

# **Amendment No. 1 to Agreement**

Dated: September 26, 2012

**ORIGINAL**

**AMENDMENT NO. 1 TO AGREEMENT BETWEEN  
CITY OF BRENTWOOD AND  
BRENTWOOD UNION SCHOOL DISTRICT  
RELATING TO JOINT USE OF FACILITIES**

This Amendment No. 1 is entered into and effective as of the 26<sup>th</sup> day of September, 2012, amending the agreement dated July 24, 2008 (the "Agreement") by and between the City of Brentwood ("City"), and Brentwood Union School District, ("District") (collectively, the "Parties") for joint use of facilities.

**RECITALS**

A. The Parties desire to alter Exhibits A Joint Use Facilities, E-1 Joint Use Partner Regulations for City and District Joint Use of Facilities, E-4 Capital Replacement for School District Joint Use Facilities, and E-4A Joint Use Facilities Major Maintenance Projected Schedule; and

B. The Parties have negotiated and agreed to a revised Exhibits A, E-1, E-4, and E-4A, which are attached to and incorporated by this reference as Exhibits A Joint Use Facilities, "E-1" Joint Use Partner Regulations for City and District Joint Use Facilities, "E-4" Capital Replacement for School District Joint Use Facilities, and "E-4A" Joint Use Facilities Major Maintenance Projected Schedule.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the Parties agree as follows:

1. Exhibit "A" to the Agreement, which includes the list of Joint Use Facilities, is hereby deleted and replaced with Exhibit "A" attached hereto.

2. Exhibit "E-1" to the Agreement, which describes the Joint Use Partner Regulations, is hereby deleted and replaced with Exhibit "E-1" attached hereto.

3. Exhibit "E-4" to the Agreement, which describes the Capital Replacement for School District Joint Use Facilities, is hereby deleted and replaced with Exhibit "E-4" attached hereto.

4. Exhibit "E-4A" to the Agreement, which includes the Joint Use of Facilities Major Maintenance Project Schedule, is hereby deleted and replaced with Exhibit "E-4A" attached hereto.

5. Except as amended herein, all provisions of the Agreement, as may have been amended from time to time, will remain in full force and effect.

6. All requisite insurance policies to be maintained by the Parties pursuant to the Agreement, as may have been amended from time to time, will include coverage for this Amendment.

7. The individuals executing this Amendment and the instruments referenced in it on behalf of each Party represent and warrant that they have the legal power, right and actual authority to bind District to the terms and conditions of this Amendment.

**BRENTWOOD UNION SCHOOL DISTRICT:**

**CITY:**

By: Merrill M. Grant  
Merrill M. Grant Ed.D, Superintendent

By: Paul R. Eldredge  
Paul R. Eldredge, City Manager

By: Liz Robbins  
Liz Robbins, Chief Business Official

ATTEST:

By: Margaret Wimberly  
Margaret Wimberly, City Clerk

APPROVED AS TO FORM:

By: Damien Brower  
Damien Brower, City Attorney

## **EXHIBIT "A"**

### **JOINT USE FACILITIES**

1. **District Facilities**
  - A. Bristow Middle School Gymnasium/Exercise Room
  - B. J. Douglas Adams Middle School Gymnasium/Exercise Room
  - C. Edna Hill Middle School Gymnasium/Exercise Room/Training Room
  - D. \*Garin Elementary Multi-Purpose Room
  - E. \*Marsh Creek Elementary Multi-Purpose Room
  - F. \*Pioneer Elementary Multi-Purpose Room
  
2. **City Facilities**
  - A. Brentwood Family Aquatic Complex
  - B. Mobile Stage
  - C. Mobile Bleachers
  - D. Brentwood Community Center
  - E. Brentwood Library
  - F. Brentwood Senior Activity Center

The Parties, by written agreement, may determine it necessary to temporarily remove a Facility from the list for maintenance or restoration purposes. The City Manager and District Superintendent are authorized to execute such written agreements.

There will be no charge for use of District Facilities by the City for City sponsored programs and activities at Bristow, J. Douglas Adams and Edna Hill Middle Schools. There will be no charge for use of City Facilities by the District for District sponsored programs and activities as listed in #2 above. Both the City and District reserve the right to recover staff costs for use of facilities if they are incurred.

\* Note: The District will charge the City the Group I (non-profit) rate at Garin Elementary School, Marsh Creek Elementary School, and Pioneer Elementary School Multi-Purpose rooms.

