



STAFF REPORT

DATE: November 13, 2012

TO: The Honorable Mayor and City Council

FROM: John Penrod, City Attorney

SUBJECT: CONSIDERATION OF APPROVING A REVISED NEBO SCHOOL DISTRICT & SPRINGVILLE CITY MASTER FACILITY USE INTERLOCAL COOPERATION AGREEMENT.

RECOMMENDATION

Motion to Approve the execution of a revised Nebo School District & Springville City Master Facility Use Interlocal Cooperation Agreement.

GOALS, OBJECTIVES AND STRATEGIES AT ISSUE

One of the Springville City General Plan Goals is - To invest in the acquisition, preservation, maintenance, and enhancement of parks, facilities, and open spaces to provide a wide range of opportunities and healthy experiences.

Objective 6 – To provide recreation that creates lasting memories, provides diverse opportunities, builds unity, and provides safe and fun experiences for all age abilities and interest.

Springville City recreation carries out its programs at the City-owned parks, pool and senior center, along with Nebo School District facilities located in the City. The Facility Use Interlocal Agreement between the District and the City allows the City to utilize District facilities for its recreation programs. This is essential for such programs as basketball and volleyball.

BACKGROUND:

For several years, the City and Nebo School District have worked together under the Facility Use Interlocal Cooperation Agreement wherein both entities utilize each other's facilities for recreational programs and special events. Recently, the School District has asked that the City approve a revised facility use agreement. The revised agreement changes two items: it (1) replaces the Nebo School District's Secondary Education Director with its Coordinator of School Services on the Joint Governance Committee, and (2) adjusts the facility use exhibits to show the actual use of District and City facilities.

In general, the Facility Use Interlocal Agreement was established to provide the procedure for which the District and City schedule each other's facilities, repair damages caused by facility use, and maintain an equal balance of use and costs between the two entities' facilities. In order to meet these objectives, the Agreement does the following:

1. Establishes the Joint Governance Committee that consists of Nebo Schools District's Coordinator of School Services, Operations Director, and Legal Counsel and the City's Buildings and Grounds Director, Recreation Director, and Attorney. The Joint Governance Committee meets as necessary to discuss and establish facility use guidelines, scheduling procedures, supervision and security, custodial duties, and expenses. If there is any deadlock in this Committee, the District's Superintendent and City Administrator will cast final votes to break the deadlock.
2. Establishes scheduling procedures that prioritizes the use of facilities so that each entity has first priority to use their own facilities and then to use each other's facilities before opening up facility use to third parties.
3. Provides that each party is responsible for the damages each party causes to the other party's facilities.
4. Provides that each party is responsible for the security of the facility it uses.
5. Contains Exhibit "A" and Exhibit "B," which exhibits describes the facility use of each entity and other considerations each entity provides.

To date, the Facility Use Interlocal Agreement has worked well. The Joint Governance Committee has typically met each year prior to the start of school or as issues have arisen. The Committee has been able to work through the issues to make sure the facility needs of both the District and the City are being met.

One of the main arguments both entities have had over the course of the Agreement is whether there truly is an equal balance of use and costs between the two entities. The City staff believes that the City provides a lot more consideration to the District than what it receives in return. A lot of the consideration the City provides is based upon how the facility use and maintenance has historically functioned.

ALTERNATIVES:

Renegotiate another agreement for facility use with the District.

FISCAL IMPACT:

Besides providing facility use to the District, the City provides several other services to the District. A full list of those services are found at the end of Exhibit "A" and includes, but is not limited to, absorbing the District's water fees for High School and Junior High School fields (approx. \$30,000), mowing and grooming several District fields, providing and paying for all SHS football field maintenance, providing labor for Hershey Track Meet, and providing police services for District events.

Attachments: Draft of the revised Facility Use Interlocal Agreement.

DRAFT 10/1/12

NEBO SCHOOL DISTRICT & SPRINGVILLE CITY
MASTER FACILITY USE
INTERLOCAL COOPERATION AGREEMENT

THIS NEBO SCHOOL DISTRICT & SPRINGVILLE CITY - MASTER FACILITY USE INTERLOCAL COOPERATION AGREEMENT (the "Agreement"), is made and entered into by and between the BOARD OF EDUCATION OF NEBO SCHOOL DISTRICT ("School District"), a political subdivision of the State of Utah, of 350 South Main, Spanish Fork, Utah, 84660, and SPRINGVILLE CITY ("City"), a political subdivision of the State of Utah, of 50 South Main, Springville, Utah, 84663.

