



Adjourned Meeting
09-29-20

**Item
3.B.9.**

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Kate Gallo, Recreation Supervisor

Reviewed by: Jesse Bobbett, Community Services Director

Approved by: Reva Feldman, City Manager

Date prepared: August 24, 2020 Meeting date: September 29, 2020

Subject: Master Use Agreement with Santa Monica-Malibu Unified School District

RECOMMENDED ACTION: Authorize the City Manager to execute a two-year Master Facility Use Agreement with the Santa Monica-Malibu Unified School District through September 30, 2022.

FISCAL IMPACT: Funding for this Agreement is included in the Adopted Budget for Fiscal Year 2020-2021 in Account No. 100-7059-5921 (Non-Departmental Services).

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal year 2020-2021. This is part of normal staff operations.

DISCUSSION: The City has maintained a Master Facility Use Agreement (Agreement) with Santa Monica-Malibu Unified School District (District) for over 25 years. The Agreement outlines the terms of use and associated fees for City-sponsored youth programs, local youth sports organizations, and general adult recreational use during non-school hours at Malibu High School and Malibu Elementary Schools, including:

- Basketball and Coach-Pitch Baseball Programs
- Youth and Middle School Sports Programs
- Aquatics Programs at the Malibu Community Pool
- Adult Open Gym Basketball
- General Community Use at Malibu Elementary School
- Summer Day Camps
- Malibu Little League and American Youth Soccer Association (AYSO)

On July 1, 2013, the City entered into the current Agreement with the District and authorized subsequent Amendments to the Agreement in 2016, 2019, and 2020, extending the expiration date of the Agreement. The Council approved the most recent Amendment on June 20, 2020, to provide additional time for the City and the District to finalize the details of a new two-year Agreement, beginning October 1, 2020.

Under the new Agreement (Attachment), the City will pay the higher “Direct Rate” for all programs utilizing District facilities, similar to the rates approved in the most recent Amendment. Historically, the City has been charged the lower “Basic Rate” for City-sponsored youth programs and local youth sports organization practices, and the “Direct Rate” for game reservations. The higher rate is expected to increase the City’s average annual payment to the District by more than 100%, to approximately \$325,000 per Fiscal year. Due to facility closures and limited programming related to the COVID-19 Pandemic, the increased rates are not expected to impact the Adopted Budget for Fiscal Year 2020-2021 significantly.

On July 21, 2020, the Parks and Recreation Commission reviewed the programs and associated costs of the new Agreement. By consensus, the Commission recommended the Council approve a new Agreement but expressed disappointment with the increased rates considering the current condition of District facilities and fields. Additionally, the Commission recommended that the Council should prioritize park development on City-owned vacant properties due to the high rental cost, limited availability, and poor conditions of District facilities and fields.

ATTACHMENT: 2020 Master Use Agreement with Santa Monica-Malibu Unified School District

**MASTER AGREEMENT BETWEEN SANTA MONICA-MALIBU UNIFIED SCHOOL
DISTRICT AND THE CITY OF MALIBU REGARDING
USE OF SCHOOL DISTRICT FACILITIES**

This Master Agreement is made and entered into as of this _____ day of _____, 2020, by and between the City of Malibu, a municipal corporation, hereinafter referred to as the “City,” and Santa Monica-Malibu Unified School District, hereinafter referred to as the “District”, each duly organized and existing under the constitution and laws of the State of California (collectively, “Parties”); and

WITNESSETH

WHEREAS, the District desires to promote the health and welfare of the students and staff of the District and the City desires to promote the health and welfare of the residents of the City and enhance recreational opportunities. The Parties also desire to cultivate and develop community education, health, fitness, and good citizenship by providing and conducting City and District programs focused on education, recreation, and athletics, to contribute to the attainment of the District’s and City’s objectives; and

WHEREAS, the District and the City have previously maintained a cooperative working arrangement, which has shown that the use of the District grounds and facilities by the City can afford the community increased programs in education, recreation, and athletics.

WHEREAS, the development of programs in education, recreation, and athletics to meet the needs of the District and the City requires optimum use of all publicly owned facilities which are adaptable to use for programs in education, recreation, and athletic purposes; and

WHEREAS, this Agreement is entered into under authority granted under the Government Code (Section 6500 et seq.) and by one or more of Education Code Sections , including 10900 et seq. of the State of California, which authorize and empower school districts and municipalities to enter into agreements with each other for the purposes of organizing, promoting, and conducting recreational programs utilizing school facilities for the education, recreation, and athletic opportunities for the citizens and residents of the City and the District; and

WHEREAS, the City and the District desire to enter into this Agreement pursuant to said statutory authorization; and

WHEREAS, this Agreement governs use of District facilities by the City at Malibu High School, Malibu Middle School, Malibu Elementary School and Webster Elementary School (“Facilities”); and

WHEREAS, the Parties desire to establish general guidelines for use of existing Facilities;

NOW, THEREFORE, the City and the District hereby mutually covenant and agree with each other as follows:

1.0 GENERAL PROVISIONS OF USE OF FACILITIES

The District shall make available to the City the use of the Facilities, including buildings or portions thereof, as specifically requested and for the time requested, subject to the following conditions:

1.1 The "Direct" rate of the District's operation of said Facilities, as indicated on the Facility Use Fee Schedule (Exhibit A), shall be the basis upon which an annual contribution shall be made by the City to the District Facilities. Any costs incurred related to City use of Facilities outside those costs identified in the Facility Use Fee Schedule (Exhibit A) and the Facility Use Calendar (Exhibit B) shall be subject to negotiation by the District and the City.

1.2 The Party having responsibility for supervision of a class, educational program, athletic program, or recreational activity may charge a permit fee no greater than the "Direct" rate as listed in the Facility Use Fee Schedule (Exhibit A) or an amount equal to 100% of the recovery of that Party's costs related to the supervision, instruction, or materials used, whichever is greater. Such fees may be retained by the supervising authority as part of its budget for providing leadership and supervision of the education, recreation or athletic program. Such fee schedule must be reviewed by the appropriate District and City governing agency, board or commission, whichever is applicable. All scheduling, use, admission fee collection, and other activities conducted by the City on the Facilities shall be compliant with the Civic Center Act (Education Code § 38130, et seq.), and Community Recreation Act (Education Code §10900, et seq.), as applicable.

1.3 The City shall provide, pay for, and supervise the City-sponsored or permitted education, recreation, or athletic programs at the District Facilities. The District and City will agree to a Facility Use Calendar (Exhibit B) prior to the issuance of any permit to use certain Facilities. Once the District has allocated certain dates and hours to the City for use of the District Facilities, the City shall be responsible for programming or permitting of those Facilities for the allocated dates and hours.

1.3.1 Any person, program, or community group desiring to use District Facilities during dates and times allocated to the City under this Agreement, must apply to do so through the City. Use of District Facilities by these outside persons, programs, and community groups is subject to the applicable policies and regulations set forth by the District and the City, and will be scheduled by the City.

1.3.2 The City shall provide the District with quarterly or seasonal calendars detailing the City's planned use of permitted Facilities prior to use. The City agrees that it will not use District Facilities until such time as notification of the granting of the permit(s) to the City is received from the District.

1.3.3 The District will charge an additional fee for staffing one Sports Facility Attendant during City use, including City permits issued for community recreational and athletic groups.

1.4 Facility use outside the scope of this Agreement shall be subject to a separate agreement between the Parties.

1.5 Use of District Facilities, grounds, and equipment by the City for the purposes of this Agreement shall not interfere with the primary day-to-day educational mission of the District. Extracurricular programs primarily supported or sponsored by the District, including District-sponsored activities, programs and events, including special, emergency, or custodial use, shall have first priority. Therefore, if a need by the District to use the District Facilities arises after the establishment of any schedule, the City shall relinquish its permit to use the District Facilities for such dates and times as the District requires use of the District Facilities. The District shall make reasonable

efforts to provide a minimum of two weeks' written notice to the City, should such cancellation become necessary.

1.6 Permits and schedules may be altered if agreed upon by the Parties, subject to the District's unilateral right to alter permits and schedules based upon the District's needs, as described above.

1.7 Administrative authority for City programs shall reside with the City Manager or their designee.

1.8 The City shall provide all materials, supplies, and equipment necessary to conduct City programs. The District shall be allowed to use City equipment, with prior approval from the City.

