

JOINT USE AGREEMENT
BETWEEN THE SANTA CLARA UNIFIED SCHOOL DISTRICT
AND THE CITY OF SANTA CLARA
FOR BUCHSER MIDDLE SCHOOL TENNIS COURTS

This Joint Use Agreement ("Agreement") is entered into July 23, 2015 ("Effective Date") by and between the Santa Clara Unified School District, a public school district duly organized and operating pursuant to the laws of the State of California ("District"), and the City of Santa Clara, a municipal corporation ("City").

RECITALS

A. Education Code section 10900, et seq. authorizes the parties to cooperate with each other for the development and provision of recreational programs and activities for the community and to enter into agreements with each other for such purposes.

B. The District and the City are mutually interested in providing adequate community programs and activities under the sponsorship of the City, and have determined that such use will not interfere with the use of any buildings, grounds, and/or equipment for public school purposes.

C. The District possesses a fee simple interest in the parcel located on the southwest corner of the intersection of Jackson Street and Bellomy Street in the City of Santa Clara, and more accurately described as Santa Clara County Assessor's Parcel Number 269-42-011, upon which eight tennis courts, subject to this Agreement, are located in the northern portion of the parcel ("Tennis Courts"), as set forth in **Exhibit A**.

D. The parties seek to jointly use the Tennis Courts as recreational facilities.

E. The District hereby grants this use of the Tennis Courts at BUCHSER Middle School to the City as consideration for the City's grant of use of that portion of Bellomy Street, between Washington Street and Jackson Street, in the City of Santa Clara, to the District. This Agreement shall survive for so long as the separate Joint Use Agreement, by and between the District and the City, for the District's use of a portion of Bellomy Street (as defined in that agreement), dated the same date herewith ("Bellomy Street Closure Agreement") is in effect.

F. Under this Agreement, the City has the option to use the Tennis Courts for its purposes. The parties desire to enter into this Agreement to set forth long-term joint use conditions for both parties' use of the Tennis Courts. The parties intend that the City shall have nonexclusive use of the Tennis Courts, subject to the terms and conditions of this Agreement.

G. The Tennis Courts are intended for the District's exclusive use and primary use both during school hours and during school athletic, extra-curricular, and educational activities ("School Hours"). The City shall have the right to primary use during non-School Hours, as set forth in **Exhibit B**. Subject to the foregoing, the District and the City shall be responsible for reasonably establishing and maintaining the schedule for the use of the Tennis Courts. For purposes of this

Agreement, the phrase “primary use” shall mean that the party shall have the right to pre-empt all other uses of the Tennis Courts so that such party may have the use thereof.

H. The City, to the extent provided in this Agreement, desires to use the Tennis Courts for its recreational and educational programs for youth and adults, and community recreational and competitive use by City issued facility use permit in conformance with District and City policies, and un-supervised drop-in recreation use by the community. The use of the Tennis Courts shall be limited to non-School Hours; shall be subject to the District’s exclusive and primary use rights as set forth in this Agreement; and shall be limited to the purposes set forth in this Agreement. The City shall be responsible for scheduling its activities during its hours of use of the Tennis Courts. The City shall comply with all rules, regulations, and security measures that are adopted by the District to provide for the safety of students during regularly scheduled School Hours and District and school activities, including providing adequate staff to properly supervise the City’s activities. The City shall also comply with applicable state laws and regulations.

AGREEMENT

1. INTRODUCTION

1.1 **Recitals.** The Recitals set forth above are incorporated as effective and operative parts of this Agreement.

1.2 **Agreement for Use.** Subject to the provisions of the Agreement, the District agrees to permit the City to use the Tennis Courts.

1.3 **Exhibits.** The following exhibits are attached to this Agreement and are made a part of this Agreement by reference:

(a) Exhibit A. Description of Property.

(b) Exhibit B. City and District Hours for Tennis Courts.

2. USE AND OCCUPANCY.

2.1 **City Use of Tennis Courts.** The City, subject to all provisions of this Agreement, shall be permitted to use the Tennis Courts for purposes described herein during non-School Hours. The parties acknowledge that the District’s regularly scheduled School Hours may change during the term of this Agreement and such changes will be communicated to the City within reasonable notice.

