

RESOLUTION NO. 2010-527

Adopted by the Sacramento City Council

August 31, 2010

APPROVING A MOU FOR THE JOINT USE, MAINTENANCE AND OPERATION OF SOJOURNER TRUTH PARK, ROBBIE WATERS POCKET-GREENHAVEN LIBRARY AND SCHOOL OF ENGINEERING AND SCIENCES

BACKGROUND

- A. An agreement between the City of Sacramento (City) and the Sacramento City Unified School District (School District) for the design and construction of the School of Engineering and Sciences, the Robbie Waters Pocket-Greenhaven Library, athletic fields, parking lots and other related improvements was approved by City Council on October 16, 2007.
- B. A ground lease between the City and School District allowing the City to lease from the School District land where the library was to be constructed was approved on September 16, 2008.
- C. Both the design and construction agreement and ground lease contemplated a future agreement that would describe the rights and responsibilities of the City, School District and Sacramento Public Library Authority (Library Authority) with respect to the joint use, maintenance and operation of the school, library, athletic fields, parking lots and other related improvements. The parties have negotiated the terms of such an agreement in the form of a memorandum of understanding (MOU).
- D. The MOU provides for the joint use, maintenance and operation of the school, the library, the athletic fields, the parking lots and related improvements. A list of responsibilities for maintenance, repair and improvements is part of the MOU. The allocation of utility costs also is part of the MOU.
- E. The term of the MOU for the joint use, maintenance and operation of the school, library, athletic fields, parking lots and related improvements is for the same length of time as that of the ground lease. The ground lease term is 40 years beginning on the effective date of the ground lease, with the City having the ability to extend the ground lease for three additional terms of ten years each.
- F. By authorizing this MOU, the City would be responsible for utility costs attributable to a three-inch water meter serving the athletic fields and shared public parking lots, and all maintenance and repair costs for the athletic fields and the improvements constructed on the fields, including on the portion of the fields on School District property. The MOU delegates to the staff of the City, School District and Library Authority the ability to make future changes to the list of responsibilities for maintenance, repair and improvements, which could add or remove responsibilities for the City organization.

- G. The City also would be responsible for 100% of the costs for capital improvements to the library and library staff parking area, and 60% of the costs for capital improvements to the athletic fields and facilities and to the shared public parking area. However, before any capital improvements are made, all parties must agree in writing on whether to undertake the improvement and on the cost allocation of the improvement.
- H. In exchange for taking on maintenance and capital improvement responsibilities, the City would have exclusive rights to the athletic fields outside of the regular school day, and would be able to use the school in accordance with an existing joint use agreement with the School District.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to execute the memorandum of understanding and any extensions, amendments, or other related documents with the Sacramento City Unified School District and the Sacramento Public Library Authority for the joint use, maintenance and operation of Sojourner Truth Park, Robbie Waters Pocket-Greenhaven Library, the School of Engineering and Sciences and related improvements.
- Section 2. The memorandum of understanding is attached as Exhibit A and is a part of this resolution.

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Exhibit A – The memorandum of understanding

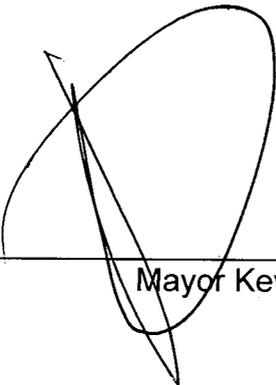
Adopted by the City of Sacramento City Council on August 31, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:


Shirley Concolino, City Clerk

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
SACRAMENTO, THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, AND
THE SACRAMENTO PUBLIC LIBRARY AUTHORITY, REGARDING THE
SCHOOL OF ENGINEERING AND SCIENCES, POCKET LIBRARY, SOJOURNER
TRUTH PARK, AND RELATED IMPROVEMENTS

This Memorandum of Understanding (MOU) is made and entered into this _____ day of _____, 2010, by and between the City of Sacramento (City), a municipal corporation, the Sacramento City Unified School District (District), a California public school district, and the Sacramento Public Library Authority (Library Authority), a California joint powers authority. The City, District, and Library Authority may be referred to collectively as "Parties" or in the singular as "Party," as the context requires.

RECITALS

The Parties have entered into this MOU with reference to the following facts and circumstances:

WHEREAS, the District is building a School of Engineering and Sciences (School) to be located on the District's Sojourner Truth School Park property (District Property) at the corner of Swale River Way and Gloria Drive in the Pocket area of Sacramento. The School will be a small public school with an eventual enrollment of approximately 500 students in grades 7 through 12. The District Property is shown and identified in Attachment A;

WHEREAS, the City is building a 15,000 square foot public library (Library) in the City's Pocket-Greenhaven neighborhood to be operated by the Library Authority pursuant to the February 22, 2007, Joint Exercise of Powers Agreement (as it now exists and as it may be amended in the future) creating the Library Authority (JPA). A copy of the JPA is attached as Attachment B and is incorporated into this MOU in full;

WHEREAS, the City is improving the athletic fields on the City's Sojourner Truth Park property (City Property), which is adjacent to the District Property. The City Property is shown and identified in Attachment A;

WHEREAS, in order to achieve maximum flexibility and efficiency in the design and construction of both the School and the Library, the City and District agreed that the Library would be constructed on a portion of the District Property that would be leased to the City and that shared athletic fields and parking lots would be constructed on portions of both the City Property and the District Property;

WHEREAS, the City and District entered into City Agreement No. 2008-0916 attached hereto as Exhibit 1, a lease for the portion of the District Property upon which the City is constructing the Library (Ground Lease);

WHEREAS, the City and District entered into City Agreement No. 2007-1090 and an Amendment to that Agreement (collectively, "Design and Construction MOU"), attached hereto as Exhibit 2, that specifies the obligations of the City and the District with respect to design, environmental review, construction, project management, and payment for all construction and improvements associated with the School, Library, and shared athletic fields and parking lots that are being constructed on the City Property and District Property. The School, Library, and shared athletic fields and parking lots are collectively referred to as "Improvements";

WHEREAS, Education Code section 10900 et seq. authorizes and empowers cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of public services that will contribute to the attainment of general recreational and educational objectives for children and adults in this State, including the provision of libraries, and to enter into agreements with each other for such purposes;

WHEREAS, the City and the District have a long tradition of working together on joint use projects for the benefit of the community; and,

WHEREAS, the Parties seek a long-term positive relationship.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

Section 1. PURPOSE

The purpose of this MOU is to set forth the rights and responsibilities of the Parties with respect to the maintenance, operation, and joint use of the Improvements so as to maximize the community's enjoyment of these resources.

Section 2. EFFECTIVE DATE; TERM

This MOU shall become effective on the Effective Date of the Ground Lease and shall remain in effect so long as the Ground Lease is in effect, unless earlier terminated pursuant to Section 10.

Section 3. PENAL CODE SECTION 627 ET SEQ.

To the extent any portion of the District Property located within Areas A, C, or D, as shown and identified in Attachment D, is considered to be part of the District's school grounds, the District exempts all such portions of the District Property from the operation of Penal Code sections 627 – 627.10, as amended, so long as this MOU is in effect.

Section 4. OPERATION OF LIBRARY

There is hereby established a Governing Board for the Library. The Governing Board of the Library Authority as it is constituted in the JPA shall be the Governing Board for the Library. The Authority shall have responsibility as authorized in the JPA for the development of the policies and the management, supervision, staffing, administration, operation, maintenance, and repair of the Library, except as otherwise agreed upon by the Library Authority and the District in a separate written agreement.

Section 5. JOINT USE OF ATHLETIC FIELDS AND PARKING LOTS

As set forth in Section 10.C. of the Design and Construction MOU, without regard to ownership, the City and the District desire to have cooperative joint use of the shared athletic fields and parking lots; therefore, the use of these facilities shall be subject to the Joint Use MOU between the City and District dated November 30, 1999 (City Agreement # 99-226). City Agreement #99-226 is incorporated in full into this MOU and is attached as Attachment C. Notwithstanding any provision of City Agreement #99-226 to the contrary, the District shall have the exclusive right to use the shared athletic fields from 7:00 am to 3:30 pm on all school days, and the City shall have the exclusive right to use the shared athletic fields at all other times and days; provided, however, members of the public may enter and remain in Area A, including the shared athletic fields, as shown and identified in Attachment D, at any time between sunrise and sunset seven days a week so long as it is for the peaceful use and enjoyment of the athletic fields and so long as such peaceful use and enjoyment does not interfere with the District's students' use during the school day, or interfere with either the City's or District's other use at other times.

The Library Authority's Board members, Director, officers, employees, contractors, and volunteers shall be permitted to use all the shared parking lots on the City Property and the District Property at any time for vehicle parking for the purpose of accessing the Library. Members of the public shall be permitted to use the shared parking lots in Area D, as shown and identified in Attachment D, for vehicle parking for the purpose of accessing the Library and Area A.

The Parties shall meet twice each calendar year to review and evaluate the cooperative joint use of the shared athletic fields and parking lots, including the scope of permitted access by members of the public.

Section 6. JOINT USE OF THE SCHOOL

The City's utilization of the School gymnasium/multi-purpose room and classrooms shall be subject to the District's Facility Use Policies and Procedures (as they presently exist or as they may be amended in the future).

Section 7. JOINT USE OF LIBRARY

The utilization of the Library by the District and its faculty and students shall be subject to a separate written agreement between the District and Library Authority.

Section 8. MAINTENANCE AND CAPITAL IMPROVEMENTS

A. The Parties' obligations for maintenance and repair of the Improvements, including but not limited to routine maintenance, incidental repairs, or equipment and materials to maintain the Improvements in an ordinary, efficient operating condition, are set forth in the Schedule of Maintenance Responsibilities that is attached as Attachment D and incorporated in full into this MOU.

The Parties shall meet twice each calendar year to coordinate and facilitate the maintenance and repair of the Improvements, reconcile any maintenance and/or repair issues, and to modify the Schedule of Maintenance responsibilities as appropriate. Any such modifications must be in writing and agreed to by all Parties, through their authorized representatives, without further authorization of the Parties' respective governing boards.

B. It is the intent of the Parties that responsibility for the costs incurred in making capital improvements, including but not limited to improvements that substantially prolong the life of the Improvements, materially increase the value of the Improvements, or adapt the Improvements to a new or different use, be allocated between the City and District in proportion to their financial contribution toward the construction of the Improvements. Except as otherwise provided in this section, capital improvement costs shall be allocated as follows (the maintenance areas described below refer to the Areas shown in Attachment D):

1. The City is responsible for 60% of the costs of capital improvements made in Areas A and D; the City is responsible for 100% of the costs of capital improvements made in Area C.

2. The District is responsible for 40% of the costs of capital improvements made in Areas A and D; the District is responsible for 100% of the costs of capital improvements made in Area B.

The Parties recognize that the cost allocation percentages in this section may not accurately reflect the actual usage and wear and tear of the Improvements attributable to a Party; therefore, the Parties agree that prior to undertaking any capital improvement, the Parties must agree in writing on whether to undertake a capital improvement and on the cost allocation of the capital improvement.

Section 9. UTILITIES

The City is responsible for all charges and assessments attributable to the 3-inch water meter. The District is responsible for all charges and assessments attributable to the 2-inch water meter that provides water service to the School. The Library Authority is responsible for all charges and assessments attributable to the 2-inch water meter that provides water service to the Library.

Section 10. TERMINATION; EVENTS OF DEFAULT

A. This MOU will terminate upon the following:

1. Termination or expiration of the Ground Lease for any reason, provided City and District do not negotiate for continuation or extension of the Ground Lease.

2. Failure of the Improvements to be fully constructed and accepted by the City and the District for any reason.

3. The failure by any Party to observe or perform any of the covenants, agreements or conditions provided for in this MOU, where the failure continues for a period of 30 days after written notice from a non-defaulting Party to the defaulting Party or Parties (unless such failure cannot reasonably be cured within such 30-day period and the defaulting Party shall have commenced to cure the failure within the 30-day period and continues diligently to pursue a cure).

B. Upon expiration or termination of this MOU, City and District agree to negotiate in good faith to re-construct, re-design, or otherwise alter the athletic fields and parking lots, or to otherwise negotiate satisfactory arrangements for joint maintenance and operation of the Improvements in order to allow the City and District full use and enjoyment of their respective real property.

Section 11. INSURANCE AND INDEMNITY

A. Indemnification/Hold Harmless/Defend. Each Party (hereafter "INDEMNIFYING PARTY") shall indemnify, defend and hold harmless the other Parties, their council members, trustees, board members, officers, agents, employees, or volunteers, from and against any and all loss, cost, damage, expense claim, suit, demand, or liability of any kind or character, including but not limited to reasonable attorneys fees, arising from any negligent or wrongful act or omission of the INDEMNIFYING PARTY, its council members, trustees, board members, officers, employees, agents, contractors or consultants occurring in connection with this MOU. No provision of this MOU with respect to insurance shall limit the extent of the indemnity provisions of this Section 11.

B. Commercial General Liability Insurance.

1. Each Party will procure and maintain commercial general liability insurance for bodily injury, personal injury, and property damage providing for minimum limits of \$1,000,000 arising from each occurrence and a \$2,000,000 general aggregate limit. Such insurance shall name the other Parties, their council members, trustees, board members, officers, agents, employees, volunteers, and invitees as additional insureds by endorsement and shall be insured with an insurance company licensed to do business in California possessing a Best Insurance Service rating of no less than A:VII.

2. Each Party shall require and verify that all contractors and subcontractors performing services for a Party on the property that is the subject matter of this MOU maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in this Section 11.

C. Workers' Compensation Insurance. Each Party will procure and maintain Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than \$1,000,000.

D. City Property Insurance. The City will procure and maintain or cause to be procured and maintained insurance covering all risk perils including flood on the Library with responsible insurers in an amount equal to the full replacement cost of the Library and the fixtures located in the Library, so long as such insurance is available from reputable insurance companies, and if it is not, then in such amounts and against such risks as the City deems advisable or necessary and as usually covered in connection with facilities similar to the Library. In particular, the City will procure and maintain property insurance on the Library, its improvements and alterations, and fixtures to the extent of at least 100 percent of the full replacement value thereof.

E. Library Property Insurance. The Library Authority will procure and maintain or cause to be procured and maintained insurance covering all risk perils including earthquake and flood on the Collections ("Collections" are defined to include but not be limited to materials such as books, magazines, microfilm, digital resources, or other items acquired by the Library Authority for the Library for educational or recreational purposes) and other personal property of the Library Authority located in the Library, with responsible insurers in an amount equal to the full replacement cost of the Collections and the other personal property of the Library Authority located in the Library, so long as such insurance is available from reputable insurance companies, and if it is not, then in such amounts and against such risks as the Library Authority deems advisable or necessary and as usually covered in connection with facilities similar to the Library. In particular, the Library Authority will procure and maintain property insurance on the Collections and the other personal property of the Library Authority located in the Library to the extent of at least 100 percent of the full replacement value thereof.

F. Insurance Proceeds.

1. In the event of any damage to or destruction of the Library or the fixtures located in the Library caused by the perils covered by insurance, the proceeds thereof may, in the sole discretion of the City, be applied to the reconstruction, repair, or replacement of the damaged or destroyed portion of the Library or the fixtures located in the Library.

2. In the event of any damage to or destruction of the Collections or the other personal property of the Library Authority located in the Library caused by the perils covered by insurance, the proceeds thereof may, in the sole discretion of the Library Authority, be applied to the reconstruction, repair, or replacement of the damaged or destroyed portion of the Collections or the other personal property of the Library Authority located in the Library.

G. Insurance Coverage Review Process. Not more frequently than each three years, if in the opinion of any of the Parties the amount of insurance coverage for each Party required by this Section 11 is at that time not adequate, each Party will consider increasing its insurance coverage as reasonably requested by the other Parties.

H. Self-Insurance and Pooled Risk. Any insurance required to be maintained pursuant to this Section 11 may be maintained under a self-insurance or pooled risk program so long as such self-insurance or pooled risk program is maintained in the amounts and manner usually maintained in connection with facilities similar to the Library.

I. Certificates of Insurance. Upon request, each Party shall provide the other Parties with written evidence of the insurance required in this Section 11 in the form of appropriate insurance certificates specifying amounts of coverage and expiration dates of all policies in effect, and naming the other Parties as additional insureds by endorsement, signed by the underwriter. The certificates shall contain an endorsement requiring ten 10 days prior written notice from the insurance company to the Library Authority, City, and the District, and each of them, before cancellation, non-renewal or change in the coverage scope, or amount of insurance; provided, however, in the event a Party exercises its right to satisfy the insurance requirements of this Section 11 through use of self-insurance or participation in a pooled risk program, that Party shall not be required to provide a certificate or certificates of insurance; instead, the Party shall provide the other Parties with a letter of self-insurance or pooled risk stating that Party's self-insurance or pooled risk program adequately protects against liabilities and claims the types of which the insurance required by this Section 11 are intended to protect against.

J. Waiver of Subrogation. The Library Authority, City, and District, and each of them, hereby release and relieve the others of them, and waive their entire rights of recovery against the others of them for loss or damage arising out of or incident to the perils insured against under any insurance policies carried by the Parties, and each of them, and in force at the time of any such damage, which perils occur in, on, or about the Library and to the fixtures, personal property, the improvements and alterations in, on, or about the Library, whether due to the negligence of the Library Authority, City, or the

District, or their council members, trustees, board members, officers, agents, employees, volunteers, and invitees. The Library Authority, City, and District, and each of them, shall upon obtaining the policies of insurance required under this MOU give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this MOU.

K. Survival of Term. The provisions of this Section 11 shall survive the expiration or earlier termination of this MOU until all claims against the Parties involving any of the indemnified matters are fully, finally, and absolutely barred by the applicable statutes of limitation.

Section 12. MISCELLANEOUS PROVISIONS

A. Relationship of Parties. The Parties agree that their agents and employees in the performance of this MOU are not officers, employees, or agents of the other Parties.

B. Entire Agreement. This MOU constitutes the entire and sole agreement of the Parties. It contains all understandings of the Parties and is a written integration of all promises, negotiations, and warranties between the Parties. No Party has made any representation, promise or warranty to the other except as expressly set forth in this MOU.

C. Further Actions. The Parties hereto agree to execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder.

D. Modifications. No modification of or amendment to this MOU may be made except in writing and signed by all Parties, with ratification or approval by the governing body of each Party.

E. Severability. The invalidity of any provision of this MOU shall in no way affect the validity of any other provision(s).

F. Waiver. No waiver by a Party of any provision in this MOU shall be deemed a waiver of any other provision or of any subsequent breach of the same or any other provision.

G. Section Headings. The section headings contained herein are for convenience only, and are not intended to define or limit the scope of any provision of this MOU.

H. Consent. A Party's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of such Party's consent to or approval of any subsequent act by another Party.

L. Counterparts. This MOU may be executed in counterparts so that signatures appear on separate signature pages. A copy, or an original, with all signatures appended together shall be deemed a fully executed MOU. Signatures transmitted by facsimile shall be deemed original signatures.

M. Governing Law. This MOU shall be interpreted using California law.

N. Incorporation of Attachments. All attachments are incorporated into this MOU.

THE PARTIES HEREBY AGREE TO THE TERMS AND CONDITIONS STATED IN THIS MOU AND ALL DOCUMENTS INCORPORATED BY REFERENCE

SACRAMENTO PUBLIC LIBRARY AUTHORITY
("Library Authority")

By: _____

Dated: _____

ATTEST:

APPROVED AS TO FORM:

Authority Counsel,
Sacramento Public Library Authority

CITY OF SACRAMENTO ("City")

By: _____

Dated: _____

ATTEST:

City Clerk, City of Sacramento

APPROVED AS TO FORM:

Michael T. Sparks, Senior Deputy City Attorney
City of Sacramento

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
("District")

By: _____

Dated: _____

APPROVED AS TO FORM:

Daniel Maruccia, District Counsel
Sacramento City Unified School District



City of Sacramento
Department of Parks and Recreation
 Pocket Library/School of ES Partnership

JOINT EXERCISE OF POWERS AGREEMENT
SACRAMENTO PUBLIC LIBRARY AUTHORITY

February 22, 2007

JOINT EXERCISE OF POWERS AGREEMENT
SACRAMENTO PUBLIC LIBRARY AUTHORITY

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JOINT EXERCISE OF POWERS AGREEMENT
SACRAMENTO PUBLIC LIBRARY AUTHORITY

This Agreement shall be effective as of July 1, 2007, by and among the following public entities:

- (a) COUNTY OF SACRAMENTO ("County")
- (b) CITY OF CITRUS HEIGHTS ("Citrus Heights")
- (c) CITY OF ELK GROVE ("Elk Grove")
- (d) CITY OF GALT ("Galt")
- (e) CITY OF ISLETON ("Isleton")
- (f) CITY OF RANCHO CORDOVA ("Rancho Cordova") and
- (g) CITY OF SACRAMENTO.

Each of the public entities shall also be referred to individually as "Party" and collectively as "Parties."

This Agreement amends and supersedes the Joint Powers Agreement between the City of Sacramento and the County of Sacramento creating the Sacramento Public Library Authority dated August 31, 1993 ("the 1993 Agreement"), in order to add additional Parties to the Authority and to modify various terms of the 1993 Agreement.

For the purposes of this Agreement, the County's jurisdiction shall be deemed to be the unincorporated area of the County of Sacramento.

RECITALS

WHEREAS,

The Parties to this Agreement have and possess the power and authority to acquire, construct, operate and maintain public library facilities for the purpose of providing public library services; and

The Parties recognize that a regional network of library services creates economies of scale and expanded library service opportunities for all; and

The Parties recognize that, because library users cross jurisdictional boundaries, a regional network of library services best serves the needs of all users; and

The Parties desire to operate a regional network of library services that provide open access to diverse resources and ideas that inspire learning, promote reading and enhance community life; and

There is a need for a coordinated and regional effort to plan, finance, provide and maintain facilities and public library services within the incorporated and unincorporated areas of Sacramento County to provide maximum benefit from available public funds; and

The Parties desire to establish a governance structure that represents all of the participating public entities and responds to the interests of constituents of large and small jurisdictions; and

The Parties desire to establish a stable funding system that recognizes the primary importance of funding a base level of services at all libraries, while also permitting some locally generated revenues to be allocated for local services at the discretion of the Parties' Governing Bodies; and

A coordinated system can best be achieved through the cooperative action of the Parties operating through a Joint Exercise of Powers Agreement; and

Each Party is authorized to contract with each of the other Parties for the joint exercise of any common power under the Joint Exercise of Powers Act (Government Code Title 1, Division 7, Chapter 5, Article I, Sections 6500 et seq.).

