

Date of City Council Meeting: February 19, 2013

To: Mayor and City Council
City Administrator

From: Lynne Young, Library and Recreation Services Director on behalf of the
Parks and Recreation Advisory Board and Brian Erickson, Assistant Public
Works Director/City Engineer

Subject: Approval of 2013–2016 Recreation Agreement (Contract) between the
City of Northfield and Northfield Public Schools District 659 Community
Services Division for recreation programming.

ACTION REQUESTED:

The City Council is being asked to approve the 2013–2016 agreement between the
City and the School District for recreation programming.

BACKGROUND:

In 2010, the City of Northfield negotiated a new three–year agreement with the
Northfield Public Schools Community Services Division for recreation programming.
Because of cuts to local government aid, the City was forced to make significant
budget cuts, and the School District accepted reduced fees. The contract did allow for
a 2.5% (\$2,625) increase for District 659's 2012–13 fiscal year. The current agreement
expires on June 30, 2013.

During the summer of 2012, Hannah Puczko and Erin Mayberry met with Tim Madigan
and Lynne Young to discuss a new three–year contract. The data on participation and
offerings show that this collaborative recreation program provides a wide variety of
educational and recreational opportunities for people of all ages. Participation in these
programs has risen every year of the contract. Both the Northfield Public Schools and
the City of Northfield share, for the most part, the same service area and tax base.
This has allowed the development of a collaborative, successful and cost–effective

program. The City of Northfield and the Northfield Public Schools should continue this programming model.

SUMMARY REPORT:

This contract is nearly identical to the contract approved in 2010 with the following adjustments:

1. The school district requested a 2.5% increase in each year of the contract. At the conclusion of those three years, the cost will still be for a lesser amount than the 2007-2010 agreement. (The 2009-10 fee was \$122,957 compared to the recommended \$115,900 in 2015-16.) This is a reasonable increase, and the increase for 2013-14 has been included in the 2013 City budget.
2. The school district's contributions to recreation programming will be slightly less than in the current three-year contract. Since the last agreement, the School District is using new software and copier systems - and a new brochure printer - that have allowed them to reduce costs.
3. Reporting requirements to the School Board and City Council have been reduced to once a year.
4. The Recreation Coordinator will no longer be a designated staff liaison to the Parks and Recreation Advisory Board but will report to the PRAB frequently and attend meetings as needed.
5. The signatories have been updated to reflect staffing and organizational changes at both the City and the Community Services Division.

At their January 17 meeting, the Parks and Recreation Advisory Board unanimously passed a motion asking the City Council to approve the attached amended agreement between the City of Northfield and Independent School District No. 659. All in attendance voted in favor. Motion carried. The revised contract was then reviewed by City Attorney Hood. The School Board will also be asked to approve said agreement.

Attachments:

- A. Draft Agreement
- B. PRAB Motion

City Council Meeting
February 19, 2013
Approval of Recreation Contract
Attachment B

Parks and Recreation Advisory Board
Motion made at January 17, 2013 meeting

A Motion was made by D. Gehring and seconded by D. Hvistendahl to approve the amended Agreement between the City of Northfield and Independent School District No. 659 relating to City of Northfield/Community Services Recreation Program. All voted in favor. Motion carried.

**AGREEMENT BETWEEN CITY OF NORTHFIELD AND
INDEPENDENT SCHOOL DISTRICT NO. 659
RELATING TO CITY OF NORTHFIELD/COMMUNITY SERVICES
RECREATION PROGRAM**

This Agreement is made as of the 19th day of February, 2013, by and between the City of Northfield, a Minnesota municipal corporation (City), and Independent School District No. 659, a Minnesota school district (School District).

