

**Lake Washington School District and City of Kirkland
Joint Use Agreement for
Development, Maintenance, Scheduling and Operations
Of Athletic Facilities**

This Agreement, made and entered into this ____ day of _____, 2000, by and between the Lake Washington School District No. 414 (hereinafter referred to as the “District”), a municipal corporation and subdivision of the State of Washington, and the City of Kirkland (hereinafter referred to as the “City”), a municipal corporation. This umbrella Agreement supports the City’s management and/or scheduling of District athletic fields and/or facilities.

WITNESSETH:

WHEREAS, the governing bodies are mutually interested in supporting adequate programs for the community in the areas of athletics, recreation and education; and

WHEREAS, the governing bodies of the City and District are authorized pursuant to RCW 39.34 to enter into agreements with each other and to do any and all things necessary to meet the respective obligations of their agencies; and

WHEREAS, the City has established the Department of Parks and Community Services (hereinafter referred to as the “Department”) to be responsible for carrying out the purpose of community athletic and recreation programs; and

WHEREAS, the District is responsible for the public education of the students in the community, including physical education and athletic activities related to the educational program; and

WHEREAS, the City and District are stewards of public lands in the City; and because it is in the interest of the community and of both the City and the District to provide the best service possible to meet their respective obligations with the least possible expenditure of public funds, cooperation between the City and the District is necessary and will benefit both entities; and

WHEREAS, the City and the District have recognized for many years that through cooperation, these publicly-held lands can be used to meet broader community needs for education, recreation and open space than either party can provide separately; and

WHEREAS, the City has concluded the recreation needs of the community could be better met if the development and maintenance of District facilities were enhanced to levels beyond that needed for the educational requirements of the district; and

WHEREAS, the City and the District are mutually interested by means of this Agreement in improving the existing conditions of certain District athletic facilities in order to expand and enhance their use for both the schools and overall community; and

WHEREAS, the City shall act as the coordinator for scheduling of non-District use of District owned exterior athletic facilities commencing upon the execution of this Agreement. The city will assume the responsibility for the scheduling of district owned gymnasiums commencing September 1, 2001. Football stadiums are not part of this Agreement.

NOW THEREFORE, in consideration of mutual promises and covenants herein contained, the City and District hereby agree to cooperate with each other in carrying out the above-stated purposes, and to that end do agree as follows:

Section 1: Purpose and Subject Matter

The subject of this Agreement is the City's development, maintenance, scheduling and operations of District athletic facilities, excluding football stadiums, located within the City of Kirkland and its Potential Annexation Area. This could include district owned gymnasiums.

The parties agree the school properties and facilities of the District are intended primarily for school and educational purposes and are for the benefit of students and the school age population.

The parties agree that during the time period covered by this Agreement, the athletic fields and facilities are intended to be used jointly for school and community recreation purposes for the benefit of District students, the District, and the City at large. In planning programs and scheduling activities on school grounds, the security, academic, athletic and recreational needs and opportunities of school aged children will be the highest priority and adequately protected.

This Agreement takes precedence over the Interlocal Agreement dated October 1, 1991, (See Attachment A) which established the joint use of district and city owned facilities. Where any conflict exists between the two agreements, the conflict shall be resolved in favor of this more recent agreement.

SECTION 2- Scheduling and Use:

- a. The City shall act as scheduling coordinator for exterior athletic facilities upon the commencement of this Agreement during times that are not in conflict with school use as forecasted below in paragraph 2e. Assuming this Agreement remains in effect, gymnasium scheduling will be coordinated by the city commencing September 1, 2001 during the times listed in paragraph 2e.

