

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COMMERCE CITY AND  
ADAMS 14 SCHOOL DISTRICT REGARDING REPLACEMENT/RECONSTRUCTION OF  
ELEMENTARY SCHOOL BASEBALL/SOFTBALL FIELDS**

This INTERGOVERNMENTAL AGREEMENT (the “IGA”) is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2014 (the “Effective Date”), by and between THE CITY OF COMMERCE CITY, a Colorado home rule municipality whose principal business address is 7887 E. 60<sup>th</sup> Avenue, Commerce City, CO 80022 (the “City”), and ADAMS COUNTY SCHOOL DISTRICT 14 whose principal business address is 5291 E. 60<sup>th</sup> Avenue, Commerce City, CO 80022 (the “School District”).

WHEREAS, the School District and the City previously entered into that certain Intergovernmental Agreement for Mutual Cooperation and Joint Use of Facilities, dated October 27, 2009 (the “2009 Joint Use IGA”);

WHEREAS, the School District and the City agree that the baseball/softball fields at certain School District elementary schools are in need of reconstruction;

WHEREAS, the School District and the City have agreed that the City shall repair or reconstruct certain elementary school ball fields in exchange for the ability to continue to make use of the ball fields, subject to certain conditions; and

WHEREAS, the City and the School District are political subdivisions of the State of Colorado authorized under state law to enter into intergovernmental agreements.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements set forth below, and other good and valuable consideration, the sufficiency of which is expressly acknowledged, the parties agree as follows:

1. Facilities – Construction.

- a. The City at its sole expense shall replace and reconstruct the following baseball/softball fields (hereinafter, the “Facilities”) in the following locations (the “School Sites”):
  - i. The southeast baseball/softball field at Dupont Elementary School, located at 7970 Kimberly Street, Commerce City, Colorado.
  - ii. The northwest baseball/softball field at Alsup Elementary School, located at 7101 Birch Street, Commerce City, Colorado.
- b. In the spring of 2014, upon consultation with, and with schedule approval by, the School District, the City at its sole expense shall demolish and reconstruct the Facilities in compliance with applicable law, City standards for outdoor recreation facilities, and **Exhibit A** attached hereto and incorporated herein by this reference.

2. Facilities Maintenance.

- a. The School District and City shall be responsible for all future maintenance, inspection and repairs of the Facilities as described in **Exhibit B** attached hereto and incorporated herein by this reference. All such maintenance shall be in accordance with specifications of the Facility being constructed, including, but not limited to, infield mix as provided.

- b. The City shall maintain the Facilities in a high quality condition for their useful lives, subject to its standard budgeting processes and the availability of discretionary funds as approved by the City's Council. The parties acknowledge and agree that the City's financial obligations beyond the current fiscal year are contingent upon and subject to funds being available and appropriated for such maintenance activities. City staff will coordinate and schedule such maintenance activities with School District's Service Center Operations Manager.
  - c. Subject to its standard budgeting processes and availability of discretionary funds to the School District as approved by the School District's Board of Education, the School District shall appropriate funds from its annual budget sufficient to maintain the Facilities in a high quality condition for their useful lives. Notwithstanding the foregoing, the parties acknowledge and agree that the School District's financial obligations beyond the current fiscal year are contingent upon and subject to funds being available, budgeted, and otherwise made available for such maintenance activities.
3. City/Public Use Authorized.
- a. The City's Parks and Recreation programs and City authorized Youth Sports Providers are expressly authorized to make use of the Facilities after normal school hours with the following exceptions:
    - i. During Facilities usage previously approved by the School District that would be impacted by other Facilities use;
    - ii. During any activity sponsored by the School District that would be impacted by other use of the Facilities; and
    - iii. During such times as the City's Park and Recreation Department or the City authorized Youth Sports Providers is using adjacent athletic fields for athletic programs if use of the Facilities will interfere with such programs.
  - b. All Facilities users must follow all School District Policies and Procedures including, but not limited to, policies regarding drug and alcohol use on School District property.
4. Term – School District Obligation. The School District shall ensure, to the extent possible, that the Facilities shall not be removed, demolished or otherwise rendered unusable by the City and its residents for at least ten (10) years unless the School District replaces the Facilities, at no cost to the City, in another location at the School Site and in accordance with substantially similar specifications used by the City in reconstruction the Facilities under this IGA. To the extent permitted by Colorado law, and subject to limitations under Colorado law on the School District's ability to appropriate monies beyond the current fiscal year, this IGA shall remain in effect for the useful life of the Facilities unless altered by agreement of the parties.
5. 2009 Joint Use IGA. To the extent any provision of this IGA conflicts with any provision of the 2009 Joint Use IGA, such conflicting provision of the 2009 Joint Use IGA is hereby deemed amended to the extent necessary to comply herewith. The 2009 Joint Use IGA shall otherwise remain in full force and effect.
6. General Provisions.
- a. No Partnership or Agency. Notwithstanding any language in this IGA or any representation or warranty to the contrary, neither the City nor the School District shall be deemed or

constitute a partner, joint venturer or agent of the other. Any actions taken by the parties pursuant to this IGA shall be deemed actions as an independent contractor of the other.

