

SUPPLEMENTAL AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND THE BEVERLY HILLS UNIFIED SCHOOL DISTRICT FOR THE PROVISION,
USE AND MAINTENANCE OF ADDITIONAL EDUCATIONAL, RECREATIONAL
AND COMMUNITY FACILITIES AND PROGRAMS AND AMENDING PREVIOUS
AGREEMENTS BETWEEN THE PARTIES

This Supplemental Agreement (the "Supplemental Agreement") is made and entered into this 19th day of February, 2013, (the "Approval Date") by and between the City of Beverly Hills, a municipal corporation, hereinafter referred to as the "City," and the Beverly Hills Unified School District, a regularly organized and existing school district under the laws of the State of California, hereinafter referred to as the "District."

RECITALS

A. Pursuant to the provisions of Title 1, Division 1, Part 7, Chapter 10 of the California Education Code (commencing with section 10900), Title 1, Division 7, Chapter 5, Article 1 of the California Government Code (commencing with section 6500), and section 37110.5 of the California Government Code, the City and the District are authorized to enter into an agreement providing for educational, recreational, and community facilities and programs.

B. The District currently provides facilities and programs to the City pursuant to an agreement between the parties dated January 10, 2012 (the "2012 Agreement").

C. Prior to the 2012 Agreement, the parties approved an amendment to a 2008 agreement in order to segregate and designate certain funds to be used solely for the purpose of maintaining and repairing the artificial turf installed at District schools and used by the City pursuant to the 2008 agreement (the "Artificial Turf Fund"). That amendment is dated April 12, 2011 (the "2011 Amendment") and certain of its provisions survived the expiration of the 2008 agreement and the 2011 Amendment. The Artificial Turf Fund currently contains approximately \$1.2 million.

D. On April 9, 2008, the Beverly Hills City Council approved a mixed-use project on the former Robinsons-May department store site located at 9900 Wilshire Boulevard in Beverly Hills ("9900 Wilshire Project"). Pursuant to the development agreement approved in conjunction with the 9900 Wilshire Project, the developer is obligated to make a one-time payment to the District of one million dollars upon issuance of a building permit for the Project (the "Restricted Funds"). The 2012 Agreement requires the District to use the Restricted Funds to make capital improvements to the swim gym at Beverly Hills High School, to make capital improvements, or to construct indoor recreation facilities that will be available for use by the City pursuant to the 2012 Agreement.

E. The District is willing to provide to the City additional facilities and programs that allow the City to provide its residents with a level and breadth of services that it would not otherwise be able to provide.

F. The provision of the additional facilities and programs will result in a greater utilization of the District's facilities and the generation of revenue for the maintenance of the District's educational programs.

G. It is in the public interest that the City and the District enter into this Supplemental Agreement in order to maximize the use of the District's facilities and programs for the promotion of the general public welfare.

DEFINITIONS

Capitalized terms used but not otherwise defined in this Supplemental Agreement shall have the meanings assigned to such terms in the 2011 Amendment and 2012 Agreement.

AGREEMENT

Section 1. Term. The term of this Supplemental Agreement shall be from March 1, 2012 to and including June 30, 2016, which is the expiration date of the 2012 Agreement.

Section 2. District Obligations.

A. *Professional Development for Preschool Teachers.* During the term of this Supplemental Agreement, the District shall provide professional development to preschool teachers employed by the City. The professional development shall be coordinated by the District's Chief Academic Officer and shall include, without limitation, professional development that will specifically aid the preschool teachers to prepare students to enter the District's elementary schools.

B. *Accommodate Displaced Uses during Roxbury Community Center Reconstruction.* The City anticipates that it will reconstruct the Roxbury Park Community Center during the term of this Supplemental Agreement. During the reconstruction, uses at the Roxbury Park Community Center, including senior programs, will be displaced. The District shall make facilities available to accommodate a portion of the displaced uses during the reconstruction period, including making facilities such as meeting rooms at the District Office Complex on Lasky Drive available for senior programs during working hours on Monday through Friday, excluding State of Federal Holidays.

C. *Extended Hours for use of Outdoor Facilities.* Section 2.E of the 2012 Agreement provides that the District shall make Outdoor Facilities, as defined in the 2012 Agreement, available to the community on weekends between the hours of 8:00 a.m. and 5:00 p.m. During the term of this Supplemental Agreement, the District shall extend the closing time of the Outdoor Facilities to 6:00 p.m. from May 1 to October 1 of each year. All other terms of Section 2.E of the 2012 Agreement shall remain unchanged.