WITNESSETH

WHEREAS, pursuant to the provisions of the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-101, et seq., public agencies, including political subdivisions of the State of Utah as defined therein, are authorized to enter into mutually advantageous agreements for joint or cooperative action; and

WHEREAS, the School District and City, through their respective governing bodies, have voluntarily determined that the interests and welfare of the public within their respective jurisdictions will best be served by this Agreement to provide for joint and cooperative action in the shared use of the School District's Facilities and the City's Facilities located in or about Springville, Utah, in conjunction with the School District's classes, programs, activities, and events; and the City's classes, programs, activities, and events, as described herein; and

WHEREAS, the governing bodies of the School District and the City have by resolution agreed to adopt this Agreement to provide for the joint and cooperative action contained herein.

NOW, THEREFORE, be it mutually covenanted and agreed as follows, each of the parties accepting as consideration for this Agreement the mutual promises and agreements of the other:

SECTION ONE
EFFECTIVE DATE AND DURATION

This Agreement shall be effective on the date it is signed by the parties, and shall continue for a period of up to fifty (50) years, unless sooner terminated as provided herein.

SECTION TWO
ADMINISTRATIVE ENTITY

The School District and City do not contemplate nor intend to establish a separate legal entity under the terms of this Agreement. However, the parties agree to establish a six (6) member Joint Governance Committee (the "Committee") comprised of the following individuals: (a) the Nebo School District ~~Coordinator of School Services~~~~Secondary Education Director~~, or his/her designee; (b) the Nebo School District Operations Director, or his/her designee; (c) the Nebo School District Legal Counsel, or his/her designee; (d) the Springville City Buildings and Grounds Director, or his/her designee; (e) the Springville City Recreation Director, or his/her designee; and (f) the Springville City Attorney, or his/her designee. The Nebo School District ~~Coordinator of School Services~~~~Secondary Education Director~~, or his/her designee, and the Springville City Recreation Director, or his/her designee, shall be the co-chairs

of the Committee. This Committee shall meet as necessary and shall, in addition to any other duties and responsibilities set forth in this Agreement, establish usage guidelines and rules, scheduling procedures, supervision and security, custodial duties, and payment of expenses associated with the Facilities, as described herein, subject to the terms and conditions of this Agreement. Governance of the Committee shall be by majority rule. In the event of a deadlock when there is an even division among the members of the Committee with respect to a matter concerning this Agreement, and the Committee members are unable to break the deadlock, the Superintendent of the School District and the City Administrator shall mutually cast a final vote to break the deadlock.

SECTION THREE **PURPOSE**

This Agreement is established for the purpose of sharing the use and maintaining the School District's Facilities and the City's Facilities located in or about Springville, Utah, in conjunction with the School District's classes, programs, athletic teams, activities, and events, including community school classes and programs; and the City's classes, programs, activities, and events, including city recreation teams and programs, and to set forth the respective duties and responsibilities of the School District and the City in conjunction therewith. Exhibit "A" attached hereto contains a list of the various School District Facilities along with the authorized uses, responsibilities, services and considerations of the City. Exhibit "B" attached hereto contains a list of the various City Facilities along with the authorized uses, responsibilities, services and considerations of the School District.

SECTION FOUR **USE AND SCHEDULING OF FACILITIES**

A. School District Facilities: The School District shall have the exclusive use of its buildings, properties, and facilities (the "School District Facilities") during school hours and during school related classes, programs, athletic teams, activities, and events, including community school classes and programs. At other times when the School District Facilities are not being used by the School District, the School District may schedule the use of the School District Facilities for appropriate City classes, programs, activities, and events, including city recreation teams and programs. The City acknowledges and agrees that the School District may allow other individuals and entities to generally schedule up to six (6) months in advance for use of the School District Facilities in accordance with Nebo School District's School Facility Use Policy #~~KAECF~~. The specific City classes, programs, activities, and events shall be pre-approved by the Committee to assure that such activities are proper and compatible with the School District Facilities, and in compliance with applicable School District policies, procedures, and directives. All scheduling and access arrangements for the use of the School District Facilities shall be coordinated through the respective school principals or assistant principals. The City may schedule dates and times for the use of the School District Facilities up to one (1) year in advance by using a School District form requesting use of School District Facilities. To the extent legally and reasonably possible, the School District shall give the City second priority in scheduling the use of the School District Facilities (subsequent to the School District who has first priority). However, as with any scheduling of the School District Facilities, whether by the City or other individuals or entities, school related classes, programs, activities, and events will take precedence. Emergency or unforeseen circumstances that require the use of the School District Facilities by the School District, as determined to be in the best interests of the School District, will take precedence over any prior scheduling by the City or any other individuals or entities. In the event the City disagrees with the School District's determination that there is an "emergency or unforeseen circumstance" which has taken precedence over the City's prior scheduled use of the School District Facilities, the City shall attempt to resolve the issue with the School District at the