AGREEMENT

In consideration of the mutual promises contained herein, the Parties hereby agree as follows:

1. COMMON POWER TO BE EXERCISED

Each Party has in common the power to study, plan for, develop, finance, acquire, construct, maintain, repair, manage, operate, and control public library facilities. The purpose of this Agreement is to jointly exercise the foregoing common powers in the manner hereinafter set forth.

2. ESTABLISHMENT OF THE AUTHORITY

There is hereby established pursuant to the Joint Exercise of Powers Act (Government Code Sections 6500 et seq.) an Authority that shall be a public entity separate from the Parties to this Agreement. The name of the Authority shall be the SACRAMENTO PUBLIC LIBRARY AUTHORITY, and shall hereinafter be referred to as the "Authority." The boundaries of the Authority shall be coextensive with those of the Parties.

3. MINIMUM TERM AS PARTY TO AUTHORITY

Each Party agrees to continue as a Party to the Authority until at least June 30, 2010.

4. AUTHORITY POWERS

a. Powers. The Authority shall have the power in its own name to do any of the following:

- i. To exercise jointly the common powers of its Parties to provide public library services.
- ii. To participate in financing or refinancing library services or facilities in accordance with state law.
- iii. To make and enter into contracts necessary to the full exercise of its powers.
- iv. To hire and fire employees.
- v. To contract for the services of attorneys, planners, financial consultants, and other persons as it deems necessary.
- vi. To acquire, construct, manage, maintain, operate, lease, dispose of, and use any library facilities.
- vii. To acquire, hold, and dispose of property necessary to the full exercise of its powers.
- viii. To incur debts, liabilities or obligations subject to limitations herein set forth.
- ix. To levy and collect, consistent with the terms of this Agreement, special assessments and to issue revenue bonds as may be statutorily authorized.
- x. To levy and collect, consistent with the terms of this Agreement, special capital assessments as may be statutorily authorized.
- xi. To sue and be sued in its own name.
- xii. To prescribe, revise and collect fees and fines as a condition for utilization of its facilities in accordance with applicable statutory requirements.
- xiii. To apply for, accept and receive state, federal, or local licenses, permits, grants, loans or other aid necessary for the Authority's full exercise of its powers from any agency of the United States of America, the State of California, or any other public or private entity.
- xiv. To accept and receive gifts, contributions, donations, and bequests of property, funds, services and other forms of assistance as necessary for the Authority's full exercise of its powers.
- xv. To administer, to the fullest extent not prohibited by law, any trust declared or created for the Authority.

- xvi. To receive by grant, gift, devise or bequest and hold in trust or otherwise, property situated in this State or elsewhere and, where not otherwise provided, dispose of the property for the benefit of the Authority.
- xvii. To perform all acts necessary and proper to carry out fully the purpose of this Agreement and not inconsistent with any other provision of law.
- xviii. In compliance with Government Code Section 6509, which requires a Joint Powers Agreement to provide that it will exercise its powers subject to the restrictions upon the manner of exercising powers applicable to one of the contracting parties, and to so designate in the agreement, the Parties designate the City of Sacramento, a charter city, and agree that to the extent not herein specifically provided for, the Authority shall exercise any powers in the manner and according to methods provided under the laws applicable to the City of Sacramento.

- b. Limitation on Imposition of Assessments. The provisions of subsection a. notwithstanding, the Governing Board shall have no power to impose assessments within any Party's jurisdiction unless the Party's governing body first passes a resolution consenting to the assessment.
- c. Additional Powers to be Exercised. In addition to those powers common to each of the Parties, the Authority shall have those powers that may be conferred upon it by subsequently enacted legislation.
- d. Limitation on Powers. All the powers and authority of the Authority will be exercised by the Governing Board of the Authority, subject, however, to any rights expressly reserved by the Parties as herein set forth.
- e. Limitation on Issuance of Bonds. The provisions of subsection a. notwithstanding, the Governing board shall have no power to issue bonds on behalf of the Authority unless the governing body of each Party first passes a resolution consenting to the issuance of the bonds.

5. AUTHORITY LIABILITIES

The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the Parties. The Authority shall indemnify, defend and hold harmless the Parties for any acts or omissions of the Authority, its officers, employees, and agents, performed in connection with, or in any way related to, this Agreement.

6. AUTHORITY GOVERNING BOARD

- a. Composition of the Governing Board. The Governing Board of the Authority shall be composed of members as follows, who shall serve at the pleasure of each member's appointing authority:
- i. Five members of the Sacramento County Board of Supervisors.
 - ii. One member of the City Council of each participating City with a population of 50,000 or more, appointed by that City Council.
 - iii. One member appointed jointly by the City Councils of all of the participating Cities with a population less than 50,000 each, who shall be a member of one of the City Councils.
 - iv. Each City shall be entitled to appoint an additional member of its City Council for each 100,000 increment in its incorporated population above the threshold population of 50,000, up to a maximum of five members per City. (By way of example only, a city of 150,000 shall have two members, consisting of one member for the first 50,000 and one member for the next 100,000. A city of 320,000 shall have three members, consisting of one member for the first 50,000 and two members for the next 200,000. A city of 395,000 shall have four members, consisting of one member for the first 50,000, and three members for the next 300,000. A city of 450,000 or more shall have five members.)

The number of Governing Board members for each City shall be based upon the California Department of Finance Population Estimates for Cities and Counties issued pursuant to Section 2227 of the Revenue and Taxation Code and shall be adjusted annually on July 1, based on the Department of Finance Population Estimates for Cities and Counties issued in May of that year for the previous January 1. Members added by the adjustment shall begin serving on July 1.

NOTE: Based on January 1, 2006 population data and assuming all Cities in the County except Folsom participate, and subject to changes in population estimates as of January 1, 2007 as issued in May 2007, the initial number of Governing Board members is fourteen, as follows:

County Board of Supervisors	5 members
City of Citrus Heights	1 member

City of Elk Grove	1 member
City of Rancho Cordova	1 member
City of Sacramento	5 members
Cities of Galt/Isleton	1 member

- b. Alternates. Each Party may appoint alternates to the Governing Board, each of whom shall be an elected official of a local governmental entity within the County of Sacramento. Alternates shall be empowered to cast votes in the absence of the regular member or in the event of a regular member's disqualification to vote because of a conflict of interest.
- c. Governing Board Officers and Committees. The Governing Board shall elect a chair, a vice-chair, and other officers as the Governing Board shall find appropriate to serve the Authority for a term of one year unless terminated at the pleasure of the Governing Board. No person shall serve in the same office for more than two consecutive years. The chair may appoint committees of the Governing Board as the chair shall find appropriate. The Library Director shall serve as Secretary to the Governing Board, a non-voting office.
- d. Rules and Regulations. The Governing Board may adopt from time to time rules and regulations for the conduct of its affairs as may be required.
- e. Representation of New Parties. Newly incorporated cities and other cities that become Parties to this Agreement shall have the same representation on the Governing Board as existing Parties.
- f. Term of Office. Each Party shall establish the term of office for its members, subject to the requirement that the member is a member of the Party's Governing Board.

7. MEETINGS, QUORUM AND VOTING

- a. Meetings.
 - i. The Authority shall provide for regular meetings and special meetings in accordance with the Ralph M. Brown Act, Government Code Sections 54950 et seq., or in accordance with other regulations as the legislature may hereafter provide.
 - ii. The Governing Board shall set regular meetings. The date, time, and place of each regular meeting shall be fixed by the Governing Board.

- iii. Records of all actions taken by the Governing Board shall be kept and made available to the public in accordance with applicable law.
 - iv. The Governing Board may establish by resolution rates for the compensation of its members for attending meetings and shall adopt a policy for reimbursement of members' expenses.
- b. Quorum. A majority of the members of the Governing Board shall constitute a quorum for the conduct of business. Less than a quorum may vote to adjourn a meeting.

NOTE: Based on a membership of 14, the quorum would be 8 members of the Governing Board, including alternates. If the membership were to increase to 15, the quorum would still be 8. At a membership of 16, the quorum would be 9.

c. Tiered Voting.

- i. Each member of the Governing Board shall have one vote.
- ii. All actions taken by the Governing Board must receive a first tier approval, which shall require the affirmative vote of a majority of the members of the Governing Board.
- iii. All actions by the Governing Board must also receive a second tier approval, which shall require the affirmative vote of 50% or more of the Parties represented at the meeting. For purposes of this second tier approval, the vote of a Party is affirmative if 50% or more of its members present and voting cast an affirmative vote. For purposes of this tier, cities under 50,000 jointly sharing a vote shall count as one Party.

NOTE: Based on a Governing Board membership of 14, the first tier would require 8 votes to take action.

NOTE: For the second tier, a 50% vote requirement is required, rather than a majority or 50% plus one requirement.

If five or six Parties are represented at a meeting, the second tier would require at least three Parties to vote affirmatively. If three or four Parties are represented at a meeting, the second tier would require at least two Parties to vote affirmatively. If a Party has an even number of members present and voting, a tie (50-50) vote

among that Party's members counts as an affirmative vote for purposes of the second tier.

8. LIBRARY DIRECTOR

- a. Chief Executive Officer. The Library Director of the Sacramento Public Library shall be the chief executive officer of the Authority and shall be responsible to the Governing Board for the proper and efficient administration of the Authority pursuant to the provisions of this Agreement and any resolutions or orders of the Governing Board.
- b. Appointment of Library Director. The Governing Board shall appoint the Library Director, who shall serve at the pleasure of the Governing Board. The Governing Board may establish procedures for recruitment and hiring of the Library Director. The procedures shall include the participation of the Sacramento County Executive and the City Manager of each of the Parties. The Library Director shall meet the qualifications of a County Librarian as provided in Article 2, Section 19142 of the Education Code regarding County Free Libraries and shall also have the duties and responsibilities of a County Librarian as provided in Section 19146 of the Education Code.
- c. Powers and Duties. In addition to the other powers and duties provided, the Library Director shall have the power:
 - i. Under the policy direction of the Governing Board, to plan, organize, and direct all Authority activities.
 - ii. To authorize expenditures within the appropriations and limitations of the approved budget.
 - iii. To make recommendations to and requests of the Governing Board concerning all of the matters that are to be performed, done or carried out by the Governing Board.
 - iv. To have charge of, handle, or have access to any property of the Authority.
 - v. To apply for and negotiate for and administer grants and subventions from the State or Federal governments or other funding sources. All applications requiring matching or contributory funds must be approved by the Governing Board.
 - vi. To determine what books and other library materials and equipment shall be purchased, as provided by California Education Code Section 19146, subject to budgetary limitations.

- vii. To hire, supervise, and dismiss as necessary all authorized staff of the Authority.

9. TREASURER, AUDITOR, LEGAL COUNSEL

- a. Appointment of Treasurer and Auditor. The Governing Board shall appoint the Authority Treasurer and Authority Auditor from among the employees of the Authority. One employee may hold both positions. The Treasurer and Auditor shall comply strictly with the provisions of the statutes related to their duties set forth in the Joint Exercise of Powers Act (Government Code Sections 6500 et seq.)
- b. Treasurer. The Treasurer of the Authority shall be the depositor and the custodian of all the money of the Authority from whatever source and shall to the fullest extent permitted by law invest any surplus or trust fund for the benefit of the Authority.
- c. Auditor. The Auditor of the Authority shall cause an independent annual audit of the Authority finances to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Government Code. A report of the annual audit shall be filed with each Party. The Auditor shall draw warrants to pay demands against the Authority initiated by its authorized representatives pursuant to any delegation of Authority adopted by the Governing Board. The Auditor shall account for all funds belonging to the Authority and shall prepare reports of all receipts and disbursements in accordance with standard accounting procedures.
- d. Legal Counsel. Legal counsel to the Authority shall be appointed by the Governing Board and shall serve at the pleasure of the Governing Board.

10. RESPONSIBILITY FOR ADMINISTRATION AND IMPLEMENTATION OF AGREEMENT

- a. Responsibility for Administration. Upon execution of this Agreement, the Authority shall continue to have responsibility for all programs and activities related to the provision of public library services within the Parties' jurisdictions, including operation of the Library Galleria complex, café, and other spaces in the Central Library. The Authority shall retain any and all revenues received from these activities.
- b. Implementation of Agreement. The Governing Board is charged with implementation of the terms of this Agreement. The Governing

Board is authorized to modify the following provisions of this Agreement:

Base service levels (Section 11c(i), Appendix A)
Supplemental Funding Allocation Formula (Appendix B)
Facility Maintenance and Repair Funding and Capital Funding (Section 12d)
County Fund 11 Direct charges (Section 11c(iv))

11. SERVICE LEVELS, BUDGETING, FUNDING AND OTHER FINANCIAL PROVISIONS

- a. Annual Budget. Within 90 days after the commencement of each fiscal year (defined as July 1 to June 30), the Governing Board shall adopt a budget for the Authority for that fiscal year.
- b. Interim Financial and Budget Procedures. Fiscal Year 2007-2008 financial and budget procedures shall be based upon those financial budget procedures in place for Fiscal Year 2006-2007.
- c. Provisions Applicable to Libraries in County, Rancho Cordova, Elk Grove, Citrus Heights, Galt, and Isleton beginning in Fiscal Year 2008-2009
 - i. Base services

The first priority for funding services at all libraries in the County, Rancho Cordova, Elk Grove, Citrus Heights, Galt, and Isleton shall be to provide Base Services, which is defined as the level of service (hours) provided at these libraries during Fiscal Year 2006-2007, as outlined in Appendix A. Base Services shall include, but not be limited to, all operating costs, such as personnel, collections, utilities, janitorial and grounds maintenance services, and indirect costs.

The Governing Board may adjust the Base Services for these libraries.

ii. Enhanced Services

Enhanced Services are those services that exceed the Base Services, funded by the Annual Supplemental Funding Amount, as described in subdivision v. of this Section. Enhanced Services in each Party's jurisdiction shall be determined by the Governing Board of that Party. Enhanced Services include direct and indirect costs of providing the services.

Enhanced Services may also be funded by additional contributions from Parties. The funding may include a contribution from the Party's General Fund or other funds, or from the proceeds of a parcel tax, community services district, community facilities district, or other similar funding source. The funding shall be used for the support of library services within the contributing Party's jurisdiction.

iii. Budget for Base Services

The Authority shall prepare an annual Proposed Budget that identifies the direct cost of Base Services for each library. In addition, the Authority shall allocate indirect costs to each library according to an annual cost allocation plan prepared in accordance with Federal Office of Management and Budget Circular A-87.

iv. Funding Sources

All revenues received from the portion of the property tax allocated to the county free library system (County Fund 11) shall be collected by the County Auditor and remitted to the Authority without retention of funds by the County, except for payments due from the Authority to the County pursuant to the agreement dated May 28, 1996 relating to the Authority's pension liabilities to the County, debt service on the North Highlands-Antelope Library, allocated County costs incurred in collecting property taxes as permitted by statute, and as otherwise authorized by the Governing Board of the Authority.

Prior to the beginning of Fiscal Year 2008-2009, the Finance Advisory Committee shall work directly with, and provide recommendations to Authority staff concerning other direct charges charged against County Fund 11.

These libraries shall also be funded by revenues generated by the libraries and by other available funding sources such as state and federal grants, donations, and other revenues.

v. Annual Supplemental Funding Amount

After allocating direct and indirect costs for Base Services and setting aside prudent reserves, the Authority shall calculate the amount of remaining available funds, defined as the Annual Supplemental Funding Amount, which may be used for Enhanced Services.

Annual Supplemental Funding Amounts shall be allocated for use in libraries in Parties' jurisdictions according to the formula outlined in Appendix B. For purposes of this Agreement, the Rancho Cordova Library at 9845 Folsom Boulevard is considered to be located in Rancho Cordova. The Governing Board shall have the authority to revise the formula.

Any annual losses to the Authority's funding resulting from the establishment or expansion of redevelopment project areas within a Party's jurisdiction after the effective date of this Agreement shall be reimbursed to the Authority by deduction from the Party's proportionate share of the Annual Supplemental Funding Amount.

Each Party shall determine how to allocate its proportionate share of the Annual Supplemental Funding Amount for library services. Parties' Annual Supplemental Funding Amount may be used for Enhanced Services such as additional hours of service or additional collection materials, including any additional indirect costs, capital investment, maintenance and repairs, or other library purposes, or may be retained in a reserve held in that Party's name for those purposes.

The Authority will set up reserve accounts within the fund accounting system to track any carryover of Parties' Annual Supplemental Funding Amounts.

d. Provisions Applicable to Libraries in the City of Sacramento beginning Fiscal Year 2008-2009.

Levels of service in City of Sacramento libraries shall be based on the funding available from the City of Sacramento. The City of Sacramento shall notify the Authority of its appropriation for the Authority no later than July 1 of each year.

The Authority shall prepare an annual budget for City of Sacramento libraries that shall include, but not be limited to, all operating costs, such as personnel, collections, utilities, janitorial and grounds maintenance services, and indirect costs. The Authority shall allocate indirect costs according to an annual cost allocation plan prepared in accordance with Federal Office of Management and Budget Circular A-87.

Direct and indirect costs for the operation of City of Sacramento libraries shall be funded by contributions from the City's General Fund and assessment district/parcel tax proceeds.

These libraries shall also be funded by revenues generated by the libraries and by other available funding sources such as state and federal grants, donations, and other revenues.

e. Finance Advisory Committee.

A Finance Advisory Committee shall be established at the staff level. The Committee shall have staff representation from all Parties and shall work directly with, and provide recommendations to, Authority staff on implementing financial provisions of this Agreement, including, but not limited to, Base Services level (Section 11c(i), Appendix A), County Fund 11 direct charges (Section 11c(iv)), supplemental funding allocation formula (Appendix B), facility maintenance and repair funding and capital funding (Section 12), and indirect costs (Section 11c(iii)).

f. Other Financial Provisions.

- i. Special taxes or other similar levies imposed by Parties for library purposes shall be remitted by the Parties to the Authority.
- ii. Special taxes or other similar levies collected within a Party's jurisdiction for library purposes shall be allocated by that Party for Enhanced Services as described in Section 11 hereof (except for the City of Sacramento, which shall continue to fund services with its assessment district/parcel tax funds).
- iii. The Authority shall collect and receive other revenues, such as fees and fines, and shall deposit these other revenues in the appropriate funds.
- iv. The Authority shall collect and receive special revenues for specific purposes, and shall account for these revenues in separate funds as appropriate, and shall expend these funds for the purpose for which they were received.
- v. The Governing Board shall establish prudent reserves.

12. FACILITIES

a. Current Facilities.

This Agreement does not alter the ownership of library facilities. Parties whose facilities are owned by other entities may acquire title by agreement with the current owner, provide their own library facilities, or continue to have them provided by the other entity. For purposes of this Agreement, the Rancho Cordova library at 9845 Folsom Boulevard is considered to be located in Rancho Cordova.

Leased facility costs that are paid from the Authority's General Fund as of the effective date of this Agreement shall continue to be funded as part of Base Services for libraries in those facilities.

b. Future Facilities.

Each Party shall provide capital funding for future facilities within its own jurisdiction, including furniture, fixtures and equipment (FF&E), technology resources, and the opening day collection, and shall be responsible for construction of new and remodeled facilities. FF&E, technology resources, and the opening day collection shall become the property of the Authority when the facility is turned over to the Authority for operation.

Whenever a Party constructs a facility to be operated by the Authority, the Library Director shall advise the Party in all matters regarding the site, design and construction of the facility. The Party and the architects retained by the Party shall consult with the Library Director as often as the latter deems necessary to the proper exercise of his/her responsibilities. The Party shall obtain advance written approval from the Authority of all plans and specifications for the facility.

Parties shall be responsible for funding debt service, lease payments and similar obligations on future library facilities within their jurisdictions. The Annual Supplemental Funding Amount may be used for these obligations.

c. Maintenance and Repair of Facilities.

Parties that own library facilities shall be responsible for all capital improvements and capital repairs made to their respective library facilities, including major repair and replacement of building structure, HVAC systems, plumbing, roofing and other elements. Should the Authority incur any costs for a capital improvement or capital repair, the Authority shall, with appropriate approval of the Party, bill the Party for costs that were the responsibility of the Party.

The Authority shall be responsible for providing and funding janitorial, landscape and other routine maintenance for all facilities.

d. Funding Capital Improvements and Capital Repairs

For libraries in County, Rancho Cordova, Elk Grove, Citrus Heights, Galt, and Isleton, the Governing Board shall develop a methodology for providing necessary funding for capital improvements and capital repairs that shall take into account the fact that some of these costs have historically been paid from County Fund 11. Prior to the beginning of Fiscal Year 2008-2009, the Finance Advisory Committee shall work directly with Authority staff to provide recommendations on implementing this methodology.

Capital improvements and capital repairs for libraries in the City of Sacramento shall be funded by the City of Sacramento.

e. Joint Facilities

The Authority may operate joint library facilities serving more than one Party. The Authority may participate with other entities in the operation of joint use library facilities.

13. ADDITIONAL AND EXPANDED LIBRARIES

The Governing Board shall approve planning for, and operation of, new libraries and expansions of existing libraries. The Governing Board shall annually consider proposals for new libraries and expansions of existing libraries. The Governing Board shall measure and compare existing library square footage per capita, population growth, service demand factors, existing facilities, growth in property tax revenues, the status of other future library capital development proposals, and other appropriate factors for the library service areas of the proposed new and expanded facilities. The Governing Board shall base its decision whether to approve new libraries or expansions of existing libraries on these measurements and other factors related to availability of capital and operating funds for the proposed new libraries and expanded libraries.

Operations at new libraries will be funded at the same level of Base Services as at similar existing libraries.

14. INSURANCE AND INDEMNIFICATION

The Authority shall maintain adequate liability insurance or a self-insurance program for the operation of the library system and shall give the Parties adequate assurance that the Parties, their officers and employees, are not deemed to assume any liability for intentional or negligent acts or omissions of the Authority or any officer or employee thereof.

Except as otherwise provided in this Agreement, the funds of the Authority shall be used to defend, indemnify and hold harmless any member of the Governing Board for his or her actions taken within the scope of the authority of the Authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide this coverage.

The Governing Board shall set any bond requirements for the Library Director, Treasurer, and Auditor.

15. SERVICES PROVIDED TO AUTHORITY BY PARTIES

Any Party may provide system-wide or other services to the Authority, pursuant to contracts entered into between the Party and the Authority, which contract shall provide for payment by the Authority for services rendered based on periodic invoices. These services may include, by way of example only, vehicle maintenance services or security alarm services.

