

February 16, 2010

**TO:** CITY COUNCIL AND BOARD OF EDUCATION  
**FROM:** CITY MANAGER AND SUPERINTENDENT OF SCHOOLS  
**SUBJECT:** AMENDMENT TO THE JOINT USE FACILITIES AGREEMENT  
BETWEEN THE CITY OF PASADENA AND THE PASADENA  
UNIFIED SCHOOL DISTRICT

**RECOMMENDATION**

It is recommended that the City Council and Board of Education:

1. Find that the action proposed herein is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15301 (existing facilities) and 15323 (normal operations of facilities for public gatherings).
2. Approve an amendment to the Joint Use Facilities Agreement between the City of Pasadena and the Pasadena Unified School District that extends the term of the existing Joint Use Facilities Agreement fifty (50) years and establishes a mechanism for the further development of joint use facilities.

**BACKGROUND**

In December, 1989 the City of Pasadena and the Pasadena Unified School District entered into an agreement for the joint use of facilities. The agreement provided a structure for the utilization of each agency's respective facilities as well as the basis for cooperative recreation programming. The agreement was subsequently amended in 1993, to extend the term of the original agreement and further clarify prioritization of use as well as maintenance responsibilities. The current agreement will expire in January, 2014.

The successful passage of Measure TT in November, 2008 has enabled the District to reinvest in its classroom and athletic facilities. A number of these new and newly renovated athletic facilities offer significant joint use opportunities.

In addition to extending the term of the existing agreement for a period of fifty years, the proposed amendment establishes a mechanism to further assess joint use opportunities. Where it is determined that sufficient benefit exists, the City will make a financial contribution to the particular facility in exchange for receiving specific hours of usage. The amount of City contribution, hours of City usage and other relevant terms and conditions will be set forth in separate addendums to the Joint Use Agreement which will be subject to the approval of the City Council and Board of Education.

02/16/2010

Item D

## **ENVIRONMENTAL**

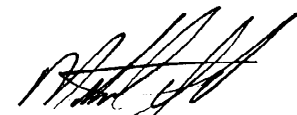
The action proposed herein is exempt from review pursuant to State CEQA Guidelines Sections 15301 (existing facilities) and 15323 (normal operations of facilities for public gatherings). Section 15301 exempts the permitting, leasing or licensing of existing facilities involving negligible or no expansion of the existing use from further environmental review. Similarly, Section 15323 exempts from further review the normal operations of facilities for public gatherings for which the facilities were designed and for which there is a past history of the same or similar purpose. The extension of the MOU operates like a permit or license to allow the City to continue to use PUSD facilities for substantially the same uses they are currently being used.

The MOU envisions negotiations between the parties for improvements at certain facilities. Those improvements are not yet identified to the level of detail that would allow for meaningful environmental review. Further, the MOU does not commit the City to a definite course of action with regard to the envisioned improvements. The City will ensure compliance with CEQA when enough is known about the proposed improvements to provide for meaningful review.

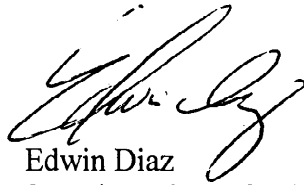
## **FISCAL IMPACT**

There are no direct costs associated with the proposed amendment. As particular projects are identified and recommended for incorporation into the Joint Use Agreement, all associated costs will be identified.

Respectfully submitted,



Michael J. Beck  
City Manager



Edwin Diaz  
Superintendent of Schools

CONTRACT AMENDMENT NO. \_\_\_\_\_

THIS CONTRACT AMENDMENT is made and entered into between the PASADENA UNIFIED SCHOOL DISTRICT, a public school district, hereinafter referred to as the "District", and the CITY OF PASADENA, a municipal corporation, hereinafter referred to as the "City".