- b. The City agrees that the first priority for the use of the District-owned properties will be given to District programs or District sponsored programs. District programs and activities will have the right to preempt other users upon giving 24 hour advance notice, except in extraordinary circumstances.
- c. The City shall allocate available field time to community users based upon mutually approved guidelines established by the City and District and listed in Attachment A. The City shall make all reasonable efforts to distribute athletic facilities in a fair and equitable way among applicants from the joint geographic service area of the District and the City (See Attachment B). Team rosters with player addresses will be used as needed to verify equity among applicants. The City shall be responsible for holding scheduling conferences in January (for the period April to June), April (for the period July to September), July (for the period October to December) and October (for the period January to March) of each year to coordinate time requirements of the various user groups.
- d. The applicant group, in its policies and practices, shall not discriminate against any person on the basis of race, color, religion, national origin, handicaps, age, marital status, or sex. As a part of his/her application to the City, the applicant shall attest and certify with regard to his/her non-discrimination practices.
- e. Schedule of available times for the school facilities which are not in conflict with school use shall be:

Elementary Athletic Fields:

September- June (academic year)	Mon- Fri: 4:00pm to Dusk Sat: 8:00am – Dusk Sun: 9:00 am - Dusk
July-August	Mon – Sat: 8:00 am – Dusk Sun: 9:00 am – Dusk

Elementary Gymnasiums

September- June (Academic year)	Mon-Fri: 4:30pm to 9:30pm Sat: 8:00 am to 9:30pm Sun: 9:00 am to 9:30 pm
July-August	Mon-Sat: 8:00 to 9:30 pm Sun: 9:00 to 9:30 pm

Secondary Schools Athletic Fields

September – June	Mon- Fri: 6:00 pm to Dusk (unlighted) 6:00 pm to 10:00pm (lighted) Sat: 8:00 am to Dusk (unlighted) 8:00 to 10:00 pm (lighted)
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	Sun:	9:00 am to 6:00 pm
July- August	Mon-Sat:	8:00 am to Dusk (unlighted) 8:00 am to 10:00pm (lighted)
Secondary Gymnasiums	Sun:	9:00 am to 6:00pm
September- June (Academic year)	Mon-Fri:	4:30pm to 9:30pm
	Sat:	8:00 am to 9:30pm
	Sun:	9:00 am to 9:30 pm
July-August	Mon-Sat:	8:00 to 9:30 pm
	Sun:	9:00 to 9:30 pm

SECTION 3: Fees and Charges

- a. The City may charge rental fees to community users of District-owned athletic facilities to cover administrative and maintenance costs the District or City may incur.
- b. In addition, the City may charge community users of District-owned fields for extra material, labor and appropriate overhead costs that either the City or the District may incur because of their use of the property, including but not limited to property damage, unsecured gates and locks, security response, leftover trash and garbage, etc.

SECTION 4: Security

- a. Except as provided below in this section, the District shall provide general site security for the athletic facilities to the same extent it does for all District facilities. In the event the City enters into a long-term lease with the District for District owned fields and facilities, the City shall assume security requirements similar to that found at other city-operated parks. However, school personnel shall remain responsible for the proper supervision and protection of students under their care.
- b. Security, parking control, and crowd control are the responsibilities of the user of the property. The user shall assure the City that all vehicles are kept off District fields and away from unauthorized places. The user shall ensure that good order is maintained at all times. For District owned and operated property, the user shall also certify in writing to the City that his/her group will comply with all of the District's policies which prohibit tobacco, smoking, alcoholic beverages and weapons. The users assume full responsibility for the conduct of persons involved in the party's activity or who are on the property with the consent of, at its invitation, or as result of his/her group's activity. Such responsibility also includes the cost of repair to or replacement of property damaged or destroyed by the act or omissions of the users, its agents, or invitee. Either the City or District may require, as a condition of use, the hiring of security personnel and/or commissioned police officers.

- c. Security of gate and locks are also the responsibility of the party using the District facility. The user may be assessed an extra fee for any gates and/or locks left unsecured after their use. The exception to this will be when District or City staff is present to supervise the security of the building.
- d. The City will ensure adequate supervision of user groups utilizing school facilities under this Agreement in order to that regular school activities are not compromised.

