

A G R E E M E N T

THIS AGREEMENT, made and entered into this 3rd day of June 1991, by and between the CITY OF BERKELEY, a municipal corporation, hereinafter called CITY, and the BERKELEY UNIFIED SCHOOL DISTRICT, hereinafter call DISTRICT.

WITNESSETH:

WHEREAS, for a number of years the City and District have mutually provided services, site development and facility use through mutual understanding and various agreements; and

WHEREAS, in the spirit of cooperation, the City and District have entered into negotiations to clarify and continue the mutual facility use, site development and services; and

WHEREAS, the effective date for the agreement shall commence on July 1, 1990;

WHEREAS, this agreement only governs the specific items described herein and shall not be construed to waive any rights or debts or otherwise due either party.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

Section 1. Berkeley High School Donahue gym

As of January 7, 1991, the City will relocate its activities from Berkeley High School Donahue Gymnasium complex to King Junior High School's Gymnasium.

Section 2. Use of District properties

The District encourages the use of its facilities by the City.

Priority on use of District properties will be as follows:

- a. District
- b. City
- c. Others

It is agreed that the City and District will charge each other for the use of their facilities based on direct cost, defined as follows:

Direct costs are actual and necessary costs which create a financial liability to the lessor by the lessee. These costs shall include, but are not limited to, personnel overtime, utilities, equipment, and supplies required by the use. Also included are the costs to repair damage caused during such use.

It is agreed that both parties will inform each other on or before January 1 of each year what facilities they would like to schedule for their use for the subsequent fiscal year, starting July 1 through June 30.

City and District will agree annually on direct cost rates on or before January 1 for the subsequent fiscal year starting July 1.

Section 3. King Junior High School Outdoor Recreational Facilities Development

The City and District agree to jointly study the further development of the outdoor recreational facilities at King Junior High School.

Section 4. King Junior High School Tennis Courts

If the City obtains funds for the rehabilitation of the five (5) tennis courts at King Junior High School, the District will lease these courts to the City at no cost for a term ending December 31, 2020 or twenty-five (25) years, whichever is longer.

The District shall close the King Junior High School tennis courts at such time as the City and District determine that they are unsafe.

Section 5. Measure Y Parks

The City and District have five (5) agreements on Measure Y Parks. The maintenance of the Measure Y Parks shall be as follows:

- a. The City will fully maintain Measure Y Parks at King Junior High and Thousand Oaks School.
- b. The District will fully maintain Le Conte, Malcolm X and Columbus Measure Y Parks.
- c. Under this agreement; there will be no need for billing between the City and District in regard to maintenance of Measure Y Parks.
- d. There is not existing agreement between the City and District in regard to Measure Y Parks at John Muir and Washington School. Therefore, the District will continue to maintain John Muir and Washington School Measure Y Parks.
- e. This agreement will require that the four (4) existing agreements on Measure Y Parks be canceled (King Junior High School, Le Conte, Thousand Oaks, and Malcolm X). Further, the Columbus agreement shall be amended to provide only for City interest to promote eligibility of East Bay Regional Park District's County AA Bond moneys.
- f. The District will then enter into new twenty-five (25) year lease agreements with the City for King Junior High School and Thousand Oaks park lands or for a period ending December 31, 2020.

- g. The District has basic requirements for the use of all District properties, including its fields. These requirements include:
 - i. Permit for use of facilities.
 - ii. Minimum insurance
- h. The District extends these same requirements to Measure Y Parks, except Thousand Oaks and King Junior High School which the City will manage.
- i. The District and City will separate the utility services for the Measure Y Parks at Thousand Oaks and King Junior High School, where feasible.
- j. The District will continue to allow public access to Measure Y Parks between the hours of 8:30 A.M. to sunset, except during school hours.
- k. The City will use \$40,000 of County AA money to rehabilitate the Columbus School, Measure Y Park.
- l. The District will maintain the Columbus School Measure Y Park in accordance with generally accepted field maintenance standards, as mutually agreed to by the City and District.

Section 6. Mental Health Center Rental (1925 Derby Street)

The District will waive rental fees for the period July 1, 1989 through June 30, 1993. Thereafter, the rental fee will be based on the District's direct costs.

Section 7. Old City Hall Custodial Overtime Facility Meetings

The City will be charged one (1) hour of custodial overtime for the set-up and clean-up for each meeting. In addition, the City will be charged for custodial overtime when a meeting extends past 11:00 P.M. in 15-minute increments.