1.9 The District shall provide all materials, supplies, and equipment necessary to conduct District programs. The City shall provide all materials, supplies, and equipment necessary to conduct City programs. However, the City shall be allowed to use District materials, supplies, and equipment, with prior approval from the District.

1.10 As set forth in section 1.14 below, the City shall accept the District Facilities in their "AS-IS" condition. The City will notify the District, in writing, regarding reasonable maintenance and cleaning requests. The District agrees to respond to City staff, in writing, within three (3) business days with an anticipated schedule for the reasonable repair or maintenance requested. The District shall maintain all District Facilities under this Agreement in a safe and clean condition, normal wear and tear excepted, and furnish the Facilities to the City in such condition at the permitted time. The City shall return to the District any buildings, Facilities, and grounds used in the same condition as they were in when received by the City, and shall repair, replace, and/or pay for any building, facility, ground, and/or equipment which was proven to be damaged by the City, City-sponsored programs, or City permitted users, within 21 business days of receipt of a site damage report by the City.

1.11 The City shall be responsible for any additional costs related to the City-sponsored use of the District Facilities, including but not limited to employing, hiring, or assigning District employees, agents or other representatives to (i) prepare or otherwise setup said Facilities, or portions thereof for City use, (ii) serve as security at said Facilities, or portions thereof, for the District property in general, and/or (iii) provide other services in connection with City's use of said Facilities, buildings or portions thereof, as shown on the Facilities Use Calendar (Exhibit B), provided the City and the District agree that the additional services are necessary. If the City and the District cannot agree on whether additional services are necessary, the City-sponsored program shall not begin or continue.

1.12 The City shall make an annual total contribution to the District in an amount at least equal to the District's "Direct Costs" for management, supervision, operation, and maintenance and renovation associated with specific community educational, recreational, and sports/athletics programs operating in the District Facilities, as shown on the Facility Use Calendar (Exhibit B).

1.13 This Agreement shall become effective on October 1, 2020, and shall remain in full force and effect for two (2) years, expiring on September 30, 2022, unless terminated in accordance with section 6.3 of this Agreement. The Agreement may be extended at the discretion of the District and City for one (1) additional year by mutual written consent of the District and the City.

1.14 The City hereby represents, covenants and warrants that neither the District nor anyone acting on the District's behalf has made any representation, warranty or other guarantee regarding the fitness of the District Facilities, including buildings, grounds or portions thereof to be used under this Agreement for the particular use desired by City. Furthermore, the City hereby represents, covenants and warrants that, as a material inducement to the execution and delivery of this Agreement by the

District, the City acknowledges and agrees that it accepts such Facilities, buildings, grounds or portions thereof in their "AS-IS", "WHERE-IS", "WITH ALL FAULTS" physical condition and in an "AS-IS", WHERE-IS", "WITH ALL FAULTS" state of repair, and the District has no obligation to repair or improve such Facilities, buildings, grounds or portions thereof in anticipation of or in connection with City's exercise of its rights under this Agreement, nor shall the City or anyone claiming by, through or under the City have any right or remedy against the District as a result of any physical condition of such Facilities, buildings, grounds or portions thereof (including, without limitation, any defect in or to the Facilities, buildings, grounds or portions thereof). THE CITY HEREBY GENERALLY, FULLY AND IRREVOCABLY RELEASES THE DISTRICT, ITS EMPLOYEES, AGENTS, INDEPENDENT CONTRACTORS, OR OTHER REPRESENTATIVES FROM ANY AND ALL CLAIMS THAT CITY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST THE DISTRICT, ITS AGENTS, EMPLOYEES, INDEPENDENT CONTACTORS OR OTHER REPRESENTATIVES FOR AND FROM ANY COST, LOSS, LIABILITY, UNFORSEEN, KNOWN OR UNKNOWN, ARISING OUT OF OR IN ANY WAY RELATED TO THE FACILITIES, BUILDINGS, GROUNDS OR PORTIONS THEREOF TO BE USED UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY PATENT, LATENT OR OTHER DEFECTS IN THE PROPERTY OR THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY). WITH RESPECT TO THE RELEASES AND WAIVERS SET FORTH IN THIS SECTION 1.14, CITY EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY".

THE CITY HAS BEEN ADVISED BY ITS LEGAL COUNSEL AND UNDERSTANDS THE SIGNIFIGANCE OF THIS WAIVER OF SECTION 1542 RELATING TO UNKNOWN, UNSUSPECTED AND CONCEALED CLAIMS. BY ITS INITIALS BELOW, CITY ACKNOWLEDGES THAT IT FULLY UNDERSTANDS, APPRECIATES AND ACCEPTS ALL OF THE TERMS OF THIS SECTION 1.14.

THIS RELEASE SHALL NOT APPLY TO ANY CLAIMS THAT HAVE ACCRUED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT OR TO ANY CLAIMS OCCASIONED BY THE DISTRICT'S FAILURE TO MEET ITS OBLIGATIONS SET FORTH IN PARAGRAPH 1.11.

2.0 GENERAL OPERATING PRINCIPLES

2.1 Facilities to be used by the City under this Agreement shall be identified and defined in the Facility Use Calendar (Exhibit B) and made part of this Agreement. Whenever a facility is proposed for use within a larger site or project, the Facilities (if any) shall be clearly separated, identified, and defined.

2.2 The term "Facilities" may include school and recreation buildings (including restrooms, storage Facilities and offices), multipurpose rooms, shade Facilities (including both natural trees and artificial structures), drainage systems, auditoriums, gymnasiums, art rooms, kitchens, meeting rooms, computer rooms, athletic areas, playgrounds, parks, exercise paths, playfields, school grounds, parking and utility Facilities incidental to the foregoing, and other

recreational areas presently operated or that may hereafter be operated by either Party, and any ancillary Facilities, at Malibu High School, Malibu Middle School, Malibu Elementary School and Webster Elementary School.

2.3 This Agreement shall be a Master Agreement that covers general requirements needed to effectively implement an overall cooperative program between the City and the District. In addition, the Parties may desire to expand such cooperative programs to include one or more sites, Facilities, and/or projects under a separate agreement.

2.4 From time to time, the Parties to this Agreement may adopt and/or execute additional or supplemental agreements and/or policies governing the use of each Facility, and attach each such agreement or policy (each, a "Use, Operation, Maintenance, Repair and Renovation of Facilities Policy", or as referred to in this Agreement, a "Policy") as part of the Facility Use Calendar (Exhibit B), attached to this Agreement. Each such Policy shall cover the matters set forth in Article 5 hereof, shall become a part of this Agreement and shall be consistent with the general requirements specified herein. Additions or modifications to this Agreement require the written consent of both Parties as set forth in Section 6.11 of this Agreement.

2.5 Proposals for specific Facilities to be covered by this Agreement shall be reviewed annually by appropriate District and City staff as outlined in Section 2.7 below. The appropriate forums shall include a jointly convened meeting of appropriate District and City staff.

2.6 A joint meeting of the District and City staffs shall be held as necessary (but no less than annually) during the term of this Agreement to consider matters of mutual concern and to develop or amend a "Facility Use Calendar" identifying the type of uses and times available for a particular facility. Each such calendar shall become a part of this Agreement (as Exhibit B hereto) and shall be subject to the general requirements specified herein. The Facility Use Calendar shall identify the responsible party for maintenance and supervision, whether by incorporation of the applicable Policy or otherwise. All additions or modifications to the Facility Use Calendar require the written consent of both Parties as set forth in Section 6.11 of this Agreement.

2.7 Per District Policy, the Board of Education shall review, update, and establish a "Facility Use Fee Schedule" of operating Facilities covered under this Agreement and which will serve as the basis for calculating facility rental charges for each Party and the general public. For the purpose of this Agreement and any contribution calculated based upon the Facility Use Fee Schedule, the Facility Use Fee Schedule annual increases will not exceed the percent change in the local Consumer Price Index (CPI) through the term of this Agreement. Such costs include wear and tear attributable to additional use, custodial and clean-up costs, supervision and extraordinary costs of any kind, including all costs associated with the respective Party's use of the other Party's facility that are above those costs normal to the operation and maintenance of a specific building or facility in the absence of the specific use. Each such schedule shall become a part of this Agreement and shall be consistent with the general requirements specified herein. If a Facility Use Fee Schedule is not established, any facility rent charged to a Party shall not exceed the cost as defined herein.