lowest level possible beginning with the school principal and continuing up to the Superintendent of the School District. Use of the School District Facilities by the City shall be in accordance with all the terms, conditions, rules, and regulations set forth in Nebo School District's School Facility Use Policy #KAECE, which policy is incorporated fully herein and made a part of this Agreement. The City's use of the School District Facilities shall also be in accordance with the reasonable rules, regulations, and directions imposed by the school administrators and/or custodians. Upon giving reasonable prior notice to the City, the School District may prohibit the use of any of its Facilities in the event the Facility is in need of maintenance, repair, or restoration; the physical condition of the Facility is unsafe for the intended activity(ies); or for any other reason relating to the condition of the Facility deemed to be in the best interests of the School District as determined in its sole and absolute discretion. In consideration of the services and expenditures provided by the City for the use of the School District Facilities as set forth in Exhibit "A" hereto, there will be no rent charged for the City's use of the School District Facilities. However, the City shall be responsible to pay any and all costs for the employment of school personnel, such as supervisors, custodians, technicians, and food service workers. The City shall be entitled to use the School District Facilities subject to the following conditions:

1. The City shall comply with all applicable federal, state, and municipal laws, ordinances, and regulations.
2. The City shall not commit or suffer to be committed any destruction or damage, beyond reasonable wear and tear.
3. The City shall not commit or suffer to be committed any public or private nuisance.
4. The City shall maintain the School District Facilities in a reasonably clean and safe condition.

B. City Facilities: The City shall have the exclusive use of its buildings, properties, and facilities (the "City Facilities") for city related classes, programs, activities, and events, including city recreation teams and programs. At other times when the City Facilities are not being used by the City, the City may schedule the use of the City Facilities for appropriate School District classes, programs, athletic teams, activities, and events, including community school classes and programs. The School District acknowledges and agrees that the City may allow other individuals and entities to generally schedule up to six (6) months in advance for use of the City Facilities in accordance with its policies and procedures. The specific School District classes, programs, athletic teams, activities, and events shall be pre-approved by the Committee to assure that such activities are proper and compatible with the City Facilities, and in compliance with applicable City policies, procedures, and directives. All scheduling and access arrangements for the use of the City Facilities shall be coordinated through the respective City department directors B the City Recreation Director, the City Buildings and Grounds Director, or the Art Museum Director. The School District may schedule dates and times for the use of the City Facilities up to one (1) year in advance by using a City form requesting use of City Facilities. To the extent legally and reasonably possible, the City shall give the School District second priority in scheduling the use of the City Facilities (subsequent to the City who has first priority). However, as with any scheduling of the City Facilities, whether by the School District or other individuals or entities, city related programs, activities, and events will take precedence. Emergency or unforeseen circumstances that require the use of the City Facilities by the City, as determined to be in the best interests of the City, will take precedence over any prior scheduling by the School District or any other individuals or entities. In the event the School District disagrees with the City's determination that there is an "emergency or unforeseen circumstance" which has taken precedence over the School District's prior scheduled use of the City

Facilities, the School District shall attempt to resolve the issue with the City at the lowest level possible beginning with the Springville City Recreation Director and continuing up to the City Administrator. Use of the City Facilities by the School District shall be in accordance with all the terms, conditions, rules, and regulations set forth in City's Facility Use Policy, which policy is incorporated fully herein and made a part of this Agreement. The School District's use of the City Facilities shall also be in accordance with the reasonable rules, regulations, and directions imposed by City supervisors. Upon giving reasonable prior notice to the School District, the City may prohibit the use of any of its Facilities in the event the Facility is in need of maintenance, repair, or restoration; the physical condition of the Facility is unsafe for the intended activity(ies); or for any other reason relating to the condition of the Facility deemed to be in the best interests of the City as determined in its sole and absolute discretion. In consideration of the services and expenditures provided by the School District for the use of the City Facilities as set forth in Exhibit "B" hereto, there will be no rent charged for the School District's use of the City Facilities. However, the School District shall be responsible to pay any and all costs for the employment of City personnel, such as supervisors, custodians, and technicians. The School District shall be entitled to use the City Facilities subject to the following conditions:

1. The School District shall comply with all applicable federal, state, and municipal laws, ordinances, and regulations.
2. The School District shall not commit or suffer to be committed any destruction or damage, beyond reasonable wear and tear.
3. The School District shall not commit or suffer to be committed any public or private nuisance.
4. The School District shall maintain the City Facilities in a reasonably clean and safe condition.