SECTION 5: Clean-up and Maintenance

- a. Trash and garbage cleanup of facilities is the responsibility of the party using the property. The user shall ensure that fields, gymnasiums and other facilities are left clean immediately after use. Extra trash and garbage pickup fees may be assessed by the City for any party using the property and not leaving it in a clean condition. If a facility is not left in a clean condition suitable for use by the District, the District may accomplish the cleaning and charge the City.
- b. All user-owned equipment, materials, and gear shall be removed from the site after each use, unless prior arrangements have been made with the City and District. Failure to do so may result in the City or District removing and storing the equipment with the cost of the removal being assessed to the user.
- c. For District owned and operated fields and facilities, the District is responsible for the primary maintenance to the standard traditionally provided to serve its educational and athletic programs. The City may augment the District's maintenance program for these sites. The City will augment, at its sole expense, the District for facilities that the City has renovated beyond the level normally provided by the District. The City's maintenance responsibilities will be covered on such sites by separate agreements.
- d. When it has been agreed that the City will enter into a long-term lease for District-owned fields and/or facilities, the City will be responsible for all maintenance, utility, security, insurance, and custodial costs.

SECTION 6- Advertising

- a. No permanent advertising will be allowed on district owned and operated facilities unless agreed to by both parties on a case by case basis.

SECTION 7 – Joint Improvements & Renovations

- a. The District reserves the right to improve, renovate and install equipment on District-owned and operated fields as necessary to support its academic, and/or athletic programs without restriction. The District will keep the City informed of significant improvements prior to their occurrence.

- b. For all District-owned property leased and operated by the City, the District may propose District funded improvements. The design, plans, specifications, type of construction, safety features, placement and maintenance costs shall be submitted to the City for review and approval. The City shall not unreasonably withhold its approval of such District-initiated efforts.
- c. For all City-initiated improvements and City-initiated equipment installation under this Agreement, the design, plans, specifications, type of construction, safety features, placement and maintenance requirements are subject to written approval from the District prior to any development, construction, or installation by the City. The District shall not unreasonably withhold its approval of such City-initiated efforts.
- d. The cost of maintaining and operating such facilities, and the improvements and equipment installations thereon, shall be mutually agreed to by the City and District and further the City and District agree to maintain such areas in good condition during the periods of their respective responsibility.
- e. Any City initiated renovations and improvements to District owned facilities will be coordinated with the applicable school principal and the District's Director of Support Services. Care will be taken to ensure renovation activities do not unreasonably interfere with the educational environment of the school and do not close facilities critical to the school, school activities, school recess, lunch periods, physical education and/or athletic program requirements.

SECTION 8- Annual Meeting

- a. For each school operating under this Agreement, a school representative and a representative of the City will meet at least once a year prior to May 1 to establish a joint use scheduling calendar for the next year. The calendar will allocate blocks of time throughout the day, week and year for use by each party, in accordance with the priorities established above and in Attachment A.
- b. As previously indicated, the City will be responsible for holding scheduling conferences with user groups in order to ensure an equitable distribution of available time.

SECTION 9 – Conflict Resolution

- a. If either party believes that the other party is not fulfilling the performance obligations established by this Agreement, that party shall give written notice of its complaint to the other party. The party receiving the complaint shall, within 15 calendar days, correct the situation and confirm the correction in writing or reject the complaint explaining the mitigating circumstances and why a remedy cannot be achieved.

- b. If the City and District representatives are unable to resolve the complaint, the District's Director of Support Services and the City's Director of Parks and Recreation agree to meet to resolve the complaint. If they are unable to do so, the issue shall be referred to the District's Superintendent and the City Manager for resolution.