2.2 **Scheduling of Use.** At least once each year prior to July 1 for the succeeding fiscal year, the parties shall confer, at a mutually agreeable date and time, for the purpose of developing an annual schedule, for use by the City of the Tennis Courts during non-School Hours, consistent with all provisions of this Agreement. The parties further agree to confer from time to time, as necessary, to revise such schedule. Subject to the exclusive and primary use rights of the District during School Hours, the City shall be responsible for maintaining its schedule for the use of the Tennis Courts during non-School Hours. The parties shall also confer, as needed, with respect to any previously unscheduled use by the City of the Tennis Courts. For purposes of scheduling the hours of use of the

Tennis Courts, the District's Superintendent, or his or her designee, shall be the District's representative and the City's Director of Parks & Recreation, or his or her designee, shall be the City's representative. Each party shall have the right to change its designated representative by written notice to the other party. Either party shall have the right to request a meeting to discuss any necessary revisions to the schedule. The use schedule for 2015/2016 shall be as specified in **Exhibit B** and shall be mutually agreed on in accordance with this section for subsequent years.

2.3 Public Access. The use of the District's Tennis Courts, as contemplated herein, is based upon the City's covenants and promises that it will implement a community oriented operating model that supports all residents having an equal right of access and enjoyment of the Tennis Courts and that no one organization or entity shall be allowed to make use of the Tennis Courts so as to exclude other organizations, individuals or entities from equal use and enjoyment thereof.

2.4 Safety of Users/Responsibility for Operating and Staffing the Tennis Courts. The City is responsible for the safety of its users and the operation and staffing of the Tennis Courts during the time the City is using the Tennis Courts. The District is responsible for the safety of its users and the operation and staffing of the Tennis Courts during the time the District is using the Tennis Courts.

2.5 CEQA Compliance. District and City agree that the City's use of the Tennis Courts shall not occur until the parties have negotiated an annual schedule of use and improvements ("Project") based upon City and District needs and information produced from any necessary CEQA environmental review process. The District and the City mutually agree to modify the Project as may be necessary to comply with CEQA. This modification may include selecting other feasible alternatives to avoid significant environmental impacts or determining not to proceed with the Project. If the environmental impacts cannot be avoided, the District and the City agree they may balance the benefits of the Project against any significant environmental impacts prior to taking final action. No legal obligations to proceed with the Project will exist unless and until the parties have negotiated, executed, and delivered mutually acceptable schedule based upon information produced from the appropriate CEQA environmental review process. The Parties recognize that the District will be considered the lead agency for purposes of CEQA and the City will responsible for all costs associated with the District's compliance.

3. TERM OF AGREEMENT.

3.1 Term. The term of this Agreement shall commence on the Effective Date, and shall continue for 50 years, subject to the provisions of section 7.3 herein.

3.2 Equipment and Fixtures. Prior to expiration of this Agreement, the City may remove any equipment and non-fixture furnishings that are not permanently attached to the Tennis Courts, the cost of which was paid by the City ("Furnishings"). Any Furnishings and other personal property remaining within, on or at the Tennis Courts after expiration of this Agreement shall be deemed to be the sole property of the District. The City may not, without the express prior written permission of the District, remove any fixtures that are built into or attached to any portion of the Tennis Courts or the school grounds, or that were paid for with State or District funds ("Permanent Improvements"). In the event the removal of any Furnishings from the Tennis Courts causes damage to the Tennis Courts or any Permanent Improvements, the City shall promptly make all repairs

necessary to restore the Tennis Courts or the Permanent Improvements to their condition prior to such damage. In the event of any termination of this Agreement prior to Expiration, the City shall remove all Furnishings within thirty (30) days after receipt of notice of such termination or the City shall be deemed to have relinquished to the District all rights and title to such Furnishings.

3.3 Reimbursement for Loss or Damage. Upon Expiration or earlier termination of this Agreement, the City shall give to the District all copies of all keys in the City's possession or control for all gates and locked onsite equipment storage facilities (placement of such facilities are subject to prior District approval), if any, for the Tennis Courts. Upon return of possession to the District, the Tennis Courts shall be in a safe and well-maintained condition, comparable to its condition upon commencement of the City's possession thereof, less reasonable wear and tear and any damage caused by the District, the school or any pupils or invitees of the District or school. Upon surrender of possession, if the Tennis Courts are not in such condition, at the election of the District, the City shall either restore them to the required condition or shall pay to the District the reasonable cost of such restoration.

