

City of Brisbane

Agenda Report

To: Honorable Mayor and City Council

From: Noreen Leek, Recreation Manager

Subject: Update to the Joint Use Agreement between the City of Brisbane at Brisbane Elementary School District

Date: March 2nd, 2017

Purpose:

To allow for the shared use of public facilities and programs by students attending the District schools, persons participating in recreation programs sponsored by City or District, City's recreation department staff, and members of the general public.

Recommendation:

Approve an amended and restated cooperative agreement between the City of Brisbane and the Brisbane Elementary School District for the shared use of public facilities and programs.

Background:

The cooperative agreement for the shared use of public facilities and programs between the City of Brisbane and the Brisbane Elementary School District was established in 2000 with the first amendment in 2010. The agreement is subject to review at each five (5) year anniversary of the initial effective date.

Discussion:

Parks & Recreation Department staff proposed initial modifications to the agreement which was then reviewed by the City Council Liaisons, BESD Board Members, and the BESD Superintendent. BESD staff provided some additional updates to the document prior to both parties proposing the enclosed revised agreement. The modifications to the document include: minor grammatical revisions, an updated cost contribution schedule, and a more accurate reflection of the current use of facilities by both parties. Noteworthy revisions include the following:

1. The BES lower field restroom construction was completed and therefore changes were made in the document to reflect it as such.
2. Under 1.01, additions were made to include: the outdoor play areas at BES, modular facility, cafeteria, and the afterschool enrichment program at Lipman. Whereas, the allocation of office space at BES for the P&R department was deleted since that is no longer an accurate reflection of current use.
3. Section 2.01(c) was updated to reflect the fact that the City (not the District) provides water safety personnel on site during school district use of the pool facility.
4. There were several areas throughout the agreement that suggested coordination meetings to occur periodically between the school district and the City to manage use of facilities, however, those meetings were not occurring as outlined. Instead, appropriate staff from both parties converse on an as needed basis to ensure shared facility use occurs with minimal conflict.

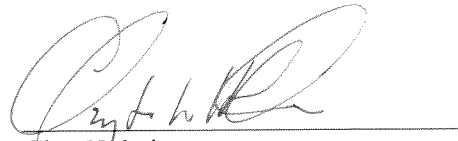
Fiscal Impact:

N/A

Attachments:

- A. Updated Agreement between the City of Brisbane & the Brisbane Elementary School District


Noreen Leek
Recreation Manager


Clay Holstine
City Manager

**AMENDED AND RESTATED
COOPERATIVE AGREEMENT FOR THE SHARED
USE OF PUBLIC FACILITIES AND PROGRAMS**

THIS AGREEMENT, effective as of _____ ("Effective Date"), by and between THE CITY OF BRISBANE ("City"), and THE BRISBANE ELEMENTARY SCHOOL DISTRICT ("District") is made with reference to the following facts:

A. City and District entered into a certain Cooperative Agreement for the Shared Use of Public Facilities, effective as of July 1, 2000 (the "Cooperative Agreement") providing for the shared use of various public facilities owned and operated by City and District, for the allocation between the parties of responsibility for maintenance and repair of such facilities and payment of various expenses pertaining thereto, and for the shared cost of operating certain programs jointly sponsored by City and District.

B. The Cooperative Agreement was amended by a First Amendment dated November 13, 2001 (the "First Amendment"). The Agreement was amended by a Second Amendment dated April 19, 2010 (the "Second Amendment").

C. The parties desire to further modify the terms and provisions of the Cooperative Agreement by the execution of this agreement. This Amended and Restated Agreement, referred to herein as "this Agreement," is intended as a complete amendment and restatement of all terms and provisions of the Cooperative Agreement and the First and Second Amendments thereto, and the provisions of this Agreement shall supersede and cancel the Cooperative Agreement and the First and Second Amendments in all respects.

NOW, THEREFORE, it is agreed as follows:

**ARTICLE I
DESCRIPTION OF FACILITIES AND PROGRAMS**

1.01 Facilities and Programs to be Shared.

City and District each own various public facilities which they desire to make available for shared use by students attending the District schools, persons participating in recreation programs sponsored by City or District, City's recreation department staff, and members of the general public. City and District also jointly sponsor certain programs conducted for the benefit of District's students. These facilities and programs include the following:

(a) Outdoor Facilities:

- (1) The City-owned swimming pool and related facilities located adjacent to Lipman School.
- (2) The tennis courts at Lipman School.
- (3) The playing field at Lipman School (the "Lipman Field").
- (4) The upper playing field at Brisbane Elementary School (the "BES Upper Field") and the lower playing field at Brisbane Elementary School (the "BES Lower Field").
- (5) The restroom facility at the BES Lower Field.
- (6) The outdoor basketball courts at Brisbane Elementary School (BES).
- (7) The playgrounds at BES.

