

COOPERATIVE USE AGREEMENT

THIS AGREEMENT made and entered into in duplicate this _____ day of _____, 2014 by and between the CITY OF MEDFORD, a municipal corporation of the State of Oregon, hereinafter called "CITY" and SAINT MARY'S SCHOOL, a private educational facility in Jackson County, Oregon, hereinafter called "SCHOOL".

WHEREAS, CITY and SCHOOL are the owners of real property in Jackson County, Oregon, hereinafter termed the "Property", and

WHEREAS, CITY and SCHOOL have worked cooperatively in sharing recreational facilities for many years, and

WHEREAS, CITY and SCHOOL deem it appropriate to enter into a Cooperative Use Agreement.

This agreement helps provide outstanding recreational and athletic programs for our respective communities by sharing facilities. This Agreement provides for the mutual interest of both Parties with respect to terms and conditions for use of each other's athletic and recreational facilities.

LENGTH OF AGREEMENT

This agreement is valid for a period of five (5) years, beginning July 1, 2014, and ending June 30, 2019, unless terminated or amended in writing.

WITNESSETH

That each Party hereby grants to the other Party the use of the Property as set for the below and as contained in Exhibits A, B, C and D:

- 1) The Party using the Property of the other shall use the respective parcels of the Property as set forth in Exhibit A for the term commencing on the date of this Agreement.
- 2) This agreement may be terminated by either Party by providing at least 180 days written notice of termination to the other Party, or as a result of an uncured default as set forth in paragraph 8, below.
- 3) This agreement may be amended from time to time by the Parties. Such amendments shall be in writing executed by both Parties.
 - (a) Unless both Parties otherwise agree in writing, a Party shall submit proposed amendments to the other within 30 days before the suggested change is proposed to take place to enable both parties to review and make a final decision on the proposed amendments.
- 4) Each Party shall comply with the facility rules and regulations of the other Party governing use of its facilities. These rules, which may be amended

during the life of this agreement, are specified in Exhibit D.

- 5) The Parties agree to provide priority use to each other for scheduled, approved programs. Except as scheduled, programs that have preference over this Intergovernmental Agreement are identified as follows:
 - (a) Programs directly provided by either SCHOOL or affiliated with CITY as specified in Exhibit C;
 - (b) Programs that are directly a function of their governing body (e.g., PTOs, school fundraising groups, Board meetings). Outside programs not directly funded and operated by the SCHOOL are not included in this section and do not receive priority over CITY programs.

- 6) Using Party Agrees to:
 - (a) Use the Property for the purposes and in the manner specified with respect to Exhibit A
 - (b) Physically maintain all improvements heretofore or hereafter constructed by the using Party on the property to a standard reasonably acceptable to Party owning said property. Such improvements must be proposed to and approved by the owning Party.
 - (c) Ensure building security during scheduled use as specified in Exhibit B.
 - (d) Have first-aid supplies on hand and be prepared to administer first-aid to anyone in need at the site. See Exhibit B.
 - (e) Provide written notification to owning Party of all injuries or potential safety hazards during facility use by the using Party. Notify owning Party building management of injuries via fax or e-mail within 24 hours of incident using the owning Party's accident reporting form(s). See Exhibit B.
 - (f) Comply with all laws, ordinances, rules, and regulations of any public authority, as now or hereafter enacted or amended, as they relate to or affect the Property or the use thereof.
 - (g) Subject to the liability limits of the Oregon Tort Claims Act, indemnify and defend the owning Party from any claim, loss or liability arising out of or related to any activity of the Party using the Property arising out of the sole negligence of the using Party.

- 7) The using Party shall maintain during the term of the Agreement commercial General Liability Insurance naming as added insureds the owning Party, its directors, officers, employees, and volunteers, for damages because of personal injury, bodily injury, death or damage to Property, including the loss of use thereof, and occurring on or in anyway related to activities on the Property or any condition of the Property with limits (equal to the owning Party's coverage, by) **not less than \$1,000,000 combined single limit per occurrence annual aggregate, or not less than the limits of public body liability set forth in the Oregon Tort Claims Act (ORS 30.260 to 30.300) or other applicable law, whichever is greater.** Such insurance shall provide that the owning Party shall be given a thirty (30) day prior written notice of cancellation.