3.0 GOVERNANCE

3.1 The Parties shall routinely advise and consult with each other regarding significant changes in land use and facility development plans to assess impacts and opportunities for joint use. Each Party, however, shall maintain the primary planning and decision-making role on each facility or property that it owns.

3.2 Facilities subject to this Agreement shall be designed to enhance the surrounding environment, with a strong awareness for efficiency of operation, maintenance, and aesthetics.

4.0 FACILITY USE: SCHEDULING AND OPERATION

4.1 The Facility Use Calendar shall be publicly disseminated for each facility to be covered by this Agreement. Specific attention shall be paid to identifying supervision, security and maintenance responsibilities for each facility and use. Parties shall jointly set appropriate hours of operation for each such facility while maintaining a sense of flexibility and cooperation for each organization's changing or special program needs. Appropriate fees will be agreed upon prior to approval of use and shall reflect the " Direct" rate of the accommodation and operation of the facility for the educational, recreational, and athletic programming and permit use of the community and City as set forth in Section 1.1 of this Agreement.

4.2 The Parties shall continuously review their current practices and provision of services and shall work both independently and together to make all necessary changes in such practices in order to reduce costs, avoid duplication, achieve economy of scale, increase efficiency, and enhance provision of services.

4.3 Subject to specific agreement otherwise in a Facility Use Calendar (Exhibit B), the District shall have the right to the exclusive use of the shared-use Facilities during "school days," "school hours" and "school use" as hereinafter defined. Use of the shared-use Facilities by the City at times during the District's exclusive use period shall be permitted only by mutual agreement of the Parties or pursuant to the applicable Facility Use Calendar.

4.4 "School days" are defined collectively as (i) those days on which school is held in regular session as established in the school calendar from time to time and adopted by the Board of Education for each school year, and (ii) those other days on which the District-sponsored programs are scheduled. The "school hours" and "school use" of such school days shall be collectively (i) those regular school hours as established by the administration of each school in accordance with rules and regulations of the Board of Education, and (ii) those additional hours during which the District-sponsored activities are scheduled to occur.

4.5 All Facilities and equipment shall be used for their intended purposes. The Facilities Use Calendar shall be subject to an annual review and modification by the Parties, to ensure that all normal facility and equipment uses are accommodated if reasonably possible and to avoid potential conflicts between facility uses and users. Any and all additions or modifications to the Facilities Use Calendar require the written consent of both Parties as set forth in Section 6.11 of this Agreement. With respect to the District-owned Facilities, each Facility Use Calendar shall assign a priority of use for covered Facilities and equipment during nonexclusive use hours in the following order:

4.5.1 Activities and programs of the District that are directly related to the District's school programs;

4.5.2 Events or activities that are designed to serve organizations directly sponsored by or associated with the District, such as Parent Teacher Associations, Education Foundation, etc.;

4.5.3 Events or activities connected with the City's or the District's general programs in the order of priority reasonably established between the Parties; and

4.5.4 All other organizations and individuals.

4.6 Each Party shall be responsible for the proper conduct, supervision and security of any activity or use conducted or sponsored by or through such Party at any facility as required in the Facility Rules and Regulations (Exhibit C).

5.0 OPERATION, MAINTENANCE, REPAIR, AND RENOVATION OF FACILITIES

5.1 The Parties shall work together to ensure that all Facilities are adequately maintained to allow proper and safe use, appearance, and longevity. Each Facility Use Calendar shall be covered by the District Policy, Facility Rules and Regulations, and the terms thereof shall be enforced in a fair and non-discriminatory manner.

5.2 The cost of operation, maintenance and repair of Facilities shall be identified in the Facility Use Fee Schedule (Exhibit A), as appropriate. Factors for allocation of such costs between the District and the City shall include proportionate use, type and intensity of use, value of benefit received, and other pertinent factors. Payment from the City to the District for operations, maintenance, repairs, and renovation are part and parcel to the fees paid in accordance with the Facility Use Fee Schedule and Facility Use Calendar attached as Exhibits A and B respectively.

5.3 The District Facility Rules and Regulations (Exhibit C) shall include rules and regulations governing operational issues (such as determination of costs, hours, scheduling, staffing, maintenance, and repair), utilities, security supervision, materials, equipment, and supplies. Each Policy shall be designed and implemented with due regard for benefits to the community, operational efficiencies, and cost effectiveness.

5.4 General Security issues regarding Facilities shall be addressed in regular meetings with the District staff. City staff will be provided with phones during City use or when City permits Facilities for use, so that its staff can communicate immediately with City and/or the District supervisory staff or, if necessary, the Los Angeles County Sheriff's Department. City staff will immediately report and/or document an event, incident or activity on the District property that violates District Facility Rules and Regulations (Exhibit C), this Agreement, or is prohibited by local Board rules or State Education Code.

6.0 MISCELLANEOUS PROVISIONS

6.1 Indemnification and Hold Harmless

6.1.1 District Hold Harmless: the District shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the City and its officers, council members, agents, employees and representatives, from and against any and all liability, suits, actions, proceedings, judgments, claims, losses, costs (including attorneys' fees), liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death or property damage), occasioned by the sole negligence or willful misconduct of the District or its representatives "or invitees" during City use of District Facilities pursuant to this Agreement, or by the District's breach of this Agreement.

6.1.2 City Hold Harmless: The City shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the District and its officers, Board members, agents, employees and representatives ("related parties"), from and against any and all liability, suits, actions, proceedings, judgments, claims, losses, costs (including attorneys' fees), liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death or property

damage, and regardless of whether the allegations are false, fraudulent or groundless), relating to City's or its representatives' or "invitees'" use of a facility (including without limitation, any personal injury or property damage resulting or occurring during the City's use of a facility and whether or not such injury or damage resulted from any existing conditions at the facility) or breach of this Agreement, with the exception of those injuries, losses or damages occasioned by the negligence or willful misconduct of the District or its related parties.

6.2 Insurance. The District is currently self-insured for property and liability insurance. Notwithstanding the foregoing, the Parties may elect to insure one or more Facilities separately, or to require non-party users to obtain appropriate insurance for the use of a facility. Such special insurance requirements shall be specified where appropriate or applicable in a Facility Use Fee Schedule.

The City will provide proof of general liability insurance naming the District as additionally insured to comply with the District Facility Permit Insurance Requirements (Exhibit D).

6.3 Termination or Modification. The term of this Agreement is two (2) years. Except as otherwise provided herein, or as required by law, either Party may terminate this Agreement in whole or in part (with respect to a specific facility) upon sixty (60) days' written notification. Termination of all or a portion of this Agreement shall effectively terminate each applicable implementing agreement attached in each Exhibit B, subject to any specific requirements of cost allocations, reimbursements and/or supplemental termination procedures set forth therein. This Agreement may be extended at the discretion of the District and City for an additional one (1) year by mutual written consent of the Parties hereto.

6.4 Attorney's Fees and Costs. Each Party shall bear its own attorneys' fees and costs in connection with this Agreement, except as provided herein or otherwise provided by law. If either Party commences an action against the other Party to enforce any of the terms of this Agreement or otherwise with respect to the Facilities, the prevailing Party, in addition to any other relief to which such Party may be entitled, shall be entitled to recover from the other Party its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action. The terms "attorneys' fees" and "attorneys' fees, costs and expenses" shall mean the fees, costs, and expenses of counsel to the Parties hereto, which may include printing, Photostatting, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar, but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding, and shall include, specifically, all fees, costs and expenses of expert witnesses. For purposes of this Agreement, the term "prevailing Party" shall include a "prevailing Party" as defined in California Code of Civil Procedure Section 998.

6.5 Entire Agreement. This Agreement, together with Exhibits A, B, C and D attached hereto, represent the entire and integrated Agreement between the District and City for the Facilities at Malibu High School, Malibu Middle School, Malibu Elementary School and Webster Elementary School. This Agreement supersedes all prior and contemporaneous communications, negotiations, understandings, promises and agreements, either oral or written including all prior agreements between the City and the District pertaining to these school sites. Any modifications to the terms and conditions of this Agreement shall be effective only when agreed to in writing by both the District and City.

6.6 Relationship of the Parties. The Parties hereby agree that their relationship shall be that of joint users of the property identified for such use, and in no event shall this Agreement be construed as creating a legal partnership, employment or agency/principal relationship.

