

**AGREEMENT BETWEEN
THE BOARD OF EDUCATION OF PROSPECT HEIGHTS SCHOOL DIST. 23 and
THE PROSPECT HEIGHTS YOUTH BASEBALL-SOFTBALL ASSOC. (PHYBS)
FOR THE USE OF LOU JOHNSON FIELD**

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 Prospect Heights Youth Baseball Softball Assoc. (PHYBS).

WITNESSETH

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

WHEREAS, the PHYBS desires to use portions of the Field for purposes of holding baseball and softball programmatic activities; and

WHEREAS, the PHYBS understands that the the Field is currently grounds covered within an inter-governmental agreement (IGA) with Arlington Heights Park District (AHPD), and PHYBS has received approval from AHPD to proceed with improvements and usage; and

WHEREAS, the School District has determined that the PHYBS’ use of the Field for athletic 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 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. Term - The term of this Agreement shall be for a period of three (3) years, commencing on March 11, 2020, and continuing thereafter through March 1, 2023, 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 PHYBS to the School District and AHPD prior to June 1, 2023, unless the School District notifies the PHYBS of its intent not to renew this Agreement by providing notice to the PHYBS prior to November 1, 2022.

2. Payments - In lieu of any cash payment to Prospect Heights School District 23, The PHYBS shall make the approved modifications and enhancements to the Lou Johnson Field including core field and fence repairs, batter's box, pitching mound and home base replacements and replacement of dugout areas. The approximate total amount of the repairs and enhancements is forty-four thousand two hundred ninety-one dollars (\$44,291.00). Any improvements to the site would have to occur during the hours of 8:30 AM - 2:00 PM or after 3:30 PM, M-F, Saturdays anytime meeting village ordinances.
3. Termination - Each party reserves the right to terminate this Agreement upon ten (10) days advance written notice due to the breach by the other party of its obligations under this Agreement. The District will reserve the right to terminate the agreement at any time with a 90 day notice to vacate the property.
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. If/when the field is abandoned by the Association, it must be returned to turf, with all equipment/fencing removed. The Association agrees to incur the cost to return the property to turf, at the discretion of the District. Should the PHYBS not meet this obligation, the School District may seek reimbursement for all expenses incurred for any work necessary to restore the Field to turf.
5. Destruction of Property - In the event the Field or surrounding area is damaged or destroyed such that occupancy and use of the area is not possible or permitted, this Agreement shall terminate.

II. USE

1. Use - Subject to the conditions set forth herein, the School District shall make available for use the Lou Johnson Field during the term of this Agreement and during times when there are no conflicting school sponsored activities. The PHYBS 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. Priority of Use - The School District shall have priority over the PHYBS in both scheduling and use of the Field and in the actual use where circumstances unforeseen at the time of scheduling require District use. The School District shall immediately notify the PHYBS 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 PHYBS shall have priority over other activities not sponsored by the School District and shall notify the School District of any cancellations.
3. Scheduling - The Superintendent of the School District or the Superintendent's designee and the Director of the PHYBS or his/her designee shall jointly establish the schedule of use in accordance with the requirements of above. Once established, PHYBS shall submit the final schedule of use to Arlington Heights Park District and the District. All subsequent scheduling of the Field will be governed by Arlington Heights Park District.

4. Appropriate Use - The PHYBS will use those portions of the Field for their reasonably intended uses. Operating procedures will be reviewed by the parties prior to the first use. The PHYBS agrees to comply with all School District policies in conducting its activities on District grounds.
5. Storage - The School District will not accommodate any storage of the PHYBS property at the School or on District grounds, with the exception of small metal “job site style “work boxes. The School District will not be liable for any loss of use of said property due to theft, damage, or destruction. The PHYBS shall be solely responsible for obtaining insurance protecting against the theft, damage, or destruction of its property, and waives any right of recovery against the School District.

III. RESTRICTIONS

1. Renters must comply with fire codes, life safety codes, and all other applicable local, State and Federal laws.
2. No alcohol, narcotics, illegal drugs, tobacco products, weapons or firearms are allowed on District property.
3. No violence or fighting of any sort.
4. No smoking is allowed on District property.
5. Rental events shall not be political in nature, subversive to the US Government, immoral, in violation of any local, State or Federal law, or discriminate against race, color, national origin, religion, sex, disability, age (40 or older), genetic information, marital status, sexual orientation, citizenship status, military status, unfavorable military discharge, gender identity, arrest record, victims of domestic violence or order of protection status.
6. All driveways must be kept open to allow for the movement of traffic and fire equipment; parking is permitted only in marked parking spaces, there is no parking in driveways or grass areas; all school and municipal parking regulations apply and are police enforced.
7. No group shall attempt to raise funds or solicit contributions without prior District 23 approval.
8. All rental events are automatically cancelled when an emergency event or severe weather event is declared.
9. Rentals shall be to groups only, for educational or civic gain.
10. Profanity will not be tolerated by any renter, rental participant or rental attendee.
11. No building keys or access credentials will be given to renters, students or other unauthorized personnel.
12. No motorized vehicles or equipment are permitted on any athletic surfaces, grass areas, sidewalks, restricted areas or any other area other than designated parking areas.
13. Renter’s participants must observe all parking restrictions on District property. Renters may not charge for parking and must provide supervision and crowd control in parking areas, if required by the District.