- (a) Using Party agrees to furnish, in compliance with the above, evidence of self insurance or insurance to the owning Party within sixty (60) days of this signed Agreement.
 - (b) The owning Party agrees to have all construction, reconstruction alteration or installation contracts be written to include indemnity and insurance requirements in favor of both the owning Party and using Party during times when one Party is using the other Party's facility(s). Evidence of insurance will be furnished to the using Party prior to their use of the facility(s).
- 8) Owning Party agrees to:
 - (a) Provide response to using Party requests for facility use within five (5) business days of request via phone, fax or e-mail or by other reasonable means of communication.
 - (b) Inform using Party in a timely manner of any circumstances that may negatively impact the user's event such as (but not limited to) parking lot closures or noise issues related to construction projects.
- 9) The Parties will communicate with their boards, committees and the patrons they serve about the implications of this Agreement in regard to their own facilities.
- 10) Failure of using Party to follow the terms or conditions or fulfill any obligation of this Intergovernmental Agreement and/or Exhibits A-D may constitute a default of this Agreement.
 - (a) The owning Party will verbally notify those in charge of said facility and provide written notice to the using Party of those violations. The using Party will have thirty (30) days to remedy the violation. During the said thirty (30) day period, SCHOOL liaison to CITY and the CITY's Recreation Superintendent will cooperate to remedy the situation.
 - (b) If the violation cannot be remedied at that time the Superintendent of the SCHOOL (or their designee) and the Parks and Recreation Director (or their designee) will review the violation in order to reach a compromise. If the violation is not remedied within a 30-day period after written notice from owning Party, the using Party may be deemed, at the sole discretion of the owning Party, to have lost usage of one or all facilities). If the using Party proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable, then the thirty (30) day limit may be extended by the owning Party.
 - (c) A third party mediator (as appointed by the presiding judge of the Jackson County Circuit Court) will first attempt to remedy the decision before the Agreement will be terminated.
- 11) If a condemning authority takes any parcel of the Property or a portion sufficient to render the remainder reasonably unsuitable for the use to which using Party was then making of such parcel, this Agreement shall terminate

EXHIBIT A

The following are the uses specific to this Agreement.

U.S. CELLULAR COMMUNITY PARK

The CITY agrees to provide the SCHOOL priority usage of U.S. Cellular Community Park sports fields for high school practices and games. The two Parties agree to the following:

- 1) **Priority Use:** The SCHOOL has priority use of U.S. Cellular Community Park and specified City park facilities for the following programs:
 - A) **Boys and Girls Varsity Soccer:** Two multi-sport fields for practices or games Monday through Friday, 3:30-6 p.m., and Saturdays until 2 p.m. (as needed for games) during the OSAA-sanctioned season. Field assignment is determined by CITY.
 - B) **Softball:** One softball/baseball complex field for practices and games Monday through Friday, 3:30-5:45 p.m. during the OSAA-sanctioned season. Saturday games must not conflict with CITY or CITY-contracted events. Field assignment is determined by CITY.
 - C) **Tennis:** Up to six tennis courts at Fichtner-Mainwaring Park for practices and matches, 3:30-6 p.m., during the OSAA-sanctioned season.
- 2) **Fall Schedules:** The SCHOOL will provide the CITY fall program schedules no later than August 1.
- 3) **Spring Schedules:** The SCHOOL will provide the CITY spring program schedules no later than Feb. 1.
- 4) **Exclusions:**
 - A) Harry & David Field (unless coordinated through Medford Rogues).
 - B) Concessions and storage buildings.
 - C) Concessions operations and park admission fees are prohibited without prior CITY consent.

ORCHARD HILL ELEMENTARY FIELD

The CITY agrees to provide the SCHOOL priority usage of Orchard Hill Elementary multi-purpose field for soccer practices and games. The two Parties agree to the following:

Priority Use: The SCHOOL has priority use for practices or games Monday through Friday, 3:30-5:30 p.m., and on Saturday (as needed for matches) during the OSAA-sanctioned season.

SCHOOL FACILITIES

- 1) **Priority Use:** With the noted exclusions specified below, the SCHOOL agrees to allow the CITY priority use of the following SCHOOL facilities to provide recreational or educational programs. CITY use is superseded only by SCHOOL programs. The two Parties agree to the following:
 - A) **St. Mary's High School Athletic Fields:** When not used by SCHOOL programs, the CITY may utilize athletic fields during the school year and as needed when school is not in session. Approved use of fields includes use of restrooms.
 - B) **St. Mary's High School Gyms:** When not used by SCHOOL programs, the CITY may utilize gymnasium space during the school year and as needed when school is not in session.
 - C) **St. Mary's School Building.** When not used by SCHOOL programs, the SCHOOL agrees to allow the CITY to use classrooms, multi-purpose rooms, cafeterias and restrooms for youth and adult enrichment classes or programs.
- 2) **Exclusions:**
 - A) Facilities are not available when closed for maintenance, repairs or resurfacing.

PROGRAM GUIDE/INFORMATION DISTRIBUTION

The CITY will be allowed to provide and distribute recreation informational materials to each applicable school grade. Informational materials will be bundled and delivered directly to schools by CITY staff for ease of distribution by SCHOOL staff.

Prior to distribution, all informational materials must be submitted to the SCHOOL by the first week of the month for review and approval. Once approved, distribution may occur as noted above.

EXHIBIT B

SUPERVISION

The CITY and SCHOOL will assure that the people participating in their respective activities follow rules, regulations and expectations of the host entity.