6.7 Notices. Notices hereunder shall be sufficient if delivered to:

City:
City of Malibu
City Manager
23825 Stuart Ranch Road
Malibu, CA 90265

District:
Santa Monica-Malibu Unified School District
Superintendent of Schools
1651 Sixteenth Street
Santa Monica, CA 90404

6.8 Section Headings. All section headings in this Agreement are for convenience of reference only and are not construed as modifying or governing the language in the section referred to or to define or limit the scope of any provision of this Agreement.

6.9 Consent. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld or delayed. Where circumstances or applicable law requires, consent may be subject to School Board and/or City Council approval.

6.10 Governing Law. This Agreement is made under the Constitution and laws of the State of California and is to be so construed.

6.11 Amendment. This Agreement may be amended at any time, or from time to time, by one or more supplemental written agreements executed by all of the Parties to this Agreement either as required in order to carry out any of the provisions of this Agreement or for any other purpose, including without limitation addition of new parties (including any legal entities or taxing entities heretofore or hereafter created) in pursuance of the purposes of this Agreement.

6.12 Disputes. In the event of disputes related to this Agreement, the Parties shall first attempt to resolve the matter informally by mutual agreement of the Superintendent and the City Manager.

6.13 Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

6.14 Successors and Assignment of Interests. This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Parties. Neither Party may assign any right or obligation hereunder without the written consent of the other Party, which may be denied in such Party's non-arbitrary but otherwise sole discretion.

Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the City and the District. All duties and responsibilities under this Agreement shall be the sole and exclusive benefit and burden of the City and the District, and not for the benefit of any other party unless agreed to by both Parties in a Policy or other applicable written agreement entered into under the authority of this Agreement.

6.15 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

6.16 Employees and Public Benefit. This Agreement is intended to promote a public benefit. Persons employed at a facility shall be public employees of either the City or the District as the case may be. This Agreement shall not be construed as a private contract for a public service. Notwithstanding the foregoing, this Agreement shall not limit either Party's legal right to contract for services, goods or construction of Facilities pursuant to applicable law and regulation.

6.17 Authority. This Agreement may be subject to approval and/or ratification of the governing board of each Party to this Agreement.

This Agreement is executed on _____, 2020, at Malibu, California, and effective as of October 1, 2020.

CITY OF MALIBU:

REVA FELDMAN, City Manager

ATTEST:

HEATHER GLASER, City Clerk
(seal)

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT:

BEN DRATI, Superintendent

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

Meetings must be open to the public, nonexclusive, limited to 4 hours & in approved spaces
 Non profit organizations

Meetings & events primarily for SMMUSD students, but NOT approved Afterschool
 Community Meeting for SMMUSD students or APPROVED After School

Nonprofit & approved by SMMUSD as Affiliated group

	RATE A	RATE B	RATE C	RATE D	RATE E	RATE F
Facility Fee Schedule E 1330	Commercial	Direct	Community Meeting 1	Basic	Community Meeting II & After School	Affiliate

SCHOOL ROOMS

Classroom, Conference Room	\$34.50	\$20.70	\$13.80	\$6.90	\$3.45	\$0.00
Library, Computer Lab	\$57.50	\$34.50	\$23.00	\$11.50	\$5.75	\$0.00
Music, Choral, Band, Art, Wood/ Auto Shop Rooms	\$63.25	\$37.95	\$25.30	\$12.65	\$6.33	\$0.00

CAFETERIAS (excluding cafeteriums)

Elementary (cafeteria only, not cafeterium)	\$85.25	\$51.15	\$34.10	\$17.05	\$8.52	\$0.00
Middle	\$103.50	\$62.10	\$41.40	\$20.70	\$10.35	\$0.00
High School	\$115.00	\$69.00	\$46.00	\$23.00	\$11.50	\$0.00

KITCHENS

Elementary	\$41.40	\$24.84	NA	\$8.28	NA	\$0.00
Middle	\$46.00	\$27.60	NA	\$9.20	NA	\$0.00
High Schools	\$80.50	\$48.30	NA	\$16.10	NA	\$0.00

GYMS & INDOOR ATHLETIC FACILITIES

Indoor Weight Room	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Outdoor Weight Room	\$92.00	\$55.20	NA	\$18.40	NA	\$0.00
Indoor Fitness Room	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Lincoln MS Gym, practice	\$92.00	\$55.20	\$36.80	\$18.40	\$9.20	\$0.00
Lincoln MS Gym, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Lincoln MS Gym, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Adams MS Gym, practice	\$92.00	\$55.20	\$36.80	\$18.40	\$9.20	\$0.00
Adams MS Gym, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Adams MS Gym, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Malibu Old Gym, practice	\$92.00	\$55.20	\$36.80	\$18.40	\$9.20	\$0.00
Malibu Old Gym, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Malibu Old Gym, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Malibu New Gym, practice	\$115.00	\$69.00	NA	NA	NA	\$0.00
Malibu New Gym, game	\$230.00	\$138.00	NA	NA	NA	\$0.00
Malibu New Gym, event	\$340.00	\$204.00	NA	NA	NA	\$0.00
Samohi, North Gym, practice	\$115.00	\$69.00	NA	NA	NA	\$0.00
Samohi, North Gym, game	\$230.00	\$138.00	NA	NA	NA	\$0.00
Samohi, North Gym, event	\$340.00	\$204.00	NA	NA	NA	\$0.00
Samohi, South Gym, practice	\$92.00	\$55.20	\$36.80	\$18.40	\$9.20	\$0.00
Samohi, South Gym, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Samohi, South Gym, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Samohi, North Gym Wrestling Room	\$80.00	\$48.00	NA	\$16.00	NA	\$0.00
Samohi, South Gym Dance Room	\$80.00	\$48.00	NA	\$16.00	NA	\$0.00

SPORTS FIELD (practice, game & event rates)

Samohi, West Field, practice	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Samohi West Field, game	\$172.50	\$103.50	NA	\$34.50	NA	\$0.00
Samohi, West Field, event	\$230.00	\$138.00	NA	\$46.00	NA	\$0.00
Samohi Baseball/Softball Fields, practice	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Samohi Baseball/Softball Fields, game	\$172.50	\$103.50	NA	\$34.50	NA	\$0.00
Samohi Baseball/Softball Fields, event	\$230.00	\$138.00	NA	\$46.00	NA	\$0.00
Malibu HS, Main Field, practice	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00



	RATE A	RATE B	RATE C	RATE D	RATE E	RATE F
Facility Fee Schedule E 1330	Commercial	Direct	Community Meeting 1	Basic	Community Meeting II & After School	Affiliate
Malibu HS, Main Field, game	\$172.50	\$103.50	NA	\$34.50	NA	\$0.00
Malibu HS, Main Field, event	\$230.00	\$138.00	NA	\$46.00	NA	\$0.00
Malibu HS, Baseball/Softball Fields, practice	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Malibu HS, Baseball/Softball Fields, game	\$172.50	\$103.50	NA	\$34.50	NA	\$0.00
Malibu HS, Baseball/Softball Fields, event	\$230.00	\$138.00	NA	\$46.00	NA	\$0.00
Malibu HS, Upper/Lower Auxiliary Fields, practice	\$92.00	\$55.20	NA	\$18.40	NA	\$0.00
Malibu HS, Upper/Lower Auxiliary Fields, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Malibu HS, Upper/Lower Auxiliary Fields, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Adams MS, North Field, Soccer, practice	\$92.00	\$55.20	NA	\$18.40	NA	\$0.00
Adams MS, North Field, Soccer, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Adams MS, North Field, Soccer, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Adams MS, South Field, Football/Soccer, practice	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Adams MS, South Field, Football/Soccer, game	\$172.50	\$103.50	NA	\$34.50	NA	\$0.00
Adams MS, South Field, Football/Soccer, event	\$230.00	\$138.00	NA	\$46.00	NA	\$0.00
Lincoln MS, Field, Football/Soccer, practice	\$92.00	\$55.20	NA	\$18.40	NA	\$0.00
Lincoln MS, Field, Football/Soccer, game	\$138.00	\$82.80	NA	\$27.60	NA	\$0.00
Lincoln MS, Field, Football/Soccer, event	\$184.00	\$110.40	NA	\$36.80	NA	\$0.00
Elementary Sports Field	\$86.25	\$51.75	NA	\$17.25	\$8.63	\$0.00
Elementary Sports Field, event	\$150.00	\$90.00	NA	\$30.00	\$15.00	\$0.00
Elementary Play Yard (no field)	\$60.00	\$36.00	NA	\$12.00	\$6.00	\$0.00
Elementary Play Yard (no field), event	\$115.00	\$69.00	NA	\$23.00	\$11.50	\$0.00
Elementary Play Yard (including Field)	\$140.00	\$84.00	NA	\$28.00	\$14.00	\$0.00
Elementary Play Yard (including Field), event	\$250.00	\$150.00	NA	\$50.00	\$25.00	\$0.00
Outdoor Basketball Courts (all Schools - per court)	\$18.00	\$10.80	NA	\$3.60	\$1.80	\$0.00
Outdoor Basketball Courts (all Schools - per court), event	\$36.00	\$21.60	NA	\$7.20	\$3.60	\$0.00
Blacktop (all Schools), event	\$130.00	\$78.00	NA	\$26.00	\$13.00	\$0.00
*FIELD LIGHTS AS NEEDED, per hour	\$50.00	\$35.00	NA	\$35.00	NA	\$0.00

