

**AGREEMENT BETWEEN THE VILLAGE OF ORLAND PARK,
COOK AND WILL COUNTIES, ILLINOIS,
AND THE BOARD OF EDUCATION OF ORLAND SCHOOL DISTRICT
#135, COOK COUNTY, ILLINOIS,
PROVIDING FOR USE OF INDOOR SCHOOL FACILITIES
FOR VILLAGE SCHEDULED RECREATIONAL PURPOSES**

This Agreement is made and entered into this ____ day of _____, 2020, between the Village of Orland Park, Cook and Will Counties, Illinois, a home rule municipal corporation, hereinafter referred to as the “Village” and the Board of Education of Orland School District #135, Cook County, Illinois, an Illinois school district, hereinafter referred to as the “School District.”

WHEREAS, the parties hereto are a unit of local government and school district and Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local governments and school districts to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, Chapter 5, Illinois Compiled Statutes, Act 220, Section 1, *et seq.*, entitled the “Intergovernmental Cooperation Act,” provides that any power or powers, privileges or authority exercised or which may be exercised by a unit of local government or school district may be exercised jointly with another unit of local government or school district; and

WHEREAS, the School District is the owner of certain indoor facilities as depicted on Exhibit A to this Agreement; and

WHEREAS, although the primary purpose of school indoor facilities is for school-related activities for the children of the School District, there are times when indoor facilities are not needed for school athletic and educational purposes; and

WHEREAS, the parties wish to provide for the Village use of School District indoor facilities for recreational purposes at those times and locations when such facilities are not needed for School District purposes; and

WHEREAS, in accordance with Board Policy 8:20, Community Use of School Facilities, and as promulgated by the School District’s facility use form, any party using School District facilities may not affect the property or liability of the School District and must indemnify and hold harmless the School District; and

WHEREAS, both the Village and the School District recognize that the use of School District facilities for recreational purposes requires coordination and communication, and the parties hereto agree to work with and cooperate with each other for the benefit of the residents and taxpayers of both the Village and School District, as well as other users of the outdoor facilities.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants of the parties hereto, it is agreed by and between the parties as follows:

SECTION 1. PREAMBLE

The preamble hereto shall be and hereby constitutes a part of this Agreement.

SECTION 2. AUTHORITY

This Agreement is made pursuant to the above-cited provisions of the Illinois Constitution, the home rule powers of the Village and the laws of the State of Illinois, including the Intergovernmental Cooperation Act, the Illinois School Code and Illinois Municipal Code.

SECTION 3. DURATION AND IDENTIFICATION OF FACILITIES

This Agreement shall become effective upon the date set forth above and shall extend for a period ending _____, 2025, unless sooner terminated in accordance with the provisions of this Agreement. This Agreement shall be effective with respect to the School District indoor facilities.

SECTION 4. USES AND PURPOSES

For the duration of this Agreement, the School District shall schedule the use of such School District indoor facilities for such sports and recreation purposes as are deemed necessary and appropriate by the Village for the use for which each facility was designed and for the benefit of Village recreation program participants and other athletic organizations as authorized by the Village pursuant to this Agreement, including residents and taxpayers of Orland School District 135. The use of indoor facilities scheduled by the School District shall be as set forth within this Agreement and limited and restricted by the Village within the context of this Agreement so as not to conflict in any way with the use of said indoor facilities by the School District in conducting its public, educational and related programs.

SECTION 5. SCHEDULING AND USE OF FACILITIES

(a) All indoor School District facilities are and will be scheduled by the School District for use by the Village for the Village's recreational programs as well as the programs of other organizations. The School District will give the Village priority when scheduling programs between the hours of 6:30 p.m. and 10:00 p.m. Monday through Friday and on weekends. Priority will be provided to Village only for Village use of the indoor School District facilities.

(b) The School District hereby assures the Village that the Village shall be provided adequate indoor School District facilities for the following Village programs:

(i) Summer Day Camp.

The Village will reimburse the School District for the actual incremental addition to School District utility costs, including, but not limited to, the increased cost of air conditioning, attributable to the Village's use of the School District's indoor facilities for the Summer Day Camp program. The Day Camp will typically be conducted from mid-June until the first week of August (e.g., June 10th – August 2nd). The Summer Day Camp staff will be allowed access to set up the Day Camp three (3) to five (5) business days prior to the start of the Day Camp (subject to delays resulting from school "snow days"). The Day Camp typically requires the following facility space: One (1) gymnasium, one (1) art room, one (1) multi-purpose room, one (1) additional space for office use as well as reasonable outdoor space. Utility costs referenced herein shall be waived during such time that the Outdoor School Facilities Agreement between the Village and the School District is in effect. The School District has previously provided the above referenced facilities at the School District's Liberty School, but the parties may from time to time agree on substitute facilities. A designated representative from the Village and the School District shall meet no later than January 15th of each year to determine the schedule and location for the use of the School District facilities for the Summer Day Camp program. If, during the operation of the Day Camp, the Fourth of July falls on a Saturday or Sunday, the Day Camp shall not be held on the day of the federally observed holiday.