(b) Indoor Facilities:

- (1) The multi-purpose room at Lipman School (the "Lipman Multi- Purpose Room").
- (2) Restroom and other facilities at Lipman and BES.

(c) Programs:

- (1) The after-school homework center at Brisbane Elementary School (the "BES Homework Center").
- (2) The after-school homework center at Lipman School (the "Lipman Homework Center").
- (3) The after-school teen enrichment program at Lipman School.

(d) Heavy Equipment either party may borrow from the other for temporary use, such as maintenance equipment, specified vehicles and assorted tools.

1.02 Definitions.

For the purposes of this Agreement, the following terms shall have the meanings respectively ascribed to them by this Section:

(a) *Regular school hours.* The term "regular school hours" means the period of time during a weekday when school classes are in normal session during the regular school year and does not include extracurricular activities that may occur either before or after the conduct of regularly scheduled classes.

(b) *CPI.* The term "CPI" means the Consumer Price Index for the San Francisco-Oakland Metropolitan Area, all items, as published by the United States Department of Labor, Bureau of Labor Statistics.

ARTICLE II SHARED USE, OPERATION AND MAINTENANCE

2.01 Swimming Pool.

(a) **Ownership and Maintenance of Swimming Pool.** The swimming pool is, and shall remain a City-owned facility, and City shall be responsible for the performance of all maintenance and repairs on the pool and related facilities at City's own expense.

(b) **Access Easement Granted to City.** District has granted to City a non-exclusive access easement over a strip of land as shown on Exhibit "A" attached hereto, on which City has constructed a paved roadway. City shall be responsible for all maintenance and repair of such roadway. The easement shall be used by City solely for the purpose of access to the maintenance building for the pool facility. City shall make reasonable efforts to limit vehicular traffic on this roadway while students are arriving or leaving Lipman School and when students are using Lipman Field.

(c) **Use of Pool Facilities by District Students.** City will encourage District's use of the pool by making the facility, including lockers and other pool-related amenities, available for use by District, at no cost to District or its students, during regular school hours for at least six (6) weeks in the Spring between April 1st and June 18th, and at least six (6) weeks in the Fall, beginning September 10th, unless the parties mutually agree in writing to modify this schedule. District acknowledges that use of the pool by District will not be exclusive and other persons may be using the pool at the same time.

2.02 Tennis Courts.

(a) **Ownership.** The tennis courts at Lipman School are and shall remain a District-owned facility.

(b) **Use by City and General Public.** District shall have preferential use of the tennis courts during regular school hours. Members of the general public shall also be allowed to use the tennis courts during regular school hours if the courts are not then being used by District. During times of the day which do not constitute regular school hours, District will allow the

tennis courts to be used by City for park and recreation activities and for general use by the public if the courts are not otherwise needed for scheduled after- school programs. During non-regular school hours, scheduling of the tennis courts shall be coordinated and supervised by the City; provided, however, it is understood that the City shall not schedule any instruction or other activity on the tennis courts that conflicts with District's scheduled use.

(c) **Maintenance.** The tennis courts shall be maintained by City, at its sole expense. City shall use its best efforts to schedule its maintenance work to minimize interference with use of the tennis courts by District. By executing this Agreement, District grants to City a right of entry upon the tennis courts and the surrounding area to the extent required for the proper performance of its maintenance responsibilities hereunder.

2.03 Athletic Fields.

(a) **Use by District, City and General Public.** District shall have exclusive use of the Lipman Field (including use of the parking area), the BES Upper Field, and the BES Lower Field (collectively, the "Athletic Fields") during regular school hours. During times of the day which do not constitute regular school hours, District shall have preferential, non-exclusive use of the Athletic Fields but District shall use its best efforts to accommodate City's use of these facilities.

(b) **Maintenance of Athletic Fields.** City will be responsible for maintenance of the Lipman Field (including the bleachers), the BES Upper Field, and the BES Lower Field. Maintenance work will be performed to the same standard established by City for maintenance of playing fields at public parks and will be scheduled to minimize interference with regular use of the Athletic Fields by District. District shall make an annual cash contribution to City toward the cost of maintenance work for the Athletic Fields, as set forth in the Cost Contribution Schedule attached hereto. District shall have responsibility for maintenance of the hillside above Lipman Field, at its own expense.

(c) **Alterations.** City shall not make any changes to the design features of the Athletic Fields, or construct any capital improvements thereon, without the prior written consent of District.

2.04 Restroom at BES Lower Field.

(a) **Ownership.** The restroom facility is and shall remain a City-owned facility, and the City shall be responsible for maintenance and repairs at the City's own expense.

