

CITY CLERK ORIGINAL

C-8083
06/12/2012

INTERGOVERNMENTAL AGREEMENT REGARDING SPORTS FIELDS LIGHTING SYSTEM AND FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL

THIS INTERGOVERNMENTAL AGREEMENT REGARDING SPORTS FIELDS LIGHTING SYSTEM AND FACILITY USE AT RAYMOND S. KELLIS HIGH SCHOOL is made and entered into this 12th day of June, 2012 by and between the CITY OF GLENDALE, an Arizona municipal corporation, hereinafter referred to as "City," and the PEORIA UNIFIED SCHOOL DISTRICT NO. 11, hereinafter referred to as "District." Both City and District may sometimes be referred to as "Party" or collectively as "Parties."

RECITALS

WHEREAS, under A.R.S. Section 11-951 *et seq.*, cities and schools may enter into an agreement for the construction, development, cooperative maintenance, operation and use of parks, swimming pools and other facilities on property used for public purposes if the governing bodies having charge and control of such properties give their consent and cooperation;

WHEREAS, the Parties desire to use and operate facilities that provide maximum public benefit;

WHEREAS, it is good policy to partner in the development and use of facilities that can be used for both school and community purposes;

WHEREAS, the City constructed on property owned by the District, known as Raymond S. Kellis High School ("School"), a lighting system for sports fields ("Lighted Sports Field") to be used jointly by the Parties;

WHEREAS, the Parties desire to allow the City, through its Parks and Recreation Department, priority use of the Lighted Sports Field when not being used for District or Arizona Interscholastic Association ("AIA") sanctioned games, events or maintenance;

WHEREAS, the District has recreation facilities such as tennis courts, gymnasiums, weight room, dance room, teaching kitchen, classrooms, stage and parking lots ("District

Facilities") that could be used for community health, education, sports, and enrichment opportunities provided through the City during non-school hours;

WHEREAS, the City has recreation facilities such as swimming pools, parks, and trails ("City Facilities") that could be used for physical education and school athletic opportunities provided through the District; and

WHEREAS, the District and the City shall annually develop a facility use calendar by January 15 of each year, to ensure adequate planning for and equitable use of the District Facilities and City Facilities, which planning shall include such non-use time scheduled during the year to accommodate appropriate maintenance of facilities and field turf.

NOW, THEREFORE, FOR AND IN CONSIDERATION of their mutual promises and covenants, the Parties agree as follows:

1. District and City installed a separate electrical meter for the Lighted Sports Field and each Party shall pay for the electricity during its use, and only during its use, of the Lighted Sports Field.

2. The District and City further allocate the duties, obligations, responsibilities, and rights related to the Lighted Sports Field as follows:

(a) District shall provide at its expense all routine maintenance and service for the Lighted Sports Fields, except as set forth in subsection b of this Section;

(b) City shall provide at its expense all routine maintenance and service for the lighting system, including bulb replacement;

(c) At its expense, and subject to District approval as to size and location, the City shall place the necessary signs on the campus of the School to locate and identify the Lighted Sports Field.

(d) During all times that the City is using the Lighted Sports Field, the City shall have the right to charge admission to the Lighted Sports Field and shall retain all such admission charges. Likewise, during the time the District is using the Lighted Sports Field, it shall have the right to charge admission and retain all resulting proceeds.

(e) At all times during the City's control and operation of the Lighted Sports Field and lighting system, the City shall have the right to use, without payment of any kind, the parking facilities located on the School campus directly west of the sports field, commonly called the student parking lot. The City shall sweep and clean said parking lot no later than the day following activity.

3. The District agrees to allow the City, through its Parks and Recreation Department, to priority use of the District Facilities when the District Facilities are not being used for District or AIA-sanctioned games, activities, events or maintenance. During and after its use of the District Facilities, the City shall keep and leave the District Facilities in a neat and orderly condition. Should the District Facilities suffer any damages during the City use period, the City shall be responsible for making reasonable repairs in a timely manner.

4. The City agrees to allow the District priority use of certain recreation facilities ("City Facilities") when those facilities are not being used by the City for Parks and Recreation programs, events, or maintenance. This priority includes use of the Rose Lane Aquatics Center for School swim team practices and meets. During and after its use of City Facilities, the District shall keep and leave the City Facilities in a neat and orderly condition. Should the City facilities suffer any damages during the District use period, the District shall be responsible for making reasonable repairs in a timely manner.

5. The District agrees to allow the School parking lots, bus turnaround off of 91st Ave, and sidewalks between the parking lots and the bus turnaround (all of which shall be deemed part of the District Facilities) to be used for overflow parking and shuttle operations for the University of Phoenix Stadium during Cardinal home football games, large sporting events, such as the Fiesta and Super Bowl, events sponsored by the Arizona Sports and Tourism Authority, and up to an additional 15 times per year for other large special events held at the stadium. The 2012-2013 schedule for Cardinal and Fiesta Bowl games is attached as Exhibit A and incorporated herein. In connection with this Use, the following apply:

(a) No parking fees shall be charged by the School or the City during these events.

