

**AGREEMENT
BETWEEN
THE BOARD OF EDUCATION OF PROSPECT HEIGHTS SCHOOL DISTRICT 23,
COOK COUNTY, ILLINOIS
AND
THE DAY GROUP
FOR THE USE OF MACARTHUR MIDDLE SCHOOL**

THIS AGREEMENT is made and entered into on the dates hereinafter set forth by and between the Board of Education of Prospect Heights School District 23, Cook County, Illinois (“School District”) and the DAY Group, an Illinois Corporation (“DAY”).

WITNESSETH

WHEREAS, the School District is the owner of a school building and ground commonly known and referred to as MacArthur Middle School, (the “School”), located at 700 N. Schoenbeck Road, Prospect Heights, Illinois; and

WHEREAS, the DAY desires to use portions of the School for purposes of holding Saturday Polish School program activities; and

WHEREAS, the School District has determined that the DAY’s use of the School for Sunday educational spiritual activities on agreed upon dates and hours would not interfere with the School District’s delivery of educational services to its students and residents, and has further determined that such use may enhance delivery of such educational services to the community; and

WHEREAS, the School District has been granted the control and supervision of school grounds and the authority under Section 10-22.10 of the *Illinois School Code* (105 ILCS 5/10-22.10) to grant the use of school grounds, under such provisions and control as they may see fit to impose and for the conducting of recreational, social and civic activities in the school building or on the school grounds or both; and

WHEREAS, the parties hereto have determined that it is in their respective best interests and the best interests of the residents of the School District to enter into this Agreement to enter into this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, and the mutual covenants and promises contained below, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

I. TERM, PAYMENTS, & TERMINATION

- 1.1 **Term** - The term of this Agreement shall be for a period of three (3) years, commencing on _____, 2017, and continuing thereafter through _____, 2020, unless terminated prior to that date, as provided in this Agreement. This Agreement may be renewed for one (1) additional year upon the written notice by the DAY to the School District prior to June 1, 2020, unless the School District notifies the DAY of its intent not to renew this Agreement by providing notice to the DAY prior to June 1, 2020.
- 1.2 **Payments** - The DAY shall pay to the School District the total amount of seventeen thousand three hundred thirty-five dollars and 15/100 (\$17,335.89), payable in equal, monthly installments. The first installment shall be paid by _____ 15. Thereafter, the remaining payments will be paid on the 15th of every month. In the event that uses are canceled within the terms of this Agreement, the monthly rate will be adjusted. In the event this Agreement is renewed for an additional year, the School District will notify DAY of any increase in the rental fee prior to June 1, 2020.
- The 2017-2020 agreed upon rates for use of the facility and custodial service are contained in Exhibit A to this Agreement.
- 1.3 **Termination** - Each party reserves the right to terminate this Agreement upon ten (10) days advanced written notice due to the breach by the other party of its obligations under this Agreement.
- 1.4 **Effect of Termination** - The termination of this Agreement shall not alleviate any responsibility to pay or make repairs occurring during the effective period of this Agreement.
- 1.5 **Condition of Property** - At the expiration of this Agreement, whether by lapse of time or otherwise, the DAY shall leave the School Properties in substantially the same condition, normal wear and tear attributable to DAY's use excepted, as in existence at the time of the execution of this Agreement. To the extent the DAY does not meet this obligation, the School District may seek reimbursement for expenses incurred for any work necessary to restore the School to substantially the same condition as in existence at the time of the execution of this Agreement.
- 1.6 **Destruction of Property** - In the event MacArthur School is damaged or destroyed such that occupancy and use of the school building is not possible or permitted, this Agreement shall terminate.

II. USE

- 2.1 **Use** - Subject to the conditions set forth herein, the School District shall make available for use the four (4) classrooms, and the little theater located at MacArthur Middle School on fifty-two (52) Sundays during the term of this Agreement and during times when there are no conflicting school sponsored activities those portions of the MacArthur Middle School. The School District will select the classrooms to be used and notify the DAY prior to the first use. The School District may redesignate the classrooms subject to this Agreement at any time. The DAY shall have a license to use the property only, and shall not have any right ownership or possessory rights of any kind or nature.
- 2.1.1 **Kitchen Facilities** - DAY may not use the kitchen facilities at the school except with the prior consent of the School District, and if it hires the services of the School District's food service provider to oversee the use of the kitchen. The provision of the School District's consent is at its sole discretion and is not subject to challenge.
- 2.1.2 **Weather/Building Closures** – In the event of adverse weather conditions or conditions in the building, the School District may close the building and DAY may reschedule missed sessions to a mutually agreeable date and time.
- 2.2 **Priority of Use** - The School District shall have priority over the DAY in both scheduling and use of the School and in the actual use where circumstances unforeseen at the time of scheduling require School District use. The School District shall immediately notify the DAY upon first learning of circumstances which require scheduling changes and shall take reasonable steps to avoid conflicts, and shall attempt to provide alternative times or locations where possible. The DAY shall have priority over other activities not sponsored by the School District. The DAY shall immediately notify the School District of cancellation.
- 2.3 **Scheduling** - The Superintendent of the School District or the Superintendent's designee and the Director of the DAY or his/her designee shall jointly establish the schedule of use in accordance with the requirements of Section 2.1 above, and shall attach a copy of the schedule to this Agreement as Exhibit B.
- DAY may cancel a scheduled usage without charge so long as DAY provides the School District with AT LEAST ten (10) days advance notice of the scheduled usage OR due to snow/ice/inclement weather conditions by 7:00 am on the day of the scheduled usage.
- 2.4 **Appropriate Use** - The DAY will use those portions of the School for their reasonably intended uses. Operating procedures will be reviewed by the parties prior to the first use. The DAY agrees to comply with all School District policies in conducting its activities at the School.
- 2.5 **Non-DAY Activities** - DAY may not rent or permit the use of the School for non- DAY

activities during its scheduled usage time.