(b) The restroom facility may be used by District during regular school hours and during after-school activities conducted by District.

(c) In the event the restroom facility located upon the license area is removed by City, the license shall automatically terminate.

2.05 Lipman Multi-Purpose Room.

(a) **Shared Use.** During times of the day which do not constitute regular school hours, the Lipman Multi-Purpose Room shall be used for volleyball, basketball and other team sports that are jointly sponsored by District and City. It is expressly understood by City that District may continue to sponsor such team sports on its own if City should suspend its sponsorship of such team sports for whatever reason. District will also allow the Lipman Multi-Purpose Room to be used by City's Recreation Department during non-regular school hours for compatible activities if the room is not otherwise needed for District activities; provided, however, that City shall reimburse District within forty-five (45) days after receipt of an invoice for repairs of any damage to the multi-purpose room that occurs during City's non-jointly sponsored activities or for excessive cleaning required after a City activity.

(b) **Cost Contribution.** City shall make an annual cash contribution to District toward the cost of maintaining the Lipman Multi-Purpose Room, as set forth in the Cost Contribution Schedule attached hereto.

2.06 Indoor Restroom and Other Facilities at Lipman and BES.

In the event City desires to open either Brisbane Elementary School or Lipman School to allow use of the restrooms during activities which are not co-sponsored by District, or City desires to use any room(s) within the school building for the conduct of a public meeting or other public purpose, District agrees to make the facilities available to City for such use pursuant to the District's Civic Center Act policy, *provided* the activity does not conflict with District's own use of the same facilities, and *provided* further that City shall perform all of the following responsibilities:

(a) City shall notify the school principal in advance, indicating the nature of the activity and the time when availability of the restrooms or other area is desired;

(b) City shall provide supervision for the area used;

(c) If the use involves a public meeting, City shall set up chairs and otherwise arrange and equip the room as may be needed for conduct of the meeting and shall replace all items at the end of the meeting in their proper place;

(d) City shall make an annual cash payment to District, as set forth in the Cost Contribution Schedule attached hereto, as a contribution to offset any additional routine cleaning costs District may incur as a result of City's use; provided, however, that City shall be responsible for any damage to said premises or the extra costs of cleaning up unusual messes. City shall not serve food or drink at events unless prior arrangements have been made with District to address cleaning issues; and

(e) City shall secure the building and reset the alarm when finished. In the event District is charged for false alarms or emergency calls resulting from City's failure to properly

secure the building, City shall reimburse District for such charges within forty-five (45) days receipt of an invoice showing such charges.

2.07 Modular Space at BES.

(a) **Modular Space.** City and District have agreed and hereby reaffirm that each paid one-half of the purchase price and the cost of installation of the modular unit which is located at Brisbane Elementary School. District is the owner of the modular unit. In recognition of City's contribution towards the purchase price and cost of installation of the modular building, City shall not be charged rent for City's use and occupancy of the modular building. However, City shall make an annual cash payment to District, as set forth in the Cost Contribution Schedule attached hereto, as a contribution toward the cost of maintenance and utilities for the modular building. The City will be responsible for repairing damage to the unit caused by its use.

(b) **Changes in Space Needs.** The parties understand that their space needs may change over time. If City no longer needs the use of office or modular space as set forth herein, City shall provide written notice to District by April 1st that it will vacate the premises during the subsequent school year. If the District requires space to meet students' needs, District shall provide prior written notice to City as soon as possible after such determination is made and will use its best efforts to provide alternate space, or at least shared space, to the City.

2.08 BES Homework Center.

(a) **Operation of Program.** City and District shall conduct a jointly-sponsored program for operation of the BES Homework Center. The Center will be staffed by certificated teachers selected by District and will operate on Mondays through Fridays between the hours of 2:30 p.m. and 5:00 p.m. District and City shall hold a meeting in May of each year to review and establish hours of operation for the following year. The City's Parks and Recreation Department will assign no more than thirty (30) students to the Center in any day. Furthermore, it is expressly understood by the parties that teachers may assign some students to the Center directly.

(b) **Cost Sharing.** City shall make an annual cash contribution to District toward the cost of the BES Homework Center, as set forth in the Cash Contribution Schedule attached hereto. District shall contribute the balance of costs required for payment of teachers' salaries, and any costs pertaining to the facility, such as custodial, utilities and room maintenance.

2.09 Lipman Homework Center.

(a) **Operation of Program.** City and District shall conduct a jointly-sponsored program for operation of the Lipman Homework Center. The Center will be staffed by one staff member to be selected by District. The Center will operate as may be agreed upon by the parties from time to time; provided, however, that District and City shall hold a meeting at least once each year in May to review and establish hours of operation for the following school year.

