

**AMENDMENT NO. 1 TO  
JOINT USE AGREEMENT BETWEEN  
MILPITAS UNIFIED SCHOOL DISTRICT AND  
CITY OF MILPITAS**

This Amendment No. 1 to Joint Use Agreement (“Amendment No. 1”) is entered into between the Milpitas Unified School District, a public school district organized and existing under the laws of the State of California (“District”), and the City of Milpitas, a municipal corporation of the State of California (hereinafter “CITY”) as of the date of the last signature set forth below (the “Effective Date”). The District and City may be referred to individually as a “Party” and collectively as the “Parties.”

The District and City hereby agree as follows:

1. The Joint Use Agreement entered into between the Parties dated July 1, 2016 (“Agreement”), which relates to the premises located at the corner of McCandless Drive and Penitencia Creek East Channel, Milpitas, CA is hereby amended as follows:

- a. Sections 1.3 and 1.4 are hereby removed and replaced with the following:

1.3 Parking Area. The marked parking spaces along the western border of the McCandless Property (“**West Parking Lot**” or “**Parking**”) consisting of 1.17 acres, as designated on Exhibit B.

1.4 Inclusive Playground. The marked circular area to the west of the Field depicted on Exhibit B, and located on District Property (“**Playground**”).

- b. New Sections 1.5 and 1.6 are hereby added as follows:

1.5 Butterfly Gardens. Landscaping around the North of the Playground, depicted on Exhibit B, and located on District Property (“**Gardens**”).

1.6 Access to Joint Use Property. Each Party shall have access to the Joint Use Property according to the terms and conditions of this Joint Use Agreement. The Field, Basketball Courts, West Parking Lot, Inclusive Playground and Butterfly Gardens may be referred to individually as the Field, Basketball Courts, Parking, Playground or Gardens, or collectively as the “**Joint Use Property**,” as depicted in its entirety on Exhibit B.

- c. Section 5.1.3 is hereby removed and replaced with the following:

5.1.3 Parking. The West Parking Lot shall be available for use by both the District and City at all times, with the exception of 20 parking stalls next to the Student Loading Zone which will be restricted to 15 minute parking, Monday – Friday until 9:00 A.M.

d. A new Section 5.1.4 is hereby added as follows:

5.1.4 Playground. District and City shall have use of the Playground for community use at all times.

e. Section 5.2.3 is hereby removed and replaced with the following:

5.2.3 Parking. The West Parking Lot shall be available for use by both City and District at all times, with the exception of 20 parking stalls next to the Student Loading Zone which will be restricted to 15 minute parking, Monday – Friday until 9:00 A.M.

f. A new Section 5.2.4 is hereby added as follows:

5.2.4 Playground. City and District shall have use of the Playground for community use at all times.

g. Sections 7.1 and 7.1.1 are hereby removed and replaced with the following:

7.1 Operations Committee. City and District shall each designate an equal number of representatives to meet as an operations committee ("**Operations Committee**") to establish a written schedule for District and City exclusive and special event use of the Joint Use Property ("**Joint Use Schedule**"), coordinate the preparation and execution of a mutually satisfactory Operations and Maintenance Agreement (defined in Section 9.1), establish an annual maintenance schedule to be included in the Operating Agreement (defined in Section 7.3), and discuss any issue related to the Joint Use Property.

7.1.1 Meetings. The Operations Committee shall meet every three years (at a minimum), prior to the beginning of the school year and more often as needed.

h. Section 9.1 is hereby removed and replaced with the following:

9.1 Operations and Maintenance Agreement. The Operations Committee shall coordinate the preparation and execution of a mutually satisfactory agreement for the maintenance of the Joint Use Property ("**Operations and Maintenance Agreement**"). The Operations and Maintenance Agreement shall define each Party's maintenance obligations for the Field, Basketball Courts, Inclusive Playground, Butterfly Gardens, and Parking, and shall provide that the costs of such maintenance shall be equally split between the Parties, except when such costs are otherwise allocated in this Joint Use Agreement.

i. Section 11.5 is hereby removed and replaced with the following:

11.5 Notices. Any notice required or permitted under this Joint Use Agreement shall be in

writing, delivered to the Party at the address set forth below, and shall be deemed effectively delivered upon (i) personal delivery or electronic delivery, (ii) one day after deposit for overnight delivery by Federal Express or a comparable national express courier, (iii) two days after deposit in the United States mail, by first-class mail, postage prepaid, or (iv) receipt via facsimile or electronic mail. A Party may designate another address for notice purposes upon written notice pursuant to the provisions of this paragraph. The Parties shall provide each other after-hours emergency contact phone numbers of appropriate supervisory staff, which shall be periodically updated.

