

Memorandum of Understanding – Waiver of Facilities Use Fee(s)
Fortuna High School District and the City of Fortuna

This is a Memorandum of Understanding (“Agreement”) between the Fortuna Union High School District (“School”) and the City of Fortuna (“City”).

Purpose

Compliant with the provisions of the Civic Center Act, this Agreement is to establish and maintain an effective working relationship between parties. In addition, each entity desires to accommodate facility needs for each in regard to community recreation and youth programs, beneficial to the community. To this end, the parties are interested in sharing facilities with one another on a waived fee basis.

Term

The term (“Term”) of this Agreement will be from February 1, 2026 to January 31, 2031.

Termination

This Agreement may be terminated by either party, with or without cause, upon thirty (30) days’ prior written notice to the other party. Notwithstanding the foregoing, the City may suspend or terminate this Agreement, in whole or in part, immediately upon written notice if the City determines that: (a) continued use presents a threat to public health or safety; (b) the facilities are needed for municipal operations, emergency response, repair, maintenance, or a City special event; (c) the School has failed to maintain required insurance or comply with applicable law; or (d) continued performance is no longer feasible due to field conditions, damage, or other operational necessity. Upon termination, neither party shall have any claim for consequential, incidental, or lost-profit damages arising from such termination. School’s sole remedy for any City termination under this Agreement shall be a refund of any prepaid, unused amounts, if any.

Process; Effect of Individual Facilities Use Agreements.

Each entity shall complete the standard facilities use agreement customarily required by the owning agency for each event, season, or series of events. Insurance certificates and endorsements required by the owning agency shall be provided in connection with each such facilities use agreement. To the extent a facilities use agreement imposes operational requirements specific to a particular use, those requirements shall apply only to that use. In the event of a conflict between this Agreement and an individual facilities use agreement, this Agreement shall control unless the parties expressly state in writing that the individual facilities use agreement supersedes a specific provision of this Agreement. Neither party shall be responsible for accidents, claims, losses, or damage occurring outside the dates, times, and areas expressly authorized in the applicable facilities use agreement.

Mutual Indemnity.

To the fullest extent permitted by law, each party (“Indemnifying Party”) shall defend, indemnify, and hold harmless the other party and its officers, officials, employees, agents,

and volunteers (“Indemnified Parties”) from and against any third-party claims, demands, actions, damages, losses, liabilities, costs, and expenses, including reasonable attorneys’ fees, but only to the extent arising out of or relating to the negligent acts, errors, omissions, or willful misconduct of the Indemnifying Party or its officers, employees, agents, contractors, participants, invitees, or volunteers in connection with this Agreement. Neither party shall be required to indemnify the other for the sole negligence or willful misconduct of the Indemnified Parties. The obligations of this section shall survive termination of this Agreement.

No Assignment or Transfer.

Neither party may assign, transfer, delegate, or otherwise convey its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other party; provided, however, that the City may administer or coordinate City facility scheduling through its officers, employees, and agents in the ordinary course of municipal operations.

No Exclusive Possession; No Vested Rights.

The parties acknowledge that City facilities subject to this Agreement remain public facilities. Except as expressly provided herein for coordinated use and scheduling, nothing in this Agreement grants School or any third party an exclusive possessory interest, easement, irrevocable license, or vested right to continued use of any City facility.

Field Control, Scheduling, and Use – Shelton Field (Hardball Field #1)

1. School Control of Field Use

The City shall retain ownership of Shelton Field, including the respective concession stand building and dugouts, and shall retain ultimate authority over municipal scheduling priorities, special events, public access restrictions, emergency closures, and compliance with law. Subject to the foregoing City rights, the School shall have primary day-to-day scheduling authority for School baseball-related programming at Shelton Field during the Term, including authority to determine routine practice and game schedules and whether the field is playable for School activities. The City shall retain the right to close, restrict, suspend, or reassign use of Shelton Field at any time for City special events, emergency response, repairs, maintenance, unsafe conditions, legal compliance, or other municipal purposes. The Newburg Park parking lot gate and restrooms shall remain subject to City control, and any opening or access outside normal City practices shall require City staff approval.

2. Approval of Outside Users

Any outside organization seeking to use Shelton Field, including historically recurring users such as American Legion or Humboldt Crabs Camp, must obtain prior written approval from both the City and the School through the applicable facilities use process. Historical use of Shelton Field shall not create any vested right, priority right, or guarantee of continued access.