(b) **Cost Sharing.** City shall reimburse District for one-half (½) of the actual direct cost of providing one staff member for the Lipman Homework Center, not to exceed a maximum annual cost as set forth in the Cost Contribution Schedule attached hereto. District shall furnish a statement to City showing the cost incurred by District for providing one staff member for the Lipman Homework Center during the preceding fiscal year and City shall pay either the amount shown on such statement or the maximum annual cost, whichever is less. All other costs pertaining to the operation of the Lipman Homework Center, including equipment maintenance and upgrade, custodial, utilities, and room maintenance, shall be paid by District. If the District receives third-party funding by grant to support the Lipman Homework Center, it will meet with the City to review the terms, conditions and amount(s) of said grant(s) with the intent that the District and City share the remaining costs of operating the Lipman Homework Center equally.

2.10 Heavy Equipment.

From time to time, either party may loan heavy mechanical equipment, vehicles or tools ("Equipment") to the other party for such other party's temporary use. It is agreed that any borrowing of Equipment by one party from the other shall be subject to the following conditions:

(a) Requests to borrow Equipment shall be made at least 24 hours in advance of needing the Equipment, except in the case of emergency. The Equipment owner shall have no obligation to loan any item.

(b) The Equipment shall only be used by the authorized representatives of the borrowing party and shall not be given to any other person or agency except for the purpose of making necessary repairs, in which event, such repair work shall be performed by a person who is qualified to do so.

(c) It shall be the responsibility of the borrowing party to inspect the Equipment prior to any use to determine whether it is in proper working condition. All Equipment shall be loaned in "as is" condition and the lending party shall not be deemed to have made any representations or warranties to the borrowing party concerning the nature or condition of the Equipment or its suitability for the borrower's intended use. The borrower expressly assumes all risk of loss, damage, or injury resulting from the borrower's use of the Equipment.

(d) The borrowing party shall indemnify, defend and hold harmless the lending party, and its officers, officials, employees and volunteers, from all claims, demands, costs, expenses, or liabilities, arising during and from the use of the Equipment by the borrowing party or any of its officers, officials, employees, or volunteers.

(e) The borrowing party shall promptly repair any damage to the Equipment resulting from such party's use. Ordinary maintenance shall be the responsibility of the Equipment owner.

ARTICLE III GENERAL PROVISIONS

3.01 General Priority for Children's Programs.

The parties agree that in making and coordinating their respective schedules, the activities for children on District property will be given priority over programs for adults.

3.02 Prohibited Activities on District Property.

(a) **Prohibitions.** No alcohol, smoking, or dogs shall be permitted upon or within any of the District facilities covered by this Agreement while the same are being used by City, or during the course of any activities or programs sponsored by City. City shall also make reasonable efforts, including the posting of signs, to have these prohibitions observed by members of the general public and will, at the request of District, adopt suitable ordinances if such action is deemed necessary and appropriate for enforcement purposes. All District property shall remain drug-free zones during periods of City use and will be posted as such in the manner provided by law.

(b) **Excessive Use.** City will limit or restrict the activities under its own control in order to avoid undue stress or damage to the Athletic Fields (e.g., golf) or other facilities owned by District and maintained by City (e.g., golf balls hitting windows).

3.03 Dispute Resolution.

In the event of any disagreement between the parties, the matter will be referred to the City Manager of City and the Superintendent of District, who shall meet and attempt to resolve the dispute. If they are unable to agree, the City Council shall appoint two of its members and the District Board of Trustees shall appoint two of its members and these representatives shall meet as a 2x2 Committee for the purpose of considering the matter(s) in controversy. The decision by the 2x2 Committee shall be final and binding on both parties. If, and only if, the 2x2 Committee is unable to arrive at a final decision, they shall retain the services of an independent mediator who shall thereafter preside over the Committee meetings and attempt to facilitate a settlement of the disputed matter. The cost of the mediator shall be divided equally between the parties. It is agreed that neither party shall initiate any claim or lawsuit for breach or default under this Agreement alleged to have been committed by the other party without the matter having first been submitted to mediation and all efforts toward arriving at a negotiated settlement as described hereunder have been exhausted.

3.04 Mutual Indemnification.

(a) **Indemnification of City.** In accordance with Government Code Section 895.4, District shall fully indemnify, defend, and hold City, and its officers, officials, agents, employees

and volunteers harmless from all claims, suits or actions of every name, kind and description, including but not limited to reasonable attorney's fees and other costs of defense, resulting from the negligent acts or omissions of District, its officers, agents, employees or invitees in the performance of this Agreement, or any breach by District of its obligations under this Agreement.