(b) The District must allow the City to place the necessary temporary signs on the School campus to locate and identify the parking lots and any light towers, vehicle, or pedestrian traffic control measures to safely and efficiently operate the parking and shuttle system.

(c) The District must make every effort to ensure the City's priority use of parking lots and shuttle areas for football games identified in Exhibit A. In the event a game is rescheduled to another date, the District agrees to allow the City use of the parking lots and shuttle areas on the rescheduled dates.

(d) The City shall clean said parking lots no later than the day following each event. In all cases, the lot shall be cleaned before the next School use period. Should any damages be incurred during the City use period, the City shall be responsible for making responsible repairs in a timely manner.

6. The District is allowed use of the Brown Lot (the city-owned parking lot on the southeast corner of 91st Avenue and Orangewood Avenue, which shall be deemed to be part of the City Facilities) for school-related functions, such as safety demonstrations and overflow parking for events, provided the Brown Lot is not needed for a City event. The District will use the City's current Special Event permitting process to request the use of the Brown Lot.

7. Any user fee or expenses charged to the City by the District or School, or by the City to the District, shall be kept to minimum when the purpose of the use is to serve District students or the surrounding community.

8. The Parties must use the jointly developed annual facilities use calendar to ensure that both Parties are receiving equitable benefits from this Agreement. The Parties agree that uses set forth herein for use of the Lighted Sports Field, parking and Rose Lane Aquatics Center are equitable. If it is determined and agreed upon that one Party is receiving greater benefit, then market rate fees may be assessed to that party for use of the other party's facilities.

9. At all time that the City is operating the lighting system, using the Lighted Sports Field, or using the District Facilities, the City (a) certifies that it will be covered, through its Risk Management Trust Fund, under a program of self-insurance in an amount sufficient to fully protect itself and the District from hazard or liability; and (b) shall, to the extent permitted under Arizona law, indemnify and hold the District harmless from any liability of any nature (including without limitation, liability for personal injury, death, and property damage) attributable to the City, its employees or agents, in connection with the operation of the lighting system, use of the Lighted Sports Field, or use of the District Facilities, and will fully represent and defend the Parties in any lawsuit arising out of these activities.

10. At all times that the District is operating the lighting system, or using the Lighted Sports Field, or using City Facilities, the District (a) certifies that it will be covered, through its Loss Trust Fund, under a program of self-insurance in an amount sufficient to fully protect itself and the City from hazard or liability; and (b) shall, to the extent permitted under Arizona law, indemnify and hold the City harmless from any liability of any nature (including without limitation, liability for personal injury, death, and property damage) in connection with the operation of the lighting system, use of the Lighted Sports Field, or use of the City Facilities, and will fully represent and defend the Parties in any lawsuit arising out of these activities.

11. This Agreement may be modified, in writing, at any time by mutual agreement of the Parties.

12. Either the City or the District may terminate this Agreement upon 90 days written notice to the other party.

13. Costs and budget shall be allocated between the City and the District as set forth above.

14. No separate legal entity shall be formed by this Agreement.

15. This Agreement shall not become effective until approved by the Glendale's City Council and by the District's Governing Board.

16. Subject to approval of the Glendale's City Council and the District's Governing Board, this Agreement shall become effective as of the date listed above, and shall remain in force and effect for a period of one year.

IN WITNESS WHEREOF the Parties have duly executed this instrument the day and year first above written.

(Signatures on following pages)

DISTRICT:

PEORIA UNIFIED SCHOOL DISTRICT #11
~~BOARD OF EDUCATION~~

Hal Borhauer
By: Hal Borhauer
Its: President

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Peoria Unified School District Board of Education granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

CANTELME S BROWN, P.L.C.
District's Legal Counsel:

By: [Signature] Date: May 21, 2012

CITY:

CITY OF GLENDALE, an Arizona municipal corporation

Horatio Skeete

By: Horatio Skeete

Its: Acting City Manager

ATTEST:

Dance McCracken for
Pam Hanna, City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Glendale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

Craig Tindall

Craig Tindall, City Attorney

Date: 6/13/12

Document to be recorded by City of Glendale

EXHIBIT A

2012 - 2013 ARIZONA CARDINALS AND FIESTA BOWL SCHEDULE

7:00 PM Friday, August 17, 2012 – Oakland Raiders

8:00 PM Thursday, August 30, 2012 – Denver Broncos

1:15 PM Sunday, September 9, 2012 – Seattle Seahawks

1:05 PM Sunday, September 23, 2012 – Philadelphia Eagles

1:05 PM Sunday, September 30, 2012 – Miami Dolphins

1:05 PM Sunday, October 14, 2012 – Buffalo Bills

5:30 PM Monday, October 29, 2012 – San Francisco 49ers

2:15 PM Sunday, November 25, 2012 – St. Louis Rams

2:05 PM Sunday, December 16, 2012 – Detroit Lions

2:15 PM Sunday, December 23, 2012 – Chicago Bears

TBD Thursday, January 3, 2013 – Fiesta Bowl