#### DISTRICT

Milpitas Unified School District  
Attn: Superintendent  
1331 East Calaveras Blvd.  
Milpitas, CA 95035  
Phone: (408) 635-2600  
Fax: (408) 635-2616  
Email: [cjordan@musd.org](mailto:cjordan@musd.org)

#### CITY

City of Milpitas  
Attn: City Manager  
455 East Calaveras Blvd., 3rd Floor  
Milpitas, CA 95035  
Phone: (408) 586-3050  
Email: [smcharris@ci.milpitas.ca.gov](mailto:smcharris@ci.milpitas.ca.gov)

With a copy to:

City of Milpitas  
Attn: City Attorney  
455 East Calaveras Blvd.  
Milpitas, CA 95035  
Phone: (408) 586-3040  
Email: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov)

- j. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

**[Signatures on following pages]**

**Signature Page**  
**for**

**AMENDMENT NO.1 TO JOINT USE AGREEMENT**

IN WITNESS WHEREOF, this Joint Use Agreement is executed by the City of Milpitas, acting by and through its City Council that has authorized the City Manager to execute, and by the Milpitas Unified School District, acting by and through its Board of Education that has authorized the superintendent or his designee to execute.

CITY OF MILPITAS

MILPITAS UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: CITY ATTORNEY

Date: \_\_\_\_\_

**EXHIBIT A-1**  
**DISTRICT PROPERTY (ELEMENTARY SCHOOL)**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL 2 AND A PORTION OF PARCEL 3, AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP OF "MC CANDLESS TECHNOLOGY", FILED FOR RECORD ON DECEMBER 5, 1984, IN BOOK 536 OF MAPS AT PAGES 41-43, SANTA CLARA COUNTY RECORDS, TOGETHER WITH A PORTION OF HOURET DRIVE AS SAID PORTION IS SHOWN AND DEDICATED ON SAID PARCEL MAP OF "MC CANDLESS TECHNOLOGY", BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 2;

THENCE ALONG THE GENERAL EASTERLY LINES OF PARCEL 2 AND 3, THE FOLLOWING SEVEN (7) COURSES:

- 1.) NORTH 0°08'26" EAST, 546.62 FEET;
- 2.) NORTH 68°44'33" WEST, 26.61 FEET THE BEGINNING OF A TANGENT CURVE TO THE LEFT;
- 3.) ALONG SAID CURVE HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 35°05'48", AN ARC LENGTH OF 12.25 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 13°50'22" EAST;
- 4.) ALONG SAID CURVE HAVING A RADIUS OF 46.00 FEET, THROUGH A CENTRAL ANGLE OF 250°11'37", AN ARC LENGTH OF 200.87 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 56°21'15" WEST;
- 5.) ALONG SAID CURVE HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 35°05'48", AN ARC LENGTH OF 12.25 FEET;
- 6.) SOUTH 68°44'33" EAST, 0.35 FEET;
- 7.) NORTH 0°08'26" EAST, 53.88 FEET;

THENCE LEAVING THE EAST LINE OF SAID PARCEL 3, NORTH 89°51'34" WEST, 544.46 FEET TO THE WEST LINE OF SAID PARCEL 3 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 81°35'01" WEST;

THENCE SOUTHEASTERLY ALONG THE WESTERLY LINES OF SAID PARCEL 3 AND 2, THE FOLLOWING THREE (3) COURSES:

- 1) ALONG SAID CURVE HAVING A RADIUS OF 1,762.00 FEET, THROUGH A CENTRAL ANGLE OF 17°12'47", AN ARC LENGTH OF 529.35 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 64°22'14" WEST;
- 2) ALONG SAID CURVE HAVING A RADIUS OF 682.00 FEET, THROUGH A CENTRAL ANGLE OF 11°38'05", AN ARC LENGTH OF 138.49 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 52°44'09" WEST;
- 3) ALONG SAID CURVE HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 10°03'25", AN ARC LENGTH OF 70.21 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 2;

THENCE ALONG THE SOUTH LINE OF SAID PARCEL 2, SOUTH 89°51'34" EAST, 269.11 FEET TO THE POINT OF BEGINNING.

**CONTAINING 291,853 SQUARE FEET OR 6.70 ACRES, MORE OR LESS.**

**EXHIBIT A-2**  
**LEGAL DESCRIPTION OF CITY PROPERTY**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 3, AS SAID PARCEL IS SHOWN ON THE PARCEL MAP OF "MC CANDLESS TECHNOLOGY", FILED FOR RECORD ON DECEMBER 5, 1984, IN BOOK 536 OF MAPS AT PAGES 41-43, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 3, SOUTH 83°45'38" EAST, 573.71 FEET TO THE NORTHEAST CORNER THERETO;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3, SOUTH 0°08'26" WEST, 295.38 FEET;

THENCE LEAVING SAID EASTERLY LINE, NORTH 89°51'34" WEST, 544.46 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL 3 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 81°35'01" WEST;

