

**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 OUTDOOR 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 the 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 outdoor facilities as depicted on Exhibit A to this Agreement; and

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

WHEREAS, the parties wish to provide for the Village use of School District outdoor facilities for park and 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 park and 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 outdoor facilities.

SECTION 4. USES AND PURPOSES

For the duration of this Agreement the Village may schedule the use of such School District outdoor 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, including residents and taxpayers of Orland School District 135. The use of outdoor facilities scheduled by the Village 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 outdoor facilities by the School District in conducting its public, educational and related programs.

SECTION 5. SCHEDULING AND USE OF FACILITIES

The Village Recreation and/or Parks Department shall provide the School District with a weekly schedule of events. The following guidelines shall govern the parties, and their respective staffs, in scheduling the use of facilities:

- (a) The outdoor facilities shall be used exclusively by the School District for outdoor physical education, recreation and related programs during regular school hours, regular school hours being identified as Monday through Friday, inclusive, from 6:00 a.m. to 6:00 p.m. (5:30 p.m. during the baseball/softball season). In addition, the School District shall have priority for the use of outdoor facilities for the purpose of conducting School District athletic events and practices after regular school hours. School District programs other than athletic events and practices may also be conducted after regular school hours. In all such instances, the

School District shall notify the Village in a reasonable time (being a minimum of 48 hours in advance, but as soon as is practicable) and manner of its activity prior to such School District use. The 48 hours advance notice shall not apply in the event of a bona fide emergency as determined jointly by the Village Manager and School District Superintendent or designee.

- (b) All outdoor School District facilities will be scheduled by the Village Monday through Friday between 6:00 p.m. (5:30 p.m. during the baseball/softball season) and 10:00 p.m. during the regular school year, with the exception of School District use scheduled prior to 5:30 p.m.
- (c) All Saturdays and Sundays will be scheduled by the Village with times beginning at 8:00 a.m. to 6:00 p.m. (with the exception of the Highpoint School fields adjacent to the John Humphrey Complex for which the starting time will be 7:00 a.m. and the ending time will be 8:00 p.m. to accommodate tournaments).
- (d) In the event the Village desires to schedule the use of School District facilities for a recreational event (with the exception of baseball/softball team field rentals) not previously noted on the schedule, the Village shall be required to obtain prior approval of such activity from Superintendent of the School District or designee, provided the Village shall notify the School District of such proposed Village use a reasonable time in advance, being a minimum of at least 48 hours in advance. The Superintendent or designee may grant approval for such Village scheduled activity in the event there has been no other conflicting activity.
- (e) From the date of this Agreement the scheduling of use of School District outdoor facilities by the Village shall be the responsibility of, and coordinated by, the Village Director of Recreation and/or Parks and the School District's Superintendent or their designee(s). To facilitate this, authorized representatives of the Village and School District shall meet at least twice annually, once in mid-February and once in mid-June of each year of this Agreement, to discuss improvements to the facilities in order to enable proper budgeting.
- (f) 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. No Village employed supervisor will leave the premises until all children participating in the Village activity have safely left the premises with an adult. Organizations other than the Village which are scheduled by the Village for the use of school outdoor facilities will be advised in writing by the Village of their supervisory

responsibilities. Finally, it is understood that the School District shall have no supervisory responsibilities for and during the use of School District outdoor facilities scheduled by the Village.

- (g) The Village shall not allow any Village employee to work in its program whose criminal background check reveals items that would prohibit him/her from working with children under Illinois law or reveals other criminal convictions which call into question such individual's fitness to work with children.
- (h) The Village shall require that all persons or groups which are scheduled by the Village to use School District outdoor facilities shall provide appropriate supervision for all participants and spectators. In the event that such supervision does not exist, use privileges for the offending persons, groups or teams will be terminated. The Village and School District shall, through their designees, seasonably identify and agree (in writing) on the times and locations for Village scheduled use of School District outdoor facilities.
- (i) The Village agrees to repair any damages to School District facilities or property caused by the Village's use of such facilities or to replace any equipment so damaged which is beyond repair taking into consideration normal wear and tear. Groups scheduled by the Village to use School District outdoor facilities shall be required by the Village to add the School District as an additional insured under such groups' property damage insurance policies.
- (j) The Village shall be permitted to assess and retain reasonable fees by the recreational program users for the use of outdoor school facilities, consistent with the Village's fee schedule, as may be in effect from time to time, for the use of Village outdoor recreational facilities.

SECTION 6. NO PAYMENTS REQUIRED

The Village will not be required to remit any funds, for use of outdoor facilities to the School District.

SECTION 7. TURF MAINTENANCE

(a) The Village shall be fully responsible for turf renovation and maintenance (mowing, seeding, fertilizing and cleaning) of all large open space areas. The School District shall be responsible for the turf renovation and maintenance, including debris removal, of all turf areas immediately surrounding each of the schools. In order to be in compliance with the Illinois *Lawn Care Products Application and Notice Act*, (415 ILCS 65/1 *et seq.*), the Illinois *Structural Pest Control Act*, (225 ILCS 235/1 *et seq.*) and the Illinois *Pesticides Act* (415 ILCS 60/1 *et seq.*), the School District must be notified prior to applying any lawn treatment to School District property. Any lawn treatment must be applied by a licensed applicator operator to be compliant with legal requirements.

(b) The Village will provide expertise and be responsible for reasonable field drainage, maintenance and/or upgrades that do not constitute major capital improvements.

SECTION 8. MAINTENANCE OF PLAYGROUND EQUIPMENT

The Village shall be responsible for monthly safety checks conducted by a Certified Playground Safety Inspector, including closing equipment deemed unsafe during such inspections. The Village shall bear all labor costs related thereto. Maintenance and repairs of all School District playground equipment shall be performed exclusively by the School District. The School District shall cooperate with the Village in scheduling maintenance and repairs. Written copies of all safety checks will be sent to the School District's Superintendent and the Principal of each school affected.

SECTION 9. CANCELLATION

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

The parties agree that any and all capital improvements installed by the Village or School District property prior to the date of this Agreement are and shall remain the sole property of the School District and shall not be the subject of any future request for reimbursement by the Village upon the expiration or earlier cancellation of this Agreement.

SECTION 10. CONCESSIONS

For profit concessions may not be operated or maintained by the Village on outdoor 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 11. PROHIBITION OF ASSIGNMENT

The Village may not assign, transfer, rent or sublease any of the outdoor 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 12. 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 or 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 defective equipment or obviously dangerous conditions of the School District 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 13. 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 14. GOVERNMENTAL REGULATIONS

The Village shall use the outdoor 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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