basketball Courts and Tennis Courts
- ATTACHMENT B: Fee Schedule and Program
- ATTACHMENT C: District's Insurance Coverage
- ATTACHMENT D: City's Insurance Coverage
- ATTACHMENT E: Certificate of Non-discrimination
- ATTACHMENT F: Facility Use Permit form

ATTACHMENT A

List of District's Athletic Fields, Basketball Courts and Tennis Courts

Athletic Fields

Addison School - 650 Addison Avenue, Palo Alto, CA 94301
Barron Park School - 800 Barron Avenue, Palo Alto, CA 94306
Briones School - 4100 Orme Street, Palo Alto, CA 94306
Duveneck School - 705 Alester Street, Palo Alto, CA 94303
El Carmelo School - 3024 Bryant Street, Palo Alto, CA 94306
Escondido School - 890 Escondido, Stanford, CA 94305
Fairmeadow School - 500 East Meadow Drive, Palo Alto, CA 94306
Greendell School - 4120 Middlefield Road, Palo Alto, CA 94303
Walter Hays School - 1525 Middlefield Road, Palo Alto, CA 94301
Hoover School – 445 East Charleston, Palo Alto, CA 94303
J.L. Stanford Middle School - 480 East Meadow Drive, Palo Alto, CA 94306
Jordan Middle School - 750 North California, Palo Alto, CA 94303
Nixon School - 1711 Stanford Avenue, Stanford, CA 94305
Ohlone School - 950 Amarillo Avenue, Palo Alto, CA 94303
Palo Verde School - 3450 Louis Road, Palo Alto, CA 94306
Terman Middle School - 655 Arastradero Road, Palo Alto, CA 94306

Basketball Courts

Terman Middle School – 655 Arastradero Road, Palo Alto, CA 94306

Tennis Courts

J. L. Stanford Middle school – 480 East Meadow Drive, Palo Alto, CA 94306
Jordan Middle School – 750 North California Avenue, Palo Alto, CA 94303
Terman Middle School (Terman Park) - 655 Arastradero Road, Palo Alto, CA 94306
Gunn High School – 780 Arastradero Road, Palo Alto, CA 94306
Palo Alto High School – 50 Embarcadero Road, Palo Alto, CA 94301

ATTACHMENT B

Fee Schedule and Program

Athletic Field Rentals

2010-2011**

Baseball Fields	\$7.50 - 75.00/hr*
Soccer Fields	\$7.50 - 75.00/hr*
Softball Fields	\$7.50 - 75.00/hr*
Lights	\$20.00/use

Tennis Court Rentals

Tennis Tournament Court Use Fee	\$3.00/hr/court Non-Profit
	\$5.00/hr/court Resident
	\$7.00/hr/court Nonresident

* Athletic fields fees will be reduced by 50% for nonprofit users. Proof of nonprofit status will be required for fee reduction. However, there shall be no fee reduction if any fee or donation is required by the nonprofit organization permit holder in connection with the use of the permitted field or tennis court.

** Rates subject to increase as long as they fall within the Municipal Fee Schedule Range.

Facilities covered by these fees include:

City Sites

City Parks

Terman Park

Palo Alto Unified School District Sites

All Elementary Schools -Open or Closed

Jordan Middle School

J.L. Stanford Middle School

ATTACHMENT C

District's Insurance Coverage

ATTACHMENT D

City's Insurance Coverage

ATTACHMENT E
Certificate of Nondiscrimination

As suppliers of goods or services to the City of Palo Alto, the firm and individuals listed below certify that they do not discriminate in employment of any person because of race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person; that they are in compliance with all Federal, State and local directives and executive orders regarding nondiscrimination in employment.

1. If Proposer is **INDIVIDUAL**, sign here:

Date: _____

_____ Proposer's Signature

_____ Proposer's typed name and title

2. If Proposer is **PARTNERSHIP** or **JOINT VENTURE**, at least (2) Partners or each of the Joint Venturers shall sign here:

Partnership or Joint Venture Name (type or print)

Date: _____
_____ Member of the Partnership or Joint Venture signature

Date: _____
_____ Member of the Partnership or Joint Venture signature

3. If Proposer is a **CORPORATION** or **OTHER ENTITY**, the duly authorized officer(s) shall sign as follows:

The undersigned certify that they are respectively:

_____ and _____

Of the corporation or other entity named below; that they are designated to sign the Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION or OTHER ENTITY, and that they are authorized to execute same for and on behalf of said CORPORATION or OTHER ENTITY.

Corporation or Other Entity Name (type or print)

By: _____ Date: _____

Title: _____

ATTACHMENT F
Facility Use Permit Form