DATE: May 1, 2017
TO: Mayor and Council
FROM: Maureen Sinclair, Director of Parks, Recreation & Culture
SUBJECT: District of Mission / Mission School District #75 – Joint Use Agreement
ATTACHMENT: Appendix A – Revised Joint Use Agreement

RECOMMENDATION: Council consider and resolve:
That the revised Joint Use Agreement between the District of Mission and Mission School District #75 as attached to the May 1, 2017 report from the Director of Parks, Recreation & Culture be approved and executed by the Mayor and the Corporate Officer.

PURPOSE:
The purpose of this report is to provide Council with a copy of the revised Joint Use Agreement developed in partnership with the Mission School District. Staff are proposing that the new agreement be approved by Council and that it replace the current Joint Use Agreement that was executed in 2004.

BACKGROUND:
The District of Mission and the Mission School District have had a Joint Use Agreement in place for many years, the earliest version on file dates back to 1979. Since that time, the two entities have worked closely together to ensure that facilities managed by both are available for additional student programming as well as community activities and events. This report is provided in order to ensure that a clear and more comprehensive Joint Use Agreement is available to provide direction for the community on the availability of School District facilities for community use and District facilities for student programming.

Following completion of this agreement, the intent is to review and update the Heritage Park Centre Operating Agreement adopted in 2002.

DISCUSSION AND ANALYSIS:
The new Joint Use Agreement includes additional information related to the following:
- The term of the agreement will continue until one of the parties provides written notice to terminate, renegotiate or extend the agreement, rather than an absolute termination date;
- The agreement better spells out when or if fees will apply;
- The agreement extends to all School District facilities including those outside of the municipal boundaries;
- The agreement sets up an Operations Committee who will meet to discuss and resolve issues of mutual concern in a timely fashion;
- The agreement better spells out the process for booking facilities and confirmation of schedules as well as the process for cancellations for both parties;
- The new agreement commits to engaging in conversations related to the joint use and development of future facilities;
- The booking fee, charged by the DOM for School District rentals, is increased from 12% to 15%;
- Schedule A sets out which facilities are covered by the agreement;
- Schedule B sets out the process for booking facilities;
- Schedule C identifies those facilities that have been jointly developed.

The new agreement will assist all parties in better understanding their respective roles and responsibilities related to the use of the other partner’s facilities.

FINANCIAL IMPLICATIONS:
There are no financial issues directly associated with the recommendations as the financial implications of the agreement have not been significantly changed from the agreement currently in place.

COMMUNICATION:
The attached agreement has been reviewed and endorsed by the Mission School District Trustees; following approval by Council of the attached agreement it can be officially executed by both parties.

SUMMARY AND CONCLUSION:
Staff recommend that the revised Joint Use Agreement between the Mission School District #75 and the District of Mission be approved by Council and be executed by both parties.

SIGN-OFFS:

M Sinclair  
Director of Parks, Recreation & Culture

S. Key  
Deputy Director of Parks, Recreation & Culture

Comment from Chief Administrative Officer: Reviewed.
APPENDIX A

DISTRICT OF MISSION / SCHOOL DISTRICT NO.75 (MISSION)

JOINT USE AGREEMENT

THIS AGREEMENT is made this____ day of_______, 2017.

BETWEEN:

District of Mission
8645 Stave Lake Street
Box 20
Mission, BC V2V 4L9
(Hereinafter referred to as the “District”)

AND:

The Board of Education
School District No.75 (Mission)
33046 4th Avenue
Mission, BC V2V 1S5
(Hereinafter referred to as the “Board”)

Together referred to as “the Parties” or separately as “Party”;

WHEREAS: The Board is the registered owner of certain lands and premises used for public school purposes in that portion of School District No. 75 (Mission);

AND WHEREAS: The District is the registered owner of the Mission Leisure Centre at 7650 Grand Street, Mission, BC which is operated by the District, and which, together with other lands and premises, is used for public recreation;

AND WHEREAS: The District and the Board agree it is in each Party’s best interest to work cooperatively as partners whenever and wherever possible to enhance the services that each organization provides to its constituents;

AND WHEREAS: The District and the Board wish to enter into an Agreement regarding the joint use of those facilities identified in Schedule A;

AND WHEREAS this agreement will not contravene the Local Government Act or the School Act;

NOW THEREFORE the Board and the District hereby agree as follows:

TERM AND TERMINATION

1. The term of this Agreement shall commence on the 1st day of May 2017 unless changed and/or cancelled in accordance with the provisos included herein.

2. This Agreement will be for a period of FIVE (5) YEARS unless terminated by either Party.
3. Termination may be initiated by either Party upon giving 120 days' notice in writing to the other Party.