SECITON 10- Term of Agreement

- a. The first term of the joint operation program described in this Agreement is considered a pilot program. It enables the parties to try out the arrangement and evaluate whether it works and is desired by both sides. The first term of the Agreement shall be from _____ 2000 to _____ 2001. At any time during this period, for reasons or no reason, either party may, by three (3) months written notice, terminate the Agreement.

Contingent upon the satisfactory results of a joint evaluation of the pilot program, the District and City shall have the option of mutually extending the Agreement and any amendments mutually agreed to by the parties for an additional four (4) years. The terms and conditions of this Agreement may be modified by mutual consent to reflect changed conditions and/or experiences. The parties may also, by mutual consent, extend the Agreement by an additional five (5) years for a maximum of ten (10) years. The execution of the second option period shall be accomplished one (1) year prior to the termination of the first option period. At any time for any reason or no reason, the District or the City may terminate any follow-on Agreement by providing six (6) months written notice.

- b. If the parties fail to mutually extend this Agreement prior to the end of the first term or any subsequent term by a writing signed by the parties, and neither party has terminated the Agreement, the terms of this Agreement, or such other terms as the parties have agreed upon in writing, shall be renewed automatically for one-year periods thereafter unless terminated by either party in the manner provided in this Agreement.
- c. Should the Agreement be terminated prior to the expiration of the current Agreement period, the terminating party will be responsible for reimbursing the terminated party for any improvements made by the terminated party to terminating party's property. The reimbursement shall be based on the straight line depreciated value of the improvement unadjusted for inflation based on the following schedule:
 - a. Field improvements: 10 year schedule
 - b. Equipment improvements: 5 year schedule
 - c. Building construction: 40 year schedule

SECTION 11- Operating Rules

- a. The District and the City shall jointly promulgate site operating rules consistent with adopted District policies, regulations, procedures and adopted City ordinances, policies and resolutions to ensure the safety and welfare of all site users.

SECTION 12- Indemnification and Insurance

- a. District Property Leased to City.

The City agrees to protect, defend, indemnify, and save harmless the District, its officers, employees, and agents from any costs, claims, judgments, and/or awards for damages, arising out of or in any way resulting from the use, maintenance or operation of district-owned facilities that are being leased by the City, except for (i) the sole negligence of the District, or (ii) where the District is using such facilities pursuant to a District sponsored or controlled program and such injury or damage is not attributable to some act or omission of the City. In the event the District incurs any judgment, award and/or cost arising therefrom, including attorneys' fees to enforce the provisions of this article, all such fees, expenses and costs shall be recoverable from the City.

- b. District Property Not Leased to City. This subsection shall apply to incidents that occur at district-owned facilities that are not being leased by the City.

(1) The City agrees to protect, defend, hold harmless, indemnify, and defend the District, its officers, employees, and agents from any costs, claims, judgments, awards or liability for damage arising out of or in any way resulting from the use, maintenance or operation of district-owned facilities that are not being leased by the City when such facilities are being, or have been, used pursuant to a City program or assignment as contemplated in this Agreement, except where (i) such injury or damage arises out of, or is a result of, a District sponsored or controlled activity on the premises, where such injury or damage is not attributable to some act or omission of the City, or (ii) the injury or damage is attributable to some act or omission of the District. In the event the District incurs any fees, expenses and/or costs, including reasonable attorney's fees, to enforce the provisions of this article, all such fees, expenses and costs shall be recoverable from the City.

(2) The District agrees to protect, defend, hold harmless, indemnify, and defend the City, its officers, employees, and agents from any costs, claims, judgments, awards or liability for damage caused by any act or omission by the District that arises out of the use, maintenance or operation of district-owned facilities that are not being leased by the City when community users are using such facilities pursuant to a City program or assignment as contemplated in this Agreement, where such injury or damage is not attributable to some act or omission of the City. In the event the City incurs any fees, expenses and/or costs, including

reasonable attorney's fees, to enforce the provisions of this article, all such fees, expenses and costs shall be recoverable from the District.