16. ADMISSION OF NEW PARTIES

- a. Incorporation of New Cities. Upon incorporation, a new city in Sacramento County automatically shall have the right to become a Party to the Authority. The right shall be exercised by resolution of its City Council authorizing execution of this Agreement, as it may be amended. New cities shall be funded as set forth in subsection c of Section 11.
- b. Existing Cities. Cities in Sacramento County other than newly incorporated cities may petition the Governing Board to become a Party to the Authority on such terms as the Governing Board may determine and the petitioning city may accept.

17. WITHDRAWAL FROM AUTHORITY

Any Party may withdraw from the Authority as of the end of any fiscal year (but not earlier than June 30, 2010) upon no less than one year's written

notice to the other Parties and to the Authority. Upon withdrawal, a Party shall retain only those capital facilities to which it has title. The Authority shall retain all personal or unsecured property used in the provision of library services, including but not limited to furniture, fixtures, technology resources, equipment, and library collections and materials, except for personal or unsecured property purchased directly by the withdrawing party or as otherwise negotiated between the Authority and the withdrawing party.

Withdrawal by all but one of the Parties shall constitute a termination of the Agreement as of the end of the fiscal year in which the penultimate Party withdraws.

18. DISPOSITION OF AUTHORITY ASSETS AND LIABILITIES UPON TERMINATION

- a. Successor Public Entity. In the event of termination of the Authority where there is a successor public entity, approved by all of the Parties, that will carry on the activities of the Authority and assume its assets, liabilities, obligations and funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, the assets and liabilities of the Authority shall be transferred to the successor public entity.
- b. No Successor Public Entity. If there is no successor public entity that will carry on any of the activities of the Authority or assume any of its assets, liabilities, obligations, and funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, the assets and liabilities shall be returned to the Parties in proportion to the contribution of each Party during the term of its participation in the Authority.
- c. Partial Successor Public Entity. If there is a successor public entity that will undertake some of the functions of the Authority and assume some of its assets, liabilities, obligations, and funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, the assets and liabilities shall be allocated by the Governing Board between the successor public entity and the Parties.
- d. No Termination While Bonds Outstanding. If bonds are issued during the term of this Agreement, then in no event shall the exercise of the powers herein granted be terminated until all bonds so issued and the interest thereon shall have been paid or provision for such payment shall have been made.

- e. Decisions of Governing Board Final. In the event the Authority is terminated under circumstances described in subsection b. or c. above, all decisions of the Governing Board with regard to determinations of assets or liabilities to be transferred to the Parties or any successor entity shall be final.

19. MISCELLANEOUS PROVISIONS

- a. Reports. The Authority shall report annually to each of the Parties on the activities and funding of the Authority.
- b. Amendments. Except as provided in Section 10b or elsewhere in this Agreement, this Agreement may be amended only by mutual agreement of the governing bodies of all of the Parties.
- c. Partial Invalidity. If any provision of this Agreement is determined to be unlawful or invalid, the other provisions of this Agreement shall remain in full force and effect.
- d. Agreement Superseded. This Agreement amends and supersedes the Joint Powers Agreement between the City of Sacramento and the County of Sacramento creating the Sacramento Public Library Authority dated August 31, 1993.
- e. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same Agreement.
- f. Notices. All notices to be given to a Party under this Agreement shall be in writing and sent by first class mail, postage prepaid, to the City Manager and City Attorney.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

APPENDIX A

LIBRARY BASE OPEN HOURS 2006/07

County unincorporated, Rancho Cordova, Elk Grove, Citrus Heights, Galt, and Isleton

Library	Jurisdiction	# of Hours
Arcade	County unincorporated	43
Arden	County unincorporated	43
Carmichael	County unincorporated	43
Courtland	County unincorporated	27
Elk Grove	Elk Grove	43
Fair Oaks	County unincorporated	43
Franklin Franklin open hours are jointly funded by the Authority and the Elk Grove Unified School District as a joint use library. The Authority Base Services level is currently 31 hours per week. Should Franklin ever operate as a public library only (not a joint use library), the Authority would fund its Base Services at a level equal to similar libraries.	Elk Grove	58.5
Galt	Galt	35
Isleton	Isleton	20
North-Highlands Antelope	County unincorporated	43
Orangevale	County unincorporated	35
Rancho Cordova	Rancho Cordova	43
Rio Linda	County unincorporated	29
Southgate	County unincorporated	43
Sylvan Oaks	Citrus Heights	44
Walnut Grove	County unincorporated	29

City of Sacramento

LIBRARY	# of Hours
Central	50
Colonial Heights	43
Belle Cooleage	43
Del Paso Heights	35
Martin Luther King, Jr.	43
McClatchy	34
McKinley	36
South Natomas	43
North Natomas	43
North Sacramento	35
Valley-Hi North Laguna	37

APPENDIX B

Supplemental Funding Allocation Formula

Property Tax Percentage

The Authority shall calculate each Party's percentage of property taxes contributed to the county free library system (County Fund 11) (which shall sum to 100%), based on the County Auditor's office calculation of these amounts, including amounts allocated from the Special District Augmentation Board (SDAF), from the most recently completed fiscal year.

NOTE: The methodology for this allocation shall be consistent with the methodology used in the County Auditor's June 5, 2006 report. The methodology will be detailed in a separate document.

Circulation

The Authority shall determine the circulation percentage for each Party from the most recent fiscal year. Circulation percentage shall be defined as the circulation taking place in all libraries within the Party's jurisdiction divided by the total circulation taking place in all libraries within the Authority, as calculated during the period of the most recently completed fiscal year.

NOTE: This definition excludes customer initiated web-based circulation that does not take place within a library building.

Service Area Population

The Authority shall determine the "service area population" percentage for each Party from the most recent fiscal year. Service area population percentage shall be defined as population of the service area served by each library, as determined by library service area mapping.

Annual Supplemental Funding Factor

The Authority shall calculate each Party's "Annual Supplemental Funding Factor" which shall be the average of each Party's percentage of property taxes, each Party's circulation percentage and each Party's service area population percentage. Each Party's supplemental funding factor shall be multiplied by the total Annual Supplemental Funding Amount to determine each Party's proportionate share of the total Annual Supplemental Funding Amount.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By Don Nottoli
Chair of the Board of Supervisors
Date: April 10, 2007

Approved as to form:
[Signature]
Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: Mayor
Date: 4-13-07

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By James Cepe
Title: Mayor
Date: _____

Approved as to form:

[Signature]
Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

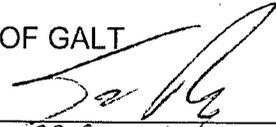
CITY OF ELK GROVE

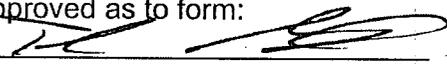
By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By  _____
Title: Mayor
Date: April 10, 2007

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By David D. B...
Title: City Manager
Date: 7.31.07

Approved as to form:
L.W. Dai for MEV
Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By Ted Gaebler
Title: City Manager Ted Gaebler
Date: 3-30-07

Approved as to form:

[Signature]
Rancho Cordova City Attorney

CITY OF SACRAMENTO

By _____
City Manager
Date: _____

Approved as to form:

Sacramento City Attorney

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement on the dates set forth below.

COUNTY OF SACRAMENTO

By _____
Chair of the Board of Supervisors
Date: _____

Approved as to form:

Sacramento County Counsel

CITY OF CITRUS HEIGHTS

By _____
Title: _____
Date: _____

Approved as to form:

Citrus Heights City Attorney

CITY OF ELK GROVE

By _____
Title: _____
Date: _____

Approved as to form:

Elk Grove City Attorney

CITY OF GALT

By _____
Title: _____
Date: _____

Approved as to form:

Galt City Attorney

CITY OF ISLETON

By _____
Title: _____
Date: _____

Approved as to form:

Isleton City Attorney

CITY OF RANCHO CORDOVA

By _____
Title: _____
Date: _____

Approved as to form:

Rancho Cordova City Attorney

CITY OF SACRAMENTO

By Marty Hanneman

Marty Hanneman, Assistant City Manager
For: Ray Kerridge, City Manager/ March 30, 2007

Approved as to form:
Angela Casagrande
Sacramento City Attorney

ATTEST:

Dawn Bullwinkel
CITY CLERK

CITY
AGREEMENT NO. 2007-0290

AGREEMENT

THIS AGREEMENT, dated November 30, 1999, is made and entered into by and between the

CITY OF SACRAMENTO, a municipal corporation,
hereinafter referred to as 'CITY',

And

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,
hereinafter referred to as 'SCUSD'

WITNESSETH:

WHEREAS, CITY and SCUSD desire to maximize use of their public facilities;

WHEREAS, CITY owns recreational facilities which it wishes to make available for use by SCUSD for activities that strengthen the education systems/programs in the community;

WHEREAS, SCUSD owns educational facilities which it wishes to make available for use by the CITY for recreational and important public purposes.

WHEREAS, Education Code Section 10900 et seq authorizes and empowers cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of public services which will contribute to the attainment of general recreational and educational objectives for children and adults of this State, and to enter into agreements with each other for such purpose.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. TERM

The term of this Agreement shall commence on the date of execution set forth above and shall continue from year to year unless terminated by either party pursuant to the terms of Section 10 below.

CITY AGREEMENT NO. 99-226

2. USE OF FACILITIES

A. The term 'facilities' shall be used for the purposes of this Agreement to mean any place, structure, area, classroom or facility used for recreational/educational purposes, whether or not it is used primarily for other purposes. The terms of this Agreement shall apply to all recreational/educational facilities owned by CITY or SCUSD with the exception of those facilities listed on Exhibit 'A', a copy of which is attached and incorporated. Both parties agree to explore the possibility of some joint use access to those facilities listed on Exhibit 'A'.

B. CITY shall permit SCUSD to use its facilities and grounds with the necessary city equipment required for public and recreational purposes, without charge, as long as the use does not conflict with the regular conduct of park, recreation and public service activities. The first priority for use of CITY's facilities shall be activities sponsored in whole or in part by CITY; activities sponsored by SCUSD shall have next priority; activities sponsored by other entities, third priority.

C. SCUSD shall permit CITY to use its facilities and grounds, with the necessary SCUSD equipment required for public and recreational purposes, without charge, as long as use does not interfere with regular school activities, programs and other SCUSD uses. The District, in its complete discretion, shall determine the priority of use for its facilities. The following guidelines for priorities shall be considered in dealing with priority of use, except that no current user shall be completely displaced by the application of these guidelines without the availability of a viable alternative facility. First priority for use of SCUSD's facilities shall be regular and special school programs, PTA, parent activities, Healthy Start, summer school activities. Activities sponsored by CITY shall have next priority, in the following order: CITY sponsored and/or school connected youth programs (e.g. sports camps, START), other recreation activities scheduled by CITY.

D. Each party shall have the right to charge a reasonable fee to participants for participation in the recreational and educational activities sponsored by it at the other party's facilities.

E. Each party shall provide, at its own expense, any personnel necessary for the direction, supervision or safety of recreational and public activities sponsored by it at these facilities.

F. Each party shall provide all utilities necessary for use of the recreational/educational facilities owned by it.

G. As feasible, SCUSD shall attempt to provide at CITY's expense adequate temporary office and storage space at SCUSD facilities for the regular conduct of CITY park, recreation and public service activities. As feasible, CITY shall attempt to provide at SCUSD's expense adequate temporary office and storage space at CITY facilities for the regular conduct of SCUSD business.

H. CITY or its agents shall enforce and abide by all SCUSD rules, regulations, ordinances and policies while directing activities on SCUSD facilities; SCUSD or its agents shall enforce and abide by all CITY rules, regulations, ordinances and policies while directing activities on CITY facilities. Each party shall provide copies of all relevant rules, regulations, ordinances and policies to the other party.

I. Pursuant to paragraphs B and C of this section, neither party shall charge fees for the other agency's use of the facilities. Necessary additional out-of-pocket expenses for costs related to the use of facility such as security, portable toilets, and extra clean up shall be the responsibility of the user agency. The user agency can provide its own security if the security plan meets the approval of the host agency.

J. Within reasonable limits, CITY and SCUSD staff will agree on custodial coverage so as to provide CITY, SCUSD and public usage with no cost to user. Activities will be scheduled in advance so that custodial support can be provided. A joint custodial services and supplies plan will be developed by both parties and revised semi-annually in conjunction with the semi-annual master calendar development described in Section 3.

The CITY and public uses shall cover costs associated with custodial coverage in situations where there is an 'extended burden'. An extended burden would be a custodial requirement that could not be covered through adjusting the current custodial support for the site, requires the paying of overtime or has collective bargaining implications.

K. Each agency shall maintain its facilities in good repair and provide day to day maintenance, utilities and custodial services and supplies, structural repair, and replacement or repair of major equipment. Costs associated with additional operations, exceptional facility use, maintenance and custodial services beyond fair wear and tear shall be set at a mutually agreed upon rate, to be assessed annually, except where an addressing Memorandum of Understanding Agreement containing different provisions exists between the City and District.

L. The CITY and SCUSD shall develop an emergency access policy so that designated CITY staff or SCUSD staff can open and close facilities if owning agency personnel are not available during the proposed use.

3. SCHEDULING OF FACILITIES

CITY shall be responsible for scheduling all reserved CITY use of SCUSD facilities during non-school hours for purposes sponsored by CITY. SCUSD shall be responsible for scheduling all reserved SCUSD use of CITY facilities for purposes sponsored by SCUSD. The scheduling shall be subject to the following terms and conditions:

A. CITY staff and SCUSD staff shall meet twice a year at prescheduled intervals to develop a master calendar for use of CITY and SCUSD facilities. Dates agreed to shall be finalized through issuance of a permit by the respective agency. In every use, the schedule shall be arranged so as not to conflict with recreation and school uses.

B. Both agencies shall designate staff to act as their Facility Scheduling Representative for purposes of submitting requests. Both agencies agree to maximize the twice annual calendaring process as identified in Paragraph A above to streamline and reduce the volume of staff requests for facility use between semi-annual calendaring meetings.

C. Requests for facility use shall be processed through each agency's central permit processing office. Each agency's central permit office will be responsible for verifying availability of that agency's facilities prior to approving a Facility Use Application.

D. All requests for CITY use of SCUSD facilities shall be submitted on SCUSD Facility Use Application forms. All requests for SCUSD use of CITY facilities shall be submitted on CITY Facility Use Application forms.

4. CANCELLATION OF RESERVED SPACES

A. CITY shall endeavor to provide SCUSD with a minimum of fourteen (14) calendar days notice when canceling approved uses of SCUSD facilities. SCUSD shall endeavor to provide CITY with a minimum of fourteen (14) calendar days notice when canceling approved uses of CITY facilities.

B. Once a permit is issued it shall not be canceled by the owning agency unless the facility is deemed unsafe or due to situations beyond control of owning agency. The using agency

shall be compensated for out of pocket expenses incurred prior to the date of cancellation if a facility date is canceled.

C. The owning agency shall make every good faith effort to locate an alternative site for the scheduled activity in the event of a cancellation.

5. IMPROVEMENTS TO PROPERTY

The CITY and SCUSD shall jointly identify resources and capital and equipment needs that will facilitate enhanced joint and public use. SCUSD and CITY shall develop a reasonable cost sharing agreement on those capital and equipment items that are directly related to and essential for joint and public use (e.g. shared costs for gym floor replacement, for replacement of basketball hoops, for repair of district swimming pools that are available to the public, to purchase storage and security devices to enable classrooms to be available for non school hour uses). The cost sharing agreement shall be based on the proportional usage of the facilities or equipment by each agency.

The CITY's proportional use shall include the use of school facilities by the CITY. SCUSD's proportional use shall include the use of city facilities by SCUSD. The owning agency shall repair or replace those items mutually agreed upon by the two agencies. City's contribution to the cost thereof, shall be from a capital improvement designated for that purpose. Replacement of such equipment over time shall be by the owning agency in consultation with the other party.

The SCUSD and CITY agree to work with public members to seek community involvement in capital replacements (i.e., parent participation projects, private donations), if deemed appropriate by the CITY and SCUSD.

CITY may install sprinkler systems, turfing, playground equipment, fencing, and additional recreational equipment on SCUSD facilities provided such installation is not in conflict with school use and subject to advanced written approval of the Superintendent or his/her designee. SCUSD shall be responsible for all maintenance and repair of any CITY installed improvements upon completion of the project and approval and acceptance by SCUSD. Any such improvements shall become the property of SCUSD.

6. MEET AND CONFER

CITY and SCUSD shall meet on a quarterly basis, as mutually agreed, to discuss operational issues and correct deficiencies.

CITY and SCUSD each shall document any misuse of facilities by the other party on written incident reports, which shall be submitted to the other party within three (3) business days after the incident occurred, or the notifying party gains knowledge of such an incident. CITY and SCUSD shall provide written responses to all incident reports within five (5) business days of receipt. Action, which results from the incident reports, including reduction or cancellation of scheduled facility use, shall be by mutual agreement between CITY and SCUSD.

7. INDEMNIFICATION

The parties agree to be bound by the terms of that certain Memorandum of Understanding between CITY and the Schools Insurance Authority, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit B.

8. INSURANCE

A. During the term of this Agreement, SCUSD shall maintain a comprehensive liability insurance policy providing coverage for public liability, bodily injury and property damage.

B. During the term of the Agreement, CITY shall either be self-insured or maintain a comprehensive liability insurance policy providing coverage for public liability, bodily injury and property damage.

9. AGREEMENT AMENDMENTS

No amendments to this agreement shall be of any force or effect, unless the same is in writing and executed by the parties hereto.

10. ASSIGNMENT

Neither SCUSD nor CITY may assign or transfer this Agreement, or any part thereof, without the prior written consent of the other party.

11. TERMINATION

Either CITY or SCUSD may terminate this Agreement upon giving the other party at least ninety (90) days prior written notice.

12. NOTICES

Notices and communication concerning this Agreement shall be sent to the following addresses:

CITY

City of Sacramento
Recreation Manager
1231 I Street, Room 400
Sacramento, CA 95814

SCUSD

Sacramento City Unified School District
Asst Superintendent
520 Capital Mall
Sacramento, CA 95814

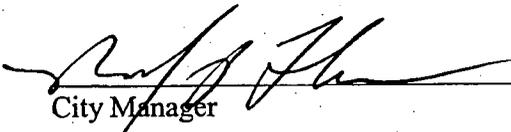
13. PRIOR AGREEMENTS

This agreement supersedes the prior agreement (City Agreement No. 81069) relating to joint use.

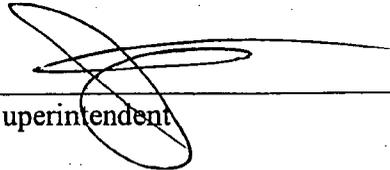
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates-set forth above.

CITY OF SACRAMENTO,
A Municipal Corporation

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT



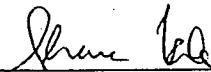
City Manager



Superintendent

APPROVED AS TO FORM:

APPROVED AS TO FORM:

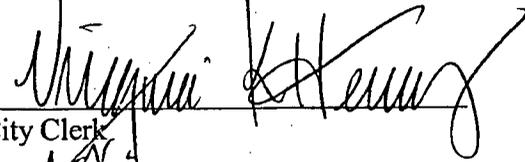


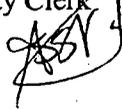
Deputy City Attorney



SCUSD Attorney

ATTEST:



City Clerk


CITY
AGREEMENT NO. 95-226

EXHIBIT A

FACILITIES NOT COVERED BY THIS AGREEMENT

1. FACILITIES OWNED BY CITY

Self-supporting facilities such as the Sacramento Convention Center and Memorial Auditorium, golf courses, marina, Sacramento Softball Complex, Camp Sacramento and city owned parking lots. Quasi-government facilities or facilities operated by non-profit organizations such as the Sacramento Zoo, Crocker Art Museum, Discovery Museum, History Archives, and City Cemetery.

2. SCHOOL DISTRICT FACILITIES

None.

Memorandum of Understanding
City of Sacramento
Schools Insurance Authority
Hold Harmless and Indemnification Provisions

Introduction

The City of Sacramento (hereinafter the City) is a public entity which enters into contractual agreements and Memorandums of Understanding (MOU) with California public school districts (hereinafter districts). Such agreements include but are not limited to agreements for processing parking tickets, providing programs such as arts programs and other educational or youth oriented programs including the 4R program, purchase of meals, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

The Schools Insurance Authority (hereinafter SIA) is a joint powers authority which provides programs to cover its member school districts' general liability (including automobile liability), property and workers compensation exposures. SIA member districts (hereinafter SIA districts) in Sacramento County include Arcohe Union School District, Center Unified School District, Del Paso Heights School District, Elk Grove Unified School District, Elverta Joint School District, Folsom Cordova Unified School District, Galt Joint Union Elementary School District, Galt Joint Union High School District, Natomas Unified School District, North Sacramento School District, Rio Linda Union School District, River Delta Unified School District, Robla District, Sacramento City Unified School District, the Sacramento County Office of Education, and the San Juan Unified School District. Many SIA districts enter into contractual agreements and MOUs with the City. Such agreements include but are not limited to agreements for processing parking tickets, the City providing programs such as arts programs and other educational or youth oriented programs, the sale of meals to the City, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

Purpose

There is a need to reduce litigation costs between the City and SIA districts when both are named as defendants, in tort lawsuits arising out of their contractual agreements, Memorandums of Understanding and other joint activities. When two or more public entities are named defendants, each determines their respective litigation position, which can result in claims and counter claims between them. These actions increase claim and legal costs, consume large amounts of staff time and may result in the plaintiff playing the parties against each other.

The parties to this agreement are resolved to utilize equitable hold harmless indemnification language in the contractual agreements and MOU between the city and SIA districts and to minimize disagreements arising out of said hold harmless and indemnification provisions.

CITY
AGREEMENT NO. 2001-050
1

In addition, the parties to this MOU are resolved to reduce litigation expenses through a coordinated program for handling tort claims and the subsequent lawsuits filed against the City and SIA districts which arise out of their contractual agreements, Memorandums of Understanding and other joint activities.

Agreement

The City and SIA agree to use the hold harmless language outlined in the Hold Harmless Agreement section of this MOU in contractual agreements and MOUs between the City and SIA districts with the exception of the districts' use of Memorial Auditorium and the Sacramento Convention Center. For use of the Sacramento Convention Center, other hold harmless language may be used and the districts will be given the option of purchasing through the City, special events coverage covering the district's use of the Memorial Auditorium and Sacramento Convention Center. The cost of the special events coverage shall be added to the district's cost for using the Memorial Auditorium or Sacramento Convention Center. SIA shall recommend that SIA districts purchase the special events coverage.