14. No use of fire, flame, smoke, smoke or fog generation equipment, or fireworks of any kind are allowed on District property.
15. Renter assumes full responsibility, and shall reimburse the District within 30 days of receipt of notice, for the cost of repair of any damage resulting from renter's activity. The District shall not be responsible for any damage whatsoever to renter's property.
16. All school grounds close at dusk.
17. All debris and litter must be removed from school grounds after use.
18. The renter shall indemnify, hold harmless, and at the District's option, defend the District from any and all claims against, and losses incurred by the District arising out of our renter's use of District Facilities under this agreement. Renter waives and promises not to bring any claims against the District arising out of the renter's use of the District Facilities, except for a breach of the agreement. As used in this paragraph: (1) the term "District" includes the Board of Education of District 23 and its officers, members, and employees in their official and individual capacities; (2) the term "claim" includes any administrative or judicial proceeding brought against the District, the threat of any such proceeding, or the demand for the payment of money or other relief for any injury including, but not limited to, personal injury, death or District Facilities damage; and (3) the term "loss" includes any monies expended by the District as a result of a claim, including the District's reasonable attorney fees incurred in response to a claim.
19. If Renters violate any terms of the rental agreement, the District may terminate the use of District Facilities immediately and future rental requests may be denied.
20. State law prohibits a child sex offender from being present on District property or loitering within 500 feet of District property. 720 ILCS 5/11-9.3. The Renter hereby certifies that he/she has checked the Illinois Sex Offender Registration Information website at <http://www.isp.state.il.us/sor/sor.cfm> and that none of the personnel or participants involved with the Renter, or the program sponsored by the Renter, utilizing District Facilities appear on the Registry as of the initial date of the contract and annually thereafter.
21. The District reserves the right to deny access to any facility user and service provider who has been convicted of any crime including but not limited to sexual abuse, is or has been a registered sex offender, has ever been convicted of any offense in relation to the use, sale, possession, or transportation of narcotics or habit forming and/or dangerous drugs, or is presently or habitually under the influence of dangerous drugs or chemicals, narcotics or intoxicating beverages.
22. The PHYBS may not rent or permit the use of the Field for non-PHYBS activities during its scheduled usage times.

IV. MAINTENANCE

1. In the event the PHYBS leaves the grounds in a condition that requires additional maintenance the District will notify the PHYBS and the PHYBS will pay to the School District the cost of such maintenance, including the extra time for completion of cleaning at the agreed upon rate.

2. Under the current inter-governmental agreement with District 23, Arlington Heights Park District is responsible for weekly mowing of the Field's turf areas. Ongoing maintenance of the infield, diamond and dugouts (including game/practice prep) will be performed or coordinated by the renter at their sole cost.
3. Water usage will not be available from District properties. All water needs will be the sole responsibility of the PHYBS.
4. The PHYBS 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 District grounds. In such cases where the construction, renovation, or repair is anticipated or not in response to an emergency, the School District shall consult with the PHYBS to minimize the interruption or impact on the use of the Field. Where construction, renovation, or repair is in response to an emergency, the School District will make reasonable attempts to assist in rescheduling or relocation of PHYBS activities.
5. The PHYBS shall provide supervision of all of its activities occurring on District grounds. PHYBS will not have access to buildings.

V. INSURANCE AND INDEMNIFICATION

1. Proof of the Association's Insurance Coverage will be required as a job site and operational ball field following the substantial completion of all enhancements.
2. PHYBS 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 PHYBS as hereinafter provided, including comprehensive personal injury, property damage, workers' compensation, automobile liability and, if applicable, professional liability or errors and omissions coverage.
3. Any subcontractors to the Association (during construction) will need to provide Certificates of Insurance to the District. Additionally, due to potential contact with students during field installation, all subcontractors should provide staff criminal background checks at their cost.
4. Prior to allowing any of its employees who will be performing the scope of work access to school property, the Contractor agrees to provide the District with the following in writing:
 - Evidence that each employee, agent, Contractor, or other person performing work on school property under this agreement was subjected to a criminal background check in conformity with 105 ILCS 5/10-21.9; that said persons are not listed on the State Sex Offender Registry; and said persons have no criminal convictions for the offenses listed under 105 ILCS 5/10-21.9;
 - The Contractor will provide the District, upon request, a copy of the criminal check conducted on each such person.
5. All policies of insurance obtained and maintained by the PHYBS and its subcontractors shall name the School District, its Board, Board members, and employees as additional insureds.
6. Insurance Certificates - All insurance policies procured herein or certificates evidencing the existence thereof shall be delivered by the PHYBS to the School District within ten (10) of the execution of this

Agreement and before its use of the District grounds. 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.

7. The PHYBS 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 PHYBS' use of the Field or from the PHYBS' 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.
8. In the event of an incident involving injury to persons or property occurring during the PHYBS' use of the Field, the PHYBS shall provide the School District with an incident report as soon thereafter as practicable.

VI. MISCELLANEOUS PROVISIONS

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.
2. **Assignment** - Neither party shall have the right to assign this Agreement without the prior written consent of the other party.
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.
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. **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.
6. **Governing Law** - This Agreement shall be governed, interpreted and construed according to the laws of the State of Illinois.
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.

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.
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 March 11, 2020 and continuing thereafter through March 1, 2023, is hereby agreed to by the parties, as evidenced by signature of authorized representatives below.

BOARD OF EDUCATION OF
PROSPECT HEIGHTS SCHOOL
DISTRICT 23, Cook County, Illinois

Prospect Heights Youth Baseball Softball Assoc.

By: _____
President

By: _____
Its Duly Authorized Representative

Attest: _____
Secretary

Dated: _____

Dated: _____