TRACK & FIELD						
Lincoln MS, practice	\$58.00	\$34.80	NA	\$11.60	NA	\$0.00
Lincoln MS, meet	\$86.00	\$51.60	NA	\$17.20	NA	\$0.00
Lincoln MS, event	\$120.00	\$72.00	NA	\$24.00	NA	\$0.00
Malibu HS, practice	\$69.00	\$41.40	NA	\$13.80	NA	\$0.00
Malibu HS, meet	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Malibu HS, event	\$145.00	\$87.00	NA	\$29.00	NA	\$0.00
Santa Monica HS, practice	\$69.00	\$41.40	NA	\$13.80	NA	\$0.00
Santa Monica HS, meet	\$115.00	\$69.00	NA	\$23.00	NA	\$0.00
Santa Monica HS, event	\$145.00	\$87.00	NA	\$29.00	NA	\$0.00

TENNIS COURTS						
Samohi, Practice and Recreational Play, per court	\$11.50	\$6.90	NA	\$2.30	NA	\$0.00
Samohi, Tournament or Private Instruction, per court	\$28.75	\$17.25	NA	\$5.75	NA	\$0.00
Malibu HS, Practice and Recreational Play, per court	\$11.50	\$6.90	NA	\$2.30	NA	\$0.00
Malibu HS, Tournament or Private Instruction, per court	\$28.75	\$17.25	NA	\$5.75	NA	\$0.00
Lincoln MS, Practice and Recreational Play, per court	\$11.50	\$6.90	NA	\$2.30	NA	\$0.00
Lincoln MS, Tournament or Private Instruction, per court	\$23.00	\$13.80	NA	\$4.60	NA	\$0.00
Adams MS, Practice and Recreational Play, per court	\$11.50	\$6.90	NA	\$2.30	NA	\$0.00

EXHIBIT A

	RATE A	RATE B	RATE C	RATE D	RATE E	RATE F
Facility Fee Schedule E 1330	Commercial	Direct	Community Meeting 1	Basic	Community Meeting II & After School	Affiliate

SWIMMING POOLS (w/access to locker roomS & restrooms)	MUST HAVE DISTRICT LIFEGUARD, NOT INCLUDED IN RATE.					
Samohi (10 lanes), for Practice and Recreational Swim, per hour	\$188.00	\$112.80	NA	\$37.60	NA	\$0.00
Samohi (5 lanes), for Practice and Recreational Swim, per hour	\$110.00	\$66.00	NA	\$22.00	NA	\$0.00
Samohi (2 lanes), for Practice and Recreational Swim, per hour	\$66.00	\$39.60	NA	\$13.20	NA	\$0.00
Samohi (10 lanes), for Swim Meets and WP Games per hour	\$250.00	\$150.00	NA	\$50.00	NA	\$0.00
Lincoln MS (7 lanes), for Practice and Recreational Swim, per hour	\$150.00	\$90.00	NA	\$30.00	\$15.00	\$0.00
Lincoln MS (2 lanes), for Practice and Recreational Swim, per hour	\$66.00	\$39.60	NA	\$13.20	\$6.60	\$0.00
Lincoln MS (7 lanes), for Swim Meets and WP Games, per hour	\$200.00	\$120.00	NA	\$40.00	\$20.00	\$0.00
Malibu HS (8 lanes), for Practice and Recreational Swim, per hour	\$150.00	\$90.00	NA	\$30.00	NA	\$0.00
Malibu HS (4 lanes), for Practice and Recreational Swim, per hour	\$98.00	\$58.80	NA	\$19.60	NA	\$0.00
Malibu HS (2 lanes), for Practice and Recreational Swim, per hour	\$66.00	\$39.60	NA	\$13.20	NA	\$0.00
Malibu HS (8 lanes), for Swim Meets and WP Games, per hour	\$200.00	\$120.00	NA	\$40.00	NA	\$0.00

BULLPEN & BATTING CAGES						
Per Batting Cage	\$40.00	\$24.00	NA	\$8.00	NA	\$0.00
Per bullpen	\$60.00	\$36.00	NA	\$12.00	NA	\$0.00

QUADS (events)						
	\$250.00	\$150.00	NA	\$50.00	NA	\$0.00

PARKING LOTS						
Event Parking, per space , per 12 hours	\$10.00	\$7.00	NA	\$5.00	NA	\$0.00

CAMPUS EVENT RATES						
HS Full campus rental	\$25,000.00	NA	NA	NA	NA	NA
HS Half campus rental	\$15,000.00	NA	NA	NA	NA	NA
Middle & Elementary Full Campus rental	\$15,000.00	NA	NA	NA	NA	NA

DISCOUNTS PER CATERGORY						
		40% Disc.	60% Disc.	80% Disc.	90% Disc.	100% Disc.

Non profit Open to public, nonexclusive, limited 4 hours Primarily for SMMUSD students, but NOT approved Afterschool Community Meeting for SMMUSD students or APPROVED After School Nonprofit & approved by SMMUSD as Affiliated group

Personnel Rates Per Hour	Hourly	Overtime	Doubtime
Coordinator or Technical Lead	\$66.00	\$99.00	\$132.00
Theatre Technician	\$58.00	\$87.00	\$116.00
Audience Services Coordinator	\$52.00	\$78.00	\$104.00
Site Representative	\$60.00	\$90.00	\$120.00
Security Officer	\$60.00	\$90.00	\$120.00
Custodian	\$53.00	\$79.50	\$106.00
Lead Custodian	\$65.00	\$97.50	\$130.00
Lifeguard	\$48.00	\$72.00	\$96.00
Gardener	\$46.00	\$69.00	\$92.00
Sports Facility Attendant	\$42.00	\$63.00	\$84.00
Sports Facility Coordinator	\$52.00	\$78.00	\$104.00
Professional Expert or Supervisor	\$100.00	\$150.00	\$200.00

Exceeds 8 hours in a day/ 40 in a week Shifts between 12:01am - 6:59am

	RATE A			RATE B			RATE D			RATE C & E			RATE F		
	Commercial			Direct			Basic			Community Meeting 1 & 2 Afterschool			Affiliate		
	Performance	Rehearsal	Rehearsal	Performance	Rehearsal	Rehearsal	Performance	Rehearsal	Rehearsal	Performance	Rehearsal	Performance	Rehearsal	Performance	Rehearsal
AUDITORIUMS / CAFETERIUMS															
Elementary, Full Day	\$1,380.00	\$483.00	\$362.25	\$1,035.00	\$362.25	\$690.00	\$241.50	\$241.50	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Elementary, 1/2 Day	\$897.00	\$313.95	\$235.46	\$672.75	\$235.46	\$448.50	\$156.98	\$156.98	NA	\$15.00	NA	\$0.00	\$0.00	\$0.00	\$0.00
Lincoln MS, Full Day	\$2,070.00	\$724.50	\$543.38	\$1,552.50	\$543.38	\$1,035.00	\$362.25	\$362.25	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Lincoln MS, 1/2 Day	\$1,345.50	\$470.93	\$353.19	\$1,009.13	\$353.19	\$672.75	\$235.46	\$235.46	NA	\$22.00	NA	\$0.00	\$0.00	\$0.00	\$0.00
John Adams MS, Full Day	\$4,200.00	\$1,470.00	\$1,102.50	\$3,150.00	\$1,102.50	\$2,100.00	\$735.00	\$735.00	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
John Adams MS, 1/2 Day	\$2,730.00	\$955.50	\$716.63	\$2,047.50	\$716.63	\$1,365.00	\$477.75	\$477.75	NA	\$17.00	NA	\$0.00	\$0.00	\$0.00	\$0.00
Malibu HS, Full Day	\$2,075.00	\$726.25	\$544.69	\$1,556.25	\$544.69	\$1,037.50	\$363.13	\$363.13	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Malibu HS, 1/2 Day	\$1,348.75	\$472.06	\$354.05	\$1,011.56	\$354.05	\$674.38	\$236.03	\$236.03	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
SM HS, Full Day (Barnum Hall)	\$3,910.00	\$1,368.50	\$1,026.38	\$2,932.50	\$1,026.38	\$1,955.00	\$684.25	\$684.25	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Samohi HS, 1/2 Day (Barnum Hall)	\$2,541.50	\$889.53	\$667.14	\$1,906.13	\$667.14	\$1,270.75	\$444.76	\$444.76	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
AMPHITHEATRES															
Samohi (Greek), Full Day	\$4,600.00	\$1,840.00	\$1,472.00	\$3,680.00	\$1,472.00	\$2,300.00	\$920.00	\$920.00	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Samohi (Greek), 1/2 Day	\$2,990.00	\$1,196.00	\$956.80	\$2,392.00	\$956.80	\$1,495.00	\$598.00	\$598.00	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Malibu HS, Full Day	\$1,610.00	\$644.00	\$515.20	\$1,288.00	\$515.20	\$805.00	\$322.00	\$322.00	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00
Malibu HS, 1/2 Day	\$1,046.50	\$418.60	\$334.88	\$837.20	\$334.88	\$523.25	\$209.30	\$209.30	NA	NA	NA	\$0.00	\$0.00	\$0.00	\$0.00