SECTION FIVE **MANNER OF FINANCING**

This Agreement and the matters contemplated herein shall not receive separate financing, nor shall a separate budget be required. Each party shall be responsible for its own obligations under this Agreement, and shall follow any applicable rules and regulations adopted by the Committee.

SECTION SIX **CUSTODIAL & MAINTENANCE SERVICES**

A. School District Facilities: The School District shall be responsible to hire and pay for all custodial and maintenance services associated with the operation, maintenance, and repair of the School District Facilities. In addition, the City shall, as necessary and appropriate, provide and pay for custodial and maintenance services as a result of the City's use of the School District Facilities. In the event a City activity or event creates an extraordinary or excessive amount of Facility clean-up which then causes the School District to incur additional custodial and maintenance costs above and beyond normal duties, the City agrees to be responsible to reimburse the School District for said custodial and maintenance costs which are incurred as a direct result of the City's use of the School District Facilities. Such additional custodial and maintenance costs shall be mutually determined by the City Recreation Director or his/her designee and the School District ~~Coordinator of Operations~~ ~~Maintenance Supervisor~~ or his/her designee. In the event the foregoing individuals are unable to mutually agree upon the additional custodial and

maintenance costs, the matter shall be presented to the Committee for a decision in accordance with the procedures set forth in Section Two of this Agreement. Any such reimbursement shall be due and payable by the City to the School District within thirty (30) days following receipt of a written invoice therefore.

B. City Facilities: The City shall be responsible to hire and pay for all custodial and maintenance services associated with the operation, maintenance, and repair of the City Facilities. In addition, the School District shall, as necessary and appropriate, provide and pay for custodial and maintenance services as a result of the School District's use of the City Facilities. In the event a School District activity or event creates an extraordinary or excessive amount of Facility clean-up which then causes the City to incur additional custodial and maintenance costs above and beyond normal duties, the School District agrees to be responsible to reimburse the City for said custodial and maintenance costs which are incurred as a direct result of the School District's use of the City Facilities. Such additional custodial and maintenance costs shall be mutually determined by the City Recreation Director or his/her designee and the School District ~~Coordinator of Operations~~ ~~Maintenance Supervisor~~ or his/her designee. In the event the foregoing individuals are unable to mutually agree upon the additional custodial and maintenance costs, the matter shall be presented to the Committee for a decision in accordance with the procedures set forth in Section Two of this Agreement. Any such reimbursement shall be due and payable by the School District to the City within thirty (30) days following receipt of a written invoice therefore.

SECTION SEVEN **SUPERVISION AND SECURITY**

A. School District Facilities: The City shall be responsible to provide and pay for all necessary and appropriate supervision and security during the City's use of the School District Facilities. The persons responsible for such supervision and security shall have undergone and been cleared through a criminal history check by the Utah Bureau of Criminal Identification or other equivalent service.

In the event the School District has any concerns with a specific City supervisor, the School District shall discuss and attempt to resolve said concerns with the City. In the event the concerns cannot be adequately resolved, the School District may request the City to replace the individual with another City supervisor.

B. City Facilities: The School District shall be responsible to provide and pay for all necessary and appropriate supervision and security during the School District's use of the City Facilities. The persons responsible for such supervision and security shall have undergone and been cleared through a criminal history check by the Utah Bureau of Criminal Identification or other equivalent service.

In the event the City has any concerns with a specific School District supervisor, the City shall discuss and attempt to resolve said concerns with the School District. In the event the concerns cannot be adequately resolved, the City may request the School District to replace the individual with another School District supervisor.

SECTION EIGHT **PERSONAL PROPERTY**

Each party shall be responsible to provide its own athletic equipment and other personal property (herein referred to as "Personal Property") to be used in conjunction with the use of the other party's Facilities. Each party shall be the owner of its respective items of Personal Property. Each party shall be

responsible for any loss, damage, or destruction incurred to its respective items of Personal Property, and to maintain insurance on the same. Unless otherwise authorized in writing by the other party, no Personal Property owned by one party may be left or stored at the other party's Facilities, and in the event such Personal Property is left or stored at the other party's Facilities, the parties hereby acknowledge and agree that the other party shall not be liable for any loss or damage to said Personal Property from whatever cause. The parties further acknowledge and agree that there may be items of Personal Property (i.e., wrestling mats, volleyball nets, etc.) that are jointly owned by the School District and the City. Such jointly owned Personal Property may be used by both parties, and both parties are jointly responsible for its care, maintenance, and repair. In addition, there may be items of Personal Property that are inherently connected with the use of a party's particular facility for which the other party may be authorized to use in connection therewith.