RECITALS

WHEREAS, Chapter 10, Part 7 of Division 1 of the Education Code of the State of California authorizes and empowers public school districts and municipalities to cooperate with each other and to that end enter into agreements with each other for the purpose of improving facilities, organizing, promoting and conducting programs of recreation and education for children and adults; and

WHEREAS, the execution of this Agreement is authorized pursuant to laws applicable to each of the parties hereto; and

WHEREAS, the District is owner of certain real properties, utilized by it to carry out its function as a school district, portions of which can be used for park and recreation facilities and uses; and

WHEREAS, the City is the owner of certain real properties, utilized by it to carry out its function as a municipality, portions of which can be used for park and recreation facilities and uses; and

WHEREAS, it is in the public interest that the recreational facilities of public agencies be put to the fullest possible use; and

WHEREAS, the City and District have previously entered into a Joint Use of Facilities Agreement (No. 13,991 and subsequent amendments 13,991-1 AND 13,991-2) to provide for joint use of facilities; and

WHEREAS, the City and District desire to extend the term of the Joint Use of Facilities Agreement; and

WHEREAS, the City and the District intend to explore the development of additional joint use facilities whereby in exchange for financial support the City would receive specific hours of usage. These facilities include but are not limited to:

- A new lighted softball field at Pasadena High School
- A new gymnasium at McKinley School
- A new gymnasium at Washington Middle School
- New synthetic Track and Field facilities at Pasadena High School, John Muir High School, Blair High School and Marshall High School

Now, therefore, the parties hereby agree as follows:

1. **TERM:** The term of the Joint Use Facilities Agreement is hereby extended for a period of fifty (50) years from the date of execution of this Amendment.

2. **ASSIGNMENT AND USE OF FACILITIES:** District facilities shall be reserved for specific use, according to the priorities set forth in paragraph 3, below, by making application for a permit to the District's Civic Center Office or successor office having similar responsibilities. The District hereby acknowledges and agrees that use of District property for "nonclassroom facilities" as defined in Government Code Section 53094 and relevant case law is subject to local zoning regulations. The District hereby acknowledges and agrees that it will abide by the same hours of operations for its facilities as those set forth for City facilities and parks in Section 3.24.110 of the Pasadena Municipal Code.

City facilities, as well as District facilities during periods of City use, shall be reserved by making application for a permit to the City's Human Services and Recreation Department or successor department having similar responsibilities.

District facilities, as well as City facilities during periods of District use, shall be reserved by making application for a permit through the District's Civic Center permit process.

3. **SCHEDULING AND PROGRAM PLANNING:** The City Manager and the District Superintendent, or their designees, shall meet at least one time every six (6) calendar months for the purpose of planning and coordinating programs and utilization of improved facilities.

A. **Priorities:**

In addition to the meetings described above, the City Manager and the District Superintendent, or their designees, shall meet from time to time to review the order of priority set forth in this Agreement and to assess the efficiency of the application process.

1. **District Owned Facilities:**

- First Priority - Classroom facilities uses as governed by state law
- Second Priority - City of Pasadena Recreation and Parks Programs
- Third Priority - Community Youth-Serving Groups
- Fourth Priority - Civic and Related Organizations
- Fifth Priority - Agencies not within boundaries of P.U.S.D.

2. City Owned Facilities:

- First Priority - City of Pasadena Recreation and Parks Programs
- Second Priority - Classroom facilities uses as governed by state law
- Third Priority - Community Youth-Serving Groups
- Fourth Priority - Civic and Related Organizations
- Fifth Priority - Agencies not within boundaries of City of Pasadena

4. NO FEES: Neither party shall impose any reservation or use charge or fee on the other party for the use for City or District programs of any facility to which this Agreement applies. Direct out-of-pocket costs incurred for the use, including but without limitation, utility charges and staff in attendance time, may be charged to using party for services, if mutually agreed by the parties prior to any such use. Both the City and the District may charge users who are not City or District programs all reservation and use charges and fees in effect for similar users as well as any out-of-pocket cost incurred for the use.

5. APPLICABLE LAWS AND REGULATIONS: Each of the parties, in the use of the other's facilities, shall abide by all statutes, laws, ordinances, rules and regulations which are applicable to such usage, including, but not limited to, rules and regulations issued by the party which owns and operates such facilities.