(ii) Special Olympics Owls Basketball

The Special Recreation Owls Basketball program will typically be conducted from mid-October to early March (e.g., October 16th to March 4th). No games will be played on holidays such as Thanksgiving or Christmas. Orland Junior High School and Park School have been used in the past to serve the Owls Basketball program. This program requires two (2) facilities that provide full court gymnasium accessibility.

(iii) Special Olympic Basketball

The Village's Special Recreation program will also be hosting one (1) Special Olympic basketball event during the basketball season at one (1) indoor School District facility on a week night. For example:

Village People Game, the 2nd Tuesday in February to take place at Orland Junior High School at 6:30 p.m. to 9:00 p.m. requiring two (2) gymnasiums, one (1) cafeteria for serving and a wireless microphone;

(c) It is understood and agreed that the School District shall have no supervisory responsibilities with respect to any Village or Village sponsored recreational activities conducted on or in School District indoor facilities as contemplated by this Agreement. The School District reserves the right to charge the Village for any overtime charges incurred by the School District for providing staff after 11:00 PM daily at indoor School District facilities due solely to activities under this Agreement. Such additional staff shall not be responsible for supervising the participants of any Village or Village sponsored activities.

(d) A supervisor is defined as an individual employed by the Village or a designee for the Village for the express purpose of supervision who has no responsibility but supervision. Individuals employed by the Village as supervisors will have knowledge or training in the techniques of recreation program supervision and will be of sufficient maturity to solve problems presented by either adults or children utilizing the School District's facilities for Village activities. No Village activities will occur without the presence of an individual designated by the Village as having supervisory responsibility. Village employed supervisors will be trained and required to follow AED emergency procedures. At least one Village supervisor will remain on the premises until all children participating in the Village activity have safely left the premises with an adult. No organization other than the Village will be scheduled by the Village for the use of indoor School District facilities.

(e) The Village agrees to repair any damages to School District facilities or property caused by the use of such facilities under this Agreement and to replace any equipment so damaged which is beyond repair, in both cases taking into consideration normal wear and tear.

(g) The School District does not make any representation or warranties concerning the condition of the facilities except the School District will give the Village notice of any known dangers or defects.

SECTION 6. PAYMENTS, IF REQUIRED

The Village will not be required to remit any funds, except as detailed herein, for use of indoor facilities to the School District. The remission of any required fees collected and any other payments shall be invoiced and made in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1 *et seq.*).

SECTION 7. CANCELLATION

Either party may cancel this Agreement as to all or any one of the indoor facilities provided written notice is given by the canceling party to the other party at least one (1) year prior to the effective date of such cancellation.

SECTION 8. CONCESSIONS

For-profit concessions may not be operated or maintained by the Village on the indoor School District facilities without prior written approval by the School District. At no time will the use of alcohol, illegal drugs and/or tobacco be allowed on School District property.

SECTION 9. PROHIBITION OF ASSIGNMENT

The Village may not assign, transfer, rent or sublease any of the indoor facilities to be used by the Village pursuant to the terms of this Agreement without the prior expressed written consent of the School District.

SECTION 10. INDEMNIFICATION

The Village hereby releases and shall indemnify, defend and hold harmless the School District from any claim against the School District for property damage or personal injury or death or any other claims, demands or actions arising out of any use of the facilities under this Agreement and any alleged wrongful act or omission on the part of the Village in connection with the performance of the Village's duties and obligations under this Agreement or use of the facilities. The words "claim" or "claims" as used in this section include, but are not limited to, reasonable attorney fees expended by the School District, and the cost and expenses of litigation or settlement arising from any such claim. For the purposes of this section, the School District includes the Board of Education, its members, employees, officers and agents in their official and individual capacities.

Likewise, the School District shall indemnify, defend and hold harmless the Village from any claim made against the Village for property damage or personal injury or death or any other claims, demands or actions arising out of any alleged wrongful act or omission on the part of the School District in connection with the performance of the School District's duties and obligations under this Agreement or use of the School District facilities defective equipment or obviously dangerous conditions of the School District's facilities. For the purposes of this section, the Village includes the Board of Trustees of the Village, and its members, employees, officers and agents in their official and individual capacities. Each party shall name the other party as an additional insured party on each party's general liability insurance policy and, upon request, each party shall provide the other party with evidence of such insurance coverage.