D. *Community Use of Outdoor Facilities and District Facilities during Spring and Winter Recess.* Notwithstanding the provisions of Section 4.B of the 2012 Agreement, during the Spring and Winter Recesses, the District shall make the Outdoor Facilities available

to the community on weekdays other than State or Federal Holidays on the terms and conditions set forth in Section 2.E of the 2012 Agreement. Additionally, during the Spring and Winter Recesses, the District shall make available non-classroom indoor District Facilities, such as cafeteria space, multipurpose rooms or auditoriums, so that the City may utilize some indoor space while providing City Recreation Programs to students who are not attending school during these recesses. Notwithstanding the above, the City assumes responsibility for assuring that the indoor facilities and any materials or equipment located in those facilities are properly protected from harm and are not displaced or damaged during use of the indoor facilities.

E. *Expansion of Library Use.* In addition to the provisions of Section 2.C of the 2012 Agreement, the District shall allow the City to conduct classes and similar after school programs ("Classes") at the library facilities at each of the four elementary schools. Classes may be conducted only during the school year, as adopted by the District Board of Education. The District shall make the library facilities at each elementary school available for no less than two hours per week after the hours of instruction have ended for the school day. The days and hours that facilities shall be available will be agreed upon by the District Superintendent and the City Manager in writing prior to the beginning of each school year. The District shall not be obligated to keep any of its libraries open during weekends, school vacations, holidays or other days that students do not attend school. The District shall not be obligated to supervise the library during hours that Classes are conducted. However, the District shall ensure that access to the libraries is provided. Notwithstanding the above, the City assumes responsibility for assuring that the library facilities and their collections are properly protected from harm and are not displaced or damaged during such Classes.

F. *Parking Facilities.* During those hours when parking facilities owned by the District are not in use for District purposes, the District shall make available to the City for special event valet parking all parking facilities owned by the District. Notwithstanding the above, the City assumes all responsibility for all vehicles parked by the City or its agent or contractor in the course of this use of the Parking Facilities.

G. *KBEV.* The District shall program on the District's cable television station public service announcements provided by the City concerning emergency preparedness. Each public service announcement provided by the City shall be broadcast at least once per day on at least five days per week, provided however, that the District need not broadcast more than thirty minutes of public service announcements provided by the City in any one day.

H. *Use of Proceeds.* The District shall use the funds paid pursuant to this Supplemental Agreement to maintain some or all of those programs set forth in Exhibit A during the 2013-2014 and 2014-15 fiscal years.

Section 3. City Obligations.

In consideration for the City's use and the District's provision of the facilities and programs set forth in this Supplemental Agreement, the City shall provide to the District the following compensation:

A. The City shall pay the District one million two hundred fifty thousand dollars (\$1,250,000) no later than May 1, 2013.

B. The City shall pay the District an additional one million dollars (\$1,000,000) upon execution of an assignment agreement, satisfactory in form and content to the City Attorney, assigning to the City the rights to the Restricted Funds. Concurrently with the execution of the assignment agreement, the District and the City shall be relieved of any and all

obligations set forth in Section 10 of the 2012 Agreement setting forth permissible uses of the Restricted Funds.

Section 4. Release of Artificial Turf Fund.

A. Notwithstanding any provision of the 2011 Amendment, the District may, at any time after execution of this Supplemental Agreement, withdraw \$600,000 from the Artificial Turf Fund to be used for the purposes set forth in Exhibit A of this Supplemental Agreement. The City shall execute such documents as are necessary to allow such withdrawal.

B. Notwithstanding any provision of the 2011 Amendment, and in addition to the withdrawal of funds from the Artificial Turf Fund as provided in Section 4.A hereof, the District may withdraw up to \$600,000 from the Artificial Turf Fund to be used for the purposes set forth in Exhibit A of this Supplemental Agreement. Withdrawals pursuant to this paragraph B shall only be made in a matching amount to unrestricted donations made to the District or the Beverly Hills Education Foundation ("BHEF") or donations made to the District or BHEF for the purpose of preserving current educational programs; provided, however, that such matching amount shall not exceed \$600,000. Upon the presentation of evidence to the City Manager of the receipt of qualifying donations, the City shall execute such documents as necessary to allow the District to withdraw the matching funds.