3.4 Initial Improvements of Tennis Courts. Parties agree that the Tennis Courts require significant improvements and that such improvements will need to be made prior to Tennis Courts being utilized in accordance with this Agreement. Parties agree to negotiate in good faith to reach a mutually acceptable scope of work and cost sharing arrangement to improve the Tennis Courts.

4. COSTS AND OTHER OBLIGATIONS.

4.1 Direct Costs. The annual pre-arranged use of the Tennis Courts by either party is without cost to either party, except in the case of significant extraordinary clean-up costs, or wear on Tennis Courts associated with the particular activity of either party. In such a case, the party using the Tennis Courts and causing the extraordinary clean-up or wear will be required to pay the extra expenses associated with their activity. Such costs do not include regular, routine maintenance of the Tennis Courts.

4.2 Furnishings, Equipment and Supplies. The City shall provide all furnishings, equipment and supplies necessary for all events, activities, and programs that the City sponsors or conducts pursuant to this Agreement. The City shall obtain the written consent of the District prior to permanently attaching any equipment to any portion of the Tennis Courts, which approval shall not be unreasonably withheld, conditioned or delayed. For purposes of this section, equipment is defined as, but not limited to, storage containers, exercise, fitness or athletic equipment, nets, or any other item that would not constitute a Permanent Improvement prior to attachment to the Tennis Courts or school grounds ("Equipment"). The District's Superintendent or designee shall be the District representative for purposes of giving consent pursuant to this section.

4.3 Upgrades and Improvements. After the improvements contemplated in section 3.4, District shall be responsible for performing all capital improvements or replacements. Prior to the beginning of each fiscal year ("fiscal year" means July 1 thru June 30), District and City shall meet and confer regarding contemplated capital improvements and replacements for the upcoming fiscal year and set a mutually agreed upon not to exceed amount (including contingencies) for the itemized list of such improvements and replacements. At the conclusion of each fiscal year, District

shall deliver to City an itemized invoice for 50% of the costs incurred by the District and associated with the tasks contemplated by this section. City shall promptly reimburse the District.

4.4 Maintenance. The District shall be responsible for performing all regular maintenance, repairs, and cleaning of the Tennis Courts. Such maintenance shall include the resurfacing, sealing, and painting of the Tennis Courts no less than every seven (7) fiscal years. Any necessary repairs will be coordinated by the District and scheduled at a mutually convenient time, unless any such repairs are to be performed on an emergency basis. At the conclusion of each fiscal year, District shall deliver to City an itemized invoice for 50% of the costs incurred by the District and associated with the tasks contemplated by this section. City shall promptly reimburse the District.

4.5 Responsibility for Damage. The City shall be responsible for the repair of any damage to the Tennis Courts, or any other portion of the Tennis Courts, the school or the school grounds that is damaged due to, or as a result of, the City's use of the Tennis Courts. Such repairs shall be sufficient to restore the damaged item to its condition prior to such damage. The City shall ensure that such repairs are made within a reasonable time after the damage occurs. The District shall be responsible for the repair of the Tennis Courts in the event of damage due to, or as a result of, the District's use of the Tennis Courts. The District shall also be responsible for the repair of any damage arising from a casualty or event that is covered by insurance that the District is required to maintain pursuant to section 6.1 of this Agreement, excepting any damage caused by the City or any of its invitees, representatives, employees, volunteers or administrators.

5. INDEMNIFICATION AND JOINT DEFENSE.

5.1 Claims Arising from Sole Acts or Omissions of City. The City hereby agrees to indemnify, defend, and hold harmless the District and its directors, officers, governing board members, administrators, employees, volunteers, and agents against and from any liability, including for damage to property and injury or death of any person, and any claim, action or proceeding against the District, arising solely out of the acts or omissions of the City in the performance of this Agreement. In its sole discretion and at its own cost and expense, the District may participate in the defense of any such claim, action or proceeding, utilizing legal counsel of its choice; however, such participation shall not relieve the City of any obligation imposed pursuant to this Agreement. The District shall promptly notify the City of any such claim, action or proceeding and shall cooperate fully in the defense of same.