	Commercial Rate			Still Photo/Small Crew (<20 ppl / <6 hours)			Mini Film/Photo < 3 hrs , < 6 ppl	
	Filming	Prep	Prep	Filming	Prep	Prep	Film/Photo	Mini Film/Photo
Full Day (school NOT in session)	\$4,600.00	\$2,300.00	NA	NA	NA	NA	NA	NA
Full Day (school IN session)	\$5,175.00	\$2,587.50	NA	NA	NA	NA	NA	NA
Half Day (school NOT in session)	\$2,875.00	\$1,437.50	\$2,000.00	\$875.00	\$850.00	\$850.00	\$850.00	\$850.00
Half Day (school IN session)	\$3,162.50	\$1,581.25	\$2,300.00	N/A	NA	NA	NA	NA
Additional Location Bump	\$500.00	\$250.00	\$250.00	\$125.00	NA	NA	NA	NA
Parking per space / 12 hours	\$20.00	\$20.00	\$20.00	\$20.00	NO PARKING	NO PARKING	<6 ppl total	Cast & Crew
FULL DAY = up to 12 hours; HALF DAY = up to 6 hours; inclusive (walk in to walk out)								
Overtime Rate for over 12 hours is 15% of rental rate per hour and all staff fees are doubled								



VIII. Rental Fee Schedule

1. **FACILITY PERMIT FEES:** A Facility Permit Fee is charged for each permit to all users. This fee defrays the administrative costs associated with issuing permits.
 - 1.1. The permit fee is based on the fee category:
 - Commercial - \$100 per permit
 - Direct - \$50 per permit
 - Community Meeting - \$25 per permit
 - Basic - \$25 per permit
 - Affiliate - \$0 per permit
 - 1.2. An additional Change-Fee of \$25.00 will be charged when substantial changes are requested by the Licensee after the agreement has been signed. Substantial changes include, but are not limited to, to changes to the hours, facilities or personnel for an event that requires additional contacts with site administrators or staff.
 - 1.3. **Equipment and Asset Replacement Fees:** User groups are charged for rental of special equipment that does not normally come with the venue. Fees are determined by the Facility Permit Office on a per use basis. Asset Replacement Fees are charged to cover expendable use of equipment, such as batteries, bulbs, and tape. This is primarily applied in the use of theaters, amphitheatres, auditoriums, gyms and pools.
2. **PERSONNEL FEES:** Most District Staff supporting Facility Permit use are members of Service Employees International Union (SEIU) and are governed by the Collective Bargaining Agreement between SEIU and the SMMUSD. All personnel matters including assignments, breaks, and management will follow the articles in the Agreement.
 - 2.1. Personnel are paid by the hour, beginning with the first hour of each rental. All calls must be a minimum of three hours. Rates are as follow:
 - Regular Time:* the first 8 hours in any day up to forty hours in any week. A day is from 7 am to midnight.
 - Overtime:* Paid at 1.5 times regular rate for any hours over eight in one day, or over forty cumulative hours in one week.
 - Double Time:* Paid at 2 times the regular rate for any hours between 12:01 am and 6:59 am, or any hours over twelve hours in one day.
 - 2.2. **Current Personnel Fees:**

Coordinator or Technical Lead	\$66.00 per hour
Theatre Technician	\$58.00 per hour
Audience Services Coordinator	\$52.00 per hour
Site Representative	\$60.00 per hour
Security Officer	\$60.00 per hour
Custodial	\$53.00 per hour
Lead Custodian	\$65.00 per hour

Lifeguard	\$48.00 per hour
Gardener	\$46.00 per hour
Sports Facility Attendant	\$42.00 per hour
Sports Facility Coordinator	\$52.00 per hour
Professional Expert or Supervisor	\$100.00 per hour

Rates for Classified Personnel are based on the high average of cost per hour of the members in the classification. In some situations, the rates are lower based on the use of available personnel. The selection of personnel to work an event is based on the staff rotation agreement the district has with the classified personnel union.

2.3. Break Policies:

- A meal break needs to be called between three and five hours into the work shift.
- Meal breaks are for one half hour off the clock for Classified Crews.
- A work/coffee break of 15 minutes shall be given, on the clock, every 2-3 hours depending on the meal schedule.

3. ADDITIONAL FEES

Additional Fees	High School Fees	Middle School Fees	Elementary School
Livestream / Broadcast	\$250.00	\$250.00	\$250.00
Grand Piano (Fazioli)	\$400.00	N/A	N/A
Grand Piano	\$200.00	\$150.00	\$150.00
Baby Grand Piano	\$100.00	\$100.00	\$100.00
Key Fee	\$35.00	\$35.00	\$35.00
Marley Floor	\$400.00 (+ labor)	N/A	N/A
Projector	\$100.00	\$50.00	\$25.00
Tympani Drum (each)	\$50.00	\$50.00	N/A
Basecamp Fee (per 12 hours)*	\$1,500	\$1,500	\$1,500

**City of Malibu and Santa Monica-Malibu Unified School District
2020-2022 Master Facility Use Agreement
Proposed Seasonal Facility Use Calendar**

Summer Proposed Facility Use (Mid-June through Mid-August)

City Summer Day Camps - Malibu High School, Tennis Courts

Monday - Thursday, 9:00 AM - 12:00 PM

City Summer Day Camps - Malibu High School, Small Gymnasium

Monday - Thursday, 10:00 AM - 1:00 PM

City Aquatic Programs - Malibu Community Pool

Saturdays and Sundays, 10:00 AM - 3:00 PM

Monday - Friday, 9:00 AM - 8:00 PM

Community Use (General) - Malibu Elementary School, Field

Saturdays and Sundays, 8:00 AM - 1:00 PM

Fall Proposed Facility Use (Mid-August through November)

City Adult Basketball - Malibu High School, Small Gymnasium

Wednesdays, 6:00 PM - 8:00 PM

City Middle School Volleyball - Malibu High School, Small Gymnasium

Mondays and Wednesdays, 3:00 PM - 5:00 PM

City Tennis Classes - Malibu High School, Tennis Courts (Quantity- 2)

Saturdays, 9:00 AM - 1:00 PM

City Middle School Tennis - Malibu High School, Tennis Courts (Quantity- 2)

Fridays, 2:30 PM - 4:00 PM

City Aquatic Programs - Malibu Community Pool

Saturdays and Sundays, 10:00 AM - 3:00 PM

Monday - Friday, 5:00 PM - 8:00 PM

City Flag Football and Community Use (AYSO) - Webster Elementary School, Upper and Lower Fields

Monday - Friday, 3:00 PM - 6:00 PM *Or dark

Community Use (General) - Malibu Elementary School, Field

Saturdays and Sundays, 8:00 AM - 1:00 PM

Community Use (AYSO) - Malibu High School, Upper Field

Monday - Friday, 3:00 PM - 6:00 PM *Or dark

Winter Proposed Facility Use (December through February)**City Adult Basketball - Malibu High School, Small Gymnasium**