City Agrees To

1. The City agrees to make Shelton Field (formerly “Hardball Field #1”), together with the respective concession stand building and dugouts, available for School use during the Term on the terms set forth herein, subject at all times to the City’s retained ownership, operational rights, special event needs, emergency needs, maintenance requirements, and approval rights described in this Agreement. School shall pay the City One Thousand Dollars (\$1,000) annually, due on or before February 1 of each year. In addition, School shall pay the estimated water utility cost associated with irrigation of Shelton Field from May through October on the City’s regular irrigation schedule. This Agreement does not grant the School any exclusive possessory interest, easement, or vested right to use the field except as expressly stated herein.
2. Provide for use of Rohner Park for up to one single-day Cross Country event per year at no charge. Due to the Special Event nature of this event, school shall reserve any and all facilities that will not otherwise be rentable by the City (including facilities impacted by parking and traffic control). Facility Use agreement/application shall be submitted at least 60 days in advance and is subject to approval depending on other rentals in the park. This Agreement does not substitute a rental application and does not hold/reserve dates.
3. Provide for use of Rohner Park Cookshack/Picnic Area and Pavilion Field for up to one single-day FFA Greenhand event per year at no charge. Facility Use agreement/application shall be submitted at least 60 days in advance and is subject to approval depending on other rentals in the park. This Agreement does not substitute a rental application and does not hold/reserve dates.
4. Provide for use of Rohner Park Deep Pits for up to one single-day FFA Humboldt County Fair BBQ event per year at no charge. Facility Use agreement/application shall be submitted at least 60 days in advance and is subject to approval depending on other rentals in the park. This Agreement does not substitute a rental application and does not hold/reserve dates.
5. Provide School with any necessary facility orientations.
6. Complete a Facilities Use Agreement form for each season’s use of School facilities.
7. Track and maintain records of the number of hours City utilizes School facilities or sports fields.

8. Immediately notify School of any known or suspected damage to, or dangerous condition on, School property.
9. Leave School premises clean, in the manner in which it was prior to use.
10. Maintain workers' compensation coverage as required by California law for its employees. To the extent permitted by law and commercially available, such coverage shall include a waiver of subrogation in favor of the Fortuna Union High School District..
11. Maintain automobile liability coverage, or a program of self-insurance or pooled risk coverage, for owned, hired, and non-owned vehicles used in connection with City operations, in amounts the City deems commercially reasonable and consistent with public-agency risk management practices. To the extent the City maintains commercial liability policies applicable to the use, the School may be named as an additional insured where appropriate and available by endorsement..
12. The City may satisfy any or all of its insurance obligations under this Agreement through self-insurance, joint powers authority coverage, risk pooling, or commercial insurance, as permitted by law. The City shall provide reasonable evidence of coverage upon request. The City shall use reasonable efforts to provide notice of any material reduction in coverage affecting this Agreement, but only to the extent such notice is available to the City under the terms of its coverage.
13. The City shall provide evidence of any required coverage, if applicable, prior to the commencement of a particular use, consistent with the requirements of the applicable facilities use agreement and the City's lawful self-insurance or pooled-risk arrangements.

School Agrees To

1. Not utilize stadium lights without notifying City (additional fee may apply).
2. Be responsible, at School's sole cost, for routine day-to-day maintenance of Shelton Field reasonably associated with School's use, including infield and outfield upkeep, dugout housekeeping, concession stand building housekeeping, and ordinary baseball-related field preparation, subject to City oversight and any standards reasonably established by the City. Capital improvements, permanent alterations, tree work, grading, irrigation modifications, structural repairs, or material changes to City property shall be performed with applicable permits. School shall promptly remove any maintenance-related debris or project debris generated by School from City property at School's sole expense. Be responsible for maintaining Shelton field and respective dugouts, batting cages, stadium seating, etc. and all landscaping outside of the field from

the northeast corner of the outfield and north until the creek as well as the southwest corner of the outfield and west until the creek. Any maintenance-related debris shall be removed from City property by School at School's expense.

3. Any debris from projects and/or facility improvements shall be removed from City property at the expense of School.
4. Ensure that the City has access to all City-owned facilities located at Newburg Park at all times as reasonably necessary for municipal operations, inspection, repair, maintenance, public safety, and compliance purposes. School shall provide City with any keys, access credentials, or coordination reasonably necessary to preserve uninterrupted City access..
5. Comply with all state laws regarding building permits, materials storage, selling of food, fire codes, etc.
6. Complete a Facilities Use Agreement forms for each use of City facilities.
7. Provide all necessary utilities to facilitate use of School property.
8. Provide City with any necessary facility orientation of School property.
9. Track and maintain record of the number of hours City uses School facilities or sports fields.
10. Track and maintain records of the number of hours School utilizes City facilities or sports fields.
11. Immediately notify City of any known or suspected damage to, or dangerous condition on, City property.
12. Leave City premises clean, in the manner in which it was prior to use.
13. Provide the City reasonable access to Damon Gym and Logan Gym during dates and times requested by the City, subject to availability, School priority uses, previously approved uses, maintenance needs, and safety considerations. Nothing in this Agreement shall obligate School to displace regular School programming or previously approved uses, but School shall use good faith efforts to coordinate scheduling so as to accommodate City recreation programming where feasible..
14. Be responsible for maintaining School facilities. Agreement does not bind City to such requirements. School agrees to keep all rented facilities in working order, as required by the laws of the State of California.
15. Provide all necessary utilities to facilitate use of School property.

