



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute the Master Joint Use Agreement for Open Space with the Milpitas Unified School District
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/21/2021
Staff Contact:	Renee Lorentzen, 408-586-3409
Recommendation:	Approve and Authorize the City Manager to Execute the Master Open Space Joint Use Agreement with the Milpitas Unified School District

Background:

The City of Milpitas and the Milpitas Unified School District (MUSD) have a long-established history beginning in 1988 of agreed joint mutual use of each agency's open space, including but not limited to fields, parks, and courts. This type of partnership maximizes available outdoor spaces in benefit of Milpitas residents through the provision of quality outdoor learning, sports, recreation, physical education, and event spaces. Over the last 33 years, several iterations of joint use agreements have been implemented, adding and removing certain properties due to the addition of new public open spaces, new schools, changing community interests, and evolving programming and/or curriculum. The most recent joint use agreement for general open space was approved in 2015. Special area joint use agreements for the Russell Bobbysox fields and the McCandless Park/Mattos School were approved in 2010 and 2021 respectively.

In 2020, the MUSD requested an amendment to the Russell Bobby Sox Fields Joint Use Agreement, in anticipation for Bond Project work at the athletic fields at Russell Middle School. The planned renovation of the Russell Middle School site would result in the renovation of the field grounds which currently includes four (4) softball fields, a track, a multi-use field, and two (2) regulation softball fields, and the demolition of the snack shack. Project construction at the school site is starting in late June 2021.

At the August 4, 2020 City Council meeting, Council directed staff to find an alternative location for girls softball programs in Milpitas so that they could consider an amendment to the joint use agreement knowing an alternative location was identified. At the February 11, 2021 City Council meeting, City Council adopted the 2022-2026 Capital Improvement Program Plan which includes a new project for Softball Fields at Cardoza Park; however, a funding source still needs to be identified for this project with an estimated cost of \$5 million. Therefore, in the interim, the girls' softball program will continue at Dixon Landing Park.

Analysis:

In response to the Council direction received on August 4, 2020 and the extended amount of time since the last general open space joint use agreement was reviewed and approved, representatives from the City of Milpitas and MUSD began meeting in spring of 2021 to discuss the Master Joint Use Agreement (JUA) for Open Space. The purpose of this JUA is to memorialize the mutual use of each agency's open space, including but not limited to fields, parks, and courts. This type of partnership maximizes available outdoor spaces in benefit of Milpitas residents through the provision of quality outdoor learning, sports, recreation, physical education, and event spaces. There are over 277 acres and 48 open space City and District properties included in the Open Space JUA.

The agreement terms reflect the current practice for use of each agency's open space. It is structured to provide general terms of access including coordination and scheduling to each agency's properties, with supporting exhibits for properties, as applicable, noting special uses outside of the Open Space JUA's general terms.

Agreement Term

The term of the agreement is approximately ten (10) years starting on the date of full execution until December 31, 2031. The JUA would continue from year to year unless terminated earlier by one or both of the agencies. Subject to the dispute resolution procedures outlined in the agreement, either party could terminate the agreement if 1) there was a breach in the agreement, and the alleged breaching agency could not fix the issue within ten (10) days, or 2) if unforeseen circumstances such as unfavorable financial conditions, unforeseen loss of revenue or funding, or an unforeseen need for the exclusive use of a facility or site. Termination for unforeseen circumstances requires a one (1) year written notice to the other party.

Access and Mutual Use

Per the agreement's general terms, each agency retains the priority use of their own properties. The MUSD would have use of City open space properties outside of any scheduled City programmed use or recreation programs, City staff classes, activities, exercises or functions, or previously permitted use by private parties or other agencies. The City would have use of MUSD open space when such use does not conflict with the MUSD's use, such as any time when school is not in session, which is typically the months of mid- August through early June after 4:00 PM for elementary schools and 6:30 PM for middle and high schools (including Summer School, which varies in location and hours depending on District student needs), on weekends, and after any scheduled MUSD special program use, or previously permitted use by private parties or other agencies.

Exhibits

For JUA properties that currently have special mutual uses, separate exhibits describe terms outside of the general agreement terms. These locations and their existing special uses are summarized below:

City Properties:

Cardoza Park Softball Field

- Captures existing Calaveras Hills Highschool use of Cardoza Park Softball field for school team sports and other student sports activities

Gill Park Softball Field

- Captures existing Calaveras Hills Highschool use of Gill Park Softball field for school team sports and other student sports activities
- Identified SFPUC Easement

Milpitas Sports Center Turf Fields

- Captures Calaveras Hills Highschool use of Milpitas Sports Center fields field for school team sports and other student sports activities
- Allows for after hours use of the fields for the annual Calaveras Hills Highschool Graduation ceremony, free of use fees

MUSD Properties:

Cesar Chavez Community Garden

- Captures existing Community Garden infrastructure as installed by the City
- Defines garden access hours and trail access hours
- Defines responsibility of City maintenance, and improvements to garden, trail and paved access roads, metered electric and utilities for field lighting and irrigation
- Identifies three (3) garden plots for Weller Elementary and Sunnyside Preschool outdoor learning
- Identifies SFPUC Easement

Curtner Elementary School Field

- Captures existing youth soccer field use and City installed lighting and water utility infrastructure
- Defines maintenance on MUSD property by City
- Defines cost share through City maintenance, metered electric and utilities for field lighting and irrigation
- Identifies PG&E Easement

Rancho Middle School Trail Access Path

- Captures City improvement of a Trail access path on the property
- Defines public access hours to trail access path
- Defines maintenance and improvements of trail access path on MUSD property by City

Russell Middle School Softball Fields

- Captures MUSD-led changes to the existing JUA area
- Approves the demolition of the existing snack shack (City property) to allow for the new field renovations
- Commits City and MUSD staff to meet annually in 2022 and 2023 to monitor needed softball program field access and subsequently any future cost sharing discussions for the maintenance and utilities costs resulting from significant softball program use.

Other significant terms in the Open Space JUA's include the days and hours of use, ancillary fees, existing 3rd party easements on JUA properties (i.e. SFPUC), maintenance and repairs, site improvements, insurance, and agreement terminations and related notifications.

Next Steps:

Following the approval of the Open Space JUA, City and MUSD staff will continue discussions to incorporate the responsibility for maintenance and repair of existing pathways along parks and schools as a future amendment to the recommended Open Space JUA. Additionally, both agencies will convene to develop a Master Indoor Facilities JUA which will be brought back to City Council for approval by the end of the calendar year.

Fiscal Impact:

The Master JUA reflects the current relationship between the City and MUSD including responsibility for maintenance and operating costs for use of each other's open space facilities. Therefore, there is no fiscal impact associated with the approval of the Master Joint Use Agreement for Open Space with the Milpitas Unified School District.

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this Agreement merely memorializes the existing arrangement between the parties. Further, this agreement does not allow for any new development but will allow for routine maintenance and repair of existing facilities which is exempt from CEQA pursuant to CEQA Guideline 15301.

Recommendation:

Approve and Authorize the City Manager to Execute the Master Joint Use Agreement for Open Space with the Milpitas Unified School District.

Attachments:

Draft Master Joint Use Agreement for Open Space