## EXHIBIT E-1

### JOINT USE PARTNER REGULATIONS FOR CITY AND DISTRICT USE OF FACILITIES

- A. The City Department of Parks and Recreation (the "City"), will have first priority for use after all School District (the "District"), activities have been accommodated for District Facilities as indicated in Exhibit "A". The District agrees to honor City use requests on a first priority basis, respectively, before other non-School District related requests for all School District Facilities.
- B. The City can schedule use of District facilities through the District as follows:
- |                                 |                         |
|---------------------------------|-------------------------|
| Regular School Days             | 5:45 p.m. to 10:30 p.m. |
| School Holidays/Non-school Days | 7 a.m. to 10:30 p.m.    |
| Saturdays/Sundays               | 7 a.m. to 10:30 p.m.    |
- C. The District will determine the one night ("black out night") for each school, per week that will be available for District use. City will honor that black out night and not schedule activities. This night will be determined by the last school day of each school year for the following school year and may be a different night for each school as approved by the City.
- D. District scheduled events must end by 5:30 pm unless otherwise notified in writing by District and approved by the City.
- E. The City Director (the "Director") and the District Superintendent (the "Superintendent") will appoint representatives of each Party to meet three times a year in February, May, and November (unless otherwise agreed by both parties) to go over the calendars submitted by District and the City for use of District and City facilities for the upcoming year.
- F. Any new requests made by the City outside of the three meetings will be processed by the District within seven (7) calendar days of the City's requested use. Any new requests made by the District outside of the three meetings will be processed by the City within seven (7) calendar days of the District's requested use.
- G. The District agrees to notify the City a minimum of seven (7) calendar days prior to cancelling any of the City's approved scheduled use, as long as the City agrees to such change/cancellation. The City agrees to notify the District a minimum of seven (7) calendar days prior to cancelling any of the District's approved scheduled use, as long as the District agree to such change/cancellation.
- H. In the event the City requires a cancellation of a reservation of District facilities, the City will notify the designated District representative a minimum of seven calendar days prior to the reserved date so the District can reserve the facility for other uses. In the event the District requires a cancellation of a reservation of City facilities, the District will notify the designated City representative a minimum of seven calendar days prior to the reserved date so the City can reserve the facility for other uses.
- I. Representatives will be appointed from each Party to represent the maintenance division of the City and District to meet in January of even numbered calendar years or by

request by either party to establish ongoing and yearly scheduled maintenance of the Facilities for minimum interruption of programs and activities.

- J. Representatives will be appointed from each Party to meet in January of even numbered calendar years or by request from either party to determine equipment needs for the coming fiscal years (July – June).
- K. Should the appointing staff be unable to resolve conflicts in scheduling or maintenance, the final approval authority will rest with the Director and the Superintendent.
- L. The City programs will abide to the standards for appropriate use of the Facility by the District and are expected to leave the Facility ready for scheduled events. Representatives will meet to establish cleaning schedule if necessary.
- M. Areas of policy not covered by such rules and regulations will be left up to the discretion of the Director, or his/her designee, with consent of the Superintendent or his/her designee.

## **EXHIBIT E-4**

### **BRENTWOOD UNION SCHOOL DISTRICT & CITY OF BRENTWOOD CAPITAL REPLACEMENT FOR SCHOOL DISTRICT JOINT USE FACILITIES**

Joint use facilities:

Bristow Middle School Gymnasium/Exercise Room  
Edna Hill Middle School Gymnasium/Exercise Room/Staff Training Rooms  
J. Douglas Adams Middle School Gymnasium/Exercise Room

The District is responsible for capital repairs and replacement as outlined below for the joint-use middle school gymnasiums at Bristow, J. Douglas Adams, and Edna Hill Middle Schools. The City is responsible for one-third (1/3<sup>rd</sup>) of the financial costs for the capital repairs and replacement as outlined below for the joint-use middle school gymnasiums at Bristow, J. Douglas Adams, and Edna Hill Middle Schools.

District will invoice the City by November 30<sup>th</sup> of each year for payment by the City by December 31<sup>st</sup> of each year. As a part of the yearly invoice, the District will provide information to the City related to the work that was done in the previous year and actual costs for the work. The District and City agree to meet in January of even number years to review Exhibit E-4A to be amended by mutual consent and pursuant to Section 14 of the agreement.

Capital repairs and replacement, and anticipated scheduling are outlined as follows:

#### **A. FLOORS**

Restripping will be done every 5 years  
Refurbishment will be done every 10 years  
Replacement will be done every 15 years

#### **B. BLEACHERS**

Bleacher repair/service will be done every year

#### **C. PAINTING**

Interior will be repainted every 15 years  
Exterior will be repainted every 10 years

#### **D. ELECTRICAL**

Fire, Public Address, and Scoreboard systems will be replaced every 15 years

#### **E. LIGHTING**

System will be replaced every 10 years

#### **F. ROOFING**

Will be replaced every 15 years (non metal) or 20 years (metal)

#### **G. PLUMBING**

Valves, drains, and fixtures will be repaired and/or replaced as needed every year

#### **H. HVAC**

System will be replaced every 15 years

**I. WALL SYSTEMS**

Partitions will be replaced every 10 years  
Curtains will be replaced every 13 years

**J. PAVING**

Slurry, crack fill and restriping will be done every 5 years

The City will pay one-third (1/3<sup>rd</sup>) of the yearly cost as outlined on Exhibit E-4A – Joint Use Facilities Major Maintenance Projected Schedule. Exhibit E-4A will be reviewed again in January 2014 and amended by mutual consent to become effective for fiscal years 2014/2015 and 2015/2016. The Exhibit E-4A will then be reviewed every two years to coincide with a two year budget cycle.