III. MAINTENANCE

- 3.1 **Maintenance** - The School District shall be responsible for the day to day maintenance of the buildings and structures on the School. The DAY will render each portion of the School its uses to its original and broom clean condition after each use.
- 3.1.1 **Snow Removal** – The School District will be responsible for snow plowing when snow reaches a depth of three (3) inches or more. DAY shall be responsible for this cost at the District’s rate in accordance with its snow removal contract. The rates for snow removal are contained in Exhibit A of this Agreement. The School District custodian on duty will snow plow the sidewalks in front of the school regardless of the amount of snowfall or depth.
- 3.2 **Custodial Maintenance** – In the event the DAY leaves a classroom in a condition that requires custodial maintenance in addition to the School District’s usual and customary custodial maintenance, the School District will notify the DAY and the DAY will pay to the School District the cost of such custodial maintenance, including the extra time for completion of cleaning at the agreed upon rate as stated in Exhibit A to this Agreement.
- 3.3 **Construction and Renovation** - The DAY acknowledges that from time to time it may be necessary for the School District to undertake construction, renovation, or repair projects with respect to the School. In such a cases where the construction, renovation, or repair is anticipated or not in response to an emergency, the School District shall consult with the DAY to minimize the interruption or impact on the DAY use of the School. Where construction, renovation, or repair is in response to an emergency, the School District will make reasonable attempts to accommodate rescheduling or relocation of Park District activities.
- 3.4 **Supervision** – The DAY shall provide supervision of all of its activities occurring at the School. The School District shall provide training to the DAY employees regarding security procedures at the School, including, if necessary, activation and deactivation of alarm systems. The DAY shall notify the School District if an alarm is unable to be set. The School District may charge for false alarm calls caused by the DAY. The DAY will make sure that the School is properly secured after each use.

IV. INSURANCE AND INDEMNIFICATION

- 4.1 **Insurance** - The DAY shall procure and maintain, at its sole cost and expense, policies of insurance covering its use of the School as provided in the Agreement, in reasonable and appropriate amounts to be agreed upon by the School District and the DAY as hereinafter provided, including comprehensive personal injury, property damage, workers' compensation, automobile liability and, if applicable, professional liability or errors and omissions coverage.
- 4.2 **Additional Insured** - The policies of insurance obtained and maintained by the DAY shall name the School District, its board, board members, and employees as an additional insureds.
- 4.3 **Insurance Certificates** - All insurance policies procured herein or certificates evidencing the existence thereof shall be delivered by the DAY to the School District within ten (10) of the DAYS' execution of this Agreement and before its use of the School. Said policies shall contain a provision that at least thirty (30) days prior to the termination, nonrenewal or modification thereof, each party shall receive written notice of the termination, nonrenewal or modification.
- 4.4 **Indemnification by DAY** - The DAY shall indemnify and hold harmless the School District, board of education, board members, its officers, employees and agents for any costs, claims, actions or causes of action, including reasonable attorneys' fees, which may arise from the DAYS' use of the School or from the DAYS' obligations under this Agreement, except to the extent of the negligence, gross negligence, willful and wanton, or intentional misconduct of the School District, its board of education, board members, officers, employees or agents.
- 4.6 **Incident Reports** - In the event of an incident involving injury to persons or property occurring during the DAYS' use of the School, the DAY shall provide the School District with an incident report as soon thereafter as practicable.

V. MISCELLANEOUS PROVISIONS

- 5.1 **Binding Effect** - This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties as if they too were parties to this Agreement.
- 5.2 **Assignment** - Neither party shall have the right to assign this Agreement without the prior written consent of the other party.
- 5.3 **Severability** - The invalidity of any provision of this Agreement shall not render invalid any other provision herein. If for any reason any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that

provision shall be deemed severed and this Agreement shall remain in full force and effect with that provision severed or modified by court order.

- 5.4 **Waiver** - Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute, or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect. Waiver by either party of a breach of any term, covenant or condition herein shall not be deemed a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein.
- 5.5 **Notices** - All notices required hereunder shall be in writing and shall be served personally or by registered or certified mail, return receipt requested, upon the other party's Superintendent or Director at the party's principal administrative offices. Notices which must be made regarding rescheduling activities or use should first be made by telephone or facsimile.
- 5.6 **Governing Law** - This Agreement shall be governed, interpreted and construed according to the laws of the State of Illinois.
- 5.7 **Attorneys Fees** - In the event of litigation between the parties with respect to any matter related to this Agreement, each party shall bear the cost of its own attorneys' fees.
- 5.8 **Execution of Counterparts** - This Agreement may be executed in multiple counterparts or duplicate originals, each of which shall constitute and be deemed as one and the same document.
- 5.9 **Amendment** - Except as specified herein, this Agreement contains the entire agreement of the parties and shall supercede any prior written or oral agreements or understandings. This Agreement may only be altered, modified or amended upon the written consent and agreement of both parties hereto duly adopted as required by law. This Section shall not be interpreted to preclude or limit, however, the amendment or modification of regulations, procedures or policies established by the parties.

THIS AGREEMENT, for a period of three (3) years, commencing on _____, 2017, and continuing thereafter through _____, 2020, is hereby agreed to by the parties, as evidenced by signature of authorized representatives below.

BOARD OF EDUCATION OF

DAY Group,

PROSPECT HEIGHTS SCHOOL
DISTRICT NO. 23, Cook County, Illinois

an Illinois Corporation

By: _____
President

By: _____
Its Duly Authorized Representative

Attest: _____
Secretary

Dated: _____

Dated: _____

Exhibit A