6. MAINTENANCE OF FACILITIES: Each party shall be responsible for the maintenance and repair of its own facilities. Each party shall keep the other party's facilities in a clean and sanitary condition during the times that said facility is under its control, reasonable wear and tear excepted. Prior to the start of each scheduled event and upon conclusion of usage of each event, each party shall participate in an inspection of facilities to make sure that all conditions were the same when the using party initiated activity.

7. SUPERVISION AT FACILITY: The District or City shall furnish such supervision as that party deems required during the periods of use of the other's facilities. Users for programs that are not City or District programs shall provide appropriate supervision as required by authorizing agency.

8. DAMAGE TO FACILITIES: The party using facilities or equipment of the other pursuant to this Agreement agrees to pay the owner for the cost of repairing and restoring, to the condition at the start of the use, any damage done to said facilities or equipment during the period of such use, reasonable wear and tear excepted. The amount of payment shall be mutually determined by the parties.

9. **LIABILITY INSURANCE:** The City and District understand that the other is a governmental entity, duly organized under the laws of the State of California, and that each has liability insurance or is legally self-insured under the laws of the State of California which insurance is adequate to insure against foreseeable claims. Accordingly, additional insurance shall not be required of either City or District under this Agreement.

10. **INDEMNITY:**

- A. **City's Negligence.** City shall indemnify, hold harmless and defend District, its Board of Education, and each member thereof, and every officer and employee of the District, from any and all liability damages (whether in contract or in tort, including personal injury, death at any time, or property damage), costs, and financial loss, including all costs and expenses of litigation or arbitration, that result and are claimed to have resulted directly or indirectly solely from the wrongful or negligent acts of City or its officers, employees, agents, or subcontractors in the performance of this Contract.
- B. **District's Negligence.** District shall indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer and employee of City, from any and all liability damages (whether in contract or in tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses of litigation or arbitration, that result and are claimed to have resulted directly or indirectly solely from the wrongful or negligent acts of District or its officers, employees, agents, or subcontractors in the performance of this Contract.
- C. **Joint and Concurrent Negligence.** With respect to any and all liability damages (whether in contract or in tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses of litigation or arbitration, that result and are claimed to have resulted from the joint or concurrent negligence of City and District, each party agrees to assume responsibility in proportion to the degree of its respective negligence.

11. **NOTICES:** Notices given pursuant to this Agreement shall be given by personal service upon the party to be notified, or, by United States mail, postage prepaid, addressed as follows:

City: City Manager  
City of Pasadena  
100 North Garfield Avenue  
Pasadena, California 91109

District: Superintendent of Schools  
Pasadena Unified School District  
351 South Hudson Avenue

Pasadena, California 91109

12. DEVELOPMENT OF ADDITIONAL JOINT USE FACILITIES: It is the intent of this Contract that the City Manager and the District Superintendent, or their designees, shall meet and determine the amount of available City usage for each additional joint use facility as well as the appropriate City financial contribution for such usage of facilities other than those named in this Agreement, as amended. Any and all agreements for additional joint use facilities arising from the effort shall be memorialized by further amendment to this Agreement properly authorized by the City and District. Each such amendment may contain such additional terms as may be necessary and appropriate as it relates to particular facilities.

Except as expressly provided herein, all other terms and conditions of the Joint Use Facilities Agreement shall remain in full force and effect. IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

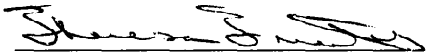
DATED: CITY OF PASADENA

ATTEST: BY:

\_\_\_\_\_  
Mark Jomsky, City Clerk

\_\_\_\_\_  
Michael J. Beck, City Manager

Approved as to form:



Theresa E. Fuentes, Assistant City Attorney

PASADENA UNIFIED SCHOOL DISTRICT

BY:

\_\_\_\_\_  
Edwin Diaz, Superintendent of Schools