Joint Use Facilities Major Maintenance Projected Schedule (September 2012)

EXHIBIT E4-A

	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	
<b>AMS Gym</b>																						
Floors (restriping and refurbishment)	bleach svc	bleach svc	fir stripe	bleach svc	bleach svc	bleach svc	bleach svc	fir refurb	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc	bleach svc
Bleachers (ongoing service)	\$1,200	\$1,200	\$5,500	\$1,200	\$1,200	\$1,200	\$1,200	\$35,000	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200
Painting (interior and exterior)								paint ext	paint ext	fire/ps sys												
Electrical (fire, PA, scoreboard systems)								replace	replace	replace												
Lighting (replacement)								\$55,000														
Roofing (replacement)																						
Plumbing (valves, drains, fixtures)	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing	plumbing
HVAC (replacement)																						
Wall Systems (replacement)								partitions	curtains	curtains												
Partitions (replacement)																						
Paving (slurry, crack fill, restripe)																						
<b>Totals</b>	\$84,634	\$13,634	\$243,485	\$121,634	\$11,634	\$243,304	\$278,814	\$822,714	\$13,634	\$35,634	\$197,134	\$13,634	\$404,323	\$48,634	\$11,634	\$71,304	\$13,634	\$517,182	\$13,634	\$70,634	\$49,634	\$49,634
Adjusted for inflation @ 2%	\$86,327	\$14,179	\$258,073	\$131,366	\$12,099	\$272,500	\$301,119	\$853,168	\$16,088	\$42,761	\$240,803	\$16,906	\$609,447	\$62,262	\$15,124	\$94,121	\$16,270	\$703,327	\$16,615	\$86,888	\$69,488	\$69,488
City Share @1/3	\$28,747	\$4,722	\$86,038	\$43,744	\$4,029	\$90,743	\$100,273	\$177,546	\$5,367	\$14,239	\$80,088	\$5,630	\$189,646	\$20,730	\$5,036	\$31,342	\$5,084	\$234,208	\$5,266	\$23,930	\$17,319	\$17,319

**AGREEMENT BETWEEN  
CITY OF BRENTWOOD AND  
BRENTWOOD UNION SCHOOL DISTRICT  
RELATING TO JOINT USE OF FACILITIES**

**ORIGINAL**

THIS AGREEMENT is made and entered into this 22<sup>nd</sup> day of July, 2008, by and between the City of Brentwood ("City"), a California Municipal Corporation and the Brentwood Union School District ("District") (collectively, the "Parties").

RECITALS

A. Sections 10900 – 10916, inclusive of the Education Code of the State of California, authorize cities, counties and public school districts to organize, promote and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for the children and adults for the State.

B. City owns and operates recreational facilities.

C. District owns, maintains and operates school grounds within the City.

D. City and District recognize the public need for facilities such as gymnasiums; multi-purpose rooms, sports fields, open space/playgrounds, and classrooms and desire to cooperate in the construction and use of gymnasiums; multi-purpose rooms, sports fields, open space/ playgrounds, and classroom facilities to be constructed on or adjacent to District sites.

E. It is the mutual desire of City and District to promote a program of community recreation in connection with the use of the above described joint use facilities.

F. A list of joint use City facilities ("City Facilities") and joint use District facilities ("District Facilities") (collectively "Facilities") is set forth in the attached Exhibit A and incorporated herein by this reference.

G. The governing bodies of the City and the District may cooperate with each other to carry out the purposes of community recreation, and to that end may enter into an agreement with each other and may do any and all things necessary to aid and cooperate in carrying out the purposes of community recreation.

H. City will make a grant of one million five hundred thousand dollars (\$1,500,000) to the District for the purpose of reimbursing the District for a portion of the cost of constructing certain of the District Facilities described in Section 20 below ("Grant Facilities").

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. Term. This Agreement will be effective as of August 1, 2008 and will continue until June 30, 2009. Thereafter, the Agreement will continue on a fiscal year to fiscal year basis, so long as the Parties are not in breach and appropriate sufficient funds for the Agreement; or unless earlier terminated pursuant to this Agreement. Notwithstanding the termination of this Agreement, the obligations of the District set forth in Section 20 below will continue to apply to the Grant Facilities until the date that all of the bonds issued for CFD No. 3, 4 and 5 (the "CFD") and financing or refinancing the Grant Facilities are retired.

2. Responsibilities of the City. Along with the terms and conditions of this Agreement and its Exhibits, the City agrees to be responsible for and complete those items set forth in the attached Exhibit B, which is incorporated herein by this reference.

3. Responsibilities of the District. Along with the terms and conditions of this Agreement and its Exhibits, the District agrees to be responsible for and complete those items set forth in the attached Exhibit C, which is incorporated herein by this reference.

4. Joint Responsibilities of the Parties. Along with the terms and conditions of this Agreement and its Exhibits, the Parties agree to be responsible for and complete those items set forth in the attached Exhibit D, which is incorporated herein by this reference. In addition, to the extent any of the Facilities has been financed or refinanced with tax-exempt bonds, and such bonds are not fully retired, the City shall not use the District Facilities or allow for the use of the District Facilities and the District shall not use the City Facilities or allow for the use of the City Facilities in a manner that constitutes private business use under Section 141(b) of the Internal Revenue Code of 1986.

5. Facility Availability and Regulations. The Facilities will be made available to children and adults of the community, subject to the rules and regulations as adopted by both the City and District and attached to this Agreement as Exhibit E (E-1 through E-4), which is incorporated herein by this reference.

6. Insurance. Each Party will, at its own expense, procure and maintain in full force at all times during the term of this Agreement the following insurance:

A. Facility Insurance. At each Party's sole cost and expense, sufficient insurance for all improvements located on or pertinent to their respective Facilities against loss or damage by fire and such other risks as are now or hereafter provided to their other non-joint use facilities. The amount of the insurance will be sufficient to prevent either Party from becoming a co-insurer under the provisions of the policies, but in no event will the amount be less than 80% of the then actual replacement cost (herein called full insurable value).