4. The term of the Agreement may be extended in writing by both Parties.

5. At the expiration of the term of the Agreement, it shall be deemed to continue month to month on the same terms and conditions contained in the Agreement until such time as the Agreement is terminated by written notice, extended by written notice, or replaced with a new Agreement.

6. This Agreement replaces and supersedes the Agreement entered into by the Parties and dated September 30th, 2004.

AGREEMENT ADMINISTRATION

7. This Agreement will be administered by the Secretary-Treasurer (or designate) for the Board and by the Director of Parks & Recreation and Culture (or designate) for the District, or by such others as either Party may determine from time to time.

8. A Committee to be known as the “Operations Committee”, comprised of two staff representatives of the District and two staff representatives of the Board, shall be established following execution of this Agreement to oversee the operation of the Agreement. The Operations Committee shall meet in July following the end of the school season and mid-year in January, and with other meetings being scheduled at the request of either Party. This arrangement shall be reviewed annually.

9. Issues related to building security, supervision, damages, schedules and other concerns will be addressed by each Party as soon as reasonably practical.

10. Any amendments to the intent of the Agreement will be addressed by the Parties and referred to the Board and the District for ratification as required.

FEES OVERHEAD COSTS

11. The Parties agree not to charge the other Party for the use of their facilities, with the exception of fees charged to community user groups.

12. Any additional direct overhead costs will be passed along to user groups. The parties may charge the other in the event that there are additional costs associated with the use, for example the costs of an additional lifeguard will be charged to school groups if pool attendance requires an additional lifeguard to be on shift, or the cost of additional custodian services for events outside of regular school hours.

RECIPROCAL USE OF FACILITIES

13. Each party to this Agreement will make its buildings, grounds and related equipment available for use by the other party on a first priority basis after the space requirements for its own programs have been met in accordance with the joint operating regulations attached hereto as Schedule B.
14. Each party will provide the particular facility to the other in the condition which that facility would normally be provided to any other user in the ordinary course of programming: facilities will be made available on an “as is” basis.

15. The Parties agree to use the facilities in accordance with this agreement, the District by-laws, District policy, Parks, Recreation & Culture policies and Board policies and procedures governing use of such facilities.

16. The Parties agree that facility usage, subject to availability, will not be unjustly withheld.

**DISTRICT USE OF BOARD FACILITIES**

17. The Board agrees that the District shall upon request, have the use of those school facilities identified in Schedule A for community and after school use, or for use by the District of Mission, in accordance with School District No. 75 (Mission) Policies and related procedures, as amended from time to time.

18. The Board agrees that, except as otherwise provided herein, the said school facilities shall be available for use by the District on instructional days, between the hours of 5 pm and 10 pm and on non-instructional days between the hours of 8 am and 10 pm when the facilities are not being used for school based programs.

19. Use of the school facilities on non-instructional days shall be subject to the approval of the Board’s Secretary Treasurer, or designate.

20. The Parties agree that the District shall handle the scheduling of Board Facilities for all community use and non-school after school functions.

21. The Parties agree that the District shall obtain user agreements from all community user groups, for booked Board facilities in accordance with Schedule B.

22. The Parties agree that the District shall provide a user agreement to the Board for the District’s use of booked Board facilities in accordance with Schedule B.

23. The Parties agree that the District shall collect all revenues for community use of Board facilities in accordance with the Boards’ Fee Schedule for Community and After School Use of Schools procedure, and further, the District shall establish the necessary procedures to ensure the efficient collection of said revenues.

24. The District agrees to remit to the Board by June 30 each year the revenues collected in the previous twelve months, net of a 15% administration fee to be retained by the District as compensation for the revenue collection services, and to also provide the Board with a summary report of the revenues received. The books of account may be reviewed by a Board representative at any time, and will be maintained in a fashion consistent with generally accepted accounting practices.

25. In the event of a user group cancelling their rental, the District shall whenever possible provide a minimum of 7 days’ notice to the Board.
BOARD USE OF DISTRICT FACILITIES

26. The District agrees that the Board shall, upon request, have the use of those District facilities identified in Schedule A and lying within the District of Mission for educational purposes and/or school programs in accordance with District of Mission Parks, Recreation & Culture Facility Rentals Policy, as amended from time to time.

27. The District agrees that, except as otherwise provided herein, the said District facilities shall be available for use by the Board on instructional days between the hours of 8 am and 3 pm. Use of District facilities on non-instructional days shall be subject to the approval of the Director of Parks, Recreation & Culture, or designate.

28. The Parties agree that the District shall obtain user agreements from all School user groups for booked District facilities, in accordance with Schedule B.

29. The Parties agree that the District shall obtain a user agreement from the Board for Board use of booked District facilities in accordance with Schedule B.