SECTION 11. INSURANCE

The Village agrees to provide, at its own cost and expense, the following insurance during the term of this Agreement: (i) Commercial General Liability Insurance, on an occurrence basis, in the minimum amount of \$3,000,000 per occurrence and \$3,000,000 in the aggregate; (ii) Umbrella or Excess Liability Insurance, on an occurrence basis, in the minimum amount of \$2,000,000 per occurrence and in the aggregate; and (iii) Worker's Compensation Insurance, in at least the minimum amounts required by law and Employer's Liability Insurance in the minimum amount of \$1,000,000 each accident for bodily injury by accident and \$1,000,000 for bodily injury by disease.

With the sole exception of Worker's Compensation Insurance, the Village shall name the Board of Education, the Board of Education's individual members, employees and agents as additional insureds on all insurance policies required hereunder. The Village shall provide the School District with a certificate of insurance evidencing the insurance required under this Section by January 1 of each year of this Agreement.

SECTION 12. GOVERNMENTAL REGULATIONS

The Village shall use the indoor School District facilities in compliance with all applicable life/safety standards for Illinois public schools, as well as in accordance with all other applicable laws, rules, regulations, ordinances and School District policies, specifically

including, but not limited to, compliance with all applicable human rights laws and anti-discrimination laws and the Illinois *Prevailing Wage Act* and the *Illinois Human Rights Act*, 775 ILCS 5/1-101 *et seq.*, including, but not limited to, the provision of sexual harassment policies and procedures pursuant to Section 2-105 of the Act. The Village acknowledges that, pursuant to the Illinois *Criminal Code*, (720 ILCS 5/11-9.3), it is unlawful for a child sex offender to knowingly be present on school property when persons under the age of 18 are present without the specific notification to and permission of the Superintendent of Schools or the Board of Education. Child sex offenders found to be present on school property without permission will be considered trespassers and will be prosecuted in accordance with Illinois law. The Village shall ensure that none of its employees have been convicted of a sex offense restricting their presence on school property. The Village shall promptly remove such individual and provide appropriate and immediate notification to the Board.

SECTION 13. RIGHT TO CURE

In the event of an alleged breach of any term of this Agreement by one party, it shall be the obligation of the other party to provide written notice of such alleged breach and the party alleged to have breached the Agreement shall be allowed a reasonable time to cure the alleged breach. The reasonableness of the time within which such alleged breach is to be cured shall be determined by the circumstances and nature of the alleged breach but shall not exceed thirty (30) days. If the alleged breach is not cured within a reasonable time, this Agreement shall, at the election of the party giving notice of such breach, be terminated (except for the obligations of each party to indemnify, defend and hold harmless the other party from and against any claims as provided in this Agreement) and the rights of the parties upon such termination shall be as set forth herein as if the Agreement had expired by the passage of time.

SECTION 14. NOTICES

Any notice provided for herein shall be given by personal delivery or by registered or certified mail, return receipt requested:

If to the Village:
Village of Orland Park
Orland Park Village Hall
14700 S. Ravinia Avenue
Orland Park, Illinois 60462
Attn: Village Manager

If to the School District:
Orland School District No. 135
15100 South 94th Avenue
Orland Park, Illinois 60462
Attn: Superintendent

With a copy to:
Steven M. Richart
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005

SECTION 15. PRIOR AGREEMENTS

The Village and the School District agree that any Lease Agreement made and entered into by the parties and the Intergovernmental Agreements made and entered into governing the Village's use and permitted use of the School District's facilities, shall for all purposes be superseded and replaced by the instant Agreement effective on the date set forth on page 1 hereof, without further notice.

SECTION 16. AMENDMENT

This Agreement shall only be amended by a written instrument approved and signed by all parties hereto. Such amendment shall take effect immediately upon its execution.

SECTION 17. WAIVER

No waiver of any default of any Party hereunder shall be implied from an omission of any Party to take any action on account of such default and no express waiver shall affect any default other than the default specified in that express waiver and then only for the time and to the extent therein stated.

SECTION 18. NO THIRD PARTY BENEFICIARY

This Agreement is entered into solely for the benefit of the contracting Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish or impose any legal duty to any third party.

IN WITNESS WHEREOF, the Village and the School District have caused this Agreement to be executed by their duly designated officers the date and year set forth on page 1 hereof.

VILLAGE OF ORLAND PARK
Cook and Will Counties, Illinois

By: _____
Village President

ATTEST:

Village Clerk

BOARD OF EDUCATION OF ORLAND SCHOOL DISTRICT NO. 135
Cook County, Illinois

By: _____
Board President

ATTEST:

Secretary, Board of Education

EXHIBIT A

DEPICTION OF FACILITIES