B. Commercial General Liability Coverage. With limits of no less than One Million Dollars (\$1,000,000) combined single limit per occurrence or Two Million Dollars (\$2,000,000) aggregate limit for bodily injury, personal injury, and property damage.

C. Automobile Liability Coverage. Covering all vehicles used in the performance of this Agreement providing a One Million Dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage.

D. Compliance with State Workers' Compensation Requirements. Each Party will insure itself against liability for Workers' Compensation pursuant to the provisions of California Labor Code §3700, et seq. and will, at all times, upon demand of the other Party's authorized representative or his/her designee, furnish proof that Workers' Compensation Insurance is being maintained by it in force and effect in accordance with the California Labor Code.

E. Other Insurance Provisions. The commercial general liability and automobile policies are to contain, or be endorsed to contain the following provisions:

(1) City/District (as applicable), its officers, agents, employees, and volunteers are to be covered as additional insured's as respects: Liability arising out of activities performed by or on behalf of City/District (as applicable) pursuant to the terms of this

Agreement. The coverage will contain no special limitations on the scope or protection afforded to City/District (as applicable), its officers, officials, employees, or volunteers.

(2) City/District's (as applicable) insurance coverage will be primary insurance with respect to City/District (as applicable), its officers, officials, employees, and volunteers. Any insurance, risk pooling arrangement, or self-insurance maintained by City/District (as applicable), its officers, officials, employees, or volunteers will be in excess of City/District's (as applicable) insurance and will not contribute with it.

(3) Any failure to comply with the reporting provisions of the policy will not affect the coverage provided to the City/District (as applicable), its officers, officials, employees, or volunteers.

(4) The aforementioned policies will be issued by an insurance carrier having a rating of A.M. Best A-7 or better which is satisfactory to the other Party and will be delivered to at the time of the execution of this Agreement or as provided below. In lieu of actual delivery of such policies, a Certificate and endorsements issued by the insurance carrier showing such policy to be in force for the period covered by the Agreement may be delivered to the particular Party. Such policies and certificates will provide for thirty (30) days notice of cancellation to the other Party. Said policies will not be canceled earlier than, nor the amount of coverage reduced earlier than, thirty (30) days after the other Party receives notices from the insured of the intent of cancellation or reduction.

F. Self Insurance. A Party may satisfy its insurance obligations stated above by providing satisfactory evidence that it is self-insured and has sufficient financial resources to meet the insurance obligations stated herein.

G. Release. The Parties release each other, and their respective authorized representatives, from any claims for damage to any person or to the premises and the buildings and other improvements on the premises that are caused by or result from risks insured against under any insurance policy carried by the Parties and in force at the time of any such damage.

H. Evidence of Insurance. The Parties will deposit with each other, certificate of the applicable policies and endorsements, together with evidence of payment or premiums, at the commencement of the term; and on renewal of the applicable policy not less than fifteen (15) days before the expiration of the term of the applicable policy.

7. Mutual Indemnification. District will defend, indemnify and hold harmless City and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the Services, caused in whole or in part by the willful misconduct or any negligent act or omission of the District, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of City.

City will defend, indemnify and hold harmless District and its officers, agents, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the Services, caused in whole or in part by the willful misconduct or any negligent act or omission of the City, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of District.

8. Dispute Resolution. Should any dispute arise out of this Agreement, the Parties will meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. The costs of the mediator, if any, will be paid for by each party on an equal basis. If a mediated settlement is reached, no Party will be the prevailing party for the purposes of the resolution of the dispute. No Party will be permitted to file legal action without first meeting in medication and maintaining a good faith attempt to reach a mediation resolution. Each Party will bear their own attorney's fees, if any.

9. Third Party Beneficiary. This Agreement including, but not limited to, indemnification provisions, is for the benefit of the Parties only and does not create, nor is it intended to create, any benefit or liability to third parties.

10. Notices. All notices, statements, demands, requests, consents, approvals, authorizations, appointments or designations hereunder by either Party to the other will be in writing and will be deemed given and served upon the Party if delivered personally or three (3) days after depositing in the United States mail, postage prepaid, addressed as follows:

To City:                   City of Brentwood  
                                  Attn: City Manager  
                                  708 Third Street.  
                                  Brentwood, CA 94513

To District:               Brentwood Union School District  
                                  Attn: Superintendent of Schools  
                                  255 Guthrie Lane  
                                  Brentwood, CA 94513

11. Assignment. The Parties each agree that they will not, without the other Party's written consent, assign their rights pursuant to this Agreement. The Parties will not enter into a sublease of a Facility without the express written consent of District. Each Party also agrees not to make any use of a District or City Facility not in keeping with the purposes of this Agreement. Prior to a Party assigning its rights, it should obtain prior written consent from the other Party, should a Party enter into a sublease in duration of more than three (3) months without the other Party's prior written consent the non-subleasing Party may request termination of the sublease and the other Party will take immediate efforts to terminate the sublease.

12. Non-Waiver. The failure of any Party to insist upon the strict performance of any of the terms, conditions or covenants in this Agreement will not be deemed a waiver of any right or remedy that any Party may have and will not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions or covenants herein contained.

13. Authority. The Parties each warrant and represent to the other that they have the full legal authority to enter into this Agreement.

14. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and any modifications or extensions must be in the form of a written amendment fully noticed and approved. This Agreement replaces, in their entirety any prior agreements between the Parties related to the subject matter hereof.

15. Equal Employment Opportunity. In connection with the performance of this Agreement, neither City nor District will discriminate against any employee or applicant for employment because of race, religion, color, sex, physical or mental disability, age, sexual orientation, or national origin.

16. Termination. City or District may terminate this Agreement for any reason upon six (6) months written notice to the other Party. City or District may terminate the Agreement upon thirty (30) days written notice if the other Party breaches this Agreement.

17. Jurisdiction and Venue. Any action at law or in equity brought under this Agreement for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of Contra Costa, State of California, and the Parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

18. Paragraph Headings. Paragraph headings as used herein are for convenience only and will not be deemed to be a part of such paragraphs and will not be construed to change the meaning thereof.

19. Relationship of the Parties. It is understood that this is an Agreement by and between independent contractor(s) and is not intended to, and will not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of independent contractor.

20. Grant Facilities. The City agrees to grant to the District an amount equal to (\$1,500,000) toward the cost of acquisition and construction of the Doug Adams Middle School Gymnasium within 30 days after this agreement is approved by both parties. The District agrees that such funds shall be used solely for capital costs of the acquisition or construction of the Grant Facilities and not for any other purpose. The District understands and agrees that funds for this grant may be provided by the City from proceeds of bonds issued for the CFD and agrees that the District will own and operate the facility, subject to the terms of this agreement. The District shall have no obligation with respect to the CFD or any such bonds. The District shall not use the Grant Facilities or allow for the use of the Grant Facilities in a manner that constitutes private business use under Section 141(b) of the Internal Revenue Code of 1986.

21. Capital Replacement. By December 31<sup>st</sup> of each fiscal year, City agrees to make an annual capital replacement payment to the school district in the amount determined in Exhibit E-4A.

22. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which is deemed to be an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first written above.

Brentwood Union School District:

City of Brentwood:

By: Merrill M. Grant  
Printed Name: Merrill M. Grant  
Title: Supt.  
Date: 7-28-08

By: Donna Landeros  
Donna Landeros, City Manager  
Date: 7/23/08

ATTEST:

By: Margaret Wimberly  
Margaret Wimberly, City Clerk

APPROVED AS TO FORM:

By: Damien B. Brower  
Damien B. Brower, City Attorney

**APPROVED EXHIBITS**

- Exhibit A. Joint Use Facilities
- Exhibit B. Responsibilities of the City
- Exhibit C. Responsibilities of the District
- Exhibit D. Joint Responsibilities of the City and District
- Exhibit E. Use Regulations for City and District
  - E-1 Joint Use Partner Regulations for City and District
  - E-2 Participant Rules and Regulations for Joint Use School District Multi-Purpose Rooms
  - E-3 Participant Rules and Regulations for School District Gymnasiums
  - E-4 Capital Replacement for School District Joint Use Facilities
  - E-4A Joint Use Facilities Major Maintenance Projected Schedule

Approved by City of Brentwood, City Council action on: July 22, 2008

Approved by Brentwood Union School District action on: July 23, 2008



## EXHIBIT A

### JOINT USE FACILITIES

1. District Facilities
  - A. Bristow Middle School Gymnasium/Exercise Room
  - B. J. Douglas Adams Middle School Gymnasium/Exercise Room
  - C. Edna Hill Middle School Gymnasium/Exercise Room/Training Room
  - D. \*Garin Elementary Multi-Purpose Room
  - E. \*Marsh Creek Elementary Multi-Purpose Room
  - F. \*Pioneer Elementary Multi-Purpose Room
  
2. City Facilities
  - A. Brentwood Community Center
  - B. Brentwood Family Aquatic Complex
  - C. Mobile Stage
  - D. Mobile Bleachers
  - E. Future Brentwood Community Center
  - F. Future Brentwood Library
  - G. Future Brentwood Senior Activity Center

The Parties, by written agreement, may determine it necessary to temporarily remove a Facility from the list for maintenance or restoration purposes. The City Manager and District Superintendent are authorized to execute such written agreements.

There will be no charge for use of District Facilities by the City for City sponsored programs and activities at Bristow, J. Douglas Adams and Edna Hill Middle Schools. There will be no charge for use of City Facilities by the District for District sponsored programs and activities as listed in #2 above. Both the City and District reserve the right to recover staff costs for use of facilities if they are incurred.

\* Note: The District will charge the City the Group I (non-profit) rate at Garin Elementary School, Marsh Creek Elementary School, and Pioneer Elementary School Multi-Purpose rooms.

## **EXHIBIT B**

### **RESPONSIBILITIES OF THE CITY**

1. At all times when Facilities are used by City, the Facilities will be under the supervision and control of the City, its agents and employees and administered and operated in accordance with all rules and regulations established by both the District and the City. If conflict occurs between the Parties' rules and regulations, the stricter rule or regulation will apply.
2. City will assume full responsibility for the scheduling of City Facilities for facility use conducted by City, District and by the public.
3. City will provide adequate and qualified personnel to fulfill the responsibilities described in this Exhibit and Agreement.
4. All personnel employed in connection with the City's use of the District and City Facilities for recreational programs will be deemed City employees or its agents. The hiring, supervision and discipline of all such personnel will be the responsibility of City.