SECTION 13 - Insurance:

- a. District Liability Coverage. This Section shall apply: (1) when the District is using district-owned facilities leased by the City under a separate Agreement that references and incorporates this Agreement, and (2) to liabilities or incidents arising out of acts or omissions by the District from the use, maintenance or operation of district-owned facilities that are not being leased by the City when community users are using such facilities pursuant to a City program or assignment as contemplated in this Agreement, where such injury or damage is not attributable to some act or omission of the City.

(1) Nature of Coverage.

(a). The District shall maintain commercial general liability coverage or shall obtain a coverage agreement through a Risk Pool authorized by Chapter 39.34 RCW which shall provide liability coverage to the District for the liabilities contractually assumed by the District in this Agreement, and arising out of the activities pertaining to this Agreement.

(b) By requiring such liability coverage, the City shall not be deemed to, or construed to, have assessed the risks that may be applicable to the District in this Agreement. The District shall assess, its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage than is herein specified.

(2) Scope and Limits of Liability Coverage. Coverage shall be at least as broad as:

(a). General Liability: Insurance Services Office form number (CG00 01 Ed. 11-88) Covering Commercial General Liability, with a limit of not less than: \$5,000,000 combined single limit per occurrence, \$5,000,000 aggregate.

The policy or coverage agreement shall include but not be limited to:

- (i) coverage for premises and operations;
- (ii) contractual liability (including specifically liability assumed herein);
- (iii) Employers Liability or "Stop-Gap" coverage.

(b.) Automobile Liability: Insurance Services Office form number (CA 00 01 Ed. 12-90) Covering Business Automobile Coverage, symbol 1 "any auto"; or the combination of symbols 2,8, & 9 for a limit of not less than \$1,000,000 combined single limit per occurrence.

(c.) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.

(3.) Deductibles and Self-Insured Retentions. Any deductible and/or self-insured retention shall be the sole responsibility of the District.

(4.) Other Provisions. The coverages required by this Agreement are to contain or be endorsed to contain the following provisions where applicable.

(a) Liability Coverages. To the extent of the District's negligence as herein assumed, the District's liability coverage shall be primary coverage as respects the City, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the City, its officers, officials, employees, and agents shall not contribute with the District's coverage or benefit the District in any way.

(b) All Policies and Coverage Agreements. Coverage shall not be suspended, voided, canceled, materially reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice, sent by registered mail, has been given to the City.

(c) Acceptability of Insurers. Unless otherwise accepted by the City, insurance coverage is to be placed with a Risk Pool authorized by Chapter 39.34 RCW or insurers with a Best's rating of no less than A: VIII, or, if not rated by Best's, with minimum surplus the equivalent of Best's surplus size VIII.

(d) Verification of Coverage. The District shall furnish the City with certificates of coverage. The certificates for each policy or coverage agreement are to be signed by a person authorized to bind coverage. The certificates are to be received and accepted by the City prior to the commencement of activities associated with this Agreement. Acceptance hereunder shall be presumed unless otherwise notified by the City. The City reserves the right to require complete certified copies of the pertinent parts of applicable policies at any time.

b. City Liability Coverage. This Section shall apply in all circumstances when the City is leasing, using or operating district-owned facilities or assigning the right to use such facilities to members of the community.

(1) Nature of Coverage.

(a). The City shall maintain commercial general liability coverage or shall maintain liability coverage via the City's self-insurance program for the liabilities contractually assumed by the City in this Agreement, and arising out of the activities pertaining to this Agreement.

(b). By requiring such liability coverage, the District shall not be deemed to, or construed to, have assessed the risks that may be applicable to the City in this

Agreement. The City shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage than is herein specified.

(2). Scope and Limits of Liability Coverage. Coverage shall be at least as broad as:

(a) General Liability: Insurance Services Office form number (CG00 01 Ed. 11-88) Covering Commercial General Liability, with a limit of not less than: \$5,000,000 combined single limit per occurrence, \$5,000,000 aggregate.