When a third party claim is made against the City or an SIA district or an incident is disclosed that may lead to a claim, the initially involved entity determines if other entities may also be included in subsequent litigation. The knowledgeable entity then apprises the other entities and investigations are shared.

Using the results of the investigations, the City and SIA will discuss the potential liability of the parties pursuant to the applicable hold harmless and indemnification clauses before cross-actions are filed. All reasonable efforts will be made to reach consensus on each parties' respective responsibilities under the hold harmless and indemnification language of the agreement. Such efforts shall be made prior to the filing of any cross actions. If consensus is reached on the liability issues, a joint defense strategy and cost sharing arrangement may be agreed to.

Best efforts will be used in assessing liability apportionment between the parties, but it is understood that this MOU does not bind the parties without the consent of all the involved parties.

Hold Harmless Agreement

INDEMNIFICATION

DISTRICT shall assume the defense of and indemnify and hold harmless CITY from and against all actions or claims against CITY, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by CITY by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the CITY, its officers, agents or employees and except for actions or claims alleging dangerous

conditions of CITY property which arise out of the acts or failure to act by the CITY, its officers, agents or employees which are not created by a DISTRICT employee or District invitee.

CITY shall assume the defense of and indemnify and hold harmless DISTRICT from and against all actions or claims against DISTRICT, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by DISTRICT by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the DISTRICT, its officers, agents or employees and except for actions or claims alleging dangerous condition of DISTRICT property which arise out of the acts or failure to act by the DISTRICT, its officers, agents or employees which are not created by a CITY employee or CITY invitee.

The indemnification provisions contained in this Agreement includes but is not limited to any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of either party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

It is the intent of the Parties that where negligence or responsibility for injury or damages is determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

Each party shall establish procedures to notify the other party, where appropriate, of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification section. The Parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this agreement. Nothing set forth in this Agreement shall establish a standard of care for or create any legal rights for any person not a party to this Agreement.

The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

INSURANCE

City Insurance. CITY, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program or pooled insurance, if any. The CITY must provide an affidavit of self-insurance, if any.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 1) Premises Operations
- 2) Blanket Contractual
- 3) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 1) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 2) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto (Only used when applicable to agreement)

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by CITY, and any approval of said insurance by the DISTRICT, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

District Insurance. DISTRICT, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program. The DISTRICT must provide an affidavit of self-insurance, or pooled insurance, if any.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 4) Premises Operations
- 5) Blanket Contractual
- 6) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 3) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 4) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto *(Only used when applicable to agreement)*

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by DISTRICT, and any approval of said insurance by the CITY, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by DISTRICT pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

All insurance requirements shall be met by all parties prior to the commencement of any of the activities required of the parties under this Agreement.

Severability

Should any portion, term, condition, or provision of this MOU be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

Term

The terms of this MOU shall commence upon signature by all parties authorized to enter into this MOU by approval of their respective governing body and shall automatically be renewed thereafter from fiscal year (July to June 30) to fiscal year unless any participating party gives written notice of termination. Any participating party may terminate this MOU in thirty (30) days upon written notification to terminate the agreement with or without cause.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the authorized Parties hereof. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties relating to the same subject matter, whether executed prior or subsequent to this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides that it supersedes this MOU.

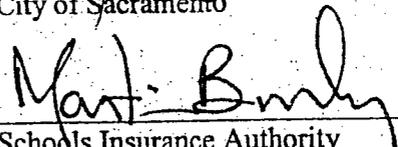
Amendments

Amendments to this MOU may be made with the mutual written agreement from the participating parties. The MOU shall be periodically reviewed for consideration of appropriate amendments.



City of Sacramento

3/22/07
Date

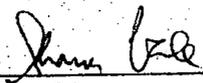


Schools Insurance Authority

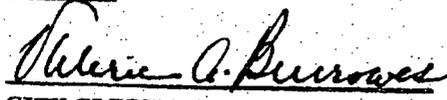
5/31/01
Date

APPROVED AS TO FORM:

ATTEST:



City of Sacramento



CITY CLERK

ATTACHMENT D

SCHEDULE OF MAINTENANCE RESPONSIBILITIES

The Parties' responsibilities for maintenance and repair of the Improvements are described below. Except as otherwise noted, each Party shall be solely responsible for all costs incurred in connection with its respective maintenance responsibilities.

Area A - The City of Sacramento shall be responsible for the maintenance and repair of all Improvements within Area A as outlined on Attachment D-1 including, but not limited to, irrigation system, booster pump, turf, trees, drinking fountains, ball diamond and perimeter fencing, backstop, dugouts, bleachers, signage, exterior lighting and walkways;

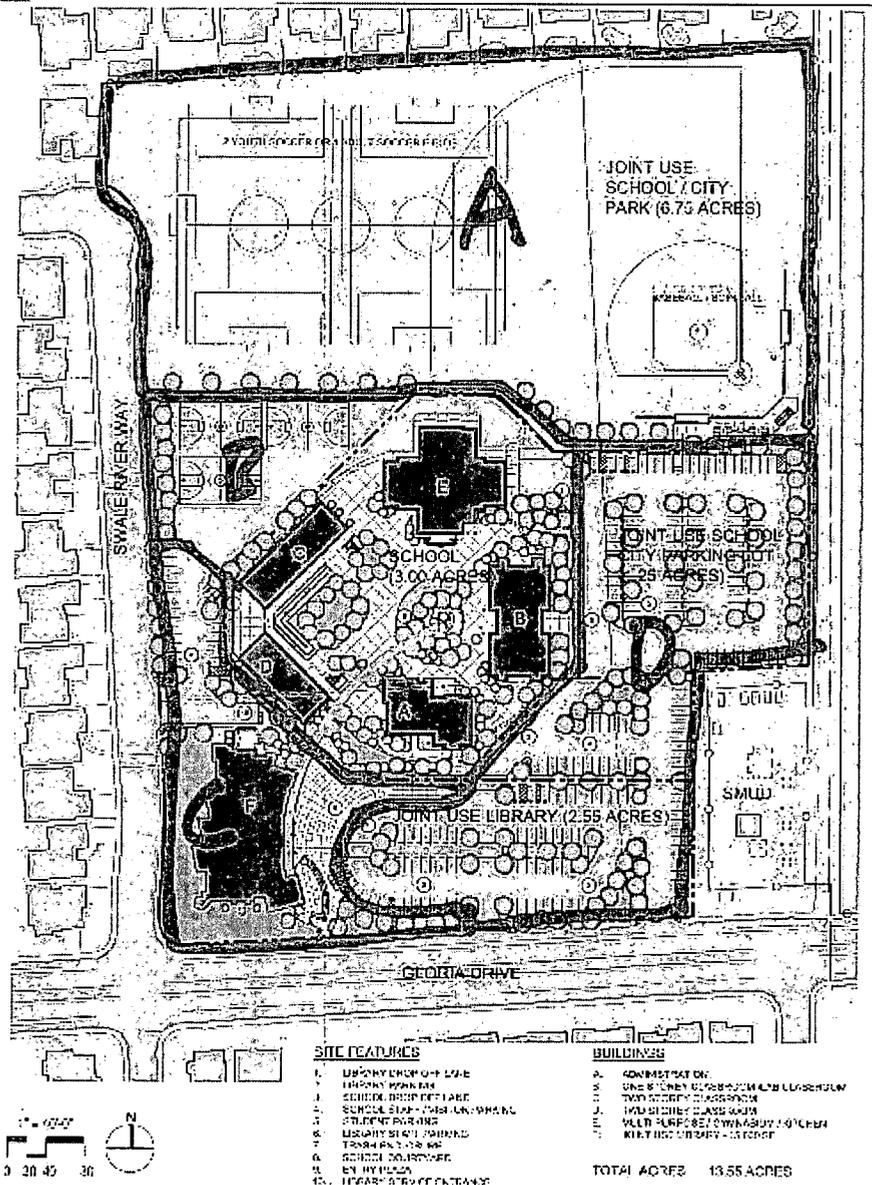
Area B - The Sacramento City Unified School District shall be responsible for the maintenance and repair of all Improvements within Area B as outlined on Attachment D-1 including, but not limited to, all structures, irrigation system, booster pump, landscaping, trees, basketball courts and related fixtures, signage, fencing, exterior lighting, paved areas and the courtyard;

Area C - The Sacramento Public Library Authority shall be responsible for the maintenance and repair of all Improvements within Area C as outlined on Attachment D-1 including, but not limited to the structure, staff parking lot, entrance courtyard, landscaping, trees, irrigation, exterior lighting, signage Arts-In-Public Places projects and fencing.

Area D - The Sacramento City Unified School District shall be responsible for the maintenance and repair of all Improvements within Area D as outlined on Attachment D-1 including, but not limited to paving, striping, lighting fixtures and service, irrigation, bollards, and signage. The District may invoice the two other parties quarterly for one third of the maintenance and repair costs incurred during the quarter for this Area.

NOTE: Maintenance of a particular Area shall include picking up and disposing of trash, leaves, and other debris within that Area.

ATTACHMENT D-1



SITE FEATURES	BUILDINGS
1. ASPHALT DRIVE OFF-LANE	A. COMMERCIAL OFFICE
2. DRIVEWAY	B. ONE STORY CLASSROOM AND LABORATORY
3. SCHOOL BUS PICKUP AREA	C. TWO STORY CLASSROOM
4. SCHOOL BUS - TRAILER UNLOADING	D. TWO STORY CLASSROOM
5. STUDENT PARKING	E. MULTIPURPOSE GYMNASIUM / GYM
6. VISITOR STAFF PARKING	F. KITCHEN LIBRARY - 1500 SQ FT
7. TRASH ENCLOSURE	
8. SCHOOL COURTYARD	
9. EN. HYDRO	
10. LEAKAGE STRUCTURE	
	TOTAL ACRES 13.55 ACRES

November 13, 2007
 SACRAMENTO CITY UNIFIED
 SCHOOL DISTRICT and
 CITY OF SACRAMENTO

SITE MASTER PLAN
 SCHOOL OF ENGINEERING AND SCIENCES
 AND GREENHAVEN POCKET LIBRARY



GROUND LEASE

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

[Affects APN _____ (portion)]

(Space Above This Line For Recorder's Use)

This Ground Lease is recorded at the request and for the benefit of the City of Sacramento and is exempt from the payment of a recording fee pursuant to Government Code Sections 6103 and 27383 and from the payment of a documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

GROUND LEASE

Between

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

and

CITY OF SACRAMENTO



2008-0916

With: Sacramento City Unified School District

Title: Ground Lease: Pocket Greenhaven Library
Authorization: Resolution 2008-629

Record for the Benefit of the City of Sacramento - Fee Exempt Pursuant to Government Code Section 6103 and 27383.

When Recorded, Mail to:

Office of the City Clerk
Historic City Hall
915 "I" Street
Sacramento CA 95814-2604



Sacramento County Recorder
Frederick B. Garcia, Clerk/Recorder
BOOK **20081008** PAGE **0585**
Wednesday, OCT 08, 2008 11:44:40 AM
Ttl Pd \$0.00 Nbr-0005600056
MLB/11/1-23

This Space for Recorder's Use

Title of Document: Ground Lease for Pocket-Greenhaven Library between the City of Sacramento and Sacramento City Unified School District

GROUND LEASE

THIS GROUND LEASE (Lease) is made and entered into as of September 26 2008, by and between the City of Sacramento, a municipal corporation (City), and Sacramento City Unified School District (District), a California public school district. The City and District may be referred to collectively as "Parties" or in the singular as "Party", as the context requires.

RECITALS

The City and District have entered into this Lease with reference to the following facts and circumstances:

Whereas, District is the owner in fee simple of two separate parcels of real property located in the City of Sacramento at the intersection of Gloria Drive and Swale River Way, Assessor's Parcel Numbers 031-0020-057-0000 and 031-0440-028-0000 (District Property);

WHEREAS, the District desires to build a School of Engineering and Sciences (School) to be located on a portion of the District Property;

WHEREAS, the City desires to build a public library (Library) to be operated by the Sacramento Public Library Authority on a portion of the District Property;

WHEREAS, a joint use library project to serve both the School and the neighborhood would be an efficient use of public space and funds and would enhance library services to the students and faculty and the community;

WHEREAS, Education Code section 10900 et seq. authorizes and empowers cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of public services which will contribute to the attainment of general recreational and educational objectives for children and adults in this State, including the provision of libraries, and to enter into agreements with each other for such purpose;

Whereas, District wishes to lease the southwestern corner of APN 031-0020-057-0000, as described in Exhibit A (Ground Lease Property or District Leased Property), to the City for the purpose of constructing the Library;

Whereas, the Parties agree this Lease is in the best interest of the Parties and that this transaction is being consummated for the mutual benefit of each Party, more specifically, in order to allow City to construct the Library, and in order to allow the District and the community to enjoy joint use of the Library and its facilities.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

Section 1. LEASED PROPERTY

A. Ground Lease Property. District hereby leases to the City, and the City hereby leases from District, the Ground Lease Property on the terms and conditions set forth in this Lease. The

consideration for this Lease is the City's significant financial contribution to fund the construction of a joint use library on the Ground Lease Property to serve the needs of the School and the community, as set forth in the Memorandum of Understanding Between the City of Sacramento and the Sacramento Unified School District Regarding the Design and Construction of the School of Sciences and Engineering, Pocket Library, and Related Improvements (Design and Construction MOU).

B. As-Is Condition. The Ground Lease Property is leased in as-is condition. Without limiting the foregoing, District does not warrant the suitability of the soil on the Ground Lease Property for support of any improvement to be constructed thereon including, but not limited to, the facilities and improvements contemplated to be constructed jointly by District and City as part of the MOU.

Section 2. TERM; DISCRETIONARY RIGHT OF EARLY TERMINATION

A. Term. This Lease shall become effective ("Effective Date") upon final completion and acceptance by City and District of the improvements described in the construction contracts to be entered into between the District, the City, and a builder to be selected by the Parties (Construction Documents), with a term of 40 years from the Effective Date, unless sooner terminated (Initial Term). The Parties agree to execute a memorandum stating the effective date of the lease upon completion of the improvements contemplated by the Construction Documents, and will attach the memorandum as Exhibit B to this Lease. The City shall have the right to extend this Lease for up to three (3) additional terms of ten (10) years each (Extended Term) by giving District written notice of its intention to do so at least six (6) months prior to the expiration of the Initial Term and any Extended Term; provided, however, that City is not in material default beyond any applicable cure period under the Lease on the date of giving such notice or on the date of commencement of such Extended Term. Each Extended Term shall be upon all of the terms and conditions of this Lease.

B. Early Termination for Convenience. Either Party may terminate this Lease for its convenience at any time upon not less than 12 months' advance written notice to the other Party. Unless the Parties agree otherwise, at the end of that time the Lease shall be terminated and the School Site shall be returned to District in accordance with the provisions of this Lease, subject to the terms of Section 3 below. This early termination provision may not be exercised within 20 years of the Effective Date of the Lease.

Section 3. TITLE TO NEW IMPROVEMENTS; OCCUPANCY AND DETERMINATION OF FAIR MARKET VALUE UPON EXPIRATION OR TERMINATION

A. Title to New Improvements. As described in MOU, City is planning to construct and operate a library building on the Ground Lease Property. Upon completion and acceptance of all improvements described in Design and Construction MOU, City shall take title to and will be the owner of the Library and related improvements during the Initial term and each Extended Term, if any, of this Lease.

B. Occupancy and Title Upon Termination or Expiration. Upon early termination or expiration of the Initial Term or any Extended Term, if any, of this Lease, the parties shall have the following obligations: (i) the City shall quit and surrender the Ground Lease Property, the Library, and real property improvements (the Library and other real property improvements may be collectively referred to as Improvements) to the District as of that date ("Termination Date"); (ii) the District shall purchase the Improvements from the City at a purchase price that is equal to 50% of the fair market

value of the Improvements (as determined in paragraph C) as of the Termination Date ("Purchase Price"), plus interest at a rate equal to the City's Pool A investment rate, not to exceed an annual interest rate of 5 percent; (iii) the District shall make to City thirty (30) annual payments equal to one-thirtieth (1/30th) of the Purchase Price, plus interest on the principal balance of the Purchase Price at a rate equal to the City's established Pool A investment rate (not to exceed an annual interest rate of 5 percent) in effect on January 1st of the year payment is made ("Annual Payment"); (iv) the first Annual Payment shall be made on the ten (10) year anniversary of the Termination Date and each subsequent Annual Payment shall be made on the then following anniversary of the Termination Date; and (v) the Purchase Price shall not begin to accrue interest until the ten (10) year anniversary of the Termination Date.

The parties agree that regardless of the Termination Date, the Purchase Price shall not exceed the City's actual construction costs paid for the Library and the Improvements located on the Ground Lease Property as of the date of completion of initial construction. In addition, the Purchase Price shall not include the cost of any renovations, additions, modifications, or repairs conducted after completion of initial construction of the Library.

C. The Parties shall endeavor to agree on fair market value, but if after negotiating in good faith they cannot, then they shall each commission at their separate costs an appraiser having current membership in the Appraisal Institute and having the designation MAI, who shall each work to determine the fair market value of the Improvements. In the event the two appraisals, once submitted, differ by less than 10 percent, then the two appraisals shall be averaged and the averaged price shall be conclusive. However, if the two appraisals differ by more than 10 percent, the Parties agree to each present a list of three appraisers each having current membership in the Appraisal Institute and having the designation MAI, from which lists the Parties shall choose a suitable appraiser who shall either pick one of the two previously obtained appraisals or otherwise establish a price within the range set forth by comparison of the two previously obtained appraisals, which price shall be conclusive.

Section 4. QUIET ENJOYMENT; DISTRICT RIGHT OF ENTRY; DISTRICT OPERATION OF SCHOOL OF ENGINEERING & SCIENCES

A. Quiet Enjoyment. Subject to the provisions of this Lease and the Memorandum of Understanding between the City, District, and Sacramento Public Library Authority regarding the School, Library, Sojourner Truth Park, and related improvements (Operational MOU), City shall have the right to quiet enjoyment of the Ground Lease Property, subject to the normal operation, including construction of additional facilities, of District on the District Property (excluding the Ground Lease Property). District shall have the right to quiet enjoyment with respect to the District Property (excluding the Ground Lease Property).

B. District Right of Entry. District, through any of its authorized representatives, shall have the unlimited right to enter upon the Ground Lease Property for any lawful purpose, including, without limitation, the right to inspect construction work during the course of construction for compliance with the provisions of this Lease and the Design and Construction MOU. District shall exercise such rights reasonably during ordinary business hours and will endeavor to avoid interference with the business of City or employees or contractors. City will provide District with keys to all locks in buildings on the Ground Lease Property for use in carrying out the Operational MOU and in responding to emergencies. City shall have reasonable access to School facilities, as identified the Operational MOU.

C. District Operation of School of Engineering & Sciences. District intends to construct and operate the School on the District Property. If at anytime District determines in good faith that it will no longer operate a school or school-related facility on the District Property, then District shall give City not less than 12 months' advance written notice of that determination, and the Parties will negotiate in good faith concerning the prospective continuation, modification, or termination of this Lease under the circumstances.

Section 5. USE OF THE GROUND LEASE PROPERTY

A. Approved Use. Unless otherwise agreed by the Parties, City shall utilize the Ground Lease Property only for construction and operation of library building, including public access to the building. Any non-conforming use shall require advance approval in writing by District, and District reserves sole discretion to approve or reject any non-conforming uses.

B. Ceasing Operation of Library. If City decides at any time during this Lease that it will no longer use the Ground Lease Property for a library, then City will provide District with not less than 12 months' advance written notice of that fact. Unless the Parties agree otherwise, at the end of the 12-month notice period the Lease shall be terminated and the Ground Lease Property shall be returned to District in accordance with the Surrender provisions of this Lease in section 3. Regardless of whether City provides notice, if it fails to use the Ground Lease Property for a library or other allowed programs for 18 consecutive months, then this Lease shall be terminated and the Ground Lease Property shall be returned to District at the end of that 18-month period in accordance with the Surrender provisions of this Lease.

C. Right of Entry Prior to Completion of Improvements. City shall have a right of entry to the whole of the District Property prior to the Effective Date for reasonable inspections and discussions with contracting firms, consultants, employees, personnel and other parties that may be involved in the design and/or construction of the improvements to be constructed on the District Property. City and its agents shall not interfere with construction of improvements and shall observe all safety rules as may be described by contracting firms and/or District.

D. Minimize Interference With District's Operations. Any future construction activity by or on behalf of City, after the Effective Date of the Lease, that will interfere with District's school operations, including, without limitation, interruption of utility service or interference with parking or ingress and egress to any part of the District Property, shall be performed so as to mitigate any such interference and such construction activity shall not commence without District's prior written approval, which approval shall not be unreasonably withheld. City shall submit to District a written narrative and work plan describing in detail proposed mitigation of the impacts of any construction activity. District shall approve or reject, with alternate recommendations, the mitigation plan within 30 days of receipt. If District requires revisions to the mitigation plan, then City shall make such revisions and resubmit a corrected mitigation plan for review by District. No work may be performed by or on behalf of City on the Ground Lease Property until District provides written approval of the mitigation plan, which written approval shall not be unreasonably withheld. City shall be responsible for all costs of preparing and implementing the mitigation plan.

E. Waste or Nuisance. City shall not commit, suffer or permit any waste or nuisance upon the Ground Lease Property, nor use or permit it to be used for any unlawful, dangerous, noxious or offensive use.

GROUND LEASE

F. **Hazardous Materials.** The only Hazardous Material to be brought on, treated, kept, used, stored, disposed of, discharged, released, produced, or generated in, on, under or about the Ground Lease Property, by the City, its agents, employees, contractors, subtenants, assignees, invitees, or the Library Authority are cleaning solutions and other substances as are customarily used in the business of the City and the Library Authority, and such Hazardous Material will be brought on, treated, kept, used, stored, disposed of, discharged, released, produced in a manner which complies with all Environmental Laws. However, if any such Hazardous Material may pose a health risk to pupils, then the District may in its sole discretion require the Hazardous Material to be removed from the Ground Lease Property.

City shall comply with all Environmental Laws concerning the use, release, storage, and disposal of hazardous materials on the school site.