- b. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this IGA and all rights of action relating to such enforcement shall be strictly reserved to the parties. It is the express intention of the parties that any person other than the City and District shall be deemed to be only an incidental beneficiary under this IGA.
- c. No Assignment. Neither the City nor the School District shall assign this IGA.
- d. Authority. The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this IGA on behalf of the parties and to bind the parties to its terms.
- e. Entire Agreement; Binding Effect. This IGA contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. This IGA shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.
- f. Counterparts. This IGA may be executed in counterparts, each of which shall constitute one and the same instrument.

**[Remainder of this page intentionally left blank – signature page(s) follow]**

IN WITNESS WHEREOF, the parties have executed this IGA as of the Effective Date.

**CITY OF COMMERCE CITY**

\_\_\_\_\_  
Sean Ford, Mayor

ATTEST:

\_\_\_\_\_  
Laura J. Bauer, CMC, City Clerk

Approved as to form:

\_\_\_\_\_  
Gregory D. Graham, Assistant City Attorney

Recommended for Approval:

\_\_\_\_\_  
Carolyn J. Keith, CPRP, Director  
Department of Parks, Recreation & Golf

**ADAMS COUNTY SCHOOL DISTRICT 14**

By: \_\_\_\_\_  
Robert Washaw, President  
Board of Education

ATTEST:

\_\_\_\_\_  
Secretary

## **EXHIBIT A**

The City shall perform the following work at each Facility:

- Remove existing infield material and dispose off site
- Reshape infield and install new infield material
- Remove existing backstop and dispose off site
- Install new backstop, with safety fencing as needed
- Install new dugouts with concrete pads and safety fencing as needed
- Purchase and installation one bench per dugout
- Irrigation modifications as needed
- Install sod as needed

## EXHIBIT B

### Field Maintenance Standards

- Fencing shall be kept in proper order, including replacement or addition of fence ties as necessary, inspection and maintenance of posts and caps in installed condition (secure and straight), inspected and correction of any stretching/curling/deformation of fences, general inspections and repairs to keep hazards (trip, cut, puncture, pass through, etc) minimized or eliminated throughout the year and not less than once per month.
- Infields
  - Infields should be maintained to be weed and debris free with regular and routine inspections for broken glass, rocks and other foreign materials throughout the year and not less than once per month. Infield surface level should be inspected and maintained not less than once per month and areas with holes, trenches, washouts, or uneven surfaces should be filled in with specified infield mix, drug out or leveled off as necessary and kept in a safe condition to include but not be limited to high traffic playing areas (bases and pitching areas) dugout entrance(s), backstop, fence lines and outfield grass transition area.
  - Only approved infield material identical or substantially similar to the specified infield mix may be used on the field. Any material that is not identical in specification to the original infield mix must be approved for use by Commerce City prior to use on the fields.
  - Outfield transition areas where the infield meets the grass should be maintained to be lip free by either adding material to the infield or removing material buildup creating a “lip” in the grass as necessary to maintain a level playing field.
  - Infield/outfield transition area shape and dimensions shall be inspected and maintained no less than once annually to include removal of encroaching grass or addition of sod as needed.
- Furnishings shall be inspected and maintained no less than once per month throughout the year. Benches, trash cans, and dugouts, including roof materials, should be kept in good working and aesthetic condition free of safety hazards to include loose fittings and sharp edges.
- Trash removal. Trash cans should be inspected a minimum of once per month throughout the year in an effort to reduce litter from overflow of cans and to minimize broken glass and foreign debris from making their way into the infield mix and surrounding grass areas. Special attention should be paid to glass containers in the trash cans or elsewhere on site and immediate removal of all items from the site should take place upon discovery of glass or similarly breakable items.
- Graffiti shall be removed within 48 hrs upon notification or report to the School District
- Irrigation of surrounding areas should be monitored and adjusted regularly to minimize overspray causing washouts and standing water on the infield areas.