

INTERLOCAL AGREEMENT BETWEEN CITY OF BONNEY LAKE AND SUMNER-BONNEY LAKE SCHOOL DISTRICT

THIS Interlocal Agreement made by and between the City of Bonney Lake and the Sumner-Bonney Lake School District is effective September 1, 2023. The City of Bonney Lake, is a Washington municipal corporation (the “City” hereinafter) and the Sumner-Bonney Lake School District, is a Washington Municipal Corporation (the “District” hereinafter). Each party is a “Party” and collectively, they are the “Parties.”

RECITALS

WHEREAS, pursuant to RCW 39.34.010, this Agreement enables the Parties to make the most efficient use of their powers by cooperating with each other on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of government organization that will accord best with geographic, economic, population and other factors influencing the needs and development of the local community;

WHEREAS, the Parties enter into this interlocal agreement, for the purposes of coordinating and collaborating on health promotion and active living for the benefit of the residents of the Parties’ respective jurisdiction (hereinafter “Agreement”) and

WHEREAS, the District is the owner of real property, including facilities and active use areas that are suitable for community recreational purposes when not being used by the District; and

WHEREAS, the Agreement allows for the Recreation Program that is operated by the City to use the facilities of the District under certain conditions as specified in the District’s Facilities Use Policy (No. 4260) and Procedure (No. 4260P), copies of which are attached to this Agreement as Exhibits A and B; and

WHEREAS, the City and the District are authorized to enter into an agreement with one another to maximize available opportunities to improve the overall health of their citizens and students, and to cooperate in the betterment of the community.

AGREEMENT

Section 1. The City is responsible for creating, operating, controlling, and, managing the Recreation Program.

Section 2. “Recreation Program” means a program that provides recreational activities including but not limited to: classes, arts, sports, special events and workshops for children and adults for the surrounding communities of the Sumner-Bonney Lake School District and the City of Bonney Lake. The Recreation Program does not include before or after school childcare.

Section 3. The Sumner-Bonney Lake School District acknowledges the benefits of a Recreation Program to the Sumner-Bonney Lake School District, its students and the community in its jurisdiction. In consideration of obtaining those benefits, the Sumner-Bonney Lake School District understands that the Recreation Program has additional needs for it to remain financially viable.

Section 4. Joint Board. A Joint Board shall be established monitor the effectiveness of this Agreement and the cooperation between the Parties. Each Party shall have two representatives on the Joint Board. The Joint Board shall meet at least once during the duration of this Agreement. The Joint Board will not acquire, hold or dispose of real and personal property as part of this Agreement. The Joint Board has no management authority over either Party.

Section 5. District Contribution. In order to assist the Recreation Program to remain financially feasible, the District agrees to provide funding to the City in the amount of \$50,000 to be paid quarterly installments in the amount of \$12,500, which is to be used by the City to assist in coverage of the costs of operating and managing the Recreation Program; and the City is entitled to all Recreation Program fees in addition to receiving the above-described supplemental funding from the District.

Section 6. Administration of Recreation Program. Administration of the Recreation Program shall be the responsibility of the City and it shall be administered as a program of the City.

Section 7. Facility Use. The District reserves the sole right and responsibility to determine the use and scheduling of all facilities and/or equipment located on its property. Acceptable use and the extent of use of District premises, facilities, and/or equipment are at the sole discretion of the District. The District's Policy No. 4260 and Procedure No. 4260P (Use of School Facilities) (Attachments A and B to this Agreement) sets forth the process and requirements for utilizing the District's facilities. The City's Recreation Program is considered a Group 2 - Youth Groups under the District's Procedure No. 4260P. The City has access to the District scheduling software at the Robert Miller Gym facility and will schedule its use via such software under the terms of this Agreement when utilizing the District's facilities. The City's use of the District's facilities shall be controlled by and subject to District Policy No. 4260 and District Procedure No. 4260P and subject to the principles of priority use as set forth in District Policy No. 4260 and District Procedure No. 4260P, except that the City will schedule directly with the software, the use by the City for the Recreation Program shall be at no cost to the City except as provided for in this Agreement, and the City shall not be required to complete an application form for use of the facilities.

Section 8. General Use of Facilities.