16. Maintain workers' compensation insurance as required by California law for School employees participating in activities under this Agreement. To the extent permitted by law and commercially available, such coverage shall include a waiver of subrogation in favor of the City of Fortuna.
17. Maintain automobile liability coverage for owned, hired, and non-owned vehicles used in connection with School activities under this Agreement in an amount not less than One Million Dollars (\$1,000,000) per accident, or such greater amount as may be required in the applicable facilities use agreement. The City of Fortuna, its officers, officials, employees, agents, and volunteers shall be named as additional insureds to the extent available by endorsement.
18. School may satisfy any portion of its insurance obligations through permissible self-insurance or pooled coverage only if acceptable to the City in its reasonable discretion and documented to the City's satisfaction. School shall provide certificates of insurance and required endorsements before commencement of use. School shall provide notice of cancellation, nonrenewal, or material reduction in coverage to the extent such notice is required or available under its policies.
19. School shall provide proof of all required insurance coverage and endorsements, both under this Agreement and under any applicable facilities use agreement, prior to the start of the applicable use period.
20. Maintain School property in working order, meeting all applicable local, County and State laws.
21. In considering requests from historically recurring seasonal users of Shelton Field, including American Legion and Humboldt Crabs Camp, the parties shall use good faith efforts to accommodate such users where feasible; however, no recurring user shall have any guaranteed right to access, priority scheduling, or continued seasonal use absent written approval under the then-applicable facilities use process.
22. Pick up trash and maintain neat and tidy fields.
23. Ensure no hazards are present on the premise.

Default.

A party shall be in default under this Agreement if it: (a) fails to perform any material obligation under this Agreement; (b) fails to maintain required insurance; (c) uses the other party's facilities in violation of applicable law or material facility rules; or (d) causes or permits unsafe conditions and fails to promptly correct them after notice where correction is reasonably possible. Except for defaults involving immediate health, safety, insurance, or legal compliance concerns, the non-defaulting party shall provide written notice of default and the defaulting party shall have ten (10) days to cure, or such longer period as is reasonably necessary if cure is commenced within ten (10) days and diligently completed. For defaults involving immediate health, safety, insurance, or legal compliance

concerns, the non-defaulting party may suspend use immediately pending cure or terminate this Agreement as provided herein.

No Consequential Damages.

In no event shall either party be liable to the other for any indirect, consequential, special, incidental, or punitive damages arising out of or relating to this Agreement, including loss of anticipated revenues, programs, or goodwill.

Address of Service

Any notice or other required elements under this Agreement or required facilities use agreements, shall be mailed to the party and address listed below.

Amy Nilsen

Date

City Manager, City of Fortuna
PO Box 545
Fortuna, CA 95540
707-725-1409

Clint Duey

Date

Superintendent, Fortuna Union High School District
379 12th Street
Fortuna, CA 95540
707-725-4461

Intended Annual Use of Facilities

While actual utilization may vary, the parties acknowledge that the following are nonbinding estimates of anticipated annual use for planning purposes only. Any additions, deletions, or changes to estimated use may be made through the ordinary facilities use approval process and do not require formal amendment of this Agreement unless the parties expressly agree otherwise in writing. Actual dates, times, and use areas shall be established only through approved facilities use agreements.

City Usage of School Property (265 hours estimated total)

- *Fortuna Union High School Gymnasiums – Damon Gym and Logan Gym*

School Usage of City Property, excluding year-round use of Shelton Field (approximately 80 hours total)

- *Rohner Park Various Facilities for Cross Country Event (21 hours)*
 - *Picnic Area/Cookshack (7 hours)*
 - *Pavilion Field (7 hours)*
 - *Firemen's Pavilion (7 hours)*
- *Rohner Park Deep Pits for FFA Humboldt County Fair BBQ (45 hours)*
 - *Deep Pit #1 (15 hours)*
 - *Deep Pit #2 (15 hours)*
 - *Deep Pit #3 (15 hours)*
- *Rohner Park Various Facilities for Greenhand FFA Conference (14 hours)*
 - *Picnic Area/Cookshack (7 hours)*
 - *Pavilion Field (7 hours)*