## EXHIBIT C

### RESPONSIBILITIES OF THE DISTRICT

1. At all times when Facilities are used by the District, and for public use, the Facilities will be under the supervision and control of the District, its agents and employees and administered and operated in accordance with all rules and regulations established by both the District and the City. If conflict occurs between the Parties' rules and regulations, the stricter rule or regulation will apply.
2. District will assume full responsibility for the scheduling of District Facilities for facility use conducted by District, City and by the public.
3. District will provide adequate and qualified personnel to fulfill the responsibilities described in this Exhibit and Agreement.
4. All personnel employed in connection with the District use of the District and City Facilities for educational or recreational programs will be deemed District employees or its agents. The hiring, supervision and discipline of all such personnel will be the responsibility of District.
5. District will allow access to District Facilities and the public parking facilities of District Facilities in a reasonable time prior to, during and after the period of time the District Facilities are scheduled for use by City.

## EXHIBIT D

### JOINT RESPONSIBILITIES OF THE CITY AND DISTRICT

1. The Parties will cooperate in providing a community recreation program under the authority contained in Sections 10900-10916, inclusive, of the Education Code of the State of California, in connection with the use of the Facilities.
2. The Parties agree to furnish recreational and educational apparatus and equipment according to the terms set forth in this Agreement and its Exhibits. Such equipment will remain the property of the Party furnishing. District agrees to furnish and install on the District Facility and City agrees to furnish and install on the City Facility, such recreational and educational apparatus and equipment as each deems appropriate for its programs. A Party may, with the express written approval of the other Party, furnish and install at its own expense, such additional recreational and educational apparatus as it deems required in connection with the performance of its recreational and educational programs pursuant to this Agreement in the other Party's Facility. Any such additional apparatus will not interfere in any way with the ordinary use by the other Party of the subject Facility.
3. The Party that uses any Facility in accordance with this Agreement will be responsible for cleaning and if necessary replenishing cleaning supplies for that Facility after such use. Should either Party be required to assume custodial costs due to the other Party's use of a Facility, the costs may be billed to the responsible Party with sufficient information accompanying the billing to identify the reason for required service as identified in this Agreement and Exhibits. Each Party will make every effort to insure the Facility is clean and ready for the next user. Each Party will make every effort to communicate information regarding clean-up problems noted to the other Party in an effort to improve housekeeping.
4. The Party that uses any Facility in accordance with this Agreement will assume responsibility for damage occurring to the Facilities during such use and will be responsible to notify the other Party of any damage noted during the next work day.
5. City designated areas at District Sites. City has exclusive use of Bristow, Edna Hill and J. Douglas Adams Gymnasium recreation offices and storage rooms. District may request use of City designated areas with approval and conditions as set by the City.
6. City is responsible for furnishing equipment and staffing of City Facilities at District sites and related maintenance. The City and District will develop a mutually agreed upon lock/access system to insure City property is protected.

## **EXHIBIT E**

### **USE REGULATIONS FOR CITY AND DISTRICT**

The following sub-Exhibits set forth the use Regulations of Joint Use Facilities:

- E-1 Joint Use Partner Regulations for City and District
- E-2 Participant Rules and Regulations for Joint Use School District Multi-Purpose Rooms
- E-3 Participant Rules and Regulations for School District Gymnasiums
- E-4 Capital Replacement for School District Joint Use Facilities

## EXHIBIT E-1

### JOINT USE PARTNER REGULATIONS FOR CITY AND DISTRICT USE OF FACILITIES

- A. The City Department of Parks and Recreation (the "City"), will have first priority for use after all School District (the "District"), activities have been accommodated for District Facilities as indicated in Exhibit "A". The District agrees to honor City use requests on a first priority basis, respectively, before other non-School District related requests for all School District Facilities.
- B. The City can schedule use of District facilities through the District as follows:

Regular School Days	5:30 p.m. to 10:30 p.m.
School Holidays/Non-school Days	7 a.m. to 10:30 p.m.
Saturdays/Sundays	7 a.m. to 10:30 p.m.
- C. The District will determine the one night ("black out night") for each school, per week that will be available for District use. City will honor that black out night and not schedule activities. This night will be determined on June 30<sup>th</sup> of each school year for the following school year and may be a different night for each school and approved by the City.
- D. District scheduled events must end by 5:00 pm unless otherwise notified in writing by District and approved by the City.
- E. The City Director of Parks and Recreation (the "Director") and the District Superintendent (the "Superintendent") will appoint representatives of each Party to meet no later than June 30<sup>th</sup> of each year to go over the calendar submitted by District and the City for the upcoming year. These representatives will provide a recommended yearly schedule to the Director and Superintendent for final approval.
- F. The City will notify the District twice per year on September 2<sup>nd</sup> and January 2<sup>nd</sup> if previously reserved use is no longer needed.
- G. In the event the City requires a cancellation of a reservation, the City will notify the District a minimum of seven working days prior to the reserved date so the District can reserve the facility for other uses.
- H. Representatives will be appointed from each Party to represent the maintenance division of the City and District to meet on a monthly basis to establish ongoing and yearly scheduled maintenance of the Facilities for minimum interruption of programs and activities.
- I. Representatives will be appointed from each Party to meet in January of each year to determine equipment needs for the coming fiscal year (July – June).
- J. Should the appointing staff be unable to resolve conflicts in scheduling or maintenance, the final approval authority will rest with the Director and the Superintendent.
- K. The City programs will abide to the standards for appropriate use of the Facility and are expected to leave the Facility ready for scheduled events. Representatives will meet to establish cleaning schedule if necessary.
- L. Areas of policy not covered by such rules and regulations will be left up to the discretion of the Director, or his/her designee, with consent of the Superintendent or his/her designee.