5.2 Claims Arising from Sole Acts or Omissions of District. The District hereby agrees to indemnify, defend, and hold harmless the City and its directors, officers, city council members, administrators, employees, volunteers, and agents against and from any liability, including for damage to property and injury or death of any person, and any claim, action or proceeding against the City, arising solely out of the acts or omissions of the District in the performance of this Agreement. In its sole discretion and at its sole cost and expense, the City may participate in the defense of any such claim, action or proceeding, utilizing legal counsel of its choice; however, such participation shall not relieve the District of any obligation imposed pursuant to this Agreement. The City shall promptly notify the District of any such claim, action or proceeding and shall cooperate fully in the defense of same.

5.3 Claims Arising from Joint Acts or Omissions. Each party shall provide its own defense with respect to any claims, action or proceeding arising out of the joint acts or omissions of the parties. In such cases, except as provided in section 5.4, each party shall retain its own legal counsel and bear its own defense costs, and each party shall waive any right to reimbursement of such defense costs from the other party.

5.4 Joint Defense. Notwithstanding the provisions of section 5.3, the parties may agree in writing to a joint defense of any claim, action or proceeding arising out of the joint acts or omissions of the parties. Any such agreement may provide that the parties shall appoint mutually agreeable legal counsel to defend such claim, action or proceeding. Except as provided in section 5.5, the parties shall equally bear the cost of any such joint defense and any amount paid by the parties in settlement of, or as a result of, a court judgment, arbitration or mediation of, the claim, action or proceeding. Except as provided in section 5.5, the parties shall equally share in any amount awarded to or received by the parties in settlement of, or as a result of, a court judgment, arbitration or mediation of, the claim, action or proceeding. Neither party may bind the other party to any settlement of a claim, action or proceeding without the express written consent of the other party.

5.5 Comparative Fault. Notwithstanding anything in this section to the contrary, in the event any settlement, court judgment, arbitration or mediation award allocates or determines the comparative fault of the parties, either party may seek reimbursement from the other party with respect to defense costs, settlement payments, judgments, and awards, consistent with such comparative fault, to the extent such costs, settlement payments, judgments, or awards, are not covered by insurance the parties are required to maintain under this Agreement.

5.6 Survival of Indemnification. These indemnification provisions shall not be superseded by any subsequently executed agreement, subcontract, permit or any other instrument without the express written authorization by the City Council and the District's Governing Board.

6. INSURANCE.

6.1 Liability Insurance Policy. Each party shall obtain, and shall maintain, at its own cost and expense, for the term of this Agreement, a general liability coverage at least as broad as the ISO Commercial General Liability Form CG 001, written on an "occurrence" policy of commercial general liability insurance ("Policy"), written on an "occurrence" basis, with a combined single limit of not less than \$1,000,000 per occurrence covering claims for bodily injury, including death, property damage, and damages that may arise out of or result from such party's performance of this Agreement, or from actions taken in connection herewith, whether such actions are taken by such party, or any of its directors, officers, governing board members, employees, agents, volunteers, invitees, or contractors, or any person directly or indirectly employed by any of them. Each party's policy shall also provide coverage for the contractual liability assumed by that party pursuant to this Agreement. The coverage provider shall be subject to each party's reasonable approval. Any deductible shall be the responsibility of, and paid by, the insuring party with the deductible. Each party shall have the right of reasonable approval over any policy of insurance obtained by the other party to satisfy the requirements of this section.

Each party may provide the insurance required by this section through (1) a self-insurance method or plan of protection, (2) a program involving captive insurance companies, (3) participation in state or

federal insurance programs, (4) participation with other public agencies in mutual or other cooperative insurance or other risk management programs, including those made available through joint exercise of powers agencies, or (5) establishment or participation in other alternative risk management programs.

6.2 Additional Insureds. Each party's policy shall name the other party as an additional covered party with respect to the operations of the covered party on behalf of the covered party's performance of this Agreement, if available. For purposes of this Agreement, the additional covered party shall include the party and its governing board members, directors, officers, administrators, employees, District students, and/or agents.

