

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN**  
**VILLA PARK SCHOOL DISTRICT 45 AND THE VILLAGE OF VILLA PARK**

This Agreement (the "Agreement") is made and entered into this \_\_\_\_<sup>th</sup> day of 202~~54~~<sup>56</sup>, by and between Villa Park School District 45, DuPage County, Illinois (hereinafter the "School District"), and the Village of Villa Park, DuPage, Illinois (hereinafter the "Village") (collectively, the "Parties") to provide for the access and use of the School District's facilities to increase accessibility and encourage athletics and recreation for the Villa Park community.

**WHEREAS**, Article VII, Section 10, of the Constitution of the State of Illinois of 1970 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

**WHEREAS**, intergovernmental cooperation is further authorized by the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* ("the Act"); and

**WHEREAS**, the School District owns and maintains certain baseball facilities on land that it owns at Jackson Middle School, 301 W. Jackson Street, Villa Park, Illinois and Jefferson Middle School, 255 W. Vermont Street, Village Park, Illinois (hereinafter the "Baseball Facilities"); and

**WHEREAS**, the Villa Park Youth Baseball Association ("Association") is in need of additional space to hold practices and games for baseball and softball teams during the spring, summer and fall seasons; and

**WHEREAS**, the Village agrees to provide certain maintenance to the infield areas of the Baseball Facilities and other activities included to prepare the infields for games for the Association in return for a reduction of the rental fees charged by the School District for the Village's use of the School District's gymnasiums for other Village programs; and,

**WHEREAS**, School District and the Village desire to promote participation in sporting activities, including baseball and softball, and thereby desire to enter into this Agreement in order to increase accessibility and encourage athletics and recreation for the Villa Park community.

**NOW THEREFORE**, in exchange for good and valuable considerations, present and future, the sufficiency of which is acknowledged by the Parties, the School District and the Village agree as follows:

1. **Authority.** The parties have entered into this Agreement pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*

2. **Term.** This Agreement shall be in full force and effect from the date the last of the Parties executed this Agreement and shall continue until ~~December~~<sup>October</sup> 31, 202~~56~~<sup>56</sup>, unless terminated earlier for default pursuant to the terms of Paragraph 10.

3. **Village's Maintenance of the Baseball Facilities.** The Village shall be responsible for maintaining the infield areas of the Baseball Facilities to allow the Baseball Association to perform game day preparations for games during the time allowed for the Association's use of the Baseball Facilities as provided in Section 2, in a reasonable manner consistent with the School District's maintenance prior to

the entry of this Agreement. The Village's maintenance duties include but are not limited to, once weekly turning over, raking, grading, dragging of the infields. The Village shall have no responsibility for the chalking of the infield foul-lines and painting of the outfield foul-lines for the Association's games or the removal of trash from the Baseball Facilities during the week following the Association's use of the Baseball Facilities. The Village shall perform such maintenance at its own expense and the School District shall have no obligation for the maintenance duties as set forth in this paragraph. The Parties acknowledge that the Village's maintenance obligations are for purposes of allowing the Baseball Association to prepare the infields of the Baseball Facilities for games of the Association only and not for the Association's practices. It is also understood that the Village shall have no obligation to maintain or inspect the outfields or dugout areas of the Baseball Facilities or any other School District structures on, around or within the Baseball Facilities, including, but not limited to, fencing, bleachers, base pegs, plates, pitching rubbers. The Village shall also have no obligation surrounding the adding of infield mix to the infield areas of the Baseball Facilities and shall have no obligation surrounding the maintenance or supplying of trash receptacles, for maintenance of infields between games, or for maintenance of fields due to field conditions caused by inclement weather, or the removal of weeds on or surrounding the Baseball Facilities.