**EXHIBIT E-2**

**BRENTWOOD UNION SCHOOL DISTRICT & CITY OF BRENTWOOD**

**PARTICIPANT RULES AND REGULATIONS FOR  
JOINT USE SCHOOL DISTRICT MULTI-PURPOSE ROOMS**

- A. No smoking or use of tobacco in Facilities or on school grounds.
- B. No pets inside the building, except guide dogs, signal dogs, or service dogs.
- C. No radio/music players are allowed in the building except with written permission by the City prior to the event.
- D. No glass beverage container or bottles allowed in Facilities or on school grounds.
- E. Jewelry/watches are not to be worn in games/practices on the courts of play.
- F. Staff/patrons are responsible for personal property. The City and District are not responsible for staff/patron personal items left in the multi-purpose, office area, rest rooms or surrounding area.
- G. No heavy equipment, furniture or the like is to be slid across the multi-purpose floor at any time.
- H. Loitering in and/or around the building is prohibited.
- I. No alcoholic beverages or controlled substances allowed in Facilities, parking lots or school grounds.
- J. No roughhousing in the multi-purpose.
- K. All users of the Facilities will be held accountable to insure the Facilities are used in a responsible manner for the safety and welfare of the participants, spectators, and exposure of the Facilities to damage.
- L. Bleacher and lunch tables will be made available with a request to the District by the City for use as needed.

**EXHIBIT E-3**

**BRENTWOOD UNION SCHOOL DISTRICT & CITY OF BRENTWOOD**

**PARTICIPANT RULES AND REGULATIONS FOR  
SCHOOL DISTRICT GYMNASIUMS**

- A. No spiked heels or cleats, tennis or basketball shoes only on the gymnasium floor.
- B. No food, gum or beverages allowed on gymnasium floor or restroom.
- C. No glass beverage container or bottles allowed in Facilities or on school grounds.
- D. No smoking or use of tobacco in Facilities or on school grounds.
- E. No pets inside the building, except guide dogs, signal dogs, or service dogs.
- F. No radio/music players are allowed in the building except with written permission by the City prior to the event.
- G. Jewelry/watches are not to be worn in games/practices on the courts of play.
- H. Staff/patrons are responsible for personal property. The City and District are not responsible for staff/patron personal items left in the gym, office area, rest rooms or surrounding area.
- I. No heavy equipment, furniture or the like is to be slid across the gym floor at any time.
- J. Loitering in and/or around the building is prohibited.
- K. No alcoholic beverages or controlled substances allowed in the Facilities, parking lots or school grounds.
- L. No roughhousing in the gymnasium.
- M. All users of the Facilities will be held accountable to insure the Facilities are used in a responsible manner for the safety and welfare of the participants, spectators, and exposure of the Facility to damage.
- N. Bleacher and lunch tables will be made available with a request to District by the City for use as needed.



## EXHIBIT E-4

### BRENTWOOD UNION SCHOOL DISTRICT & CITY OF BRENTWOOD CAPITAL REPLACEMENT FOR SCHOOL DISTRICT JOINT USE FACILITIES

Joint use facilities:

Bristow Middle School Gymnasium/Exercise Room  
Edna Hill Middle School Gymnasium/Exercise Room/Staff Training Rooms  
J. Douglas Adams Middle School Gymnasium/Exercise Room

The District is responsible for capital repairs and replacement as outlined below for the joint-use middle school gymnasiums at Bristow, J. Douglas Adams, and Edna Hill Middle Schools. The City is responsible for one-third (1/3<sup>rd</sup>) of the financial costs for the capital repairs and replacement as outlined below for the joint-use middle school gymnasiums at Bristow, J. Douglas Adams, and Edna Hill Middle Schools.

Capital repairs and replacement, and anticipated scheduling are outlined as follows:

**A. FLOORS**

Restripping will be done every 5 years  
Refurbishment will be done every 10 years  
Replacement will be done every 15 years

**B. BLEACHERS**

Bleacher repair/service will be done every year

**C. PAINTING**

Interior will be repainted every 15 years  
Exterior will be repainted every 10 years

**D. ELECTRICAL**

Fire, Public Address, and Scoreboard systems will be replaced every 15 years

**E. LIGHTING**

System will be replaced every 10 years

**F. ROOFING**

Will be replaced every 15 years (non metal) or 20 years (metal)

**G. PLUMBING**

Valves, drains, and fixtures will be repaired and/or replaced as needed every year

**H. HVAC**

System will be replaced every 15 years

**I. WALL SYSTEMS**

Partitions will be replaced every 10 years  
Curtains will be replaced every 13 years

**J. PAVING**

Slurry, crack fill and restripping will be done every 5 years

The City will pay one-third (1/3<sup>rd</sup>) of the yearly cost as outlined on Exhibit E-4A – Joint Use Facilities Major Maintenance Projected Schedule for fiscal years 2008/2009, 2009/2010, and 2010/2011. Exhibit E-4A will be reviewed again in January 2011 and amended by mutual consent and pursuant to Section 14 of the Agreement. To become effective for fiscal years 2011/2012 and 2012/2013. The Exhibit E-4A will then be reviewed every two years to coincide with a two year budget cycle.