The term "Hazardous Material" shall mean any hazardous or toxic substances materials or wastes or pollutants or contaminants as defined listed or regulated by Environmental Laws or by common law decision including without limitation, chlorinated solvents; petroleum products or byproducts; asbestos; and, polychlorinated biphenyl. The term "Environmental Laws" means any federal, state, local law, statute, ordinance, regulation, or order, and all amendments thereto pertaining to health, industrial hygiene, environmental conditions, or Hazardous Material.

G. **Signs.** City shall not construct, hang or paint any signs on the Ground Lease Property or exterior of the Library other than safety or directional signs and signs provided for in the approved plans, without written consent of District. All signage shall comply with District signage standards.

H. **Safe Condition.** City shall ensure that the Ground Lease Property and the Improvements thereon are maintained in a safe condition. During construction of any improvements, only those involved in supervising and/or involved with the construction work shall be permitted access to the Ground Lease Property.

I. **Utilities.** City shall be responsible for any utility hook-ups and connection fees and costs. Payment of all utilities servicing the Ground Lease Property shall be paid for by City.

J. **Surrender of Ground Lease Property.** Except as otherwise provided herein, upon the expiration or earlier termination of this Lease, City agrees to peaceably and promptly surrender possession of the Ground Lease Property, free and clear of all monetary liens and encumbrances created by, through or under City. Upon such surrender, all of the Improvements then existing on the Ground Lease Property shall be left in a clean and safe condition, free of any and all hazardous materials and subject to the terms of Section 3 above.

K. **Maintenance.** City shall at all times keep and maintain the Ground Lease Property and the Improvements thereon in a clean and safe condition in accordance with District standards of maintenance. City shall keep the Ground Lease Property free of graffiti and litter.

Without limiting the generality of the foregoing, the obligation of City to repair, maintain, and keep in good condition shall include repair and maintenance of roofs and all other improvements on the Ground Lease Property; performing exterior and interior painting of the same when necessary; performing both ordinary and extraordinary, foreseen and unforeseen repairs and maintenance; keeping the Ground Lease Property, including all landscaping thereon, in good, safe and

orderly condition, free of dirt, weeds, rubbish, debris and unlawful obstructions, properly lighted, except as otherwise provided in the Operational MOU; and repair, restoration and maintenance of same at such City's cost and expense. City shall make, at its own expense, any and all necessary repairs to, or replacement of, any equipment, structures, or other physical improvements placed by it upon the District Property in order to comply with any and all applicable regulations, laws or ordinances of the State of California or any other applicable agency with jurisdiction. The obligation of repair hereunder shall be subject to reasonable wear and tear; provided, however, that the effects of continued reasonable wear and tear shall not impair City's obligation to keep the Ground Lease Property in such order, condition and repair as provided above.

Section 6. ALTERATIONS AND REPAIRS; EARTHQUAKE SAFETY

A. Alterations and Repairs. Subject to subpart B of this Section, City shall have the right to make District-approved additions, repairs, alterations, changes or improvements, in, on or to the Ground Lease Property. City shall pay promptly for all work done by it or upon its order.

B. District Review and Approval; Field Act Compliance. As described in the Construction Documents, all improvements to be constructed upon the District Property, including but not limited to the Library, shall comply with pupil earthquake safety requirements found in the Field Act, Education Code sections 39140-39159 and 39210-39232. All repairs and alterations to the Ground Lease Property shall, if required by law, be approved by the Division of the State Architect and other government agencies for Field Act compliance and all other legal compliance issues they deem necessary. District shall have prior approval rights over the design of all improvements and any additions, repairs, alterations, changes or improvements in or to the Ground Lease Property, which shall not be unreasonably withheld. District shall review the scope of City's proposed work and determine the appropriate review and approval process to be followed.

C. District shall review and notify City in writing of District's approval or disapproval of such documents. Any disapproval notice shall specify, with reasonable particularity, the reason(s) for disapproval and the changes required to enable District to approve such documents. If District disapproves such revised documents, then the procedures set forth above for revision and approval of the documents shall be repeated until the documents are finally approved by District. The final working drawings (plans and specifications) for the improvements to be constructed by City shall be consistent with District approved documents. Any substantial change in the approved plans shall be submitted to District for review and approval.

D. Government Approvals. City, at its sole expense, shall obtain all licenses and permits required to perform the work related to the Ground Lease Property and shall comply with all applicable laws affecting the work. All work and materials shall be in accordance with the latest published and approved editions of the California Code of Regulations, Title 19, Public Safety, and Title 8, Industrial Relations; National Electric Code; Uniform Plumbing and Building Codes; and all other applicable codes and regulations. City will obtain any necessary state and/or local permits; hire all contractors necessary to conduct the work and supervise such work in accordance with professional standards; that contractors will meet fingerprinting requirements; ensure that the construction is conducted in accordance with all state laws and regulations; and take reasonable preventative measures to ensure the safety of pupils on the Property and protection of the property during construction of the improvements. City shall make, at its own expense, any and all necessary repairs to, or replacement of, any equipment, structures, or other physical improvements placed by it upon the District Property

in order to comply with any and all applicable regulations, laws or ordinances of the State of California or any other applicable agency with jurisdiction.

E. Encumbrances. City agrees to keep the Ground Lease Property and any improvements constructed thereon free and clear of liens for labor and material and shall indemnify, defend, and hold District harmless from any claims, expenses, or liability with respect thereto.

Section 7. INSURANCE AND INDEMNITY

The Parties incorporate, and agree to be bound by, the insurance and indemnity provisions of the Memorandum of Understanding between the City of Sacramento and the Schools Insurance Authority Regarding Hold Harmless and Insurance Provisions dated May 31, 2001 (City Agreement # 2001-050). City Agreement # 2001-050 is incorporated in full into this Lease and is attached as Exhibit C.

Section 8. DAMAGE AND REPAIR

If the Improvements on the Ground Lease Property or any part thereof are damaged or destroyed by fire or other insured cause at anytime during the term of this Lease, City, upon its receipt of such insurance proceeds, may proceed to repair, restore and/or rebuild such damaged or destroyed improvements for the same or comparable use as existed immediately prior to such casualty. The Parties shall comply, and shall require all of their respective contractors and subcontractors to comply, with all federal, state and local laws in making any said repairs and restoration. In the event that insurance proceeds are unavailable for such restoration or such restoration has not commenced within 18 months of the date of such damage or destruction, this Lease and the Master Joint Use Agreement shall be deemed terminated. City shall be required to clear any and all debris, and restore the Ground Lease Property to a clean and safe condition, reasonably satisfactory to District. City shall also surrender the Ground Lease Property to District in accordance with Section 5, subparagraph J.

If City causes any damage to District real property or personal property, City shall commence to repair such damaged property within 15 business days of receipt of written notice from District. All repairs shall be made to the reasonable satisfaction of District. If City fails to complete such repairs within a reasonable period of time, as determined by District, then District may make all necessary repairs and City shall fully reimburse District, for the cost incurred.

If District causes any damage to the Improvements on the Ground Lease Property, District shall commence to repair such damaged property within 15 business days of receipt of written notice from City. All repairs shall be made to the reasonable satisfaction of City. If District fails to complete such repairs within a reasonable period of time, as determined by City, then City may make all necessary repairs and District shall fully reimburse City, for the cost incurred.

Section 9. ASSIGNMENT AND SUBLETTING

City shall not either directly or indirectly give, assign, hypothecate, encumber, transfer or grant control of this Lease or any portion thereof, or any interest, right or privilege therein, or sublet the whole or any portion of the Ground Lease Property; provided, however, the City may in its sole discretion allow the Library Authority or any successor in interest to the Library Authority to operate the Library on behalf of the City.

Section 10. RESERVATIONS

A. Existing Easements. The Ground Lease Property is hereby accepted by City and shall be subject to any and all existing easements or other encumbrances of record, as of the date of execution of this Lease.

B. Additional Easements. District reserves the right to establish, grant or utilize easements or rights of way over, under, along, and across such parcel for utilities, pipelines, drains, access or for other reasons as are required for the public good. District agrees to exercise these rights in a manner that will not unreasonably interfere with City's use of the Ground Lease Property.

C. Easements for City. District shall, at City's request, grant additional easements on School District Property and/or the Ground Lease Property as City may request in connection with its use of the Ground Lease Property, including, without limitation, such utility easements as may be necessary or desirable in connection with the construction, development and maintenance of improvements on the Ground Lease Property, as well as easements for ingress and egress to and from the Ground Lease Property as may be reasonably necessary so long as such easements do not unreasonably encumber the School District Property or interfere with the District's operation of a school on the School District Property. District shall execute any and all such documents as City may request in connection with granting such easements.

Section 11. DEFAULT

This Lease is made upon the condition that each Party shall punctually and faithfully perform all covenants, conditions and agreements to be performed. The following are each deemed an event of default ("Event of Default") under this Lease:

A. The failure to observe or perform any of the covenants, agreements or conditions provided for in this Lease, where the failure continues for a period of 30 days after written notice from the non-defaulting Party to the defaulting Party (unless such failure cannot reasonably be cured within such 30-day period and the defaulting Party shall have commenced to cure the failure within the 30-day period and continues diligently to pursue a cure); provided, however, that any notice shall be in lieu of, and not in addition to, any notice required under sections 1161 et seq. of the California Code of Civil Procedure.

B. The Improvements are substantially damaged or destroyed by fire, natural disaster or other similar insurable event and no insurance or other proceeds are available for their restoration or such restoration is not commenced within 18 months from the date of such damage or destruction.

C. Any non-conforming use of the Ground Lease Property by City without District's written prior approval.

Section 12. REMEDIES

Upon the occurrence of any Event of Default as set forth in Section 11, the non-defaulting Party shall have all of the rights and remedies available at law or in equity, including without limitation, (i) the right but not the obligation to perform all or those portions of the defaulting Party's obligations as the non-defaulting Party in its reasonable discretion determines is necessary or prudent after giving written notice to the defaulting Party (except in cases of emergency or imminent danger to

GROUND LEASE

person or property), (ii) the right to sue for specific performance or injunctive relief, and (iii) the right to sue for damages suffered by the non-defaulting Party as a result of such default.

District shall have the right to terminate this Agreement if (i) City has abandoned the Ground Lease Property for a period of not less than 18 months; provided, however, the City shall not be deemed to have abandoned the Ground Lease Property if it exercises its right to allow the Library Authority to operate the Library; or (ii) the Improvements are substantially damaged or destroyed by fire, natural disaster or other similar insurable event and no insurance or other proceeds are available for their restoration or such restoration is not commenced within 18 months from the date of such damage or destruction; or (iii) City either no longer exists or is incapable of responding to injunctive relief or otherwise performing its obligations under this Lease.

No remedy or election hereunder shall be deemed exclusive, but shall, whenever possible, be cumulative with all other remedies at law or in equity.

In the event that the non-defaulting Party has expended funds that are reasonably necessary to cure any Event of Default by the defaulting Party, the defaulting Party shall reimburse the non-defaulting Party for the expenditure.

Section 13. NOTICES

All notices or communications required or permitted by this Lease shall be in writing, and shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed, three (3) business days after deposit in the United States Mail, addressed as follows:

To City:

CITY OF SACRAMENTO
Facilities and Real Property Management
5730 24th Street, Bldg. 4
Sacramento, CA 95822
attn: Facilities Manager

To District:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
Attn: Deputy Superintendent / CFO
5735 47th Avenue
Sacramento, CA 95824

The Parties shall give notice of change of address in writing in the manner described in this Section.

Section 14. MISCELLANEOUS

A. Relationship of Parties. City and District agree that that their agents and employees in the performance of this Lease are not officers, employees, or agents of the other Party.

B. Encumbrances of Lease Hold. With the exception of this Lease, City shall not encumber the Ground Lease Property in any way. City shall not have the right to subject this Lease to any mortgage nor subject this Lease to any trust deed or other security device.

C. Holding Over. Unless otherwise agreed by the Parties, if City holds over the expiration of the term hereof with the express or implied consent of District, such holding over shall be deemed to be on a month-to-month basis, subject otherwise to all the terms and conditions of this Lease.

D. Entire Agreement. This Lease constitutes the entire and sole agreement of the Parties. It contains all understandings of the Parties and is a written integration of all promises, negotiations, and warranties between the Parties. No Party has made any representation, promise or warranty to the other except as expressly set forth in the Lease or the Master Joint Use Agreement.

E. Interpretation. In the event of any inconsistency between the terms of this Lease and the Operational MOU, the terms of this Lease shall control, unless otherwise provided by mutual written agreement of the Parties or this Lease.

F. Further Actions. The Parties hereto agree to execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the Lease and the Operational MOU.

G. Modifications. No modification of or amendment to this Lease may be made except in writing and signed by both Parties, with ratification or approval by the City Council and the Board of Education of District.

H. Severability. The invalidity of any provision of this Lease shall in no way affect the validity of any other provision(s).

I. Waiver. No waiver by either Party of any provision in this Lease shall be deemed a waiver of any other provision or of any subsequent breach of the same or any other provision.

J. Section Headings. The section headings contained herein are for convenience only, and are not intended to define or limit the scope of any provision of this Lease.

K. Consent. A Party's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of such Party's consent to or approval of any subsequent act by the other Party.

L. Counterparts. This Lease may be executed in counterparts so that signatures appear on separate signature pages. A copy, or an original, with all signatures appended together shall be deemed a fully executed Lease. Signatures transmitted by facsimile shall be deemed original signatures.

M. Governing Law. This Lease shall be interpreted using California law.

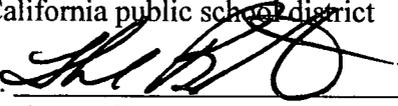
N. Incorporation of Attachments. All attachments are incorporated into this Lease.

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GROUND LEASE

NOW, THEREFORE, SACRAMENTO CITY UNIFIED SCHOOL DISTRICT and the CITY OF SACRAMENTO have entered into this Lease as of the Effective Date.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT,
a California public school district

By: 
Thomas Barentson
Its: Deputy Superintendent / CFO

Approved as to form:

By: 
Thomas Gauthier
District Counsel

CITY OF SACRAMENTO, a municipal corporation

By: 
Cassandra H.B. Jennings, Assistant City Manager
For: Ray Kerridge, City Manager/ Sept. 26, 2008

Approved as to form:

By: 
Michael T. Sparks
Senior Deputy City Attorney

Attest:
By: 
Shirley Concolino
City Clerk
for 10-6-08

ALL-PURPOSE ACKNOWLEDGEMENT

State of California
County of Sacramento

On 09/26/08 before me, Lori B. Gay, Notary Public, personally appeared Cassandra H.B. Jennings who proved to me on the basis of satisfactory evidence to be the persons ~~(s)~~ whose name ~~(s)~~ (is) are subscribed to the within instrument and acknowledged to me that he (she)/they executed the same in his (her)/their authorized capacity (ies), and that by his (her)/their signature (s) on the instrument, the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lori B. Gay (Seal)



OPTIONAL INFORMATION

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- Individual
- Corporate Officer

TITLE(S)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Guardian/Conservator
- Other

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

City of Sacramento

DESCRIPTION OF ATTACHED DOCUMENT

Ground lease SCUWD
TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

OTHER

RIGHT THUMBPRINT OF SIGNER:

Exhibit A

BOUNDARY OF GROUND LEASE PROPERTY

Exhibit A

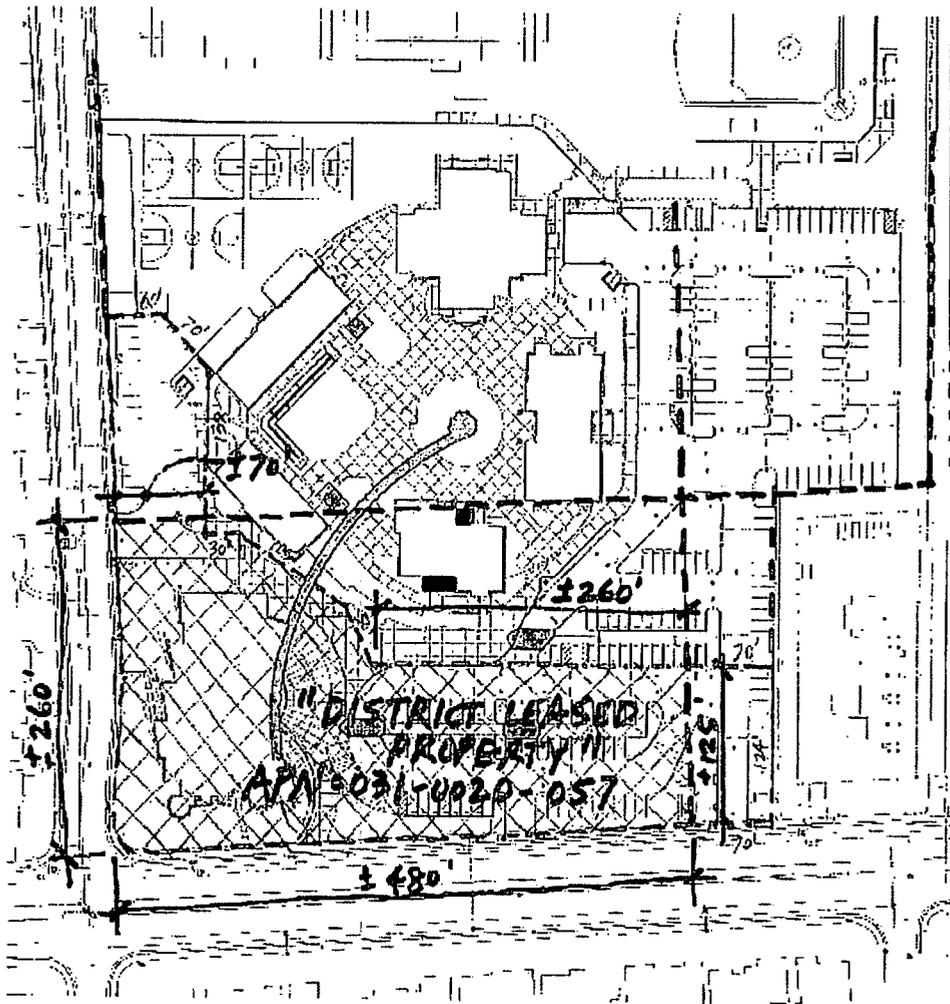


EXHIBIT B

MEMORANDUM OF EFFECTIVE DATE OF GROUND LEASE

This Memorandum is to confirm that the Effective Date of the Ground Lease, as defined in Section 2.B. of the Ground Lease, dated September 26, 2008, THE CITY OF SACRAMENTO, a municipal corporation, and THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, a California school district, is, for all purposes, agreed to be _____, 20__

LESSOR:

THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, a California school district

By: *Arnold Barent*
Title: Deputy Supt / CFO
Date: 9/25/08

LESSEE:

CITY OF SACRAMENTO, a municipal corporation

By: *Cassandra H.B. Jennings*

Cassandra H.B. Jennings, Assistant City Manager
For: Ray Kerridge, City Manager/ Sept. 26, 2008

Attest on: 10-6-08 (date)

Dawn Bullwinkel
Dawn Bullwinkel, Assistant City Clerk

GROUND LEASE

Exhibit C

CITY AGREEMENT # 2001-050

Memorandum of Understanding
City of Sacramento
Schools Insurance Authority
Hold Harmless and Indemnification Provisions

Introduction

The City of Sacramento (hereinafter the City) is a public entity which enters into contractual agreements and Memorandums of Understanding (MOU) with California public school districts (hereinafter districts). Such agreements include but are not limited to agreements for processing parking tickets, providing programs such as arts programs and other educational or youth oriented programs including the 4R program, purchase of meals, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

The Schools Insurance Authority (hereinafter SIA) is a joint powers authority which provides programs to cover its member school districts' general liability (including automobile liability), property and workers compensation exposures. SIA member districts (hereinafter SIA districts) in Sacramento County include Arcohe Union School District, Center Unified School District, Del Paso Heights School District, Elk Grove Unified School District, Elverta Joint School District, Folsom Cordova Unified School District, Galt Joint Union Elementary School District, Galt Joint Union High School District, Natomas Unified School District, North Sacramento School District, Rio Linda Union School District, River Delta Unified School District, Robla District, Sacramento City Unified School District, the Sacramento County Office of Education, and the San Juan Unified School District. Many SIA districts enter into contractual agreements and MOUs with the City. Such agreements include but are not limited to agreements for processing parking tickets, the City providing programs such as arts programs and other educational or youth oriented programs, the sale of meals to the City, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

Purpose

There is a need to reduce litigation costs between the City and SIA districts when both are named as defendants, in tort lawsuits arising out of their contractual agreements, Memorandums of Understanding and other joint activities. When two or more public entities are named defendants, each determines their respective litigation position, which can result in claims and counter claims between them. These actions increase claim and legal costs, consume large amounts of staff time and may result in the plaintiff playing the parties against each other.

The parties to this agreement are resolved to utilize equitable hold harmless indemnification language in the contractual agreements and MOU between the city and SIA districts and to minimize disagreements arising out of said hold harmless and indemnification provisions.

CITY
AGREEMENT NO. 2001-050

In addition, the parties to this MOU are resolved to reduce litigation expenses through a coordinated program for handling tort claims and the subsequent lawsuits filed against the City and SIA districts which arise out of their contractual agreements, Memorandums of Understanding and other joint activities.

Agreement

The City and SIA agree to use the hold harmless language outlined in the **Hold Harmless Agreement** section of this MOU in contractual agreements and MOUs between the City and SIA districts with the exception of the districts' use of Memorial Auditorium and the Sacramento Convention Center. For use of the Sacramento Convention Center, other hold harmless language may be used and the districts will be given the option of purchasing through the City, special events coverage covering the district's use of the Memorial Auditorium and Sacramento Convention Center. The cost of the special events coverage shall be added to the district's cost for using the Memorial Auditorium or Sacramento Convention Center. SIA shall recommend that SIA districts purchase the special events coverage.

When a third party claim is made against the City or an SIA district or an incident is disclosed that may lead to a claim, the initially involved entity determines if other entities may also be included in subsequent litigation. The knowledgeable entity then apprises the other entities and investigations are shared.

Using the results of the investigations, the City and SIA will discuss the potential liability of the parties pursuant to the applicable hold harmless and indemnification clauses before cross-actions are filed. All reasonable efforts will be made to reach consensus on each parties' respective responsibilities under the hold harmless and indemnification language of the agreement. Such efforts shall be made prior to the filing of any cross actions. If consensus is reached on the liability issues, a joint defense strategy and cost sharing arrangement may be agreed to.

Best efforts will be used in assessing liability apportionment between the parties, but it is understood that this MOU does not bind the parties without the consent of all the involved parties.