SECTION NINE
ADMINISTRATION OF AGREEMENT

Pursuant to Utah Code Annotated, Section 11-13-101, et seq., the parties hereby agree that the Joint Governance Committee, as set forth in Section Two above, shall be responsible for administering this Agreement. This Agreement does not anticipate nor provide for any organizational changes in the School District or the City.

SECTION TEN
FILING OF AGREEMENT

A copy of this Nebo School District & Springville City - Master Facility Use Interlocal Cooperation Agreement shall be placed on file in the Office of the City Recorder of the City and with the Business Administrator of the School District and shall remain on file for public inspection during the term of this Agreement.

SECTION ELEVEN
INSURANCE

A. City Insurance: The City shall procure and maintain in force at its expense during the term of this Agreement public liability insurance providing insurance coverage for the City's use of the School District Facilities. Such insurance shall provide for such coverages, protections, insurable amounts, etc. which would be standard and reasonable for the uses contemplated hereunder, and which are available through the Utah Risk Management Mutual Association ("URMMA").

B. School District Insurance: The School District shall procure and maintain in force at its expense during the term of this Agreement public liability insurance providing insurance coverage for the School District's use of the City Facilities. Such insurance shall provide for such coverages, protections, insurable amounts, etc. which would be standard and reasonable for the uses contemplated hereunder, and which are available through the State of Utah Risk Management ("State Risk Management").

C. Property Insurance: Each party shall procure and maintain in force at its expense during the term of this Agreement property insurance for each party's Facilities.

SECTION TWELVE
NOTICE OF DEFAULT; CORRECTIVE ACTION

The failure of either party to comply with each and every term and condition of this Agreement shall constitute a breach of this Agreement. Either party shall have thirty (30) days after receipt of written notice from the other of any breach to correct the conditions specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within ten (10) days after receipt of the notice.

SECTION THIRTEEN
RIGHTS AND REMEDIES

In the event of any breach hereunder and after the lapse of the cure period as per Section Twelve above, the non-breaching party shall have all the rights and remedies available under the laws of the State of Utah in effect. The rights and remedies of the parties hereto shall not be mutually exclusive, but shall be cumulative in all effects. The respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

SECTION FOURTEEN
LIABILITY FOR INJURY, LOSS, OR DAMAGE TO PERSONS OR PERSONAL PROPERTY

A. City Use: The City shall, subject to the limits and caps set forth in the Governmental Immunity Act of Utah, defend, indemnify, and hold harmless the School District for any death, personal injury, loss, or damage to persons or personal property (hereinafter “losses”) arising out of the City’s use of the School District Facilities, except for losses arising out of the sole negligence of the School District.

B. School District Use: The School District shall, subject to the limits and caps set forth in the Governmental Immunity Act of Utah, defend, indemnify, and hold harmless the City for any death personal injury, loss, or damage to persons or personal property (hereinafter “losses”) arising out of the School District’s use of the City Facilities, except for losses arising out of the sole negligence of the City.

SECTION FIFTEEN
DAMAGE OR DESTRUCTION TO FACILITIES

A. City Use: If the School District Facilities are damaged or destroyed as a result of the use thereof by the City, repair or replacement costs up to Ten Thousand Dollars (\$10,000) will be determined and payable by the City as specified in the Joint Governance Committee guidelines and rules to be developed as stated in Section Two of this Agreement. Responsibility for and payment of damages or costs rising above that amount will be determined and payable through normal dispute resolution procedures, including, but not limited to, mediation, arbitration, or lawsuits, dependent upon the fault of the parties or others, subject to subrogation principles.

B. School District Use: If the City Facilities are damaged or destroyed as a result of the use thereof by the School District, repair or replacement costs up to Ten Thousand Dollars (\$10,000) will be determined and payable by the School District as specified in the Joint Governance Committee guidelines and rules to be developed as stated in Section Two of this Agreement. Responsibility for and payment of damages or costs rising above that amount will be determined and payable through normal dispute resolution procedures, including, but not limited to, mediation, arbitration, or lawsuits, dependent upon the fault of the parties or others, subject to subrogation principles.

SECTION SIXTEEN
GOVERNING LAW, JURISDICTION, AND VENUE

All questions with respect to the construction of this Agreement and all rights and liability of the parties hereto shall be governed by the laws of the State of Utah. Jurisdiction and venue for the enforcement of this Agreement shall be found in the courts of Utah County, State of Utah.