6.3 Reconstruction, Replacement or Repair. The District is responsible for keeping the Tennis Courts in good repair and insured against loss for the period of this Agreement. During the term of this Agreement, if all or any portion of the Tennis Courts is destroyed or damaged, the District shall be entitled to receive all insurance proceeds related thereto. Notwithstanding the foregoing, the City shall be entitled to retain all insurance proceeds attributable to the City's Furnishings or other personal property not permanently attached to the Tennis Courts obtained as a result of any insurance coverage separately maintained by the City. In the event such destruction or damage occurs less than twenty-five (25) years after the Effective Date of this Agreement, the District and the City shall meet and confer with respect to whether the District should reconstruct, replace or repair the Tennis Courts. Subsequent to conferring with the City, if insurance proceeds are not sufficient to pay the full cost of reconstructing, replacing or repairing the Tennis Courts to the standards and to the extent required pursuant to the then-existing and applicable provisions of the California Code of Regulations, the Uniform Building Code, and all other applicable state and local laws, as well as the District's expenses related to such reconstruction, replacement or repair, the District, in its sole discretion, may determine not to reconstruct, replace or repair the Tennis Courts. Notwithstanding the preceding sentence, if the District determines that such reconstruction, replacement or repair could not reasonably be completed prior to twenty-five (25) years after the Effective Date of this Agreement, the District shall be under no obligation to perform such reconstruction, replacement or repair. If the District determines pursuant to the foregoing not to reconstruct, replace or repair the Tennis Courts, this Agreement shall terminate and the District shall be under no further obligation whatsoever to the City. Notwithstanding the foregoing, at any time more than twenty-five (25) years after the Effective Date of this Agreement, if all or any portion of the Tennis Courts is destroyed or substantially damaged, the District, in its sole discretion, may determine not to reconstruct, replace or repair the Tennis Courts, in which case, this Agreement shall terminate.

6.4 Workers' Compensation Insurance. Each party shall, in accordance with all applicable laws, rules, and regulations, including Section 3700, et seq. of the Labor Code, obtain and maintain in full force and effect during the term of this Agreement a policy of Workers' Compensation insurance. Such Workers' Compensation insurance shall provide coverage for all of such party's employees, agents, and volunteers, if applicable, who will be undertaking any actions on behalf of such party pursuant to this Agreement or while in or upon the Tennis Courts, or any portion of the school grounds.

6.5 Certificates of Insurance. Prior to the City using the Tennis Courts pursuant to this Agreement, each party shall provide to the other copies of all certificates of coverage or all insurance

policies or statements of self-insurance required to be obtained pursuant to this section, and copies of the certificate(s) of coverage issued by the insured evidencing that the City has obtained such coverage. The certificate(s) of coverage shall request that the insured endeavor to provide written notice to the other party not later than thirty (30) days prior to cancellation, termination or expiration of this Agreement without renewal of such changes. The certificate(s) of coverage shall be renewed annually.

7. MISCELLANEOUS PROVISIONS.

7.1 Condemnation. In the event the entire site upon which the Tennis Courts are constructed and/or the Tennis Courts, or so much thereof as to render the same unusable for the purposes for which they were intended, is permanently taken under the power of eminent domain or sold to any government agency threatening to exercise such power, the proceeds thereof shall be allocated as provided in a separate agreement between the District and the State Allocation Board ("SAB"), if such agreement is required, or retained by the District. However, the City's portion of any condemnation or sale proceeds attributable to the site upon which the Tennis Courts are constructed or attributable to the school grounds shall be in direct proportion to the City's monetary contribution to the Tennis Courts. In the event that less than all of the Tennis Courts shall be taken under the power of eminent domain or sold to any governmental agency threatening to exercise such power and the remainder is usable for the purposes intended, this Agreement shall not terminate and shall continue in effect with respect to such remainder. If the Tennis Courts are to be repaired or restored, any balance of the condemnation award or sale proceeds remaining after the Tennis Courts have been so repaired or restored shall be retained by SAB, if so provided in the separate agreement between the District and SAB. The District shall not sell or convey any interest in the Tennis Courts to any entity threatening condemnation without the prior written approval of SAB, if so provided in the separate agreement between the District and SAB, if such agreement is required.