Hold Harmless Agreement

INDEMNIFICATION

DISTRICT shall assume the defense of and indemnify and hold harmless CITY from and against all actions or claims against CITY, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by CITY by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the CITY, its officers, agents or employees and except for actions or claims alleging dangerous

conditions of CITY property which arise out of the acts or failure to act by the CITY, its officers, agents or employees which are not created by a DISTRICT employee or District invitee.

CITY shall assume the defense of and indemnify and hold harmless DISTRICT from and against all actions or claims against DISTRICT, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by DISTRICT by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the DISTRICT, its officers, agents or employees and except for actions or claims alleging dangerous condition of DISTRICT property which arise out of the acts or failure to act by the DISTRICT, its officers, agents or employees which are not created by a CITY employee or CITY invitee.

The indemnification provisions contained in this Agreement includes but is not limited to any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of either party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

It is the intent of the Parties that where negligence or responsibility for injury or damages is determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

Each party shall establish procedures to notify the other party, where appropriate, of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification section. The Parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this agreement. Nothing set forth in this Agreement shall establish a standard of care for or create any legal rights for any person not a party to this Agreement.

The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

INSURANCE

City Insurance. CITY, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program or pooled insurance, if any. The CITY must provide an affidavit of self-insurance, if any.

CITY
AGREEMENT NO. 2001-050

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 1) Premises Operations
- 2) Blanket Contractual
- 3) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 1) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 2) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto (Only used when applicable to agreement)

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by CITY, and any approval of said insurance by the DISTRICT, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

District Insurance. DISTRICT, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program. The DISTRICT must provide an affidavit of self-insurance, or pooled insurance, if any.

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 4) Premises Operations
- 5) Blanket Contractual
- 6) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 3) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 4) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto *(Only used when applicable to agreement)*

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by DISTRICT, and any approval of said insurance by the CITY, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by DISTRICT pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

All insurance requirements shall be met by all parties prior to the commencement of any of the activities required of the parties under this Agreement.

Severability

Should any portion, term, condition, or provision of this MOU be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

CITY
AGREEMENT NO. 2001-050

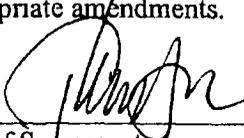
Term

The terms of this MOU shall commence upon signature by all parties authorized to enter into this MOU by approval of their respective governing body and shall automatically be renewed thereafter from fiscal year (July to June 30) to fiscal year unless any participating party gives written notice of termination. Any participating party may terminate this MOU in thirty (30) days upon written notification to terminate the agreement with or without cause.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the authorized Parties hereof. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties relating to the same subject matter, whether executed prior or subsequent to this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides that it supersedes this MOU.

Amendments

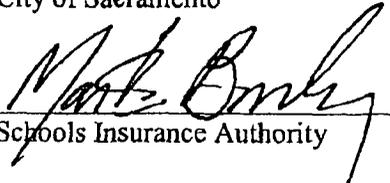
Amendments to this MOU may be made with the mutual written agreement from the participating parties. The MOU shall be periodically reviewed for consideration of appropriate amendments.



City of Sacramento

3/22/07

Date

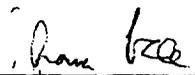


Schools Insurance Authority

5/31/01

Date

APPROVED AS TO FORM:



City of Sacramento

ATTEST:



CITY CLERK

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND THE SACRAMENTO UNIFIED SCHOOL DISTRICT REGARDING THE DESIGN AND CONSTRUCTION OF THE SCHOOL OF SCIENCES AND ENGINEERING, POCKET LIBRARY, AND RELATED IMPROVEMENTS

This Memorandum of Understanding (MOU) is made and entered into this 16TH day of OCTOBER, 2007, by and between the City of Sacramento (City), a municipal corporation, and the Sacramento City Unified School District (District), a California public school district. The City and District may be referred to collectively as "Parties" or in the singular as "Party", as the context requires.

RECITALS

The City and the District have entered into this MOU with reference to the following facts and circumstances:

WHEREAS, the District desires to build a School of Engineering and Sciences (School) to be located on the District's Sojourner Truth School Park property (District Property) at the corner of Swale River Way and Gloria Drive in the Pocket area of Sacramento. The School will be a small public school with an eventual enrollment of approximately 500 students in grades 7 through 12;

Whereas, the District Property consists of two separate parcels, Assessor's Parcel Numbers 031-0020-057 and 031-0440-028, which total approximately 10.25 acres. The District Property is shown and identified in Attachment A;

WHEREAS, the construction of a public library in the City's Pocket-Greenhaven neighborhood was incorporated into the City's 1979 Pocket Area Community Plan. Furthermore, the Sacramento Public Library Authority (Library Authority) Facility Master Plan 2007-2025 recommends construction of a 15,000 square foot public library (Library) in the Pocket area;

WHEREAS, the City desires to build the Library in the Pocket area and to have the Library Authority operate the Library;

WHEREAS, the City's Sojourner Truth Park property (City Property) is adjacent to the District Property. The City Property consists of two separate parcels, Assessor's Parcel Numbers 031-0440-002 and 031-0020-058, which total approximately 3.3 acres. The City Property is shown and identified in Attachment A;

WHEREAS, a joint use library project to serve both the School and the neighborhood would be an efficient use of public space and funds and would enhance library services to the students and faculty and the community;

CITY AGREEMENT NO. 2007-1090

WHEREAS, Education Code section 10900 et seq. authorizes and empowers cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of public services which will contribute to the attainment of general recreational and educational objectives for children and adults in this State, including the provision of libraries, and to enter into agreements with each other for such purpose.

WHEREAS, the Parties agree that in order to achieve maximum flexibility and efficiency in the design and construction of both the School and the Library, the District will lease a portion of the District Property to the City, so that the Library may be constructed on that portion of the District Property and that shared athletic fields and parking lots should be constructed on portions of both the City Property and the District Property. The Parties' use of each other's property shall be governed by one or more separate agreements to be entered into between the Parties;

WHEREAS, there is a desire for coordinated planning by the Parties in the design and construction of the School, Library, shared athletic fields and parking lots in order to obtain maximum benefit from the expenditure of public funds;

WHEREAS, the District, using a competitive, qualifications-based selection process, has contracted with WLC Architects to prepare designs and specifications for the School, Library, and related improvements.

WHEREAS, joint use facilities will result in both economic and operational benefits for the Parties;

WHEREAS, the City and the District have a long tradition of working together on joint use projects for the benefit of the community;

WHEREAS, the governing bodies of both Parties have passed resolutions in support of the joint construction and operation of these facilities; and,

WHEREAS, subject to completion of all environmental review and receipt of all approvals required by the California Environmental Quality Act, the Parties desire to enter into the following additional agreements to further the purposes of this MOU which are described below for reference purposes only. The exact nature of these agreements and their attachments may change:

AGREEMENT	PARTIES	ATTACHMENTS & DOCUMENTS INCLUDED
Ground Lease	City District	<ul style="list-style-type: none"> ➤ Attachment A: Description of Ground Lease Property ➤ Attachment B: Memorandum of Commencement Date
Construction Agreement & Lease-Leaseback	City District Builder – to be selected	<ul style="list-style-type: none"> ➤ Attachment A: Construction Agreement ➤ Attachment B: Site Lease ➤ Attachment C: Sub-lease ➤ Plans & specifications as noted in Construction Agreement
Memorandum of Understanding – Operations & Maintenance	City District Library Authority	
Access & Joint Use	City District Library Authority	

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

Section 1. PURPOSE

The purpose of this MOU is to specify the obligations of the City and the District with respect to design, environmental review, construction, project management, and payment for all construction and improvements associated with the School, Library, athletic fields, and parking lots to be constructed on the City Property and District Property. The School, Library, athletic fields, parking lots, and related improvements may be referred to collectively as the "Improvements."

Section 2. SITE MASTER PLAN 9

The Parties have jointly developed a conceptual site plan depicting the Improvements, known as Site Master Plan 9, which is attached as Attachment B. The Parties hereby adopt Site Master Plan 9 as the guiding conceptual plan for the design and construction of the Improvements.

Section 3. TERM; TERMINATION

A. This MOU shall be effective when it is signed by both Parties and, except as otherwise provided in this Section 3, shall remain in effect until the Improvements have been fully completed and accepted by the Parties or four (4) years, whichever occurs first.

B. Early Termination for Lack of Construction Funding; Notice. The Parties agree that City or District may determine, acting reasonably and in good faith, whether the funding each has available is sufficient to construct the Improvements. If District or City determines that such funding is not sufficient, then that Party shall provide written notice of such funding deficiency prior to award of the construction contracts to a builder and commencement of construction of the Improvements. Such a determination shall not be considered a breach or default of this MOU or of any representation or promise in it, but shall result in the automatic early termination of this MOU effective 30 days after written notice is given to the other Party by the Party who determines it has insufficient funding.

C. Notice of Sufficient Construction Funding. When City and District determine that sufficient funding has been received to construct the Improvements, then City and District agree to provide written notice of that fact to each other along with a proposed date for the commencement of construction.

D. This MOU shall terminate upon the occurrence of any of the following:

1. Required Approvals. In the event the Parties do not receive all approvals required by government agencies to construct the Improvements, including but not limited to approval of plans and specifications by the Division of State Architects and approval of the District Property as a suitable school site by the California Department of Education.

2. Award of Construction Contracts to Builder. In the event the Parties, acting in good faith, are unable to successfully negotiate and award a construction and lease-lease back agreement to a builder or builders to construct the Improvements.

3. Failure to Negotiate Satisfactory Ground Lease. In the event the Parties, acting in good faith, are unable to successfully negotiate and agree upon a ground lease from District to City, leasing a portion of the District Property for library construction.

4. The failure by any Party to observe or perform any of the covenants, agreements or conditions provided for in this MOU, where the failure continues for a period of 30 days after written notice from the non-defaulting Party to the defaulting Party (unless such failure cannot reasonably be cured within such 30-day period and the defaulting Party shall have commenced to cure the failure within the 30-day period and continues diligently to pursue a cure).

E. In the event this MOU expires or is terminated prior to the full completion and acceptance of the Improvements, the Parties agree to negotiate in good faith to re-construct, re-design, or otherwise alter the athletic fields, or to otherwise negotiate satisfactory arrangements for joint maintenance and operation of the City Property and District Property in order to allow each Party full use and enjoyment of its real property.

Section 4. NOTICE

Except as specifically provided for elsewhere in this MOU, any communication required during the term of this MOU, including, without limitation, notice of termination, shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as follows:

Notice to the City:

Reina Schwartz, Director
Department of General Services
5730 24th Street
Building One
Sacramento, California 95822

(916) 808-1888 (phone)
(916) 399-9263 (fax)

Notice to the District:

Tom Barentson
Deputy Superintendent/CFO
Sacramento City Unified School District
5735 47th Avenue
Sacramento, CA 95824
(916) 643-9058

Any Party who desires to change its address for notice may do so by giving notice as described above.

Section 5. ENVIRONMENTAL REVIEW

District will act as lead agency for all environmental review and approvals required by the California Environmental Quality Act, other laws, or other governmental agencies. District will consult with City regarding preparation of the required review documents. The Parties shall divide the costs and payments for environmental review, including required mitigation measures, if any, as described in Section 8.

Section 6. PROJECT MANAGEMENT RESPONSIBILITY; SITE INSPECTION

District will oversee and direct all architects, consultants, and the builder or builders constructing the Improvements. District will assume day-to-day responsibility for overseeing and directing construction of the Improvements including, but not limited to, the following:

- A. Preparation and publication of design documents;
- B. Preparation and publication of construction plans and specifications;
- C. Submitting documents to the Division of State Architect for approval
- D. All communications with the California Department of Education related to site suitability;
- E. Providing notices to builder or builders;
- F. Handling all documents related to the District's project stabilization agreement;
- G. Keeping any records related to certified payrolls and labor compliance programs, if needed;
- H. Construction inspections and approvals;
- I. Review and approval of change orders and schedule changes;
- J. Request for information or clarification from builder or builders;
- K. Providing directions and instructions to builder or builders;
- L. Communications with all government agencies related to items such as off-site improvements, utilities, and transportation; and,
- M. Punch list preparation and completion.

Except as otherwise provided in this MOU, the Parties agree that District shall have the right to direct and control the builder or builders, architects, and environmental review consultants.

City shall have access to the City Property and District Property at all times during business hours to observe the development and construction of the Improvements. Any City representatives shall observe builder's directions and job site safety rules, and shall not hinder or obstruct construction in any way.

Section 7. REVIEW AND APPROVALS; CHANGE ORDERS; SCHEDULE CHANGES

A. Design Documents. District has contracted with WLC Architects to prepare designs and specifications for the Improvements. City may review and comment upon plans and specifications for the Library and related improvements, as well as the parking lots and athletic fields to be constructed on the City Property, and the City shall have final approval rights of those portions of the plans and specifications.

B. Library and Related Improvements. During construction, City shall have the right to propose, review, and approve or disapprove change orders and schedule changes related to the Library and related improvements. City shall pay for all change orders and schedule changes to the Library and related improvements. District will communicate City's instructions to builder or builders.

C. School and Related Improvements. During construction, District shall have the right to propose, review, and approve or disapprove change orders and schedule changes related to the School and related improvements. District shall pay for all change orders and schedule changes related to the School and related improvements.

D. Athletic Fields. During construction, City and District shall collaborate and agree on change orders and schedule changes related to the athletic fields. Once agreement is reached, District will instruct the builder or builders as to all change orders and schedule changes.

E. Shared Parking Lot. During construction, City and District shall collaborate and agree on change orders and schedule changes to the shared parking lot area. Once agreement is reached, District will instruct the builder or builders as to all change orders and schedule changes.

F. Art in Public Places. City shall be solely responsible for complying with the Art in Public Places program requirements set forth in Sacramento City Code Chapter 2.84 as they relate to the Library and the athletic fields and parking lots to be constructed on the City Property. As required by Sacramento City Code section 2.84.130, the Sacramento Metropolitan Arts Commission shall provide for the nature, selection, and placement of the artwork projects. In the event the Sacramento Metropolitan Arts Commission intends to place artwork in a location that conflicts with the School's

security and suitability as a school site, then the District shall engage in the expedited dispute resolution process provided in Section 14.

G. Change Order & Schedule Change Approvals. Time is of the essence with respect to construction of the Improvements. To minimize schedule delay and disruption, the Parties agree to process and approve any and all change orders or schedule changes promptly, and in any case within seven (7) working days of the date that a change order or schedule change request or communication is sent from District or City to the other Party.

If District's consultation or approval is required, communications related to change orders or schedule changes shall be sent to:

Jim Dobson
Director, Facilities and Planning
5735 47th Avenue
Sacramento, CA 95824
(916) 643-9230 (phone)
(916) 643-2575 (fax)

If City's consultation or approval is required, communications related to change orders or schedule changes shall be sent to:

Jeff Blanton, Associate Architect
Department of General Services
Facilities & Property Management
5730 24th Street
Building #4
Sacramento, California 95822

(916) 808-8423 (phone)
(916) 264-8337 (fax)

In the event a change order requires approval of the District's Board of Education or the City's City Council, the Parties agree to place the item for the Party's review and approval on the next regularly scheduled meeting or the next special meeting, if available.

H. Conflict in Change Orders or Schedule Changes. In no event shall one Party approve a change order or schedule change that causes conflict with or reduces the suitability or workability of the other Party's improvements. For example, District may not approve a change order to the School that partially blocks curb access to the Library as provided in the plans and specifications. If, in the other Party's good faith opinion, a proposed change order or schedule change shall cause such conflict or reduction in suitability or workability, City and District shall, upon written notice of the conflict, negotiate in good faith to reach an agreeable solution within the seven (7) working days

required to process a change order or schedule change. In order to effectuate the purpose of this Subsection H, a Party proposing a change order or schedule change, shall notify the other Party of the proposed change order or schedule change in the manner set forth in Subsection G, above.

I. Failure to Agree. In the event the Parties are unable to agree on a change order or schedule change related to the Improvements, the Parties agree to engage in the expedited dispute resolution process set forth in Section 14.

J. Final Direction. If the Parties are unable to reach agreement after the expedited dispute resolution process, then District shall direct the builder or builders in order to avoid schedule delay and disruption. City and District shall continue to attempt to negotiate a good faith resolution of the dispute.

Section 8. SHARED COSTS; CHANGES IN COSTS

A. Cost Estimates. The City and District intend to jointly contract with a builder or builders to construct the Improvements. The Parties have estimated the costs of construction, design, and related costs for the Improvements. These estimates are set forth in Attachment C.

B. Project Elements. The Parties intend that District and City divide the costs and payments to the builder or builders, architect, necessary environmental consultants, and required mitigation measures, if any, for each element of the Improvements in the proportions outlined in Attachment C. The Parties agree to make payment to the builder, architect, or consultant in the manner and at the times described in this MOU if the costs for each element of the Improvements vary from the estimates listed in Attachment C.

1. The Parties intend that District will be responsible for all costs of improvements related to the School and related improvements.

2. The Parties intend that City will be responsible for all costs of improvements related to the Library and related improvements.

3. The Parties intend to share the costs of improvements related to the athletic fields and the shared parking lot, as shown on Attachment B, in the proportions outlined in Attachment C.

C. Unforeseen Costs. If any unforeseen elements of cost arise that are not described either in this MOU, then District and City agree to negotiate in good faith to determine shared costs, using the proportions in Attachment C to determine each Party's responsibility.

Section 9. PROGRESS PAYMENTS

The Parties intend that City will make payments to District, and District will make payment to all builders, contractors and consultants related to the Improvements and as required by this MOU.

A. Payment to Builder or Builders. In order to ensure timely payment to the builder or builders of the Improvements, prior to commencing construction of the Improvements, City and District will negotiate a payment schedule allowing for timely progress payments. The Parties intend that City make payment to District in sufficient time to allow District to issue progress payments to builders.

B. Retention. City will include 10% retention in the progress payments to be made to District pursuant to this MOU. District will withhold 10% retention from any and all payments to a builder or builders, and will release retention payments, as required by the construction agreement entered into between the City, District and a builder or builders.

C. Payment to Architect & Environmental Review Consultants. District has contracted directly with architects and environmental review consultants for the Improvements. City agrees to make payment for architects and environmental consultants to District, in accordance with Section 8, at the District's direction, so that District can make timely payment to architects and environmental review consultants in the proportions set forth in Attachment C. Unless specifically called for in the District's agreement with an architect or environmental review consultants, no retention payments will be withheld by District from payments to these contractors and consultants.

D. Inspection and Audit. The Parties shall have the right to review, inspect, and audit all non-privileged documents and records in each other's possession related to the Improvements, in order to assure timely and accurate payment and cost sharing as described herein.

E. Failure to Make Payment. In the event that City fails to make a progress payment to District as called for by the agreed schedule within 30 days of the due date, District shall provide written notice to City of such failure. If City does not cure or correct such failure, or engage in the expedited dispute resolution process provided in Section 10, within 15 days of service of the notice, District may direct builder to cease work upon the Library Building and/or the Athletic Fields until such progress payment is made to District.

Section 10. OWNERSHIP OF BUILDINGS, FIXTURES, AND EQUIPMENT

The Parties desire to cooperate in the construction and operation of the School and Library, and agree to cooperatively use each other's property to maximize the community's enjoyment of these resources.

A. Upon completion and acceptance, City will own the Library and related fixtures.

B. Upon completion and acceptance, District will own all buildings, equipment and fixtures located in or connected to the School.

C. With respect to the athletic fields and parking lots, upon completion and acceptance, the City will own any buildings, fixtures, and improvements located on the City Property, and District will own any buildings, fixtures, and improvements located on the District Property. Without regard to ownership, the Parties desire to have cooperative joint use of the athletic fields and parking lots; therefore, the use of these facilities shall be subject to the Joint Use MOU between the City and District dated November 30, 1999 (City Agreement # 99-226). City Agreement #99-226 is incorporated in full into this MOU and is attached as Attachment D.

Section 11. UTILITIES & TELECOMMUNICATIONS

The Improvements will include separate utilities including, but not limited to, natural gas, electricity, water, sewer, and telecommunications connections to the Library. Any plans and specifications for the Project shall describe and call for these separate utility connections.

Section 12. ASSESSMENTS

All assessments and other fees applied to the City Property and District Property, including but not limited to Sacramento Area Flood Control Agency fees, shall be apportioned to District and City in proportion to the relative number of square feet per first-floor building area, or per number of acres leased / possessed, according to how the particular assessment or fee is calculated.

Section 13. NAMING OF PROJECT AND SEPARATE ELEMENTS

With respect to naming parts of the project, City shall have all authority to name the Library, park area, and athletic fields, and the District shall have all authority to name the School.

Section 14. DISPUTE RESOLUTION

If the Parties are unable to agree on any item, change order, obligation, or other act called for by this MOU, then they agree to an expedited dispute resolution process.

A. Step 1 – Meet and Confer. City and District agree to meet within three (3) working days after one Party sends written notice that it believes the dispute resolution process to be necessary. Each Party shall send a representative sufficiently familiar with the Improvements, and with sufficient authority, to meet and confer and attempt

resolution. If the dispute or any portion of it remains following the meet and confer conference, the Parties will proceed to mediation.

B. Step 2 – Mediation. Within fifteen (15) days after the meet and confer session, the Parties will select a disinterested third party mediator and submit to non-binding mediation. The Parties shall complete the mediation process within thirty (30) days of the meet and confer conference, unless time is extended by stipulation of all Parties.

C. Step 3 – Arbitration or Civil Action. If the Parties are unable to reach agreement at mediation, they may agree to submit the matter to arbitration or commence a civil action as allowed by law.

D. District to Instruct Builder. In the event the Parties are unable to reach agreement on any payment, obligation, change order, schedule change, or other item related to construction that requires City approval, and the Parties have given any written notices that may be required and have engaged in dispute resolution pursuant to this Section 14, the Parties agree that District shall be entitled to direct the builder or builders in good faith in order to minimize schedule disruption or delay.

Section 15. WARRANTIES; HAZARDOUS SUBSTANCES

City and District make no warranties or representations to each other except as specifically provided in this MOU, or any other agreement between the Parties, including but not limited to warranties or representations related to the suitability of the City Property or District Property for construction of the Improvements, the adequacy or correctness of any environmental review conducted for the Improvements, nor the location of any hazardous substances or other materials that may require remediation. As of the date of signing this MOU, City and District have no actual knowledge of any hazardous substances located on the City Property or the School Property.