(b) **Indemnification of District.** In accordance with Government Code Section 895.4, City shall fully indemnify, defend, and hold District, and its officers, officials, agents, employees and volunteers harmless from all claims, suits or actions of every name, kind and description, including but not limited to reasonable attorney's fees and other costs of defense, resulting from the negligent acts or omissions of City, its officers, agents, employees or invitees in the performance of this Agreement, or any breach by City of its obligations under this Agreement.

(c) **Concurrent Negligence.** In the event of concurrent negligence of District, its officers, officials, agents or employees, and City, its officers, officials, agents or employees, then the liability for any and all claims, suits or actions of every name, kind and description arising out of this Agreement shall be apportioned between the parties under the established California rules of comparative negligence with each party bearing its own attorney's fees and costs.

3.05 Insurance.

City and District shall each maintain comprehensive general liability insurance or self-insurance, generally at levels currently in effect for each agency, insuring against all liability of City and District and their authorized representatives arising out of and in connection with City's and District's use of the facilities under this Agreement.

3.06 Notices.

Any notices required or permitted to be given to the other party under this Agreement shall be in writing and shall be either personally delivered to the other party or sent by certified mail, return receipt requested, addressed to the other party as follows:

TO CITY:	City of Brisbane Attention: City Manager 50 Park Place Brisbane, CA 94005
TO DISTRICT:	Brisbane Elementary School District Attention: Superintendent 1 Solano Street Brisbane, CA 94005

Either party may change its address by providing notice to the other party as set forth above.

3.07 Excuse of Performance.

Notwithstanding any other provision of this Agreement to the contrary, any failure by City or District to perform any duty or obligation set forth in this Agreement shall not be deemed a breach of or default in the performance of this Agreement if such failure to perform is caused by fire, earthquake, flood, hurricane, the elements, acts of God or the public enemy; actions, restrictions, limitations or interference of other governmental authorities or their agents; enforcement of applicable provisions of federal, state or local law; war; invasion; insurrection; rebellion; riots; strikes or lockouts; or inability to perform which is beyond the reasonable control of City or District.

3.08 Periodic Review; Termination of Agreement.

(a) This Agreement shall be subject to review at each five (5) year anniversary of the initial Effective Date (the "Anniversary Date"). The parties shall meet and confer at least 120 days prior to each Anniversary Date to review the status and implementation of this Agreement and determine whether any amendments are appropriate. The review shall be deemed completed upon either: (i) a determination by the parties that no amendments are required and the then existing agreement should be continued without change; or (ii) the adoption by both parties of such amendments to the agreement as mutually agreed upon.

(b) This Agreement may be terminated, in whole or in part, at any time by mutual agreement of the parties, and may be terminated, in whole or in part, by either party upon giving written notice of termination to the other party. In the event of a termination by either party, the following prior written notice shall be required, depending upon the nature of such termination:

- (1) Entire Agreement: 360 days.
- (2) Swimming Pool: 180 days.
- (3) Tennis Courts: 180 days
- (4) Athletic Fields: 180 days.
- (5) Lipman Multi-Purpose Room: 180 days.
- (6) Indoor Restroom and Other Facilities at Lipman and BES: 180 days.
- (7) Modular buildings and cafeteria space at BES: 180 days.
- (8) BES Homework Center: Notice by February 15 of any year; termination to be effective as of June 30 of that year.
- (9) Lipman Homework Center: Notice by February 15 of any year; termination to be effective as of June 30 of that year.

- (10) Afterschool teen enrichment program at Lipman School: Notice by February 15 of any year: termination to be effective as of June 30 of that year.
- (11) Heavy Equipment: 30 days.

In the event of termination relating to a facility for which City or District has made an annual contribution toward the cost of operating such facility, the contribution shall be prorated as of the effective date of termination and any unearned portion shall be refunded to the contributing party.

3.9 Miscellaneous Provisions.

(a) **Authorization and Amendment.** Each party represents and warrants to the other that the persons signing this Agreement have been duly authorized to do so by the party's governing body. This Agreement can only be amended by a written amendment duly executed by each of the parties pursuant to further authorization conferred by the governing body of each party; provided, however, that any amendment that requires an expenditure of less than \$5,000 may be entered into by the City Manager and the Superintendent and is so authorized by each party's governing body by entering into this Agreement.

(b) **Entire Agreement.** This Agreement represents the entire agreement between the parties concerning the subject matter hereof and supersedes and cancels all prior agreements and understandings, whether written or verbal, including the original Cooperative Agreement and the First and Second Amendments thereto.

(c) **Effective Date.** This Agreement shall become effective as of the date when the governing body of each party has approved the form and content of this Agreement and authorized its representatives to execute this document on its behalf. Such date shall thereupon be inserted at the beginning of this Agreement.