4. **School District's Maintenance of the Baseball Facilities.** The School District shall be responsible for the mowing and maintenance of all grass areas of the Baseball Facilities during the allowed time for the Association's use of the Baseball Facilities as provided in Section 2, in a reasonable manner consistent with the School District's maintenance prior to the entry of this Agreement. The School District's maintenance duties shall also include, weed removal, dugout areas of the baseball facilities, or any other structures on, around or within the baseball facilities, including but not limited to, fencing, bleachers, base pegs, home plates, pitching rubbers, the adding of infield mix to the infield areas of the baseball facilities, maintenance and supply of trash receptacles, removal of trash from baseball facilities during the regular business week, maintaining the parking areas and snow removal, and other maintenance involved in the provision of access and use of the Baseball Facilities. The School District shall perform such maintenance at its own expense and the Village shall have no obligation for the maintenance duties as set forth in this paragraph.

5. **Compensation.** As consideration for this Agreement, the School District will allow the Village use of its gymnasiums for other Village programs, at a time convenient to the Village and agreed by the School District. To the extent there is a scheduling conflict between the School District and the Village with respect to the Village's use of the gymnasium, the School District's use shall have priority over the Village's use, but the Village's use shall have priority over other third party users. The School District is currently reassessing its facility use fees including those that would normally be charged to the Village. In the event the School District charges the Village facility use or rental fees during the Term of this Agreement, the School District shall provide a credit to the Village in the amount of five thousand and 00/100 (\$5,000.00), against any rental fees charged by the School District to the Village for the Village's use of the School District's gymnasiums for other Village programs.

6. **Submissions and Notices.** Any notices required or permitted hereunder shall be considered as duly made if delivered by mail, express package or delivery service, facsimile or hand delivery to the Party for which it is intended at the following address:

**To School District**  
Villa Park School District 45  
c/o Dr. Brian Graber, Superintendent  
255 W. Vermont Street  
Villa Park, IL 60181

**To Village:**

Village of Villa Park  
c/o ~~Michael Rivas~~ Matthew Harline, Village Manager  
20 S. Ardmore Avenue  
Villa Park, IL 60181

7. **Indemnity.** To the fullest extent permitted by law, each Party agrees to mutually indemnify, defend, and hold harmless the other parties and their respective board members, officers, officials, employees, and agents from all claims, causes of action, damages, whether to person (including death) or property, costs (including reasonable attorneys' fees), and losses (collectively "Loss") to the extent the Loss arises out of any breach of this Agreement or the negligent acts or omissions of the indemnifying Party, but shall not be required to indemnify or hold harmless the other Party for the alleged acts or omissions of the other Party. The Parties agree to preserve any immunities available to the School District or the Village under Illinois law and nothing in this Agreement shall be construed to waive or diminish the School District or the Village's protections under the Illinois Local Governmental and Local Governmental Employees Tort Immunity Act. This section will survive the termination or expiration of this Agreement.

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8. **Insurance.** The Parties shall keep in force, to the satisfaction of the other Parties, at all times relevant hereto, general liability, and bodily injury insurance in the amount of \$2,000,000 for each person and each occurrence, and property damage insurance in amounts of \$1,000,000 for each occurrence and aggregate total. All Parties shall maintain workers' compensation as required by statute and employer's liability insurance. All Parties agree that before this Agreement becomes effective, they shall furnish a Certificate of Insurance for the insurance coverage required herein, naming the other Parties as an additional insured. All Parties shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto owned by the insured Party, including hired and non-owned autos.

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9. **Warranty.** The School District and the Village hereby warrant that each is free to enter into this Agreement and to grant the rights herein granted and, as appropriate, to render the compensation and/or services herein described.