A) CITY Supervision:

- 1) The CITY will include in its staffing formula one gym, classroom, program or field supervisor at each SCHOOL facility utilized. The supervisor(s) will be present during the entire time of use.
- 2) The facility supervisor is responsible for locking and unlocking doors, enabling or disabling security systems and monitoring facility security.
- 3) The CITY is responsible for leaving fields, team areas and restrooms in the same condition as found upon arrival.
- 4) The CITY will be responsible for supervising the behavior of participants controlling access where necessary and for communicating any facility problems to the appropriate representatives.
- 5) The CITY is responsible for damage that may occur as a result of CITY use.
- 6) CITY staff will have cell phones to facilitate communications.

B) SCHOOL Supervision:

- 1) The SCHOOL will include in its staffing formula one supervisor at each of the U.S. Cellular Community Park fields it may utilize. SCHOOL supervisors will be present during the entire time of use.
- 2) The SCHOOL is responsible for leaving fields, team areas and restrooms in the same condition as found upon arrival.
- 3) The SCHOOL will be responsible for supervising the behavior of participants, controlling access where necessary and for communicating any problems to the CITY and SCHOOL representatives.
- 4) The SCHOOL is responsible for damage that may occur as a result of SCHOOL use.
- 5) SCHOOL staff will have cell phones to facilitate communications.

C) Safety: CITY and SCHOOL users are responsible for administering any first aid and emergency response. Documentation of such incidents must be reported to the CITY and SCHOOL within 24 hours of the incident. Staff must take

responsibility for cleanup of any blood or body fluid spills following such incidents. All first aid supplies used will be replaced by the using entity.

EXHIBIT C

CITY-AFFILIATED PROGRAMS

Youth basketball leagues and clinics

Adult basketball leagues

Youth and adult soccer leagues

Youth and adult flag football

Youth enrichment programs

SCHOOL-AFFILIATED PROGRAMS

EXHIBIT D

Applicable U.S. Cellular Community Park Operational Policies

3. Prohibited Items

The following items are prohibited at U.S. Cellular Community Park facilities:

- a. Any item or substance that may damage, stain or permanently alter facilities, structures or playing surfaces
- b. Sunflower seeds
- c. Chewing gum
- d. Coolers and ice chests
- e. Soda cans and glass bottles
- f. Animals and pets (except service animals)
- g. Fireworks
- h. Skateboarding and rollerblading
- i. Balloons
- j. Artificial noisemakers, including (but not limited to) megaphones, air horns, bells, whistles, clickers or other items as determined by Parks and Recreation staff
- k. Tobacco products of any kind except in the northeast corner of the softball/baseball complex parking lot

7. Code of Conduct

For the safety and health of participants, spectators and visitors, unsportsmanlike conduct will not be tolerated and may result in disciplinary action or ejection from the facility. City of Medford employees have the right to ask anyone to leave the park if behavior, language or clothing is deemed unacceptable. Inappropriate behavior includes:

- a. Physically or verbally threatening the well-being of an umpire, competitor, spectator or City of Medford employee
- b. Fighting and/or aggressive behavior
- c. Addressing an umpire, competitor, spectator or City of Medford employee in a disrespectful manner
- d. Use of vulgar language
- e. Endangering actions (e.g. throwing bats or other equipment)
- f. Inappropriate gestures
- g. Intoxication
- h. Vandalism

9. Concessions

Aloha Grill is the sole authorized operator of USCCP concession stands. Additional food and beverage sales are prohibited without express written consent of the Recreation Superintendent.

10. Award/Souvenir Content Stipulations

The City of Medford reserves the right to require the U.S. Cellular Community Park logo to be placed on clothing or other items distributed by softball/baseball complex renters.

Image color, quality, design and content must be approved prior to production by the Recreation Superintendent in order to ensure items meet specifications required by the Parks and Recreation Department.

11. Equipment/Souvenir Sales and Vending Permits

All vending and commercial sales require pre-approval from the Recreation Superintendent. If approved, a vending permit requires a City of Medford business license.

The City of Medford will retain 15 percent of the gross revenue of any vending operations unless other arrangements are negotiated. Fees may be waived if the renter is affiliated with a non-profit or school organization.

12. Accident Reporting

In the event of an accident or injury, the Tournament or League Director is required to fill out an Accident Report Form and submit it to the City of Medford Parks and Recreation Department as soon as possible.

13. Public Admission Charge

Proposed gate fees must be approved by the Recreation Superintendent.

17. Banners and Signs

Any signage intended to be affixed to fencing, structures or staked in the ground must be pre-approved by the Recreation Superintendent. Signs with inappropriate content are subject to removal at the discretion of the Facility Supervisor.

Signs may not block the view of the public, cause a distraction or obscure any facility sponsor signage. All signs must be taken down upon conclusion of the rental.

19. Alcohol

Alcohol is prohibited at any City of Medford park or facility.

20. Parking

Parking is allowed in designated parking areas only. Overnight parking is prohibited.

21. Amplification

Amplification systems are prohibited.

22. Temporary Structures

Tents, canopies or other temporary structures are permitted in designated areas only. These areas may vary based on the type of event or activity. Check with the Facility Supervisor for specifics prior to setting up these structures.

23. Footwear/Metal Spikes

Metal spikes are expressly prohibited.