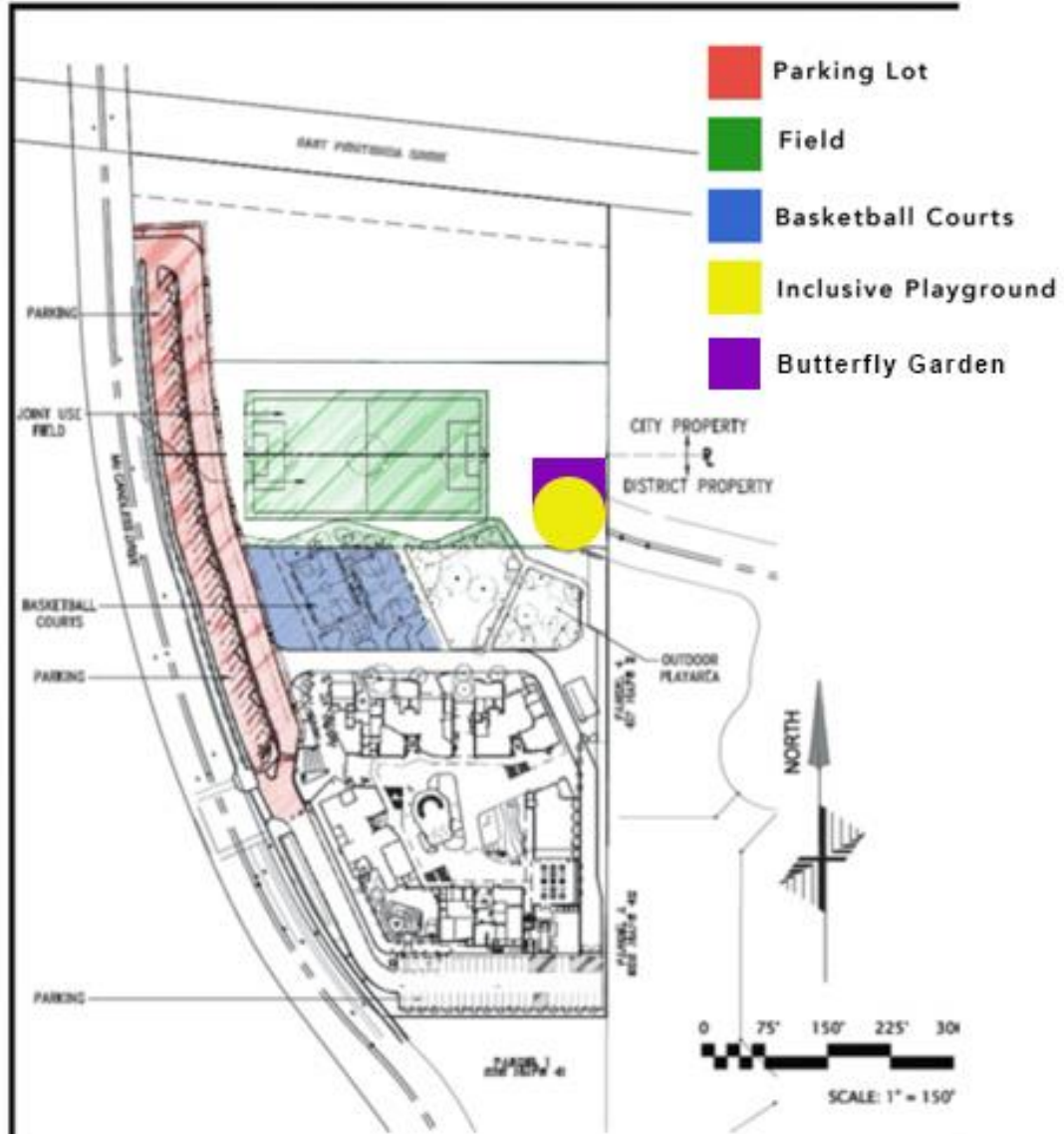
THENCE ALONG SAID WESTERLY LINE, ALONG SAID CURVE HAVING A RADIUS OF 1,762.00 FEET, THROUGH A CENTRAL ANGLE OF 5°51'39", AN ARC LENGTH OF 180.24 FEET;

THENCE CONTINUING ALONG SAID WESTERLY LINE, NORTH 2°33'20" WEST, 177.24 FEET TO THE POINT OF BEGINNING.

CONTAINING 182,349 SQUARE FEET OR 4.19 ACRES, MORE OR LESS.

---

**EXHIBIT B**  
**DEPICTION OF JOINT USE AREAS**



DATE: 2016-05-05  
 SCALE: AS SHOWN  
 DRAWN: VAB  
 CHECKED: SPP  
 JOB NO: 10218-38

MILPITAS USD  
 BOUNDARY EXHIBIT  
 1600 1750 MCANDLESS DRIVE  
 MILPITAS, CA