30. In the event of a school program cancellation the Board shall whenever possible provide 7 days’ notice, but no less than 24 hours to the District.

DEVELOPMENT

31. The Parties will share long range and medium range plans with the other party in order to optimally develop joint facilities.

32. Planners of schools, parks, recreation and cultural facilities shall collaborate so as to maximize the use of facilities by locating them conveniently for patrons. Planners shall design and locate facilities so as to minimize maintenance costs and avoid duplication of facilities and allow flexible community access.

33. Wherever feasible, the Parties will make land purchases on adjoining sites to support the development of joint facilities, and consult each other on land purchases in such a manner to maintain established procedures of confidentiality.

34. If concurrent development is not possible, consultation between the Parties shall occur in order to facilitate the orderly development of the integrated site.

35. The Parties agree to strive for consistency in development standards for new and renovated facilities which are intended for joint use, with such standards to be at least the minimum necessary to meet the community’s needs.

36. The Parties will participate in joint capital projects or other facility projects where appropriate and desirable, and in such circumstances a site-specific joint agreement may be developed for the project.

37. The Parties agree to explore the possibilities of joint development with third parties, where a three party partnership would result in a facility which improves service delivery by the District and the Board, and results in greater benefit to the community, keeping in mind current District and Board policies.

38. After appropriate consultation, the Parties may agree on the naming of joint school park sites.
39. The Parties agree to retain an inventory of facilities and improvements that are implemented in partnership with each other, and these improvements shall be listed on Schedule C. This information will be used to support future maintenance and facility improvement decisions of the Parties.

INDEMNIFICATION

40. The District and the Board hereby agree to indemnify and save harmless each the other from and against any and all manner of liability, actions, causes of action, prosecutions, claims, fines, demands, damages, losses, costs or expenses for property damage, personal injury including death, in any way occurring, or for breach of any bylaw, statute, regulation and by whomsoever made, brought or prosecuted, which either Party may sustain or be put to, in any manner based upon, occasioned by, or attributable to the execution of this Agreement, or arising out of any conduct of the Parties, its agents, invitees, or servants, or arising out of the occupation or use of the facility.

41. The Parties shall each maintain in effect for the term of this Agreement comprehensive general liability insurance or equivalent self-insurance in the sum of at least $5,000,000 per occurrence, in respect of any prosecution, injury or death to one or more persons, or property damage occurring on or about the facility and attributable to the execution of this Agreement, or arising out of any conduct of the Parties, its agents, invitees, or servants, or arising out of the occupation or use of the facility. The Parties further agree to name the other party as an additional named insured on their insurance policy, and provide a certificate confirming such insurance coverage if requested by the other party.

DISPUTE RESOLUTION

42. The Parties agree to discuss problems that arise from the execution of this Agreement, and to act in good faith to resolve any problems that may arise.

COMMUNICATIONS

43. Each party will support the distribution, circulation and posting of material promoting the activities and events of the joint use partners in a timely manner, within the parameters set out in each party’s respective policies for sponsorship and advertising.

44. On joint development projects and concurrent development projects the respective communications staff representing each party shall collaborate on press releases and official ceremonies planning.

45. Where an incident occurs within the facility during use by the user party no contact with the media or the public will occur without notification of the senior officials of both parties.

MISCELLANEOUS

Waiver

46. No term, condition, covenant or other provision herein shall be considered to have been waived by either Party unless such waiver is expressed in writing by the Party. Any such waiver shall not be construed as a waiver of any other portion of this Agreement.
Remedies Cumulative

47. No remedy conferred upon or reserved to any Party is exclusive of any remedy herein or provided by law, but such remedy shall be cumulative and shall be in addition to any other remedy herein or hereafter existing at law, in inequity or by statute.

INTERPRETATION

Entire Agreement

48. This Agreement constitutes the entire agreement between the Parties and shall not be modified or amended except by a written document duly executed and delivered by the Parties hereto or by their successors, permitted assigns, or authorized agents.

Severability

49. If any section of this Agreement or any part of a section is found to be unlawful or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be shall not be affected thereby and shall be enforceable to the fullest extent permitted by the law.

Enactments

50. Where in this Agreement there is a reference to an enactment of Mission, the Province of British Columbia or Canada, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of Mission, the Province of British Columbia or Canada.
IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

DISTRICT OF MISSION

__________________________________________  Witnessed by: (print name)
Mayor, District of Mission

__________________________________________  Witnessed by: (print name)
Director of Corporate Administration

BOARD OF EDUCATION
SCHOOL DISTRICT NO.75 (MISSION)

__________________________________________  Witnessed by: (print name)
Chair, Board of Education

__________________________________________  Witnessed by: (print name)
Secretary Treasurer