C. The District acknowledges that the release of the Artificial Turf Funds does not release the District from its obligation under Section 6 of the 2012 Agreement to maintain its artificial turf fields in a good, clean, safe and working condition. Therefore, the District agrees to use bond proceeds or other restricted funds for the purpose of maintaining and replacing, as necessary, the current artificial turf fields. The obligations set forth in this paragraph C shall survive the expiration or earlier termination of this Supplemental Agreement, but shall not require the District to replace the current artificial turf fields more than one time.

Section 5. Operation of City Programs. The responsibilities of the parties in connection with the City's operation of programs, and the District's maintenance of its facilities pursuant to this Supplemental Agreement shall be governed by the provisions of Sections 4, 5 and 6 of the 2012 Agreement.

Section 6. Compliance Review. All reviews conducted pursuant to Section 7 of the 2012 Agreement shall include review of the parties' obligations pursuant to this Supplemental Agreement.

Section 7. Accountability and Audit.

A. It is in the best interest of the public if the benefits of this Supplemental Agreement are well understood. The parties agree that the District shall include and clearly acknowledge in its annual budget the payments made to the District under this Supplemental Agreement as a separate line item in that budget.

B. The District shall maintain records of accounts maintained by the District for the receipt and disbursement of any funds received in connection with this Supplemental Agreement according to generally accepted government accounting principles, which records shall be available to the City for audit. The District shall allow a representative of the City to examine, audit and make transcripts or copies of such records during regular business hours

upon notice to the District by the City. The District shall provide the City with its full cooperation in any audit or request for examination of records.

Section 8. Breach, Default and Remedies.

A. The rights, remedies, and obligations of the parties in connection with any breach or default related to the provisions of this Supplemental Agreement shall be governed by the provisions of Section 9 of the 2012 Agreement.

B. Any breach of a provision of this Supplemental Agreement that is capable of cure and not cured within the allotted times set forth in Section 9 of the 2012 Agreement shall be considered a default of both this Supplemental Agreement and the 2012 Agreement.

Section 9. Source of Funds. Expenditures by the City under this Supplemental Agreement shall be appropriated from monies in the City's General Fund, provided that no funds shall be expended which are derived from property taxes. Further, no funds expended under this Supplemental Agreement shall be derived from assessments based on the value of property within the City or from any monies appropriated by the State of California.

Section 10. Notice. Any notice required by this Supplemental Agreement shall be served upon the party personally or by overnight courier service during regular business hours and shall be deemed received on the day of delivery. Notices to the City shall be addressed to City Manager, City of Beverly Hills, 455 North Rexford Drive, Fourth Floor, Beverly Hills, California 90210. Notices to the District shall be addressed to Schools Superintendent, Beverly Hills Unified School District, 255 South Lasky Drive, Beverly Hills, California 90212.

Section 11. Loss of Use of District Facilities. If any of the District's facilities shall be so damaged by fire, casualty or other cause or happening as to be rendered unusable, or if any authority having jurisdiction shall order the demolition or removal of any District facilities, then as to those facilities, this Supplemental Agreement shall cease and become null and void. The District shall have no obligation to restore said facilities or put them in proper condition for use and occupancy.

Section 12. Amendments to Agreement. Any amendments, modifications or variations from the terms of this Supplemental Agreement shall be in writing and shall be effective only upon approval of such amendment, modification or variation by the Council of the City and the Board of Education of the District.

Section 13. Co-Administrators. The City Manager, or the City Manager's designee, and the District's Superintendent or the Superintendent's designee, are hereby designated as the co-administrators of this Supplemental Agreement subject to the rights and obligations set forth herein and subject to the direction of their respective governing agencies.

Section 14. Reimbursement of Funds. In the event a court of competent jurisdiction holds that any money paid to the District under this Supplemental Agreement has been expended by the City without proper authority and the court holds either that the money must be refunded to the City by the District and/or individual members of the City Council are personally

liable to the City for any such expenditures, the District shall reimburse the City and/or individual members of the City Council for any such payments up to the amount specified in the judgment, but not to exceed the total payments already made by the City under this Supplemental Agreement. This section shall survive the expiration or earlier termination of this Supplemental Agreement.

Section 15. Indemnification.