Wednesdays, 6:00 PM - 8:00 PM

City Youth and Middle School Basketball League - Malibu High School, Small Gymnasium

Fridays, 4:00 PM - 9:00 PM

Saturdays, 8:00 AM - 7:00 PM

City Youth and Middle School Basketball League- Malibu High School, Outdoor Basketball Courts

Monday - Friday, 3:00 PM - 5:00 PM

City Tennis Classes - Malibu High School, Tennis Courts (Quantity- 2)

Saturdays, 9:00 AM - 1:00 PM

City Aquatic Programs - Malibu Community Pool

Saturdays and Sundays, 10:00 AM - 3:00 PM

Monday - Friday, 5:00 PM - 8:00 PM

City Youth Basketball League- Webster Elementary School, Outdoor Basketball Courts

Monday - Friday, 3:00 PM - 5:00 PM

City Youth Basketball League- Malibu Elementary School, Outdoor Basketball Courts

Monday - Friday, 3:00 PM - 5:00 PM

Community Use (General) - Malibu Elementary School, Field

Saturdays and Sundays, 8:00 AM - 1:00 PM

Spring Proposed Facility Use (March through Mid-June)**City Adult Basketball - Malibu High School, Small Gymnasium**

Wednesdays, 6:00 PM - 8:00 PM

City Middle School Volleyball - Malibu High School, Small Gymnasium

Mondays and Wednesdays, 3:00 PM - 5:00 PM

City Tennis Classes - Malibu High School, Tennis Courts (Quantity- 2)

Saturdays, 9:00 AM - 1:00 PM

City Middle School Tennis - Malibu High School, Tennis Courts (Quantity- 2)

Fridays, 2:30 PM - 4:00 PM

City Coach Pitch Baseball - Webster Elementary School, Upper and Lower Fields

Thursdays and Fridays, 3:00 PM - 6:00 PM *Or dark

City Coach Pitch Baseball - Malibu Elementary School, Field

Thursdays and Fridays, 3:00 PM - 6:00 PM *Or dark

Community Use (General) - Malibu Elementary School, Playfield and Restrooms

Saturdays and Sundays, 8:00 AM - 1:00 PM

Community Use (Malibu Little League) - Malibu High School, Softball Field

Sundays, 11:00 AM - 3:00 PM

City Staff will provide updated seasonal facility use calendars to the SMMUSD Facility Permits Office. All scheduling and facility use will be dependent on SMMUSD facility availability, facility conditions, weather, and program enrollment.



Rules of Use for Facilities

These rules of use apply to all Facility Permits. User Groups must acknowledge with an authorized signature they have received and agree to abide by these rules. There are additional rules that accompany filming and the use of theaters, kitchens, and athletic facilities.

Any exception to these Rules of Use must be approved in writing, in advance.

Violations will be grounds for cancellation of the permit and removal of all users from the premises.

1. You must comply with all State and local fire, health, and safety laws.
2. You are responsible for informing your staff of these Rules of Use and ensuring their enforcement.
3. The number of people in a facility must not exceed the approved capacity.
4. No smoking anywhere on campus (by State law).
5. No alcohol, intoxicants, hallucinatory drugs, or narcotics may be present on campus.
6. No animals are allowed on campus, except officially sanctioned service animals.
7. Skateboards, bicycles, roller skates/blades, scooters, electrical- or gas-powered devices may not be used on campus. They must be walked or carried.
8. Small directional signs may be used. They must be put up using blue painter's tape. No duct tape or scotch tape. All signs, tape, and cable ties must be removed after your event.
9. The sale of all items must be approved in advance by the Facility Use Department.
10. Vehicles must be driven in driveways and parked in parking spaces only. Fire lanes must be kept clear at all times. Parking is at your own risk and is not guaranteed to be available.
11. There are to be no physical changes made to facilities or equipment.
12. All payments are made to the Facility Use Department. No money should ever be paid directly to any school personnel for services rendered.

13. You will have exclusive use of the facilities you've rented. However, other facilities on campus may be in use at the same time.
14. Events may not exclude any person on the basis of race, religion, creed, national origin, ancestry, gender, or sexual orientation.

The following procedures for use of facilities apply to all permit use. Any use contrary to or in violation of any law, or of these rules and regulations, shall be grounds for cancellation of the permit and for removing the users from the property and may be grounds for barring such individual, group or organization from further use of the facilities of this district.

1. General

- 1.1. Any use of school facilities shall comply with all State and local fire, health and safety laws. Persons or groups to whom permits, leases or other authorizations for the use of school property are granted shall insure that all activities carried on, all equipment used or placed upon school property and all foods or other items of personal property used or distributed shall comply with applicable State and local fire, health and safety laws and regulations.
- 1.2. Any organization granted use of a District facility shall not deny the use of the facility to any person because of their race, religion, creed, national origin, ancestry, gender or sexual orientation.
- 1.3. The District ensures Licensee's exclusive use of the Facilities listed on the invoice during the term. However, the District retains the exclusive right to use all other buildings, facilities and equipment on the Property concurrent with the Licensee's use of the Facilities. Licensee hereby agrees and acknowledges that the District makes no representation or warranty that other use of the Property will not interfere with any aspect of Licensee's use of the Facilities.
- 1.4. The Facility Permit Office may require individuals or organizations to submit, in writing, the nature and purpose of the organization and the nature and purpose of the proposed use. Such information may be in addition to information requested on the Availability Request for Facilities form and may be considered an additional District application requirement.
- 1.5. No use may be granted in such a manner as to constitute a monopoly for the benefit of any one person or organization.
- 1.6. School premises shall not be used by any person or group as a political campaign headquarter.
- 1.7. District offices shall assume no responsibility for mail or deliveries for a non-school group. The use of school telephones, internet access, fax and copy machines along with other communication equipment will be limited to permission from the Director of Facility Use or his/her designee,
- 1.8. Items offered for sale, including food and concessions, must be approved in advance by the Facility Permit Office. Items not pre-approved may be removed

from sale at the discretion of the Director of Facility Use or his designees. An additional permit for the sale of food may be required by the county health office.

- 1.9. Access and use of onsite Parking is not guaranteed unless included in the signed agreement. The District needs and activities take precedence in parking over facility use permits.
2. What Not To Do (Proscriptions)
 - 2.1 Smoking is not permitted on school property by state law.
 - 2.2. There shall be no use of intoxicants, hallucinatory drugs or narcotics in or about the school premises.
 - 2.3. There shall be no fighting or gambling in or about the school premises.
 - 2.4. No dogs or other animals are allowed on campus. Service animals are allowed only if they are aiding disabled persons and are trained to perform a duty specifically in support of that person's disability. Exceptions for artistic and creative use must be approved by the Director of Facility Use in writing prior to the event.
 - 2.5. Skateboards, bicycles, roller skates/blades, scooters, electrical- or gas-powered devices may not be used on campus. They must be walked or carried. Exceptions must be approved by the Director of Facility Use in writing prior to the event.
 3. Financial
 - 3.1. All payments are to be made to the Facility Permit Office. No money should ever be paid directly to any school personnel for services rendered. No gratuities shall be offered to school personnel nor shall school personnel accept gratuities from a Licensee.
 - 3.2. An application fee and security deposit payment may be required prior to use of the facilities. Any fees associated with the permit must be paid to the Permit Office five (5) business days prior to the event. If overtime or additional services are required beyond those included in the initial charge, the Licensee will be invoiced for the outstanding balance. Final payment must be received within thirty (30) days on invoice.
 - 3.3. All rental fees and an estimate of services must be paid prior to the event. The following payment schedule will be followed:
 - 3.3.1. The event is contracted a month or less prior to the event: The entire Rental Fee and estimate of services is due upon signing of this agreement.
 - 3.3.2. The event is contracted from one to three months prior to the event: One half of the Rental Fee and estimate of services is due upon signing of the agreement. The second half of the Rental Fee and estimate of services

must be received five business days prior to the commencement of the Term.