7.2 Use. The City agrees that during the term of this Agreement it shall utilize the Tennis Courts only for the purpose of conducting its programs.

7.3 Early Termination.

7.3.1. Termination of Bellomy Street Agreement. This Agreement shall automatically terminate upon termination of the Bellomy Street Agreement.

7.3.2. Termination for Cause. Either party may terminate this Agreement, for cause, thirty (30) days after written notice to the other party. For purposes of this section "cause" shall mean a material breach of this Agreement by the defaulting party. Termination shall be deemed, for all purposes, to be effective upon the 31st day following the giving of such notice unless: (i) the defaulting party has cured the default and provided evidence of such cure to the non-defaulting party within the specified thirty (30)-day period, or (ii) prior to the expiration of the specified thirty (30)-day period, the defaulting party provides reasonable evidence to the non-defaulting party that the defaulting party has been making reasonable efforts to effect such cure within the thirty (30)-day period and is diligently pursuing such cure, but that such cure cannot reasonably be completed during the thirty (30)-day period. In the event termination is delayed for the reason set forth in (ii) of the preceding sentence, this Agreement shall thereafter terminate if the cure

is not effected within a reasonable time, which in no event shall be more than ninety (90) days after written notice to the defaulting party.

7.4 Board Termination. Notwithstanding any other provision of this Agreement, the District may terminate this Agreement prior to expiration in the event the District's Board of Trustees ("Board") determines to close Buchser Middle School (or its successor school), either permanently or temporarily, in District's sole discretion, for a period exceeding two successive school years. Notwithstanding any other provision of this Agreement, the City may terminate this Agreement prior to termination in the event the District's Board of Trustees determines to close Buchser Middle School (or its successor school), either permanently or temporarily, in District's sole discretion, for a period exceeding two successive school years. Such determination to close Buchser Middle School will be noticed in accordance with section 7.5.

7.5 Notices. Notices pursuant to this Agreement shall be given by personal service, registered or certified U.S. Mail (postage pre-paid), or reliable private delivery service such as Federal Express or United Parcel Service. Such notices shall be addressed to the applicable party as set forth in this section. Notices shall be effective upon delivery.

District:	Santa Clara Unified School District ATTN: Superintendent 1889 Lawrence Road Santa Clara, CA 95051
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City:	City of Santa Clara ATTN: City Manager 1500 Warburton Avenue Santa Clara, CA 95050
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7.6 Assignment and Delegation. The City shall not assign any right or delegate any duty in this Agreement without the written consent of the District.

7.7 Condition Precedent. The District shall acquire all applicable permits and approvals from the applicable agencies, if any are required, including, but not limited to, conditional use permits, building permits, and architectural approval.

7.8 Governing Law and Venue. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California, and any mediation, litigation, or other proceeding arising out of this Agreement shall be conducted only in the County of Santa Clara unless by mutual agreement of the parties.

7.9 Interpretation. In interpreting this Agreement, it shall be deemed to have been prepared by the parties jointly and no ambiguity shall be resolved against either party on the premise that it or its attorneys were responsible for drafting this Agreement or any provision hereof. The captions or headings set forth in this Agreement are for convenience only and in no way define, limit or describe the scope or intent or any section, or other provisions of this Agreement. Any reference in this Agreement to a section, unless specified otherwise, shall be a reference to a section of this Agreement. Where required by context in this Agreement, any reference in the singular sense shall include the plural, and any reference in the plural sense shall include the singular.

7.10 **Waiver.** Failure by the District or by the City to enforce any term, condition, restriction, or provision herein, in any certain instance or on any particular occasion, shall not be deemed a waiver of such enforcement right, with respect to that or any breach of the same or any other term, condition, restriction, or provision.

7.11 **Compliance with Law.** In taking any action pursuant to, in performance of or in connection with this Agreement, and in its use of the Tennis Courts and any portion of the school or the school grounds, both parties, at their own cost and expense, shall comply with all applicable federal, state and local laws, ordinances, rules, and regulations, either now in effect or that may hereafter be promulgated or enacted. The City specifically acknowledges and agrees to comply with the provisions of Chapter 10, Part 7 of Division 1 of the Education Code, which include, but are not limited to, the requirement of fingerprinting each employee of the City having contact with minors in connection with the City's provision of public and community programs pursuant to this Agreement. Any failure by the City to so comply shall be deemed a material breach of this Agreement.