Section 8. Pools

Effective July 1, 1990, the City will operate and maintain all pools except for the locker rooms and showers at Berkeley High School. It is further agreed that the costs of use for Willard Junior High School, King Junior High School, Berkeley High School, and West Campus pool will include maintenance, operating and capital improvement costs. It is agreed that capital improvement costs will be amortized over the useful life or within the remaining lease term of the capital improvements and will be charged back to the District based on hours of use with a minimum District share of twenty percent (20%) of capital improvement costs. All capital improvements must be mutually agreed to by the City and District prior to construction. The maintenance and operations costs will be charged back to the District based on actual hours of use.

The District will inform the City on or before June of each year what facilities it would like to schedule for its use for the subsequent fiscal year beginning July 1 through June 30.

The District will have first priority on the use of all pools between the hours of 8:00 A.M. and 5:00 P.M. on school days. The District is open to negotiations with the City on joint use of pools during school hours.

The existing lease agreements on pools are as follows:

<u>SCHOOL</u>	<u>LEASE BEGIN</u>	<u>LEASE END</u>
Willard	1/10/63	12/31/03
King	11/23/65	11/22/05
West Campus	7/15/64	7/14/04
Berkeley High	12/07/82	12/06/07

The Alameda County AA Bond funding requires a minimum of twenty-five (25) years lease in order to obtain this money. Therefore, it is in the best interest of the City and District to extend all pool leases so that there would be a minimum remaining lease period of twenty-five (25) years. Further, it is desirable that all pool leases expire simultaneously.

Therefore, all four existing pool leases shall be extended to December 31, 2020. Upon completion of the leases for the pool at King, Willard and West Campus the buildings, equipment and apparatus will revert to City's ownership.

Further, the District may wish to develop any or all of the properties on which existing pools are located. The District has the option of relocating any and all of its existing pools on the existing site or to another site, said location to be done at the cost of the District to a site mutually agreed to between the City and District.

Section 9. Quarterly Meetings; City and District

The City and District staff will hold quarterly meeting to communicate with each other on the implementation of the various sections of the agreement between the City and the District.

Section 10. Open Space

The City and the District agree it is desirable to maintain open space. If school sites are withdrawn from school use, the District will make every effort to maintain adequate open space consistent with the District's development objectives and in accordance with Measure L.

Section 11. Building Permits

The City will exempt the District from the City requirement of obtaining building permits only for building construction fees that relate to educational projects.

Section 12. Election Costs

polling places.

Section 13. District/City Sub-Lease of Mutual Property

The City and District will not sub-lease any property rented from one another, except to the extent provided in any existing lease between City and District not specifically incorporated herein.

Section 14. Summary of Account Outstanding

The parties owe each other sums of money as set forth in Attachment 2 for the provision of services specified in the attachment. Nothing in this section shall modify, abrogate or otherwise govern any obligation not specifically described in such attachment. After accounting for offsetting charges for the period July 1, 1986 through June 30, 1990, the District shall pay the City the amount of \$359,801 over a three year period without interest as follows:

a. First payment upon ratification of this agreement		\$ 85,000
b. Second payment	July 1991	75,000
c. Third payment	July 1992	125,000
d. Fourth payment	July 1993	74,801
	TOTAL	\$ 359,801

IN WITNESS WHEREOF, first party has hereunto set its corporate name and seal by its officers thereunto duly authorized and second party has hereunto set its name by its officers thereunto duly authorized, the day and year first above written.

CITY OF BERKELEY

By Carla Woodworth
Mayor

By [Signature]
City Manager

By [Signature]
City Clerk

Registered by:
By [Signature]
City Auditor

Approved as to form:
[Signature]
Deputy City Attorney

BERKELEY UNIFIED SCHOOL DISTRICT

By [Signature]
President of its Board of Education

By [Signature]
Acting Superintendent of Schools

Copies sent 6/13/91

To: Auditor
Berkeley Unified School
District
Health & Human Services

RESOLUTION

No. 55,918 N.S.

Dated June 4, 1991

Adopted by the Council of the City of Berkeley by the following votes:

Ayes: Councilmembers Chandler, Collignon, Dean, Goldfarb, Shirek,
Skinner, Wainwright, Woodworth, and President Hancock.

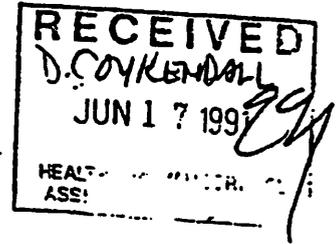
Noes: None.