- 3.3.3. The event is contracted more than three months prior to the event: One third of the Rental Fee and estimate of services is due upon signing of the contract. The second third of the Rental Fee and estimate of services must be received one month prior to the event. The final third of the Rental Fee and estimate of services must be received five business days prior to the event.
 - 3.3.4. Ongoing regular events: The renter will be billed on the fifteenth of each month. Payment must be received prior to the beginning of the next month.
 - 3.4. The Director of Facility Use will set the fee at the time of application for any facilities not included in the Schedule of Charges.
 - 3.5. In Kind Contributions in exchange for facility fees must be pre-approved in writing prior to signing the agreement. In kind Contributions are approved on a case by case basis.
 - 3.6. The Licensee may terminate this agreement at any time. In such event, all rental fees previously paid by Licensee to the District shall be deemed non-refundable and shall be retained by District.
4. Schedules and Personnel
 - 4.1. District personnel must be on site for all Facility Permits. If an event results in staff overtime costs the Licensee shall pay the direct cost of the services to the District in addition to the rental fee if applicable.
 - 4.2. Facilities will be opened and closed at the times detailed in the signed facility use agreement. Changes must be approved in writing and may result in additional charges.
 - 4.3. Licensee may only use the structures, rooms or spaces detailed in the signed facility use agreement. Additional use must be contracted with a separate agreement or rider and will be available at the discretion of the Director of Facility Use or his designees. Additional fees may apply.
 - 4.4. Organizations permitted to use only outside school grounds and athletic fields will not automatically be provided with restrooms or other building facilities unless requested in writing. If such a request results in overtime costs, the organization shall pay direct costs.
 - 4.5. In extreme circumstances, any approved Permit for Use of School Facilities may be revoked without previous notice where need of the property for public school purposes has subsequently developed. In this case, the District will notify the Licensee as soon as possible and will endeavor to assist the Licensee to find a suitable alternative location or date.

- 4.6. District equipment that requires an operator must be operated by district personnel. Licensees with appropriate skills may be authorized to operate district equipment at the discretion of the Facility Permit Office. All equipment and facilities to be used must be listed on the Application. Arrangements will be made by the District for trained personnel to operate District equipment, i.e., public address system, projectors, theater equipment etc. School equipment is not to be loaned or rented for use outside of school property.
 - 4.7. The District evaluates security personnel needs for each use. The hiring of District security personnel may be required for any activity with a large number of participants or spectators. All security staff, when requested by the Applicant and/or required by the District, shall be provided by the District. The organization is bound by the determination of the District and is responsible for District personnel salaries in addition to the basic rental fee, if applicable.
 - 4.8. District staff assigned to permits, including site reps, are the licensee's primary contact for any issue related to the permit. Licensees should refer to the site rep or district staff for any desired communication with other permit groups, school staff or students.
5. Care of the Facilities
- 5.1. Licensee shall not make, or cause to be made, any alterations, additions or improvements to or of Premises, or any part of equipment thereof, without prior written consent from the Director of Facility Use. No structures may be erected or assembled nor may any electrical, mechanical, or other equipment be brought thereon unless written approval has been obtained from the Facility Permit Office.
 - 5.2. Any breakage, damage or loss of District property, beyond reasonable wear and tear, shall be paid for by the using organization even though such breakage, damage or loss is caused by spectators or observers who are not official members of the organization. The supervision of the organization should be sufficient to protect school property against all losses as a result of the activity. Cost of any loss shall be established by the Facility Permit Office and a proper invoice submitted to the responsible organization. Failure to pay for such damage promptly shall be grounds for refusal of future applications.
 - 5.3. Groups must observe the ordinary rules of cleanliness and shall not leave any facility littered with paper or trash. If facilities are left littered and unsanitary, the using organization will be invoiced for the cost necessary to clean the facility.
 - 5.4. School furniture or apparatus, including directional signs, may not be removed or displaced without permission from and under the supervision of the school district employee supervising the activity.
 - 5.5. All Temporary Banners and Signage must adhere to the Signage procedure. Any small directional or informational signs needed for your event may be taped up using blue painter's tape only. Duct tape, scotch tape, and other types of tape are not to be used. All signs and tape need to be removed immediately and completely by the licensee after the event. Banners may be hung, with prior

approval, using zip ties. Banners and zip ties must be removed immediately after your event.

5.5.1 Decorations and signs must be flameproof and erected in such a manner as to not damage District property and must be removed immediately following the event or the organization will be charged extra labor fees. Decorations are not permitted on any painted surface nor hung from the ceiling. Any advertisement or handout material must be removed at the end of the event.

5.6. Licensees are not allowed to store items at the sites unless authorized in writing by the Facility Permit Office. When permitted, an additional fee might apply. Permission to store items on site must be renewed with each permit. The District is not responsible for safety and security of renter's property brought on or stored on site.

6. Safety

6.1. Licensee is responsible for preservation of order and enforcement of all regulations pertaining to the use of District facilities by all individuals on site for the permit.

6.2. The number of people present shall not exceed the posted seating capacity for the building. This is a Fire Regulation.

6.3. Vehicles must travel and park in approved areas, following all posted regulations. Fire lanes must be kept clear at all times. No driving on grass, sidewalks, playing fields, basketball courts, tracks or other pedestrian areas.

6.4. All juvenile organizations or groups seeking use of school premises must have adequate adult supervision. Sponsors and supervisors of such groups shall at all times exercise control and maintain a high standard of conduct with all members of the group. The school district may require an organization to provide adequate security to maintain control and safeguard property.

6.5. Firearms may not be brought onto campus or within the Gun-Free School Zone, unless allowed under Penal Code 626.9.

7. Legal

7.1. Licensee shall not voluntarily, or by operation of law, assign or transfer this Rental Agreement or any interest therein, and shall not sublet Premises or any part thereof without the District's prior consent.

7.2. In the event that Premises are unavailable for use due to partial or total destruction, acts of nature, strikes, action by governmental agencies, force majeure or for any other reason beyond the exclusive reasonable control of the District, the District shall have the right to terminate this Agreement by refunding all deposits due Licensee. If possession or use of the facility has begun, the rental and other charges shall be prorated.

- 7.3. In the event that either party shall retain the service of an attorney to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, including the costs of corporate staff counsel, and interest thereon at the prevailing legal rate.
- 7.4. Subject to the terms and conditions of this Agreement, if the Licensee fails to perform any material term or condition of this Agreement, or otherwise breaches this Agreement, and such failure or breach continues after delivery of written notice from the District to the Licensee, the District may, at its option and without any further demand, terminate this Agreement and/or exercise any other right or remedy available at law or in equity.
- 7.4.1. Notwithstanding, the Director of Facility Use or designee has the immediate authority to curtail or terminate any activity that might result in personal harm or permanent damage to the facility.
- 7.4.2. If the Licensee is in occupancy of the Facilities upon termination of this Agreement, the Licensee shall promptly vacate the Facilities and the Property and shall forfeit all rights under this Agreement including any rights to monies due to, from or paid to the District in the form of use fees, rents, charges, and/or deposits.
- 7.4.3. In no event shall the District be responsible for any losses, including without limitation, any revenues, profits, costs, expenses, deposits or other fees, costs and expenses earned or accrued by the Licensee, whether in connection with the Event or otherwise, as result of such termination.
- 7.5. The District shall not be subject to legal action or liable for damages in the event that Licensee is in material default hereunder.



INSURANCE REQUIREMENTS FOR FACILITY PERMITS

To complete your Facility Permit Application, we require proof of insurance.

A Certificate of Insurance must be provided with the application showing that the required coverage is in place and that the Santa Monica-Malibu Unified School District is named an Additional Insured on the General Liability coverage. An Additional Insured Endorsement page must be attached to the Certificate of Insurance.

INSURANCE REQUIREMENTS:

- **GENERAL LIABILITY INSURANCE:** Licensee shall maintain General Liability insurance coverage with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- **WORKER'S COMPENSATION INSURANCE,** per statutory requirement is required if Licensee's employees perform work on the premises. Insurance carriers providing the required coverage must have an A.M. Best's rating of "A" or better.
- **AUTOMOBILE LIABILITY COVERAGE:** **If a vehicle must drive on a field, blacktop, or sidewalk to unload, load or park,** the Permit Holder shall maintain automobile liability insurance covering bodily injury and property damage for all activities including coverage for owned, hired, and non-owned vehicles, in an amount of not less than three hundred thousand dollars (\$300,000) combined single limit for each occurrence.

Your Certificate Holder Section must say:

Santa Monica-Malibu Unified School District

1651 Sixteenth Street

Santa Monica, CA 90404

Questions regarding insurance, please contact the Facility Use Department by calling 310-395-3204 X 71586 or email: Facilitypermits@smmusd.org