SECTION SEVENTEEN
COSTS OF ENFORCEMENT

In the event of a breach of this Agreement, the non-breaching party shall be entitled to recover from the breaching party all of the non-breaching party's costs (including, but not limited to, court fees and expert witness costs) and attorneys' fees associated with the enforcement of this Agreement.

SECTION EIGHTEEN
NOTICE

Any written notice which must or may be given relating to this Agreement shall be sufficient if mailed postage prepaid, registered or certified mail, in the United States mail addressed to a party at the address given above. In the case of the School District, notice shall be mailed to the attention of the Superintendent at the above address. In the case of the City, notice shall be mailed to the attention of the City Administrator at the above address. Either party may notify the other to designate a different address for mailing.

SECTION NINETEEN
ANNUAL REVIEW

The Committee set forth in Section Two shall meet at least annually to review this Agreement. The Committee shall specifically review and assess the usage of the School District Facilities and the City Facilities and the considerations given in exchange therefore as set forth in Exhibits "A" and "B" hereto. The objective of the Committee during their annual review is to make any necessary revisions or amendments to Exhibits "A" and "B" of this Agreement in order to achieve an acceptable level of "fundamental fairness" between the parties for the use of their respective Facilities.

SECTION TWENTY
TERMINATION

Either party may terminate this Agreement at any time and for any or no reason by giving the other party at least one (1) year prior written notice of the same.

SECTION TWENTY-ONE
ACCEPTANCE OF FACILITY CONDITION

A. City Acceptance: The City agrees to use the School District Facilities in their "AS IS" condition. If repairs or maintenance are necessary or desirable, the City may request the School District to make such repairs and maintenance, but the School District is not under any obligation to do so. If the City makes repairs or conducts maintenance it shall be at its own cost.

B. School District Acceptance: The School District agrees to use the City Facilities in their "AS IS" condition. If repairs or maintenance are necessary or desirable, the School District may request the City

to make such repairs and maintenance, but the City is not under any obligation to do so. If the School District makes repairs or conducts maintenance it shall be at its own cost.

SECTION TWENTY-TWO
GENERAL PROVISIONS

- A. Severability.** In the event that any condition, covenant, or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- B. Entire Agreement.** This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by the parties. All prior understandings, negotiations, or agreements are merged herein and superseded hereby.
- C. Amendments.** This Agreement may be modified only by a writing signed by each of the parties hereto.
- D. Not Assignable.** This Agreement is specific to the parties hereto and is therefore not assignable.
- E. Captions.** The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.
- F. Exhibits.** The following Exhibits attached hereto, and any Exhibits subsequently attached hereto from time to time, shall be considered to be binding upon all parties.
- G. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- H. Gender and Number.** The singular number includes the plural whenever the context so indicates. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, limited liability company, partnership, or other legal entity when the context so requires.
- I. Waiver or Forbearance.** No delay or omission in the exercise of any right or remedy by any party hereto shall impair such right or remedy or be construed as a waiver. Any waiver of any breach must be in writing and shall not be a waiver of any other breach concerning the same or any other provision of this Agreement.
- J. No Partnership, Joint Venture, or Third Party Rights.** Except as specifically set forth herein, nothing in this Agreement shall be construed as creating any partnership, joint venture, or business arrangement among the parties hereto, nor any rights or benefits to third parties.
- K. No Waiver of Governmental Immunity.** Neither party waives any rights or defenses otherwise available under the Governmental Immunity Act of Utah.

L. Effect on Previous Contracts and Interlocal Cooperation Agreements. This Agreement shall not supersede any previous Contracts and/or Interlocal Cooperation Agreements entered into between the School District and the City regarding the shared use of School District Facilities or City Facilities. This Agreement shall have the effect of supplementing and clarifying the parties' respective roles, duties, and responsibilities in relation to each other with the shared use of School District Facilities and City Facilities that may be specifically addressed in previous Contracts and/or Interlocal Cooperation Agreements. The parties hereby acknowledge and agree that the following Contracts and/or Interlocal Agreements are currently in effect as of the date of this Agreement which concern the Facilities of the School District and the City:

1. Interlocal Agreement - Parking Lot & Driving Range at Spring Acres Arts Park, dated August 28, 2000.

- SIGNATURES ON FOLLOWING PAGE -

DRAFT 10/11/12

IN WITNESS WHEREOF, the parties have signed and executed this Nebo School District & Springville City - Master Facility Use Interlocal Cooperation Agreement, after resolutions duly and lawfully passed, on the dates listed below.

DATED this ____ day of _____, 2012~~07~~.