Section 16. INSURANCE AND INDEMNITY

The Parties incorporate, and agree to be bound by, the insurance and indemnity provisions of the Memorandum of Understanding between the City of Sacramento and the Schools Insurance Authority Regarding Hold Harmless and Insurance Provisions dated May 31, 2001 (City Agreement # 2001-050). City Agreement # 2001-050 is incorporated in full into this MOU and is attached as Attachment E.

Section 17. MISCELLANEOUS PROVISIONS

A. Relationship of Parties. The Parties agree that that their agents and employees in the performance of this MOU are not officers, employees, or agents of the other Parties.

B. No Joint Venture. This MOU shall not create between the Parties a joint venture, partnership, or any other relationship of association.

C. No Grant of Agency. Except as specifically provided for in this MOU, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent or to bind the other Party to any obligation whatsoever.

D. Entire Agreement. This MOU embodies the entire agreement of the Parties in relation to the scope of matters covered by this MOU, and no other agreement or understanding verbal or otherwise, exists between the Parties.

E. Further Actions. The Parties agree to execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of this MOU.

F. Modifications. No modification of or amendment to this MOU may be made except in writing and signed by all Parties, with ratification or approval by the governing body of each Party.

G. Severability. The invalidity of any provision of this MOU or its parts shall in no way affect the validity of any other provision(s).

H. Waiver. Waiver of any breach of, or default under, this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this MOU.

I. Section Headings. The section headings contained this MOU are for convenience only, and are not intended to define or limit the scope of any provision of this MOU.

J. Consent. A Party's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of such Party's consent to or approval of any subsequent act by another Party.

K. Assignment Prohibited. No Party may assign any right or obligation pursuant to this MOU. Any attempt or purported assignment of any right or obligation pursuant to this MOU shall be void and of no effect.

L. Ambiguities. The Parties have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Party.

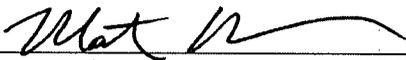
M. Counterparts. This MOU may be executed in counterparts so that signatures appear on separate signature pages. A copy, or an original, with all signatures appended together shall be deemed a fully executed MOU. Signatures transmitted by facsimile shall be deemed original signatures.

N. Authority. The people executing this MOU have the capacity and are authorized to execute this MOU as the representatives of their respective Party, and to bind their respective Party to the terms of this MOU.

O. Governing Law. This MOU shall be interpreted using California law.

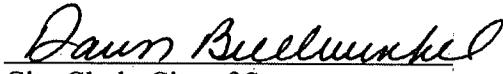
P. Incorporation of Attachments. All attachments are incorporated into this MOU.

CITY OF SACRAMENTO ("City")

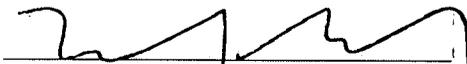
By: 

Marty Hanneman, Assistant City Manager
for Ray Kerridge, City Manager/October 18, 2007

ATTEST:

asst 
City Clerk, City of Sacramento 10-22-07

APPROVED AS TO FORM:

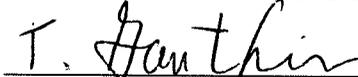

Michael T. Sparks, Senior Deputy City Attorney
City of Sacramento

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
("District")

By: 

Dated: 11/13/07

APPROVED AS TO FORM:

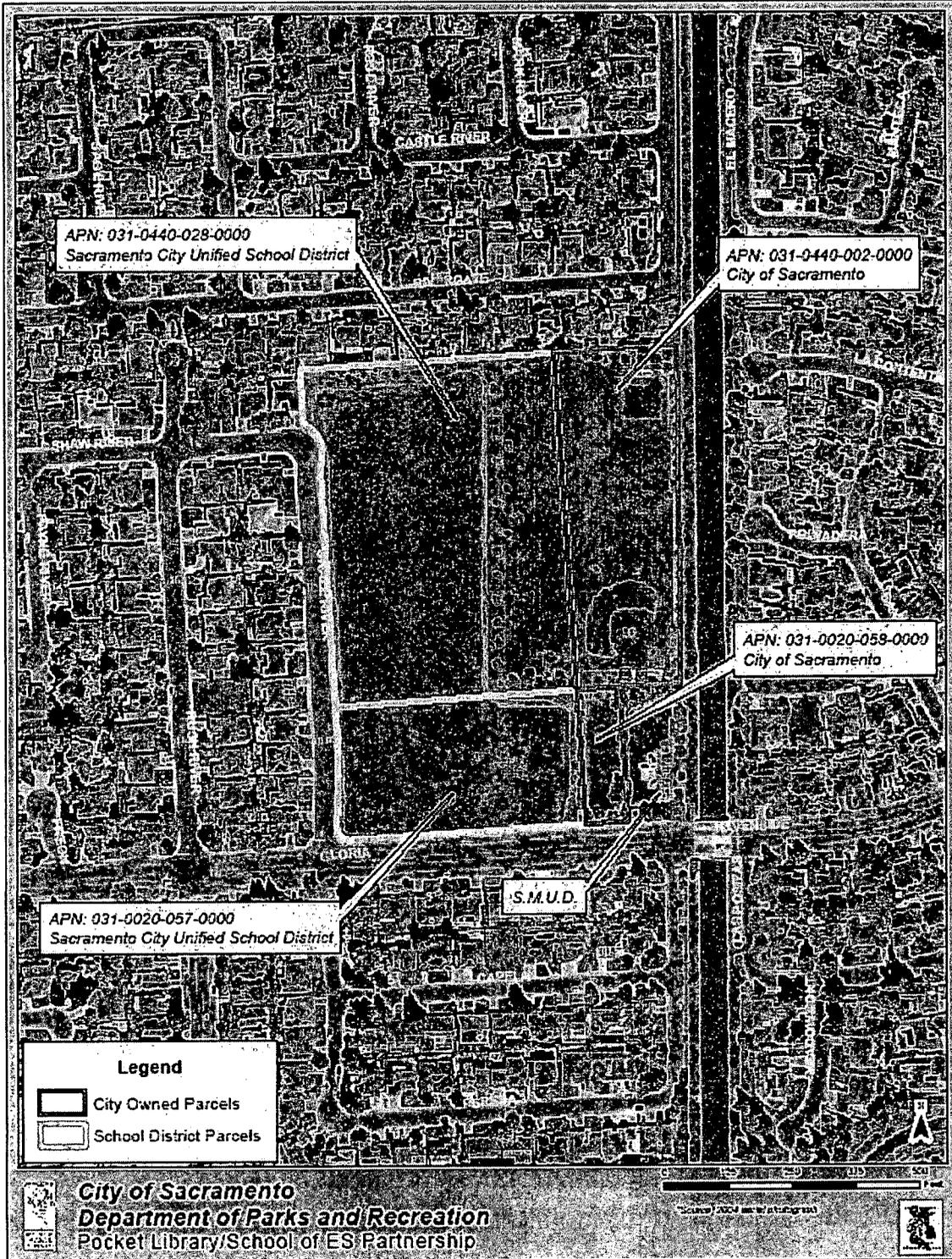

District Counsel, Sacramento City Unified
School District

CITY
AGREEMENT NO. 2007-1090

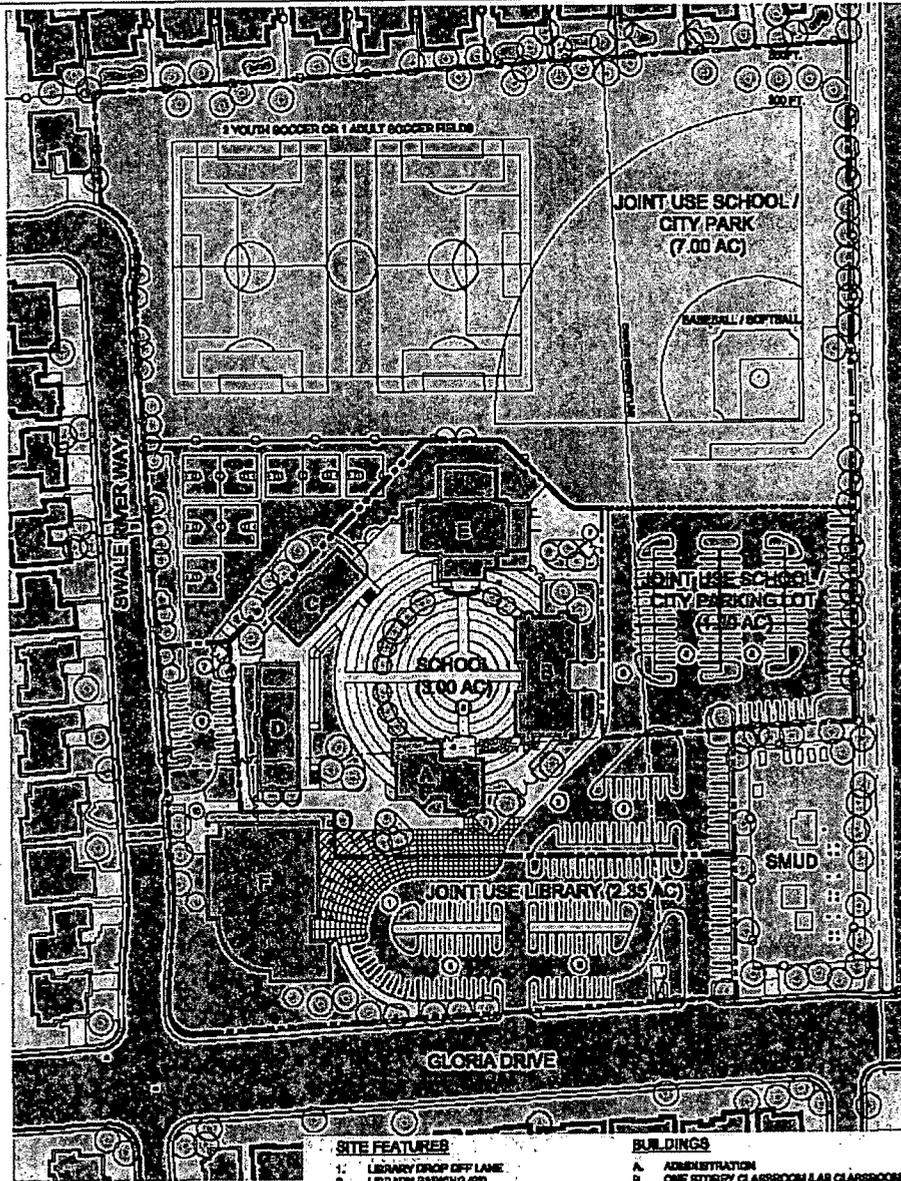
CITY 2007-1090
AGREEMENT NO.

ATTACHMENT A

Attachment A



ATTACHMENT B



SITE FEATURES

1. LIBRARY DROP OFF LANE
2. LIBRARY PARKING (25)
3. SCHOOL DROP OFF LANE
4. SCHOOL STAFF / VISITOR PARKING (21)
5. STUDENT PARKING (25)
6. LIBRARY STAFF PARKING (15)
7. TRASH ENCLOSURE
8. SCHOOL COURTYARD
9. ENTRY PLAZA
10. LIBRARY SERVICES ENTRANCE

BUILDINGS

- A. ADMINISTRATION
- B. ONE STOREY CLASSROOM / LAB CLASSROOM
- C. TWO STOREY CLASSROOM
- D. TWO STOREY CLASSROOM
- E. MULTI-PURPOSE / GYMNASIUM / KITCHEN
- F. JOINT USE LIBRARY - 13,000 SF

TOTAL ACRES: 13.55 ACRES

April 6, 2007
**SACRAMENTO CITY UNIFIED
 SCHOOL DISTRICT and
 CITY OF SACRAMENTO**

**SITE MASTER PLAN 9
 SCHOOL OF ENGINEERING
 AND SCIENCES**



ATTACHMENT C

SUMMARY OF SHARED COSTS

PROJECT ELEMENT	TOTAL	DISTRICT		CITY	
		COST	SHARE	COST	SHARE
School Construction	18,052,028	18,052,028	100%	0	0%
Library Construction	7,550,202	0	0%	7,550,202	100%
Shared Parking Lots	627,792	251,116	40%	376,676	60%
Shared Playfield/Park	1,899,766	759,906	40%	1,139,860	60%
Shared Off-Site	81,950	40,975	50%	40,975	50%
CONSTRUCTION COSTS	\$28,211,738	\$19,104,025	68%	\$9,107,713	32%
Architect Fees	1,739,643	828,872	48%	910,771	52%
Lease/Lease Back Fees	1,452,130	1,016,491	70%	435,639	30%
Other Fees	430,000	301,000	70%	129,000	30%
Furniture & Equipment	400,000	400,000	100%	0	0%
Contingency/Other	1,494,344	844,178	56%	650,166	44%
PROJECT SOFT COSTS	\$5,516,117	\$3,390,541	61%	\$2,125,576	39%
TOTAL PROJECT COSTS	\$33,727,855	\$22,494,566	67%	\$11,233,289	33%

City Items/Direct Costs (\$3.4 million) not included in the above:

- CEQA Mitigation
- Library Interior Design
- Library Interior Furniture, Fixtures and Equipment
- Library Materials
- Library Start Up Costs
- Art in Public Places
- City Project Oversight

AGREEMENT

THIS AGREEMENT, dated November 30, 1999, is made and entered into by and between the

CITY OF SACRAMENTO, a municipal corporation, hereinafter referred to as 'CITY',

And

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT, hereinafter referred to as 'SCUSD'

WITNESSETH:

WHEREAS, CITY and SCUSD desire to maximize use of their public facilities;

WHEREAS, CITY owns recreational facilities which it wishes to make available for use by SCUSD for activities that strengthen the education systems/programs in the community;

WHEREAS, SCUSD owns educational facilities which it wishes to make available for use by the CITY for recreational and important public purposes.

WHEREAS, Education Code Section 10900 et seq authorizes and empowers cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of public services which will contribute to the attainment of general recreational and educational objectives for children and adults of this State, and to enter into agreements with each other for such purpose.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. TERM

The term of this Agreement shall commence on the date of execution set forth above and shall continue from year to year unless terminated by either party pursuant to the terms of Section 10 below.

CITY AGREEMENT NO. 99-226

ATTACHMENT D

2. USE OF FACILITIES

A. The term 'facilities' shall be used for the purposes of this Agreement to mean any place, structure, area, classroom or facility used for recreational/educational purposes, whether or not it is used primarily for other purposes. The terms of this Agreement shall apply to all recreational/educational facilities owned by CITY or SCUSD with the exception of those facilities listed on Exhibit 'A', a copy of which is attached and incorporated. Both parties agree to explore the possibility of some joint use access to those facilities listed on Exhibit 'A'.

B. CITY shall permit SCUSD to use its facilities and grounds with the necessary city equipment required for public and recreational purposes, without charge, as long as the use does not conflict with the regular conduct of park, recreation and public service activities. The first priority for use of CITY's facilities shall be activities sponsored in whole or in part by CITY; activities sponsored by SCUSD shall have next priority; activities sponsored by other entities, third priority.

C. SCUSD shall permit CITY to use its facilities and grounds, with the necessary SCUSD equipment required for public and recreational purposes, without charge, as long as use does not interfere with regular school activities, programs and other SCUSD uses. The District, in its complete discretion, shall determine the priority of use for its facilities. The following guidelines for priorities shall be considered in dealing with priority of use, except that no current user shall be completely displaced by the application of these guidelines without the availability of a viable alternative facility. First priority for use of SCUSD's facilities shall be regular and special school programs, PTA, parent activities, Healthy Start, summer school activities. Activities sponsored by CITY shall have next priority, in the following order: CITY sponsored and/or school connected youth programs (e.g. sports camps, START), other recreation activities scheduled by CITY.

D. Each party shall have the right to charge a reasonable fee to participants for participation in the recreational and educational activities sponsored by it at the other party's facilities.

E. Each party shall provide, at its own expense, any personnel necessary for the direction, supervision or safety of recreational and public activities sponsored by it at these facilities.

F. Each party shall provide all utilities necessary for use of the recreational/educational facilities owned by it.

ATTACHMENT D

G. As feasible, SCUSD shall attempt to provide at CITY's expense adequate temporary office and storage space at SCUSD facilities for the regular conduct of CITY park, recreation and public service activities. As feasible, CITY shall attempt to provide at SCUSD's expense adequate temporary office and storage space at CITY facilities for the regular conduct of SCUSD business.

H. CITY or its agents shall enforce and abide by all SCUSD rules, regulations, ordinances and policies while directing activities on SCUSD facilities; SCUSD or its agents shall enforce and abide by all CITY rules, regulations, ordinances and policies while directing activities on CITY facilities. Each party shall provide copies of all relevant rules, regulations, ordinances and policies to the other party.

I. Pursuant to paragraphs B and C of this section, neither party shall charge fees for the other agency's use of the facilities. Necessary additional out-of-pocket expenses for costs related to the use of facility such as security, portable toilets, and extra clean up shall be the responsibility of the user agency. The user agency can provide its own security if the security plan meets the approval of the host agency.

J. Within reasonable limits, CITY and SCUSD staff will agree on custodial coverage so as to provide CITY, SCUSD and public usage with no cost to user. Activities will be scheduled in advance so that custodial support can be provided. A joint custodial services and supplies plan will be developed by both parties and revised semi-annually in conjunction with the semi-annual master calendar development described in Section 3.

The CITY and public uses shall cover costs associated with custodial coverage in situations where there is an 'extended burden'. An extended burden would be a custodial requirement that could not be covered through adjusting the current custodial support for the site, requires the paying of overtime or has collective bargaining implications.

K. Each agency shall maintain its facilities in good repair and provide day to day maintenance, utilities and custodial services and supplies, structural repair, and replacement or repair of major equipment. Costs associated with additional operations, exceptional facility use, maintenance and custodial services beyond fair wear and tear shall be set at a mutually agreed upon rate, to be assessed annually, except where an addressing Memorandum of Understanding Agreement containing different provisions exists between the City and District.

ATTACHMENT D

L. The CITY and SCUSD shall develop an emergency access policy so that designated CITY staff or SCUSD staff can open and close facilities if owning agency personnel are not available during the proposed use.

3. SCHEDULING OF FACILITIES

CITY shall be responsible for scheduling all reserved CITY use of SCUSD facilities during non-school hours for purposes sponsored by CITY. SCUSD shall be responsible for scheduling all reserved SCUSD use of CITY facilities for purposes sponsored by SCUSD. The scheduling shall be subject to the following terms and conditions:

A. CITY staff and SCUSD staff shall meet twice a year at prescheduled intervals to develop a master calendar for use of CITY and SCUSD facilities. Dates agreed to shall be finalized through issuance of a permit by the respective agency. In every use, the schedule shall be arranged so as not to conflict with recreation and school uses.

B. Both agencies shall designate staff to act as their Facility Scheduling Representative for purposes of submitting requests. Both agencies agree to maximize the twice annual calendaring process as identified in Paragraph A above to streamline and reduce the volume of staff requests for facility use between semi-annual calendaring meetings.

C. Requests for facility use shall be processed through each agency's central permit processing office. Each agency's central permit office will be responsible for verifying availability of that agency's facilities prior to approving a Facility Use Application.

D. All requests for CITY use of SCUSD facilities shall be submitted on SCUSD Facility Use Application forms. All requests for SCUSD use of CITY facilities shall be submitted on CITY Facility Use Application forms.

4. CANCELLATION OF RESERVED SPACES

A. CITY shall endeavor to provide SCUSD with a minimum of fourteen (14) calendar days notice when canceling approved uses of SCUSD facilities. SCUSD shall endeavor to provide CITY with a minimum of fourteen (14) calendar days notice when canceling approved uses of CITY facilities.

B. Once a permit is issued it shall not be canceled by the owning agency unless the facility is deemed unsafe or due to situations beyond control of owning agency. The using agency

ATTACHMENT D

shall be compensated for out of pocket expenses incurred prior to the date of cancellation if a facility date is canceled.

C. The owning agency shall make every good faith effort to locate an alternative site for the scheduled activity in the event of a cancellation.

5. IMPROVEMENTS TO PROPERTY

The CITY and SCUSD shall jointly identify resources and capital and equipment needs that will facilitate enhanced joint and public use. SCUSD and CITY shall develop a reasonable cost sharing agreement on those capital and equipment items that are directly related to and essential for joint and public use (e.g. shared costs for gym floor replacement, for replacement of basketball hoops, for repair of district swimming pools that are available to the public, to purchase storage and security devices to enable classrooms to be available for non school hour uses). The cost sharing agreement shall be based on the proportional usage of the facilities or equipment by each agency. The CITY's proportional use shall include the use of school facilities by the CITY. SCUSD's proportional use shall include the use of city facilities by SCUSD. The owning agency shall repair or replace those items mutually agreed upon by the two agencies. City's contribution to the cost thereof, shall be from a capital improvement designated for that purpose. Replacement of such equipment over time shall be by the owning agency in consultation with the other party.

The SCUSD and CITY agree to work with public members to seek community involvement in capital replacements (i.e., parent participation projects, private donations), if deemed appropriate by the CITY and SCUSD.

CITY may install sprinkler systems, turfing, playground equipment, fencing, and additional recreational equipment on SCUSD facilities provided such installation is not in conflict with school use and subject to advanced written approval of the Superintendent or his/her designee. SCUSD shall be responsible for all maintenance and repair of any CITY installed improvements upon completion of the project and approval and acceptance by SCUSD. Any such improvements shall become the property of SCUSD.

6. MEET AND CONFER

CITY and SCUSD shall meet on a quarterly basis, as mutually agreed, to discuss operational issues and correct deficiencies.

ATTACHMENT D

CITY and SCUSD each shall document any misuse of facilities by the other party on written incident reports, which shall be submitted to the other party within three (3) business days after the incident occurred, or the notifying party gains knowledge of such an incident. CITY and SCUSD shall provide written responses to all incident reports within five (5) business days of receipt. Action, which results from the incident reports, including reduction or cancellation of scheduled facility use, shall be by mutual agreement between CITY and SCUSD.

7. INDEMNIFICATION

The parties agree to be bound by the terms of that certain Memorandum of Understanding between CITY and the Schools Insurance Authority, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit B.

8. INSURANCE

A. During the term of this Agreement, SCUSD shall maintain a comprehensive liability insurance policy providing coverage for public liability, bodily injury and property damage.

B. During the term of the Agreement, CITY shall either be self-insured or maintain a comprehensive liability insurance policy providing coverage for public liability, bodily injury and property damage.

9. AGREEMENT AMENDMENTS

No amendments to this agreement shall be of any force or effect, unless the same is in writing and executed by the parties hereto.