10. **Termination.**

- a. If any Party at any time during the period of this Agreement shall fail to follow any material term herein specified, or fail to observe or perform any of the covenants, agreements or obligations hereunder, any of the non-defaulting Parties may terminate this Agreement if such default is not cured within thirty (30) days after the defaulting Party shall have received written notice specifying in reasonable detail the nature of such default; provided, however, that if such default cannot reasonably be cured within thirty (30) days, then the defaulting Party shall have so much time as is reasonably necessary to effect such remedy providing the defaulting Party proceeds in good faith and with diligence and continuity to remedy the default. This provision does not eliminate the Village's rights under Section 5(c) of this Agreement regarding the Village's immediate relief of its maintenance obligations for failure to receive payment or credit from the Association and/or the School District respectively.
- b. Failure to terminate this Agreement pursuant to this section shall not affect or constitute a waiver of any remedies the non-defaulting Party would have been entitled to demand in the absence of this section, whether by way of damages, termination or otherwise.

Termination of this Agreement for whatever reason shall be without prejudice to the rights and liabilities of either Party to the other in respect of any matter arising under this Agreement.

11. **Waiver.** The failure of either Party at any time or times to demand strict performance by the other of any of the terms, covenants or conditions set forth herein shall not be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of said terms, covenants and conditions.

12. **Binding Effect.** This Agreement shall bind and inure to the benefit of the Parties, including their successors and assigns.

13. **Force Majeure.** If the performance by any Party of any obligation set forth in this Agreement is prevented by cause or causes beyond the control of any Party (an event of force majeure), such occurrence shall be considered a valid excuse for non-performance or delay in the performance of the obligations hereunder.

14. **Limitation of Liability.** Under no circumstances shall any Party be liable to the other Parties or any other person or entity for special, incidental, consequential or indirect damages (excluding attorneys' fees described in Section 7 of this Agreement), loss of good will or business profits, or any and all other commercial damages or loss, or exemplary damages. Nothing in this section shall limit, reduce, or otherwise modify the Parties' duties to indemnify under Section 7.

15. **Entire Agreement.** This writing represents the sole and entire Agreement between the Parties, and supersedes all prior negotiations, representations, agreements, arrangements or understandings, either oral or written, between or among the Parties, relating to the subject matter of this writing and may not be changed or modified except by a writing signed by the Party or Parties to be charged thereby.

16. **No Joint Venture/Tenancy.** No provision of this Agreement, or act of either Party under this Agreement, shall be construed as creating the relationship of principal and agent, or as creating a partnership, joint venture, or other enterprise, or render either party liable for any of the debts or obligations of the other party, except under any indemnity provisions of this Agreement.

17. **Governing Law and Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois. Any dispute regarding this Agreement shall only be brought in a court of competent jurisdiction in DuPage County, Illinois. Each Party hereby irrevocably submits to the exclusive jurisdiction of any such court for purposes of any action arising out of this Agreement.

18. **Disputes and Attorneys' Fees.** It is the intent of the Parties to attempt in good faith to resolve any dispute first through negotiation. If legal action is brought by either Party to interpret or enforce any provisions of this Agreement, the prevailing party in any such legal action shall, in addition to any other relief the Court may award, be entitled to an award of reasonable attorney's fees and court costs.

19. **Execution and Delivery Required.** This instrument shall not be considered to be a binding agreement unless and until signed by all Parties noted at the appropriate place at the conclusion of this instrument. Acceptance of the offer made herein is expressly limited to the terms of the offer. An electronic

version of this Agreement, if executed and delivered by each party, shall be binding upon the Parties.

20. **No Third-Party Beneficiary.** Nothing in this Agreement is intended, nor shall it be interpreted, to create any rights or remedies to and in any third party. No claim as a third-party beneficiary under this Agreement by any person shall be made, or be valid, against the Village, the School District, or the Association.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

**DUPAGE SCHOOL DISTRICT NO. 45**

**VILLAGE OF VILLA PARK**

\_\_\_\_\_  
President, Board of Education  
~~Villa Park President~~

\_\_\_\_\_  
~~President, Nick Cuzzone, Village of~~

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\_\_\_\_\_  
Secretary, Board of Education

\_\_\_\_\_  
~~Hosanna Korynecky, Village Clerk~~