7.12 **Entire Agreement.** This Agreement contains the entire agreement and understanding concerning the funding and use of the Tennis Courts by the City, and this Agreement supersedes and replaces all prior negotiations and proposed agreements, written or oral, except as they are included in this Agreement. The parties acknowledge that neither party nor its agents or attorneys have made any promise, representation or warranty whatsoever, express or implied, not contained herein to induce the execution of this Agreement and acknowledge that this Agreement has not been executed in reliance upon any promise, representation or warranty not contained herein.

7.13 **Amendments.** The parties agree that it may be desirable in the future to modify the rights and obligations of the parties as set forth herein. Therefore, this Agreement may be modified or amended so long as such modification or amendment is made in conformance with section 5.6, upon the mutual agreement of the parties. This Agreement may only be modified or amended by a writing duly executed by the District and the City.

7.14 **Severability.** If any section, provision, paragraph, sentence, clause, or phrase contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by a court of competent jurisdiction to be illegal, null or void or against public policy, the remaining sections, provisions, paragraphs, sentences, clauses, and phrases contained herein shall not be affected thereby.

7.15 **Counterparts.** This Agreement may be signed in one or more counterparts which taken together shall constitute one original document.

7.16 **Due Authority.** Each individual signing this Agreement warrants and represents that he or she has been authorized by appropriate action of the party which he or she represents to enter into this Agreement on behalf of that party.

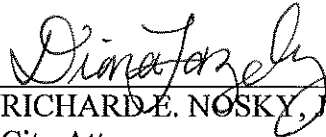
(signatures follow on next page)

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

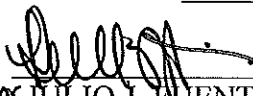
CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: 08/07/15

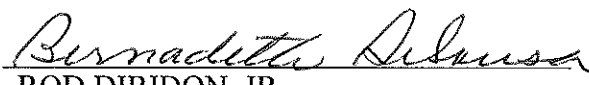


RICHARD E. NOSKY, JR.
City Attorney



for JULIO J. FUENTES
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

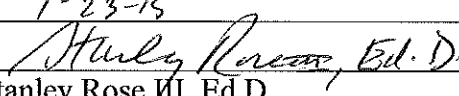
ATTEST:



for ROD DIRIDON, JR.
City Clerk

“City”

SANTA CLARA UNIFIED SCHOOL DISTRICT,
a public school district duly organized and operating pursuant to the laws of the State of
California

Dated: 7-23-15
By: 
Name: Stanley Rose II, Ed.D.
Title: Superintendent
Address: 1889 Lawrence Road
Santa Clara CA 95051
Telephone: 408-423-2005
Fax: Email: srose@scusd.net

“DISTRICT”

EXHIBIT A
TO JOINT USE AGREEMENT
BETWEEN THE SANTA CLARA UNIFIED SCHOOL DISTRICT
AND THE CITY OF SANTA CLARA
FOR BUCHSER MIDDLE SCHOOL TENNIS COURTS

PROPERTY DESCRIPTION

Beginning at a point at the intersection of the Northwesterly corner the property identified by Assessor's Parcel Number 269-42-010 , thence 100.00 feet Northeasterly along the Northeasterly line of the property identified by Assessor's Parcel Number 269-42-011 and parallel to Bellomy Street to the Point of Beginning, thence continuing on the line parallel to Bellomy street 205.00 feet, thence leaving Bellomy Street and running Southeasterly and perpendicular to the Southeasterly line of Bellomy Street, 227.00 feet; thence Southwesterly and parallel to the Southeasterly line of Bellomy Street, 205.00 feet; thence Northwesterly perpendicular to the Southeasterly line of Bellomy Street, 227.00 feet to the Point of Beginning, containing 1.30 acres more or less.