(d) **Waiver.** The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of that provision, section, or any portion thereof unless such party acknowledges in writing that it is waiving that provision, section, or any portion thereof under this Agreement.

(e) **Severability.** In the event any provision of this Agreement is deemed unenforceable, it may be severed from the Agreement and the remainder of the Agreement shall be deemed fully enforceable and binding upon the parties.

(f) **Additional Actions.** The parties acknowledge that it is impractical in a transaction of the nature of this Agreement to provide for, or anticipate, every action by City or District that may be required to fully implement the Agreement. Therefore, City and District agree to cooperate in good faith, and to take any such additional actions that maybe necessary to fully implement the Agreement.

(g) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

(h) **Time of the Essence.** Time is of the essence in the performance of the terms and conditions of this Agreement.

IN WITNESS, WHEREOF, the parties have executed this Agreement to be effective as of the day and year first above written.

THE CITY OF BRISBANE

THE BRISBANE ELEMENTARY
SCHOOL DISTRICT

By: _____
Lori S. Liu
Mayor

By: _____
Karen Lentz
Board President

Attest: _____
Ingrid Padilla
City Clerk

Attest: _____
Ronan Collver
Superintendent

Approved as to form:

City Attorney

District Counsel

COST CONTRIBUTION SCHEDULE

District shall make annual cash contributions to City and City shall make annual cash contributions to District for the cost of maintaining facilities used by one party which are owned by the other. For the fiscal year of July 1, 2016 through June 30, 2017, such contributions shall be as follows:

<u>Contributions by District:</u>	<u>Amount:</u>
Athletic Fields - Section 2.03(b)	\$ 5,334.00
<u>Contributions by City:</u>	<u>Amount:</u>
Lipman Multi-Purpose Room - Section 2.05(b)	\$ 3,372.00
Indoor facilities at Lipman & BES - Section 2.06(d)	\$ 799.00
Modular Space at BES - Section 2.07(b)	\$ 9,249.00
BES Homework Center- Section 2.08(b)	\$ 17,280.00
Lipman Homework Center- Section 2.09(b)	\$ 3,999.00 or actual cost, whichever is less

The respective cost contributions to be made by each of the parties, as set forth above, shall be adjusted annually based upon the percentage increase, if any, in the CPI published on the nearest date prior to July 1st, as compared with the CPI for the same date of the preceding year.

On or before April 1st of each year, District shall furnish to City an Invoice showing the respective contributions to be made by each of the parties for the next fiscal year, as adjusted for any CPI increase. City shall pay the net amount owed to District, as shown by such Invoice, not later than June 30th.

EXHIBIT “A”
Access Easement
Granted by District to City

CITY OF BRISBANE

APN

WHEN RECORDED MAIL TO

Name City of Brisbane
Street ATTN: CITY MANAGER
Address 50 Park Lane
City Brisbane, CA 94005
State
Zip

DOC # 2002-00000000
07/17 AM 02 30P ES Fee NC
Page 1 of 5
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder
Recorded By CITY OF BRISBANE



SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT

Grant Deed

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ -0-

() computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

() Unincorporated area: () City of

() Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

BRISBANE ELEMENTARY DISTRICT, a public school district and political subdivision of the State of California

hereby GRANT(S) to

CITY OF BRISBANE, a municipal corporation

that property in the City of Brisbane, County of San Mateo, State of California described as that certain non-exclusive public access and utility easement over the strip of land, approximately twelve (12) feet in width, as shown and described in Exhibit A attached hereto and incorporated herein by reference

Mail Tax Statements to Brisbane Elementary District, ATTN: Superintendent,

Date 11/12/02 1 Solano Street, Brisbane, CA 94005.

ALEX REISMAN

President, Board of Trustees
Brisbane Elementary District

STATE OF CALIFORNIA

COUNTY OF San Mateo

On 11/12/02 before me, the undersigned, a Notary Public in and for said State, personally appeared

Alex Reisman & Thomas R. Alley

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

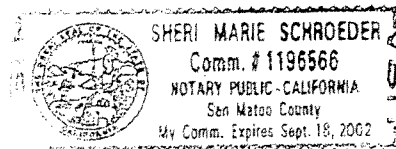
WITNESS my hand and official seal.