The policy or coverage shall include but not be limited to:

- (i) coverage for premises and operations;
- (ii) contractual liability (including specifically liability assumed herein);
- (iii) Employers Liability or “Stop-Gap” coverage.

(b). Automobile Liability: Insurance Services Office form number (CA 00 01 Ed. 12-90) Covering Business Automobile Coverage, symbol 1 “any auto”; or the combination of symbols 2, 8, & 9 for a limit of not less than \$1,000,000 combined single limit per occurrence.

(c). Workers’ Compensation: Workers’ Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.

(3). Deductibles and Self-Insured Retentions. Any deductible and/or self-insured retention shall be the sole responsibility of the City.

(4). Other Provisions. The coverages required by this Agreement are to contain or be endorsed to contain the following provisions where applicable.

(a) Liability Coverages. To the extent of the City’s negligence as herein assumed, the City’s liability coverage shall be primary coverage as respects the District, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the District, its officers, officials, employees, and agents shall not contribute with the City’s coverage or benefit the City in any way.

(b). All Policies and Coverage Agreements. Coverage shall not be suspended, voided, canceled, materially reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice, sent by registered mail, has been given to the District.

(c). Acceptability of Insurers. Unless otherwise accepted by the District and if the City obtains commercial insurance, insurance coverage is to be placed with

insurers with a Best's rating of no less than A: VIII, or, if not rated by Best's, with minimum surplus the equivalent of Best's surplus size VIII.

(d). Verification of Coverage. The City shall furnish the District with certificates or other proof of coverage required by this Agreement. The certificates for each policy or coverage are to be signed by a person authorized to bind coverage. The certificates are to be received and accepted by the District prior to the commencement of activities associated with this Agreement. Acceptance hereunder shall be presumed unless otherwise notified by District. The District reserves the right to require complete certified copies of the pertinent parts of applicable policies at any time.

SECTION 14-Assignment

- a. Neither party will assign or sublet its rights or responsibilities under this Agreement without the written authorization of the other party. Written authorization shall not be withheld unreasonably.

SECTION 15-Severability

- a. If any term or clause of this Agreement is held invalid or unenforceable, the remainder of the Agreement will not be affected, but shall continue in full force.

SECTION 16-Notice

- a. Each notice or other communication which may be or is required to be given under this Agreement, shall be in writing and shall be deemed to have been properly given when delivered personally during normal working hours to the party to whom such communication is directed, or three (3) working days after being sent by regular mail, to the appropriate one of the following addresses as may be designated by the appropriate party:

If to the City:

Business Phone: _____

Fax: _____

If to the District:

Robert A. Collard
Director of Support Services
15212 NE 95th St
Redmond, WA 98052
Business Phone: (425) 882-5102
Fax: (425) 882-5146

SECTION 16-Non-Waiver

- a. Failure of either party to insist upon the strict performance of any term of this Agreement will not constitute a waiver or relinquishment of any party's right to thereafter enforce such term.

SECTION 17-Integration

- a. This writing contains all terms of the parties' agreement on this subject matter. It replaces all prior negotiations and agreements, subject to the provisions of Section 1 herein above. Modifications must be in writing and be signed by each party's representative.

SECTION 18-Filing

- a. This Agreement shall be filed with the County Auditor pursuant to RCW 39.34.040.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf.

Karen Bates
Superintendent
Lake Washington School District

Larry Springer
Mayor
City of Kirkland



Appropriate Use of Documents: Documents may be downloaded or printed (single copy only). You are free to edit the documents you download and use them for your own projects, but you should show your appreciation by providing credit to the originator of the document. You must not sell the document or make a profit from reproducing it. You must not copy, extract, summarize or distribute downloaded documents outside of your own organization in a manner which competes with or substitutes for the distribution of the database by the Leisure Information Network (LIN). <http://www.lin.ca>