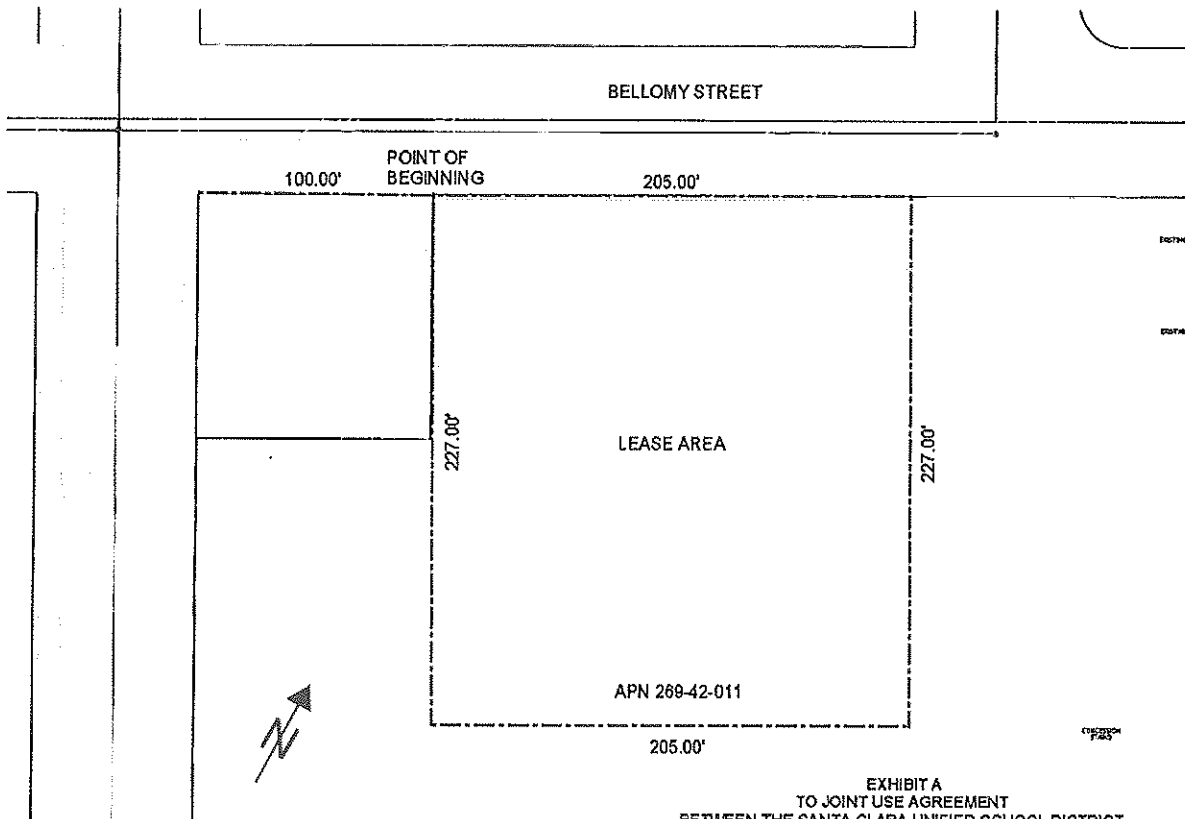


EXHIBIT A
TO JOINT USE AGREEMENT
BETWEEN THE SANTA CLARA UNIFIED SCHOOL DISTRICT
AND THE CITY OF SANTA CLARA
FOR BUCHSER MIDDLE SCHOOL TENNIS COURTS

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Exhibit B

CITY AND DISTRICT HOURS FOR TENNIS COURTS for 2015/2016

After the Tennis Courts receive all applicable approvals, the City shall operate the Tennis Courts on a shared use concept with the District as follows (the use schedule for 2015/2016 shall be as specified in this Exhibit and shall be mutually agreed on in accordance with section 2.2 for subsequent years):

Monday through Friday:

District Use

8:00 am – 5:00 pm

City Use

5:01 pm – 10:00 pm

Saturday:

District Use

None, except by prior reservation with City in advance and provided no conflict with City scheduled activities.

City Use

7 am – 10 pm

Sunday:

District Use

None, except by prior reservation with City in advance and provided no conflict with City scheduled activities.

City Use

7 am – 10 pm