**EXHIBIT E-4A - JOINT USE FACILITIES MAJOR MAINTENANCE PROJECTED SCHEDULE (JUNE 2008)**

<b>AMS Gym</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>2028-29</b>
Floors (restriping and refurbishment)			fir stripe \$5,500					fir refurb \$35,000					fir replace \$70,000					fir stripe \$5,500			
Bleachers (ongoing service)	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200
Painting (interior and exterior)								paint ext \$34,280					paint int \$43,096					paint ext \$34,280			
Electrical (fire, PA, scoreboard systems)													fire/pa sys \$80,000								
Lighting (replacement)								replace \$55,000										repalce \$55,000			
Roofing (replacement)																		rep roof \$200,000			
Plumbing (valves, drains, fixtures)	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357	plumbing \$3,357
HVAC (replacement)													replace \$100,000								
Wall Systems (toilet partitions, curtains)								partitions \$24,000			curtains \$35,000							partitions \$24,000			
Paving (slurry, crack fill, restripe)			slurry \$5,000					slurry \$5,000					slurry \$5,000					slurry \$5,000			
<b>BMS Gym</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>2028-29</b>
Floors (restriping and refurbishment)			fir stripe \$5,500			fir refurb \$32,500					fir replace \$65,000					fir restripe \$5,500					fir refurb 32500
Bleachers (ongoing service)	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc 1200
Painting (interior and exterior)			paint int \$26,738			paint ext \$21,670									paint ext \$21,670			paint int \$26,738			
Electrical (fire, PA, scoreboard systems)											fire/pa sys \$80,000										
Lighting (replacement)								replace \$55,000										replace \$55,000			
Roofing (replacement)				replace \$108,000																	
Plumbing (valves, drains, fixtures)	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing \$2,100	plumbing 2100
HVAC (replacement)			replace \$100,000															replace \$100,000			
Wall Systems (toilet partitions)	curtains \$35,000									partitions \$24,000					curtains \$35,000					partitions \$24,000	
Paving (slurry, crack fill, restripe)				slurry \$2,000					slurry \$2,000						slurry \$2,000				slurry \$2,000		
<b>EHS Gym</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>2028-29</b>
Floors (restriping and refurbishment)			fir refurb \$32,500			fir replace \$65,000					fir restripe \$5,500					fir refurb \$32,500					fir restripe 5500
Bleachers (ongoing service)	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc \$1,200	blech svc 1200
Painting (interior and exterior)			paint ext \$26,593					paint int \$32,680					paint ext \$26,593								
Electrical (fire, PA, scoreboard systems)								fire/pa sys \$80,000													
Lighting (replacement)			replace \$55,000															replace \$55,000			
Roofing (replacement)								replace \$114,000													
Plumbing (valves, drains, fixtures)	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing \$2,577	plumbing 2577
HVAC (replacement)								replace \$100,000													
Wall Systems (toilet partitions)				partitions \$13,000		curtains \$35,000							partitions \$13,000					curtains \$35,000			
Paving (slurry, crack fill, restripe)		slurry \$2,000					slurry \$2,000					slurry \$2,000					slurry \$2,000				
<b>Totals</b>	<b>\$84,634</b>	<b>\$13,634</b>	<b>\$243,465</b>	<b>\$121,634</b>	<b>\$11,634</b>	<b>\$165,804</b>	<b>\$113,634</b>	<b>\$446,594</b>	<b>\$13,634</b>	<b>\$35,634</b>	<b>\$197,134</b>	<b>\$13,634</b>	<b>\$404,323</b>	<b>\$48,634</b>	<b>\$11,634</b>	<b>\$71,304</b>	<b>\$13,634</b>	<b>\$552,152</b>	<b>\$13,634</b>	<b>\$35,634</b>	<b>\$49,634</b>
<b>Adjusted for Inflation @ 2%</b>	<b>\$86,327</b>	<b>\$14,179</b>	<b>\$258,073</b>	<b>\$131,365</b>	<b>\$12,797</b>	<b>\$185,700</b>	<b>\$129,543</b>	<b>\$518,049</b>	<b>\$16,088</b>	<b>\$42,761</b>	<b>\$240,503</b>	<b>\$16,906</b>	<b>\$509,447</b>	<b>\$62,252</b>	<b>\$15,124</b>	<b>\$94,121</b>	<b>\$18,270</b>	<b>\$750,927</b>	<b>\$18,815</b>	<b>\$49,888</b>	<b>\$69,488</b>
<b>City Share @1/3</b>	<b>\$28,747</b>	<b>\$4,722</b>	<b>\$85,938</b>	<b>\$43,744</b>	<b>\$4,262</b>	<b>\$61,838</b>	<b>\$43,138</b>	<b>\$172,510</b>	<b>\$5,357</b>	<b>\$14,239</b>	<b>\$80,088</b>	<b>\$5,630</b>	<b>\$169,646</b>	<b>\$20,730</b>	<b>\$5,036</b>	<b>\$31,342</b>	<b>\$6,084</b>	<b>\$250,059</b>	<b>\$6,265</b>	<b>\$16,613</b>	<b>\$23,139</b>