10. ASSIGNMENT

Neither SCUSD nor CITY may assign or transfer this Agreement, or any part thereof, without the prior written consent of the other party.

11. TERMINATION

Either CITY or SCUSD may terminate this Agreement upon giving the other party at least ninety (90) days prior written notice.

12. NOTICES

Notices and communication concerning this Agreement shall be sent to the following addresses:

ATTACHMENT D

CITY

City of Sacramento
Recreation Manager
1231 I Street, Room 400
Sacramento, CA 95814

SCUSD

Sacramento City Unified School District
Asst Superintendent
520 Capital Mall
Sacramento, CA 95814

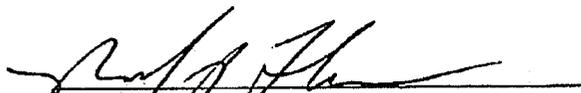
13. PRIOR AGREEMENTS

This agreement supersedes the prior agreement (City Agreement No. 81069) relating to joint use.

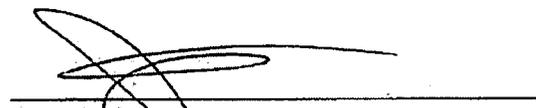
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates-set forth above.

CITY OF SACRAMENTO,
A Municipal Corporation

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT



City Manager



Superintendent

APPROVED AS TO FORM:

APPROVED AS TO FORM:

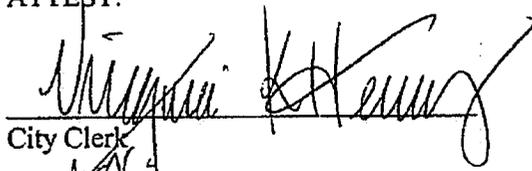


Deputy City Attorney



SCUSD Attorney

ATTEST:



City Clerk

CITY
AGREEMENT NO. 99-226

ATTACHMENT D

EXHIBIT A

FACILITIES NOT COVERED BY THIS AGREEMENT

1. **FACILITIES OWNED BY CITY**
Self-supporting facilities such as the Sacramento Convention Center and Memorial Auditorium, golf courses, marina, Sacramento Softball Complex, Camp Sacramento and city owned parking lots. Quasi-government facilities or facilities operated by non-profit organizations such as the Sacramento Zoo, Crocker Art Museum, Discovery Museum, History Archives, and City Cemetery.

2. **SCHOOL DISTRICT FACILITIES**
None.

Memorandum of Understanding
City of Sacramento
Schools Insurance Authority
Hold Harmless and Indemnification Provisions

Introduction

The City of Sacramento (hereinafter the City) is a public entity which enters into contractual agreements and Memorandums of Understanding (MOU) with California public school districts (hereinafter districts). Such agreements include but are not limited to agreements for processing parking tickets, providing programs such as arts programs and other educational or youth oriented programs including the 4R program, purchase of meals, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

The Schools Insurance Authority (hereinafter SIA) is a joint powers authority which provides programs to cover its member school districts' general liability (including automobile liability), property and workers compensation exposures. SIA member districts (hereinafter SIA districts) in Sacramento County include Arcohe Union School District, Center Unified School District, Del Paso Heights School District, Elk Grove Unified School District, Elverta Joint School District, Folsom Cordova Unified School District, Galt Joint Union Elementary School District, Galt Joint Union High School District, Natomas Unified School District, North Sacramento School District, Rio Linda Union School District, River Delta Unified School District, Robla District, Sacramento City Unified School District, the Sacramento County Office of Education, and the San Juan Unified School District. Many SIA districts enter into contractual agreements and MOUs with the City. Such agreements include but are not limited to agreements for processing parking tickets, the City providing programs such as arts programs and other educational or youth oriented programs, the sale of meals to the City, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

Purpose

There is a need to reduce litigation costs between the City and SIA districts when both are named as defendants, in tort lawsuits arising out of their contractual agreements, Memorandums of Understanding and other joint activities. When two or more public entities are named defendants, each determines their respective litigation position, which can result in claims and counter claims between them. These actions increase claim and legal costs, consume large amounts of staff time and may result in the plaintiff playing the parties against each other.

The parties to this agreement are resolved to utilize equitable hold harmless indemnification language in the contractual agreements and MOU between the city and SIA districts and to minimize disagreements arising out of said hold harmless and indemnification provisions.

CITY
AGREEMENT NO. 2001-050

CITY
AGREEMENT NO. 2001-050₁

ATTACHMENT D

In addition, the parties to this MOU are resolved to reduce litigation expenses through a coordinated program for handling tort claims and the subsequent lawsuits filed against the City and SIA districts which arise out of their contractual agreements, Memorandums of Understanding and other joint activities.

Agreement

The City and SIA agree to use the hold harmless language outlined in the **Hold Harmless Agreement** section of this MOU in contractual agreements and MOUs between the City and SIA districts with the exception of the districts' use of Memorial Auditorium and the Sacramento Convention Center. For use of the Sacramento Convention Center, other hold harmless language may be used and the districts will be given the option of purchasing through the City, special events coverage covering the district's use of the Memorial Auditorium and Sacramento Convention Center. The cost of the special events coverage shall be added to the district's cost for using the Memorial Auditorium or Sacramento Convention Center. SIA shall recommend that SIA districts purchase the special events coverage.

When a third party claim is made against the City or an SIA district or an incident is disclosed that may lead to a claim, the initially involved entity determines if other entities may also be included in subsequent litigation. The knowledgeable entity then apprises the other entities and investigations are shared.

Using the results of the investigations, the City and SIA will discuss the potential liability of the parties pursuant to the applicable hold harmless and indemnification clauses before cross-actions are filed. All reasonable efforts will be made to reach consensus on each parties' respective responsibilities under the hold harmless and indemnification language of the agreement. Such efforts shall be made prior to the filing of any cross actions. If consensus is reached on the liability issues, a joint defense strategy and cost sharing arrangement may be agreed to.

Best efforts will be used in assessing liability apportionment between the parties, but it is understood that this MOU does not bind the parties without the consent of all the involved parties.

Hold Harmless Agreement

INDEMNIFICATION

DISTRICT shall assume the defense of and indemnify and hold harmless CITY from and against all actions or claims against CITY, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by CITY by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the CITY, its officers, agents or employees and except for actions or claims alleging dangerous

ATTACHMENT D

conditions of CITY property which arise out of the acts or failure to act by the CITY, its officers, agents or employees which are not created by a DISTRICT employee or District invitee.

CITY shall assume the defense of and indemnify and hold harmless DISTRICT from and against all actions or claims against DISTRICT, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by DISTRICT by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the DISTRICT, its officers, agents or employees and except for actions or claims alleging dangerous condition of DISTRICT property which arise out of the acts or failure to act by the DISTRICT, its officers, agents or employees which are not created by a CITY employee or CITY invitee.

The indemnification provisions contained in this Agreement includes but is not limited to any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of either party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

It is the intent of the Parties that where negligence or responsibility for injury or damages is determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

Each party shall establish procedures to notify the other party, where appropriate, of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification section. The Parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this agreement. Nothing set forth in this Agreement shall establish a standard of care for or create any legal rights for any person not a party to this Agreement.

The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

INSURANCE

City Insurance. CITY, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program or pooled insurance, if any. The CITY must provide an affidavit of self-insurance, if any.

ATTACHMENT D

A. Comprehensive General Liability

A policy with a minimum limit of not less than \$2,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages:

- 1) Premises Operations
- 2) Blanket Contractual
- 3) Personal Injury

B. Workers' Compensation and Employers' Liability

A policy written in accordance with the laws of the State of California and providing coverage for any and all employees of the CITY.

- 1) This policy shall provide coverage for Workers' compensation (Coverage A) with statutory limits.
- 2) This policy shall also provide coverage of \$100,000 Employers' Liability (Coverage B).

C. Comprehensive Business Auto (Only used when applicable to agreement)

A policy with a minimum of not less than \$2,000,000 combined single limit for bodily injury and property damage. Coverage shall be applicable (without deductibles) to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this agreement.

D. Special Provisions

The forgoing requirements as to the types and limits of insurance coverage to be maintained by CITY, and any approval of said insurance by the DISTRICT, or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CITY pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

District Insurance. DISTRICT, at its sole cost and expense and for the full term of this Agreement shall obtain and maintain at least all of the following minimum insurance requirements. All or a portion of the required insurance may be satisfied through the use of a self-insurance program. The DISTRICT must provide an affidavit of self-insurance, or pooled insurance, if any.

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All insurance requirements shall be met by all parties prior to the commencement of any of the activities required of the parties under this Agreement.

Severability

Should any portion, term, condition, or provision of this MOU be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

ATTACHMENT D

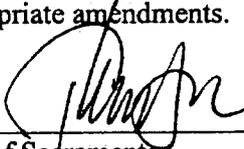
Term

The terms of this MOU shall commence upon signature by all parties authorized to enter into this MOU by approval of their respective governing body and shall automatically be renewed thereafter from fiscal year (July to June 30) to fiscal year unless any participating party gives written notice of termination. Any participating party may terminate this MOU in thirty (30) days upon written notification to terminate the agreement with or without cause.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the authorized Parties hereof. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties relating to the same subject matter, whether executed prior or subsequent to this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides that it supersedes this MOU.

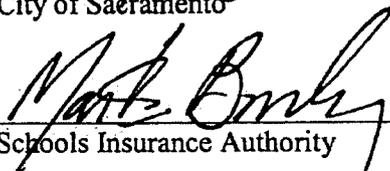
Amendments

Amendments to this MOU may be made with the mutual written agreement from the participating parties. The MOU shall be periodically reviewed for consideration of appropriate amendments.



City of Sacramento

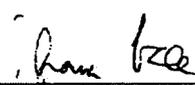
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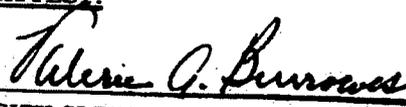
Schools Insurance Authority

5/31/01
Date

APPROVED AS TO FORM:



City of Sacramento

ATTEST:


CITY CLERK

CITY
AGREEMENT NO. 2001-050

CITY
AGREEMENT NO. 2001-050

ATTACHMENT E

Memorandum of Understanding
City of Sacramento
Schools Insurance Authority
Hold Harmless and Indemnification Provisions

Introduction

The City of Sacramento (hereinafter the City) is a public entity which enters into contractual agreements and Memorandums of Understanding (MOU) with California public school districts (hereinafter districts). Such agreements include but are not limited to agreements for processing parking tickets, providing programs such as arts programs and other educational or youth oriented programs including the 4R program, purchase of meals, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

The Schools Insurance Authority (hereinafter SIA) is a joint powers authority which provides programs to cover its member school districts' general liability (including automobile liability), property and workers compensation exposures. SIA member districts (hereinafter SIA districts) in Sacramento County include Arcohe Union School District, Center Unified School District, Del Paso Heights School District, Elk Grove Unified School District, Elverta Joint School District, Folsom Cordova Unified School District, Galt Joint Union Elementary School District, Galt Joint Union High School District, Natomas Unified School District, North Sacramento School District, Rio Linda Union School District, River Delta Unified School District, Robla District, Sacramento City Unified School District, the Sacramento County Office of Education, and the San Juan Unified School District. Many SIA districts enter into contractual agreements and MOUs with the City. Such agreements include but are not limited to agreements for processing parking tickets, the City providing programs such as arts programs and other educational or youth oriented programs, the sale of meals to the City, joint use of facilities, City use of district facilities, district use of City facilities, and City provision of police services.

Purpose

There is a need to reduce litigation costs between the City and SIA districts when both are named as defendants, in tort lawsuits arising out of their contractual agreements, Memorandums of Understanding and other joint activities. When two or more public entities are named defendants, each determines their respective litigation position, which can result in claims and counter claims between them. These actions increase claim and legal costs, consume large amounts of staff time and may result in the plaintiff playing the parties against each other.

The parties to this agreement are resolved to utilize equitable hold harmless indemnification language in the contractual agreements and MOU between the city and SIA districts and to minimize disagreements arising out of said hold harmless and indemnification provisions.

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ATTACHMENT E

In addition, the parties to this MOU are resolved to reduce litigation expenses through a coordinated program for handling tort claims and the subsequent lawsuits filed against the City and SIA districts which arise out of their contractual agreements, Memorandums of Understanding and other joint activities.

Agreement

The City and SIA agree to use the hold harmless language outlined in the **Hold Harmless Agreement** section of this MOU in contractual agreements and MOUs between the City and SIA districts with the exception of the districts' use of Memorial Auditorium and the Sacramento Convention Center. For use of the Sacramento Convention Center, other hold harmless language may be used and the districts will be given the option of purchasing through the City, special events coverage covering the district's use of the Memorial Auditorium and Sacramento Convention Center. The cost of the special events coverage shall be added to the district's cost for using the Memorial Auditorium or Sacramento Convention Center. SIA shall recommend that SIA districts purchase the special events coverage.

When a third party claim is made against the City or an SIA district or an incident is disclosed that may lead to a claim, the initially involved entity determines if other entities may also be included in subsequent litigation. The knowledgeable entity then apprises the other entities and investigations are shared.

Using the results of the investigations, the City and SIA will discuss the potential liability of the parties pursuant to the applicable hold harmless and indemnification clauses before cross-actions are filed. All reasonable efforts will be made to reach consensus on each parties' respective responsibilities under the hold harmless and indemnification language of the agreement. Such efforts shall be made prior to the filing of any cross actions. If consensus is reached on the liability issues, a joint defense strategy and cost sharing arrangement may be agreed to.

Best efforts will be used in assessing liability apportionment between the parties, but it is understood that this MOU does not bind the parties without the consent of all the involved parties.

Hold Harmless Agreement

INDEMNIFICATION

DISTRICT shall assume the defense of and indemnify and hold harmless CITY from and against all actions or claims against CITY, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by CITY by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the CITY, its officers, agents or employees and except for actions or claims alleging dangerous

ATTACHMENT E

conditions of CITY property which arise out of the acts or failure to act by the CITY, its officers, agents or employees which are not created by a DISTRICT employee or District invitee.

CITY shall assume the defense of and indemnify and hold harmless DISTRICT from and against all actions or claims against DISTRICT, its officers, agents or employees from any and all loss, including attorneys' fees, sustained by DISTRICT by virtue of any damages to any person(s), firm or corporation who may be injured by or to any property that may be damaged arising out of the performance of this agreement, except for actions or claims alleged to have occurred in full, or in part, as a result of active negligence by the DISTRICT, its officers, agents or employees and except for actions or claims alleging dangerous condition of DISTRICT property which arise out of the acts or failure to act by the DISTRICT, its officers, agents or employees which are not created by a CITY employee or CITY invitee.

The indemnification provisions contained in this Agreement includes but is not limited to any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of either party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

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The indemnity provisions of this Agreement shall survive the expiration or earlier termination of this Agreement.

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D. Special Provisions

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All insurance requirements shall be met by all parties prior to the commencement of any of the activities required of the parties under this Agreement.

Severability

Should any portion, term, condition, or provision of this MOU be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or to be otherwise rendered unenforceable or ineffectual, the remaining portion, terms, conditions, and provisions shall not be affected thereby.

ATTACHMENT E

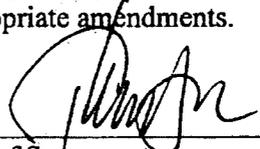
Term

The terms of this MOU shall commence upon signature by all parties authorized to enter into this MOU by approval of their respective governing body and shall automatically be renewed thereafter from fiscal year (July to June 30) to fiscal year unless any participating party gives written notice of termination. Any participating party may terminate this MOU in thirty (30) days upon written notification to terminate the agreement with or without cause.

No waiver, alteration, modification, or termination of this MOU shall be valid unless made in writing and signed by the authorized Parties hereof. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties relating to the same subject matter, whether executed prior or subsequent to this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides that it supersedes this MOU.

Amendments

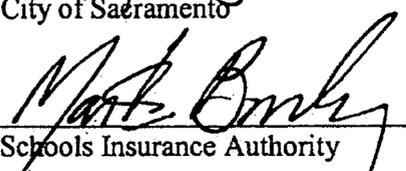
Amendments to this MOU may be made with the mutual written agreement from the participating parties. The MOU shall be periodically reviewed for consideration of appropriate amendments.



City of Sacramento

3/22/07

Date



Schools Insurance Authority

5/31/01

Date

APPROVED AS TO FORM:

ATTEST:



City of Sacramento



CITY CLERK

CITY
AGREEMENT NO. 2001-050

RESOLUTION NO. 2007-758

Adopted by the Sacramento City Council

October 16, 2007

AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE SACRAMENTO UNIFIED SCHOOL DISTRICT REGARDING THE DESIGN AND CONSTRUCTION OF THE POCKET/GREENHAVEN LIBRARY, SCHOOL OF ENGINEERING AND SCIENCES, AND RELATED IMPROVEMENTS

BACKGROUND

- A. The City owns the Sojourner Truth Park, which is a 3.3 acre neighborhood park.
- B. The Sacramento City Unified School District owns an adjacent 10.25 acre undeveloped piece of property.
- C. The City, Sacramento City Unified School District (District) and Sacramento Public Library Authority (Library Authority) are interested in developing a joint use project and partnership which would include a 500 student middle/high School of Engineering and Sciences, a 15,000 square foot branch library, an approximate seven acre park/playfield and related joint use parking and other improvements on the combined City and District sites.
- D. On November 22, 2005, the City Council adopted a Resolution (Resolution No. 2005-846) endorsing the development of this project in conjunction with the District and the Library Authority.
- E. All of the parties have participated in the development of a Master Site Plan for the location.
- F. The City and the District have budgeted appropriate funds for the proposed joint use project.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager or the City Manager's designee is authorized to execute a memorandum of understanding with the Sacramento Unified School District regarding the design and construction of the Pocket/Greenhaven Library, School of Engineering and Sciences, and related improvements.

Adopted by the City of Sacramento City Council on October 16, 2007 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

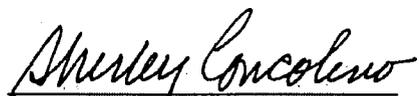
Abstain: None.

Absent: Councilmember McCarty.



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk

AMENDMENT #1 TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND THE SACRAMENTO CITY UNIFIED SCHOOL DISTRICT REGARDING THE DESIGN AND CONSTRUCTION OF THE SCHOOL OF SCIENCES AND ENGINEERING, POCKET LIBRARY, AND RELATED IMPROVEMENTS (CITY AGREEMENT NO. 2007-1090)

This amendment (Amendment) to the Memorandum of Understanding dated October 16, 2007, by and between the City of Sacramento (City), a municipal corporation, and the Sacramento City Unified School District (District), a California public school district, is made and entered into this 5th day of March, 2009.

The City and District may be referred to collectively as "parties" or in the singular as "party", as the context requires.

RECITALS

WHEREAS, the District and the City entered into a Memorandum of Understanding (MOU) dated October 16, 2007 regarding the construction of a School of Engineering and Sciences (School) to be located on the District's Sojourner Truth School Park property (District Property); the construction of a public library (Library) on the District Property, to be operated by the Sacramento Public Library Authority (Library Authority); and the construction of shared parking lots and athletic fields, to be located on both the District property and adjacent property owned by the City (City Property). The School, Library, athletic fields, parking lots, and related improvements may be referred to collectively as the "Improvements."

WHEREAS, the MOU was duly approved by the Sacramento City Council and the Board of Education of the District, and was denominated City Agreement #2007-1090.

WHEREAS, in section 7 of the MOU, the parties delineated their respective rights and obligations with respect to design, construction, project management, and other items related to the Improvements.

WHEREAS, the parties desire to clarify their respective rights and duties with respect to the design and construction of the Library and related improvements, and hereby agree to amend the MOU as follows:

AMENDED TERMS

Sections 7A and 7B of the MOU are hereby amended to read as follows:

Section 7. REVIEW AND APPROVALS; CHANGE ORDERS; SCHEDULE CHANGES



***2007-1090-1**

With: Sacramento City Unified School District

Title: Pocket Library

Authorization: 2009-150

A. Design Documents. District has contracted with WLC Architects to prepare designs and specifications for the Improvements, by contracts dated November 9, 2006 and 2/20, 2009. City may review and comment upon plans and specifications for the Library and related improvements, as well as the parking lots and athletic fields to be constructed on the City Property, and the City shall have final approval rights of those portions of the plans and specifications.

B. Library and Related Improvements. During construction, City shall have the right to propose, review, and approve or disapprove change orders and schedule changes related to the Library and related improvements. City shall pay for all change orders and schedule changes to the Library and related improvements. District will communicate City's instructions to builder or builders.

In recognition of the City's final approval rights for plans and specifications, and rights to effect change orders and other construction-related changes, the City hereby agrees to assume the defense of and indemnify and hold harmless District from and against all actions or claims against District, its officers, agents, or employees from any and all loss, including attorneys' fees, sustained by District by virtue of any claims of design defects, construction defects, or other defects, either patent or latent, in the Library and related improvements, except for actions or claims alleged to have occurred in full, or in part, as a result of the negligence or willful misconduct by the District, its officers, agents, or employees and except for actions or claims alleging dangerous condition of District property which arise out of the acts or failure to act by the District, its officers, agents or employees which are not created by a City employee or City invitee.

This indemnity provision is intended to clarify, and not to alter or amend, the parties' respective indemnity obligations as set forth in City Agreement #2001-050 "Hold Harmless and Indemnification Provisions," which is attached to the MOU as Exhibit E and incorporated therein.

MISCELLANEOUS

A. Counterparts. This Amendment may be executed in counterparts so that signatures appear on separate signature pages. A copy, or an original, with all signatures appended together shall be deemed a fully executed MOU. Signatures transmitted by facsimile shall be deemed original signatures.

B. Authority. The people executing this Amendment have the capacity and are authorized to execute this Amendment as the representatives of their respective Party, and to bind their respective Party to the terms of this Amendment.

C. No Further Changes. Except as specifically provided for this in Amendment, the terms of the MOU are not altered and remain in full force and effect.

CITY OF SACRAMENTO ("City")

By: Marty Hanneman

Marty Hanneman, Assistant City Manager
I For: Ray Kerridge, City Manager/ March 19, 2009

ATTEST:

ant Dawn Beelundel
City Clerk, City of Sacramento 3-23-09

APPROVED AS TO FORM:

Michael T. Sparks
Michael T. Sparks, Senior Deputy City Attorney
City of Sacramento

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
("District")

By: Thomas S. Barentson
Thomas S. Barentson
Dated: 3/5/09

APPROVED AS TO FORM:

Tom Gauthier
District Counsel, Sacramento City Unified
School District