Signature Alex Reisman & Thomas R. Alley

Name (typed or printed)

ATTEST:

THOMAS R. ALLEY
Clerk, Board of Trustees
Brisbane Elementary District



(This area for official notarial seal)

PGSIS-140 8/94

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT "A"

PROPOSED PUBLIC ACCESS AND UTILITY EASEMENT LYING OVER A
PORTION OF THE LANDS OF THE BRISBANE ELEMENTARY SCHOOL
DISTRICT AS DESCRIBED WITHIN THAT CERTAIN GRANT DEED RECORDED
IN VOLUME 2077 AT PAGE 431, SAN MATEO COUNTY RECORDS

A non-exclusive easement for public access and utility purposes situate in the City of Brisbane, County of San Mateo, State of California lying in , on, over and along a portion of the Lands of the Brisbane Elementary School District as said lands are described within that certain Grant Deed recorded in Volume 2077 at page 431, San Mateo County Records; said easement being more particularly described as follows :

BEGINNING at the most westerly corner of the Lands of the City of Brisbane. as said lands are described within that certain Grant Deed recorded in Reel 7713 at pages 825 and 826, San Mateo County Records ;

THENCE along the southerly line of said lands of the Brisbane Elementary School District North 89° 09' 12" West a distance of 94.48 feet (said grant deed to the Brisbane Elementary School District indicates North 89° 35' 50" East) ;

THENCE leaving said southerly line of said land of the Brisbane Elementary School District in a northeasterly direction North 51° 52' 58" East a distance of 100.91 feet to the True Point of Beginning ;

THENCE North 38° 07' 02" West a distance of 14.00 feet ;

THENCE North 51°52'58" East a distance of 256.46 feet ;

THENCE North 28°59' 58" East a distance of 55.06 feet ;

THENCE South 61°00' 02" East a distance of 20.00 feet ;

THENCE South 28° 59' 58" West a distance of 59.11 feet;



2000-086867
ST 17 2000 02 354
ES Page 2 of 6

PLAT
 PROPOSED PUBLIC ACCESS AND UTILITY EASEMENT OVER A PORTION
 OF THE LANDS OF BRISBANE ELEMENTARY SCHOOL DISTRICT
 TO BE GRANTED TO THE CITY OF BRISBANE
 COUNTY OF SAN MATEO STATE OF CALIFORNIA

SCALE 1" = 100'

CITY OF BRISBANE
 (CITY OF VISITATION)
 (S MAPS 35)

LANDS OF THE BRISBANE ELEMENTARY
 SCHOOL DISTRICT (2077 O.R. 431)

P.O.B.

T.P.O.B.

PROPOSED PUBLIC ACCESS
 AND UTILITY EASEMENT
 TO BE GRANTED TO
 THE CITY OF BRISBANE
 (S MAPS 35)

LINE TABLE	
BEARING	DISTANCE
N 89° 09' 12" W	69.48'
S 89° 09' 12" E	69.48'
S 89° 09' 12" E	69.48'
S 89° 09' 12" E	69.48'

LANDS OF THE CITY
 OF BRISBANE
 (7771 AS 325)

PANEL 1
 [42 PM 35]

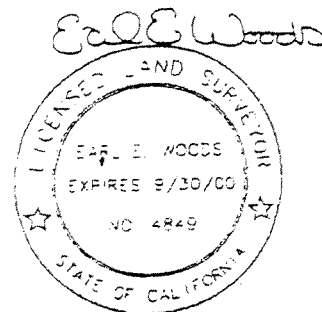
SOLANO STREET

SAN FRANCISCO
 AVENUE

PANEL 1
 [42 PM 35]

PREPARED BY

E.E. WOODS LAND SURVEYORS, INC.
 1155 BROADWAY, SUITE 218
 REDWOOD CITY, CA 94063
 (650) 383-7113 FAX 366-8903



AUGUST 28, 1999

EEWLS: JN 1414B

SHEET 1 OF 1

2000-086867



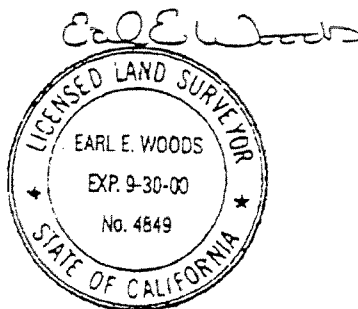
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 65 Page: 1 of 6

PROPOS. PUBLIC ACCESS & UTILITY EASEM.
TO BE GRANTED TO THE CITY
OF BRISBANE

1 N38-07-02W	20.00	1	8000.000000	5000.000000	0.000	POB
2 N51-52-58E	256.46	2	8015.734990	4987.654552	0.000	
3 N28-59-58E	55.06	3	8174.040667	5189.424333	0.000	
4 S61-00-02E	20.00	4	8222.197487	5216.117484	0.000	
5 S28-59-58W	59.11	5	8212.501464	5233.609972	0.000	
6 S51-52-58W	260.50	6	8160.802415	5204.953376	0.000	
		7	8000.002958	5000.005128	0.000	