Abstaining: None.

Absent: None.

LONT HANCOCK
Mayor and President of the Council

Attest MARIE McVECHNIE
City Clerk and Clerk of the Council



RESOLUTION NO. 55,918 -N.S.

AUTHORIZING AN AGREEMENT WITH THE BERKELEY UNIFIED SCHOOL DISTRICT FOR MUTUAL FACILITY USE, SITE DEVELOPMENT, SERVICES, FEES AND PAYMENT SCHEDULE.

BE IT RESOLVED by the Council of the City of Berkeley as follows:

That the City Manager is hereby authorized to enter into an agreement with the Berkeley Unified School District for mutual facility use, site development, services, fees and a payment schedule for Berkeley Unified School District's outstanding account, without interest as follows:

1. First Payment upon ratification of agreement		\$ 85,000
2. Second Payment	July 1991	75,000
3. Third Payment	July 1992	125,000
4. Fourth Payment	July 1993	<u>74,801</u>
	TOTAL	\$359,801

FURTHER RESOLVED, that the agreement shall be effective July 1, 1990.

FURTHER RESOLVED, that a record signature copy of said agreement is to be on file in the office of the City Clerk.

BERKELEY UNIFIED SCHOOL DISTRICT/CITY OF BERKELEY

MEMORANDUM OF UNDERSTANDING

POOLS

Under current joint use agreements, the City uses the four School District pools (Berkeley High School, Willard Junior High School, West Campus, and King Junior High School). The City maintains and operates all of the pools except Berkeley High School's.

Under current agreements, the City and School District share equally the maintenance costs for the West Campus pool. For the other three pools (Berkeley High School, Willard Junior High School and King Junior High School) the District pays its proportional share for maintenance and operation costs based on hours of use. Currently, the City and School District share equally the capital cost for all four pools.

AGREED: 1. Effective July 1, 1990, the City will operate and maintain all pools except for the locker rooms and showers at Berkeley High School. It is further agreed that the costs of use for Willard Junior High School, King Junior High School, Berkeley High School, and West Campus pools will include maintenance, operating and capital improvement costs. It is agreed that capital improvement costs will be amortized over the useful life or within the remaining lease term of the capital improvements and will be charged back to the School District based on hours of use, with a minimum School District use of twenty percent (20%) of capital improvement costs. All capital improvements must be mutually agreed to by the City and School District prior to construction. The maintenance and operations costs will be charged back to the School District based on actual hours of use.

2. The School District will inform the City on or before June 1 of each year what facilities they would like to schedule for their use for the subsequent fiscal year beginning July 1 through June 30.

3. The School District will have first priority on the use of all pools between the hours of 8:00 A.M. and 5:00 P.M. on school days. The School District is open to negotiations with the City on joint use of pools during school hours.

4. The existing lease agreements on pools are as follows:

<u>SCHOOL</u>	<u>LEASE START DATE</u>	<u>LEASE END DATE</u>	<u>LEASE TERM</u>	<u>REMAINING YEARS ON LEASE</u>	<u>PROPOSED LEASE EXTENSION</u>
Willard	1/01/63	2003	40	13	12
King	11/23/65	2005	40	15	10
West Campus	7/15/64	2004	40	14	11
Berkeley High	12/07/82	2007	25	17	13

ATTACHMENT 2

CITY OF BERKELEY AND BERKELEY UNIFIED SCHOOL DISTRICTS

SUMMARY OF ACCOUNTS OUTSTANDING

DESCRIPTION	CHARGES TO CITY	CHARGES TO DISTRICT
1. City billing for swim centers at King, West Campus, and Willard		
1987		\$ 58,145
1988		49,325
1989		40,020
1990		30,435
2. District bill for swim pool at Berkeley High		
1987	\$ 16,218	
1988	15,160	
1989	16,940	
1990	18,998	
3. City billing for Berkeley High swim pool maintenance		
1987		13,000
1988		14,449
1989		15,458
1990		21,562
4. City billing for Measure-Y Parks		
1989		85,000
1990		85,000
5. City billing for playground equipment replacement		
1989		19,000
1990		19,000
6. District billing for Columbus Measure Y Park maintenance		
1989	10,000	
1990	2,000	
7. District billing Donhue Gym		
1988	7,000	
1989	7,000	
1990	7,000	