A. It is understood and agreed that, pursuant to Government Code Section 895.4, the District agrees to indemnify, defend and hold harmless the City, City Council and each member thereof, and every officer, employee and agent of City, from all claims, suits or actions of every name, kind and description, including attorney fees and costs, brought for or on account of injury (as defined in Government Code Section 810.8) arising from the acts or omissions of District in connection with its obligations and performance under this Supplemental Agreement, including any and all injuries arising from a third party's use, whether active or passive, of the artificial turf at the District's Beverly Hills High School, El Rodeo School, Hawthorne School, Beverly Vista School, and Horace Mann School, and any and all injuries arising from its installation, removal and/or maintenance, or lack thereof.

B. It is understood and agreed that, pursuant to Government Code Section 895.4, the City agrees to indemnify, defend and hold harmless the District, the Board and each member thereof, and every officer, employee and agent of Board, from all claims, suits or actions of every name, kind and description, including attorney fees and costs, brought for or on account of injury (as defined in Government Code Section 810.8) arising from the acts or omissions of City in connection with its obligations and performance under this Supplemental Agreement.

C. This Section 15 shall survive the expiration or earlier termination of this Supplemental Agreement.

Section 16. Severability Clause. If any provision of this Supplemental Agreement or the application thereof to any person or circumstance is held invalid, only those invalid provisions shall cease and become null and void. Should the exclusion of those provisions render the Supplemental Agreement contrary to the intent of the parties, the City and the District shall use their best efforts to restructure the Supplemental Agreement consistent with the original intent of the parties. If the City and the District are unable to agree after utilizing their best efforts, this Supplemental Agreement shall become null and void upon thirty (30) days written notice, and at the election of, either party hereto.

Section 17. Compliance with Law. In performing its obligations under this Supplemental Agreement, each party shall undertake its respective activities in compliance with all applicable local, state and federal laws.

Section 18. Interpretation of Agreement. The terms of this Supplemental Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Supplemental

Agreement or any other rule of construction which might otherwise apply. The section headings are for purposes of convenience only.

Section 19. Entire Agreement. This Supplemental Agreement represents the entire integrated agreement between City and District, and supersedes all prior negotiations, representations or agreements, either written or oral. This Supplemental Agreement may be amended only by a written instrument signed by both City and District.

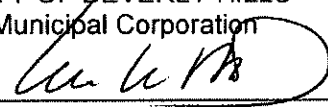
Section 20. Governing Law. The interpretation and implementation of this Supplemental Agreement shall be governed by the domestic law of the State of California.

Section 21. Attorney Fees. In the event that City or District commences any legal action or proceeding to enforce or interpret the provisions of this Supplemental Agreement, the prevailing party shall be entitled to recover its costs of suit, including reasonable attorney's fees.

Section 22. Survival of 2011 Amendment and 2012 Agreement. Except as specifically amended by this Supplemental Agreement, the provisions of the 2011 Amendment that survived the expiration of such agreement and the 2012 Agreement remain in full force and effect.

Executed on February 19, 2013 at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation



William W. Brien, M.D.
Mayor of the City of
Beverly Hills, California

ATTEST:



BYRON POPE
City Clerk

(SEAL)

Executed on February 26, 2013 at Beverly Hills, California.

BEVERLY HILLS UNIFIED SCHOOL
DISTRICT



JACOB MANASTER
President, Board of Education



GARY WOODS
Superintendent, Board of Education

EXHIBIT A

The District shall maintain 6th Grade as part of the middle school program assigning students to a multiple period day taught by multiple single-subject credentialed teachers

The District shall maintain a seven period schedule for 6th, 7th and 8th grades

The District shall continue to assign students to classes of discrete grade levels in grades K-5

The District shall maintain current Special Education Instructional Assistant Staffing levels

The District shall maintain at least one music teacher for 6th through 8th grades at each elementary school site

The District shall maintain five Senior Groundskeepers

The District shall maintain French language as an elective option at the middle school level

The District shall maintain current levels of special education teaching staff

The District shall maintain current levels of funding for services to support visual and performing arts, including, without limitation, accompanists, instrument repairs, specialized coaches and educational enrichment programs

The District shall maintain at least one Library Technician at each school site

The District shall maintain funding to provide for teachers on special assignment to perform services as Dean of Students and ASB Advisor

The District shall maintain the current staffing level for school psychologists

The District shall maintain current funding to support laboratory experiences for Advanced Placement classes

The District shall maintain funding to allow counselors to close out the prior school year and prepare for the upcoming school year during seven days of the summer recess

The District shall maintain at least one 35 hour per week Health Assistant at each school site

The District shall maintain the 212 working day schedule for K-8 Principals

The District shall maintain the 207 working day schedule for K-8 Assistant Principals