SPRINGVILLE CITY

By: _____
WILFORD W. CLYDE, Mayor

ATTEST:

By: _____
VENLA GUBLER, City Recorder

**APPROVED AS TO FORM AND COMPATIBILITY
WITH THE LAWS OF THE STATE OF UTAH:**

JOHN A. PENROD,
Springville City Attorney

DATED this ____ day of _____, 2012~~07~~.

**BOARD OF EDUCATION OF
NEBO SCHOOL DISTRICT**

By: _____
R. DEAN ROWLEY, Board President

ATTEST:

By: _____
TRACY D OLSEN, Business Administrator

**APPROVED AS TO FORM AND COMPATIBILITY
WITH THE LAWS OF THE STATE OF UTAH:**

REED B. PARK,
Nebo School District Legal Counsel



STAFF REPORT
EXHIBIT "A"

**CITY USE OF
SCHOOL DISTRICT FACILITIES
SPRINGVILLE HIGH SCHOOL**

FACILITY	AUTHORIZED USES
Auditorium	Miss Springville Pageant, occasional City use.
Auxiliary Gymnasiums	Adult basketball and volleyball leagues; youth basketball leagues and camps; youth baseball and softball leagues team selections; youth volleyball camps; special events.
Cafeteria	Equipment check-out; coaches meetings; registration for youth baseball, flag football, soccer, volleyball, tackle football, and softball leagues.
Classrooms	Coaches meetings for youth and adult sports leagues; umpire trainings for youth and adult baseball and softball leagues (primarily classrooms E-30 and B-8).
Football Field	Youth Hershey Track and Field meets; summer youth track and field team; <u>6th, 7th, 8th, and 9th</u> grade tackle football.
Main Gymnasium	Adult basketball leagues; youth basketball leagues; volleyball leagues; youth baseball and softball leagues team selections; youth wrestling matches and tournaments; special events.
Soccer Fields	Occasional youth soccer games.
<u>Grass Fields</u>	<u>9th grade tackle football practices.</u>
Track	Youth Hershey Track and Field meets; summer youth track and field team.
Basement Track	Community recreational walking and jogging during mornings and evenings.
Wrestling Room	Youth wrestling practices and matches; gymnastics classes.
Parking Lots	Parking for all City sponsored activities and events.

SPRINGVILLE JUNIOR HIGH SCHOOL

FACILITY	AUTHORIZED USES
Gymnasiums	Youth basketball leagues games and practices; volleyball games and practices; <u>adult 3 on 3 basketball tournament.</u>
Playing Fields	<u>6th, 7th, 8th, and 9th</u> grade tackle football leagues practices; youth soccer, baseball, softball, and football sports leagues practices.
Auditorium	Occasional City use.
Parking Lots	Parking for all City sponsored activities and events.

ART CITY ELEMENTARY SCHOOL

FACILITY	AUTHORIZED USES
Playing Fields	Youth baseball, softball, soccer, and football leagues games and practices.
Parking Lots	Parking for all City sponsored activities and events.

BROOKSIDE ELEMENTARY SCHOOL

FACILITY	AUTHORIZED USES
Playing Fields	Youth baseball, softball, soccer, and football leagues games and practices.
Parking Lots	Parking for all City sponsored activities and events.

CHERRY CREEK ELEMENTARY

FACILITY	AUTHORIZED USES
Gymnasiums	Adult basketball leagues games and practices; youth basketball leagues games and practices; adult volleyball leagues games; youth volleyball leagues games.
Playing Fields	Youth soccer leagues games and practices; youth football leagues practices.
Parking Lots	Parking for all City sponsored activities and events.
Grass Area & North Parking Lot	Activities, events, and parking associated with the Springville Art Museum, except during school hours used for school bus loading and unloading zone.

SAGE CREEK ELEMENTARY SCHOOL

FACILITY	AUTHORIZED USES
Playing Fields	Youth baseball, softball, soccer, and football leagues practices.
Parking Lots	Parking for all City sponsored activities and events.

WESTSIDE ELEMENTARY SCHOOL	
FACILITY	AUTHORIZED USES
Playing Fields	Youth baseball, softball, soccer, and football leagues games and practices.
Parking Lots	Parking for all City sponsored activities and events.

GRANT BUILDING	
FACILITY	AUTHORIZED USES
Playing Fields	Youth baseball, softball, soccer, and football leagues games and practices.
Parking Lots	Parking for all City sponsored activities and events.

NEBO LEARNING CENTER	
FACILITY	AUTHORIZED USES
Playing fields	Youth baseball, softball, soccer, and football leagues games and practices.
Parking Lots	Parking for all City sponsored activities and events.