- A. **Use of Facilities:** Except as expressly modified in this Agreement, use of all facilities shall be in accordance with the regular procedures of the District as provided in District Policy No. 4260, District Procedure No. 4260P and as provided for by the Laws of the State of Washington, Federal laws and the rules and regulations of the District.
- B. **Availability:** School functions and education-related organizations have first priority over District facility use. The Recreation Program will receive the next consideration. The continued use of a facility is not automatically guaranteed. School or District needs can supersede approval for other ongoing activities.
- C. **Emergency:** Use of the building or facility is canceled when the building or facility is closed by an emergency, such as school closures for inclement weather or other unforeseen circumstances. Situations that arise during a Recreation Program activity that require the assistance of District personnel normally not on duty may result in additional charges (e.g., fire alarms, mechanical/electrical problems, etc.)

- D. **Custodian:** A building custodian must be in the building during the use of facilities. The custodian will be performing work for the District and will also help resolve emergency situations. The custodian is not authorized to admit anyone into areas not specifically scheduled or provide equipment not previously authorized. The City staff are responsible for contacting the custodian upon completion of the activity to secure the building/facility.
- E. **Use:** Use of facilities will be denied for any use, in the judgment of the District, that may be contrary to the best interest of the schools or the educational program, or for which it finds that satisfactory sponsorship or adequate adult supervision is not provided. This shall include proper police and fire protection where necessary.
- F. **School Representative:** A member of the District’s custodial staff, or designee(s) approved by the District, must be present whenever the Recreation Program activity takes place within a District building.
- G. **Conduct:** The District is a tobacco-free District. The use of tobacco on all District property is prohibited, including parking lots. Weapons, firearms, open fire or flame, helium balloons and cooking are prohibited on all District property used pursuant to this Agreement. Misconduct, profane or improper language, use of intoxicating beverages and/or marijuana and/or controlled substances or other violations of District policy, procedures or regulations will be sufficient cause for denial of facility use or termination of this Agreement.
- H. **Clean-up:** Before leaving the District building or grounds, the Recreation Program staff will restore the facility to its original condition prior to use.
- I. **Damages:** The City must provide satisfactory adult supervision of all Recreation Program activities for the duration of the activity. Participants must wear appropriate shoes for activities for the duration of the activity. Use of a District facility shall constitute acceptance by the City for the responsibility for any damage done as a result of its use of the District facility. District reserves the right to assess charges against the City for costs incurred in restoring District facilities to their original state if the City fails to do so.
- J. **Concussion and Head Injury:** The City agrees that all Non-profit youth sports groups through the Recreation Program will verify that all coaches, athletes, and parents/guardians have complied with mandated policies for the management of concussions and head injuries; as amended in RCW 4.24.660 and Chapter 28A.600 RCW. Access to District facilities may not be granted until the City provides the District proof that all requirements regarding the management of concussion and head injuries are completed.
- K. **Damages and Fees:** Fees may be charged for direct costs incurred by the District or as a result of a particular activity, such as when a given use results in nonscheduled labor costs or other direct costs are attributable to a specific use of a facility, or when in the view of the District, a facility was left unkept or damaged. In such case, the City agrees to reimburse the District for the expenses to clean and/or restore the facility to its condition immediately prior to the City’s use. Such reimbursement shall be paid upon written invoice from the District for direct costs that are a consequence of facility use and for fees specified in Attachment A and B or in the District's Facilities Use Agreement, which is attached as Attachment C.
- L. **Direct Costs:** In accordance with generally accepted accounting principles, “Direct Costs” are those costs that are incurred directly as a result of a particular scheduled project, instructional or recreational activity, or any other activity, or that can be directly assigned to such activity.

Section 9. Office Space. The District will designate and allow the City use of facility space in the Robert Miller Gym located on the campus at Daffodil Valley Elementary School for office space to be used by the City’s Recreation Program during the term of this Agreement. Any equipment that is owned by the City, shall remain the property of the City during the term of this Agreement and after termination.

Except for the use of one designated District computer for the purposes of scheduling until web-based access to the EMS is provided, the City shall provide its own computers and technology operating program for the office space. Access to the District's technology network will not be provided except to access the internet for the VPN. The District shall coordinate at its discretion with the Recreation Program regarding the publication of the quarterly recreation brochures.

Section 10. Student Fees. No District enrolled students, regardless of the location of their residence within the District, shall be charged a recreation program fee surcharge.

Section 11. Communications. To ensure effective communication between the City and District, each agency shall provide to one another a list of primary contact persons.

Section 12. Supervision. The City agrees to provide appropriate supervision of participants when utilizing a District facility.