AREA = 6312 SQUARE FEET OR 0.14489 ACRES

1. 111169 PRECISION
S60-01-09W 0.01 CLOSING LINE



2000-086867
07/17/2000 02:30P
EE Page 5 of 6

PREPARED BY :

E. E. WOODS LAND SURVEYORS, INC.
1155 BROADWAY, SUITE 218
REDWOOD CITY, CA 94063

AUGUST 28, 1999

EEWLSI JN 1414-B

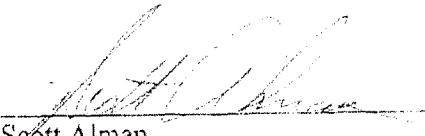
CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated July 13, 2000 from Brisbane Elementary District, a public school district and political subdivision of the State of California, to the City of Brisbane, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Brisbane pursuant to the authority conferred by Resolution No. 77-56 adopted on June 27, 1977, and the grantee consents to recordation thereof by its duly authorized officer.



2000-086867
07/17/2000 02:30P
ES Page 6 of 6

Dated this 13th day of July, 2000.



Scott Alman
Director of Public Works

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, effective as of April 19, 2010, by and between THE CITY OF BRISBANE ("City"), and THE BRISBANE ELEMENTARY SCHOOL DISTRICT ("District") is made with reference to the following facts:

A. City and District have entered into an Amended And Restated Cooperative Agreement For The Shared Use of Public Facilities and Programs, of even date herewith (the "Cooperative Agreement").

B. Section 2.04 of the Cooperative Agreement provides for the granting of a License by District to City covering a portion of land located with the Brisbane Elementary School lower field for the construction thereon by City of a restroom facility.

NOW, THEREFORE, the parties agree as follows:

1. District hereby grants a License to City to occupy and use that portion of the District's Brisbane Elementary School lower field, as shown on the drawing attached hereto as Exhibit "A" and made a part hereof (the "License Area"). No rent or other compensation shall be payable by City to District for use of the License Area.

2. City shall be entitled to improve the License Area by the construction thereon of a permanent restroom facility (the "Restroom Facility"), in accordance with plans and specifications approved by District. The Restroom Facility shall be constructed, owned, maintained, and operated by City at its own expense, and jointly used by City and District pursuant to the terms of the Cooperative Agreement.

3. The rights of granted by this License are intended solely for the benefit of City and such rights may not be assigned or transferred by City, or its successors and assigns, for the benefit of any other party without the prior written approval of District.

4. The License granted herein shall be used by City for the purposes described in the Cooperative Agreement and shall not be used for any other purpose without the prior written consent of District.

5. City shall repair any damage to the License Area arising from use of the License by City or any of its employees, agents, or invitees. City shall not be liable for repair of damage to the License Area or the Restroom Facility constructed thereon, which is caused by District or any of its employees, agents, students, or invitees.

6. City shall indemnify, defend, and hold District harmless from and against any claims, demands, causes of action, liabilities, costs or expenses, including attorneys' fees, for loss or damage arising from or in any manner related to any negligent act or omission or willful misconduct committed by City or any of its employees, agents, or invitees in connection with their use of the License Area or the Restroom Facility constructed thereon.

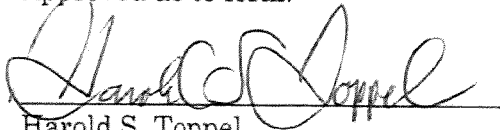
7. District shall indemnify, defend, and hold City harmless from and against any claims, demands, causes of action, liabilities, costs or expenses, including attorneys' fees, for loss or damage arising from or in any manner related to any negligent act or omission or willful misconduct committed by District or any of its employees, agents, or invitees in connection with their use of the License Area or the Restroom Facility constructed thereon.

8. This License shall automatically terminate upon removal by City of the Restroom Facility constructed by City within the License Area.

IN WITNESS WHEREOF, the parties have executed this License Agreement to be effective as of the day and year first above written.

THE CITY OF BRISBANE

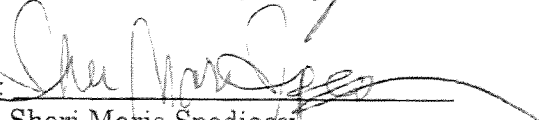
Approved as to form:


Harold S. Toppel,
City Attorney

By:



W. Clarke Conway, Mayor

Attest:

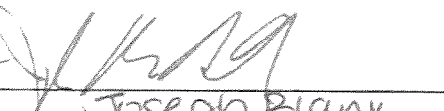

Sheri Marie Spediacci,
City Clerk

THE BRISBANE ELEMENTARY
SCHOOL DISTRICT


Approved as to form:


Deputy County Counsel
District Counsel

By:


Joseph Blank
Board President

Attest:


Toni Presta,
Superintendent