CITY CONSIDERATIONS	
<ul style="list-style-type: none"> • Pay one-half (½) the costs for additional items that are used by both the City and the School District (i.e., score boards, wrestling mats, rims, backboards, volleyball equipment, nets, soccer goals, etc.). • Provide and pay for all fees for the watering of the baseball field, football field, practice field, and soccer fields at Springville High School. • Provide and pay for all fees for the watering of the playing fields at Springville Junior High School. • Mow and groom athletic fields that the City uses – Springville High School football field, baseball field, G-wing soccer field, and softball field; Springville Junior High School baseball fields; and playing fields at Sage Creek Elementary School, Art City Elementary School, Westside Elementary School, and Nebo Learning Center. • Provide and pay for all football field maintenance at Springville High School, including, but not limited to, aerating, spraying, mowing, and field preparation during the high school football team season and at other times. • Provide labor and organization of all Hershey Track and Field meets at Springville High School. • Provide substitute teachers for coaches during Hershey Track and Field meets. • City police services for Springville High School Homecoming Parade. • School District use of City Facilities. • General good faith cooperation and considerations to the School District. 	

EXHIBIT "B"

NEBO SCHOOL DISTRICT USE OF CITY FACILITIES	
ART SHOP	
FACILITY	AUTHORIZED USES
Art Shop Building	Community Education classes.
BIRD PARK	
FACILITY	AUTHORIZED USES
Softball Fields	Springville High School softball team for practices and games.
Grass Fields	Springville High School football and marching band practices.
Walking/Jogging Course	Springville High School physical education classes.
Parking Lots	Parking for all School District sponsored activities and events.
CITY PARKS	
FACILITY	AUTHORIZED USES
City Pavilions	Reasonable use for School District activities and events, as specifically approved in writing by the School District and the City.
Parking Lots	Parking for all School District sponsored activities and events.
HOBBLE CREEK GOLF COURSE	
FACILITY	AUTHORIZED USES
Golf Course	Springville High School, Springville Junior High School, and Mapleton Junior High School golf teams for practices and tournaments. <i>Also governed by the Memo, dated December 1, 2004, executed by the Golf Professionals from East Bay, Spanish Oaks, Gladstan, Hobbles Creek, and Cascade Golf Courses.</i>
Parking Lots	Parking for all School District sponsored activities and events.
HOBBLE CREEK TRAIL	
FACILITY	AUTHORIZED USES
Trail	Springville High school cross-country teams and physical education classes.
KOLOB PARK	
FACILITY	AUTHORIZED USES
Grass Area	Elementary school playground for recess and school activities.
Parking Lots	Parking for all School District sponsored activities and events.
MEMORIAL PARK	
FACILITY	AUTHORIZED USES
Grass Area	Springville High School cross-country teams for some practices and races; Springville Junior High School classes for various activities.
Tennis Courts	Springville Junior High School tennis team games and practices; Springville Junior High School physical education classes.
Skate Park Area	Springville Junior High School special education students for various activities.
Parking Lots	Parking for all School District sponsored activities and events.
SENIOR CITIZEN CENTER	
FACILITY	AUTHORIZED USES
Senior Citizen Building	Community Education classes.
SPRING ACRES ARTS PARK	
FACILITY	AUTHORIZED USES
Amphitheater/Stage and Grounds	Springville High School home coming activities and "Last Chance Dance".
Driver's Education Range	Springville High School Driver's Education classes; Springville High School athletic teams for banquets and special functions. <i>Also governed by a separate Interlocal Cooperation Agreement dated August 28, 2000.</i>
Tennis Courts	Springville High School tennis team for practices and matches; Springville High School physical education classes. <i>Note: School District and City shared construction costs for tennis courts.</i>
Parking Lots	Parking for all School District sponsored activities and events.
SPRINGVILLE ART MUSEUM	

FACILITY	AUTHORIZED USES
Art Museum Rooms	Springville High School dance, orchestra, and choir concerts; Springville High School faculty banquets.

SWIMMING POOL	
FACILITY	AUTHORIZED USES
Swimming Pool	Springville High School swim team for practices and meets (\$0 per student); Spanish Fork High School, Maple Mountain High School, Salem Hills High School, and Payson High School swim teams for practices and meets (\$65 per student)
Parking Lots	Parking for all School District sponsored activities and events; school bus layover parking.

NEBO SCHOOL DISTRICT CONSIDERATIONS	
<ul style="list-style-type: none"> • Pay one-half (1/2) the costs for additional items that are used by both the School District and the City (i.e., score boards, wrestling mats, rims, backboards, volleyball equipment, nets, soccer goals, etc.). • Provide timers and scorekeepers for the Hershey Track and Field meets. • City use of School District Facilities. • General good faith cooperation and considerations to the City. 	