Section 13. Confidentiality. The City acknowledges that certain data, material or information which originates from this Agreement regarding students, may consist of confidential records owned by the District or confidential personally identifiable information subject to the federal Family Educational Rights and Privacy Act or other privacy laws. The City understands that disclosure to or use by third parties may be damaging. The City, therefore, agrees to hold all such material and information in strictest confidence, not to make use thereof other than for the performance of this Agreement, to release it only to authorized employees and agents requiring such information and not release or disclose it to any other party unless such release is otherwise required by law or court order. The City agrees to release such information or material only to employees and agents who have signed a written agreement expressly prohibiting redisclosure consistent with this Section.

Section 14. Background Checks. The City shall conduct criminal background checks, including performing the State Patrol fingerprinting check and Pinnacle as part of the background check in accordance with RCW 43.43.830 through RCW 43.43.834, as now or hereafter amended, on all employees or volunteers who will or may have contact with children or vulnerable adults in the work to be performed under this Agreement. The City shall prohibit any employee, subcontractor, intern or volunteer from performing work under this Agreement who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Failure to comply with this provision shall be grounds for the District immediately terminating the Agreement. The City shall incorporate this requirement into every subcontract it enters relating to services for the Recreation Program.

Section 15. Records, Documentation, and Reports. The City shall maintain complete financial records relating to this Agreement and complete records documenting the services rendered under this Agreement, including all books, records, documents, magnetic media, receipts, invoices, records, and all other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the District's Superintendent and state and federal officials so authorized by law, rule, regulation or

agreement. The City will retain all books, records, documents, and other materials relevant to this Agreement for seven (7) years after the date of final payment by the District's Superintendent or designee, and make them available for inspection by persons authorized under this provision. If any litigation, claim or audit is started before the expiration of the seven (7) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Section 16. Access to Data. The City shall provide access to any data/information generated under this Agreement to the District, the District Superintendent's designee, or any State or Federal Auditor at no additional cost. This includes access to all information that supports this Agreement.

Section 17. Right of Inspection. The City shall provide right of access to its facilities to the District's Superintendent or designee at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement on behalf of the District. All inspections and evaluations shall be performed in such a manner that will not unduly interfere with the City's business or work hereunder.

Section 18. Non - Discrimination. Both parties shall comply with all the federal, state, and local non-discrimination laws, ordinances, regulations and policies, which are otherwise applicable to the District or City. Accordingly, no person shall, on the ground of race, creed, color, religion, national origin, age, sex, marital status, sexual orientation, sexual identity, pregnancy, or the presence of any sensory, mental, or physical disability, be unlawfully excluded from participation in, be denied the benefits of, or be otherwise subjected to illegal discrimination under any activity performed by the Agreement and its agents under this Agreement. Harassment on the basis of any of the foregoing conditions is strictly prohibited. The City shall notify the Superintendent or designee immediately of any allegations, claims, disputes, or challenges made against the Recreation Program under the Americans with Disabilities Act or the Washington state Law against Discrimination. In the event of the City's noncompliance or refusal to comply with this nondiscrimination provision, this Agreement may be rescinded, canceled or terminated in whole or part, and the City may be declared ineligible for further Agreements with the District.

Section 19. Review. The Parties to this Agreement have had the opportunity to review it with their respective legal counsel and execute it knowingly and voluntarily with full knowledge of its contents. It shall not be construed more strictly against one party than the other.

Section 20. Amendments. The Agreement may be amended any time by mutual written agreement of both Parties.

Section 21. Governing Law. The laws of the state of Washington shall govern this Agreement. Pierce County, Washington shall be the venue for any litigation arising out of this Agreement.

Section 22. Termination Due to Funding Limitations. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, the District's Superintendent or designee may, without advance notice and without liability for damages, terminate the Agreement under any such new funding limitations and conditions. In addition, the City may terminate this Agreement if the Recreation Program is not funded by the City. In such circumstances, the District's obligation under this Agreement to provide funds for the Recreation Program under this Agreement will also terminate and a pro rata refund will be provided by the City to the District.

Section 23. Termination for Default. Either Party may terminate this Agreement for default, in whole or in part, by written notice to the other Party if that Party has a reasonable basis to believe that the other Party has:

- a. Failed to ensure the health or safety of any person for whom services are being provided for in the Recreation Program;
- b. Failed to perform under, or otherwise breached, any term or condition of this Agreement; and/or
- c. Violated any applicable law or regulation.

In such an event, the Agreement may be terminated upon thirty (30) days' notice to the other Party and a pro rata refund will be provided by the City to the District.

Section 24. Force Majeure. Either Party has the right to terminate this Agreement if a Force Majeure event suspends performance of the Agreement for a period of forty-five (45) days or more.

Section 25. Indemnification. The City agrees to protect, indemnify, and hold harmless the District, its elected and appointed officials, directors, representatives, employees, agents, staff, contractors, subcontractors, vendors, and volunteers from any and all any and all costs, liabilities, suits, losses, damages, injuries, death, claims, expenses, or right of action, penalties or charges, including, without limitation, reasonable attorneys' fees, court costs, and disbursements, directly or indirectly attributable to the City's performance, activities and/or use of District facilities and/or premises/property in connection with this Agreement, except for sole negligence of the District.

The District shall indemnify, defend and hold the City and its officers, directors, agents, employees, representatives, vendors, subcontractors and contractors harmless from and against any and all costs, liabilities, suits, losses, damages, injuries, claims, expenses, penalties or charges, including, without limitation, reasonable attorneys' fees, court costs, and disbursements, that the City may incur by reason of: (i) any accidents, damages or injuries to persons or property occurring during the Term of this Agreement, but only to the extent the same are caused by any negligence of the District in its performance of this Agreement. The provisions of this section (Indemnification) shall survive the expiration or earlier termination of this Agreement.

Section 26. Insurance. The City shall at all times during the term of this Agreement, at its cost and expense, carry and maintain general public liability insurance against claims for bodily injury, personal injury, death, or property damage occurring or arising out of services provided by the Recreation Program. This insurance shall cover such claims as may be caused by any act, omission or negligence of the City or its officers, agents, representatives, assigns or servants. The limits of liability insurance shall cover such claims as may be caused by any act, omission, or negligence of the City or its officers, agents, representatives, assigns or servants. The limits of liability insurance shall not be less than \$1,000,000 for each occurrence.

Section 26. Independent Capacity. The City and its employees or agents performing under this Agreement are not employees or agents of the District. The City will not hold itself out as, nor claim to be, an officer or employee of the District by reason hereof, nor will the City make any claim of right,

privilege, or benefit which would accrue to such employee under law. Likewise, the District and its employees or agents performing under this Agreement are not employees or agents of the City. The District will not hold itself out as, nor claim to be, an officer or employee of the City by reason hereof, nor will the District make any claim of right, privilege, or benefit which would accrue to such employee under law.

Section 27. Alterations and Amendments. This Agreement may be amended only by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

Section 28. Assignment. Neither the District nor the City shall assign this Agreement, either in whole or in part, without the prior written consent of the other party, which shall not be unreasonably withheld. Any assignment permitted under this clause does not relieve either Party from its duties or obligations under this Agreement.

Section 29. Disputes. Any factual disputes between the City and the District that relates to this Agreement shall be referred for resolution to the Mayor, or the Mayor's designee, and the Superintendent of the District, or the Superintendent's designee. In the event the dispute cannot be resolved between the Parties to each Party's mutual satisfaction, the issue shall be submitted to mediation through the Pierce County Dispute Resolution Center. Both Parties agree to utilize this process prior to the institution of any legal action to enforce the terms and conditions of this Agreement. The cost of mediation shall be borne equally by the Parties.

Section 30. Headings and Captions. The headings and captions used in this Agreement are for convenience only. They are not part of the Agreement and do not define, limit or describe the scope of intent of the paragraphs of this Agreement.

Section 31. Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

Section 32. Assignment. Neither the District nor the City shall assign this Agreement, either in whole or in part, without the prior written consent of the other Party, which shall not be unreasonably withheld. Any assignment permitted under this clause does not relieve either Party from its duties or obligations under this Agreement. No other entity in conjunction with the City may use the District's facilities without the expressed written permission from the District.

Section 33. Entire Agreement. The written provisions and terms of this Agreement shall supersede all prior verbal statements of any officer or other representative of the parties, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement. The entire agreement between the Parties with respect to the subject matter hereunder is contained in the Agreement.

Section 34. Effective date. This Agreement shall be effective as of September 1, 2023, and expires on August 31, 2024.

IN WITNESS WHEREOF, the undersigned have executed this Agreement this _____ day of _____, 2023.

City of Bonney Lake

Sumner-Bonney Lake School District

Michael McCullough, Mayor

DocuSigned by:
Laurie Dent

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Dr. Laurie Dent, Superintendent

ATTEST:

Sadie Schaneman, CMC, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Jennifer S. Robertson, City Attorney
City of Bonney Lake

DocuSigned by:
Marion Leach

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Marion Leach, General Counsel
Sumner-Bonney Lake School District