WHEREAS, the School District is organized for the purpose of providing public school education and life-long learning opportunities, including community education and recreational programs, within its geographic boundaries; and

WHEREAS, the City also provides recreational opportunities within its geographic boundaries;

NOW, THEREFORE, the City and the School District agree as follows:

1. **PURPOSE AND INTENT.** The City and the School District desire to cooperate in the operation of a community education and recreation program (Program) according to the terms of this Agreement. The City shall pay the School District for the purpose of providing the Program. The Program shall include, but not be limited to, opportunities for leisure, recreation, enrichment and other activities that promote the health, safety and welfare of the community. The program shall support the learning and participation of adults and children in the community through access to community recreational programs and activities offered through the School District on behalf of the City. Facilities of the City and the School District will be made available for use in the Program and both parties will contribute to the funding of the Program, as provided herein.
2. **SERVICES PROVIDED BY COMMUNITY SERVICES DEPARTMENT.** Except as otherwise specifically provided herein, the School District, through its Community Services Division, will provide all services related to the Program including, but not limited to, hiring and managing all staff related to the Program, and organizing, scheduling, managing and supervising all Program events. The Program shall include but not be limited to opportunities for leisure, recreation, enrichment, and other activities that promote health, safety and welfare in the community.
3. **PROGRAM AVAILABILITY.** The Program shall be open to all residents of the School District on a first come, first served basis without regard to race, religion, ethnicity, or gender.
4. **COMMUNITY SERVICES ADVISORY COUNCIL; CITY REPRESENTATIVE.** The School District's Community Services Advisory Council (Advisory Council) shall advise and make recommendations to the School District on issues related to the Program and the Park and Recreation Advisory Board (PRAB) shall make recommendations to the City Council

including, but not limited to, philosophy and mission, budgetary decisions, programming, and fees and charges, and shall meet with representatives of the City Council and the School Board at least once annually to review the Program. The Advisory Council shall include, as one of its twelve to fifteen voting members, one voting member from the City's Park and Recreation Advisory Board (PRAB). This member will be recommended by the PRAB, appointed by the Mayor and approved by the City Council to serve a one-year term on the Advisory Council, provided that an appointee may serve successive terms. This member will report on the Program to the PRAB as necessary.

5. **LIAISON TO THE PARK AND RECREATION ADVISORY BOARD (PRAB).** The Recreation Coordinator or other representative of the School District shall attend most PRAB meetings along with the City's staff liaison to the PRAB. The Recreation Coordinator shall report on the recreation programs at least quarterly.
6. **AVAILABILITY OF DEPARTMENT DIRECTOR AND STAFF TO PRAB.** The School District's Community Services Department Director (Director) and Program staff shall be available to attend PRAB meetings as requested by the PRAB.
7. **PERSONNEL.** The School District shall hire, compensate, and manage all personnel as may be needed for purposes of the Program and all such personnel shall be School District employees and not City employees. Similarly, all volunteers who participate in the Program in any way shall be considered to be under the supervision and control of the School District and not under the supervision or control of the City.
8. **FINANCES.**
 - a. **School District Responsibility.** Except as otherwise provided in this Agreement or as otherwise expressly agreed between the parties in writing from time to time, the School District, through its Community Services budget, Fund 04, or other appropriate funding source, shall fund and pay all expenses of the Program. The School District shall be entitled to receive and use all fees, donations, state and federal financial aid and other funds received for purposes of the Program.
 - b. **City Payment.** The City shall pay to the School District a designated sum for each fiscal year during which this Agreement is in effect, which fiscal year is from July 1 through June 30. For the fiscal year July 1, 2013 through June 30, 2014 the City shall pay to the School District the sum of \$110,316; July 1, 2014 through June 30, 2015, the City shall pay to the School District the sum of \$113,074; and July 1, 2015 through June 30, 2016, the City shall pay to the School District the sum of \$115,900. The City shall make its payments to the School District one-half on December 31 and one-half on June 30, each payment to apply to the preceding six-month period. Any modifications or renewals of this contract shall be negotiated prior to the expiration of this contract.
 - i. It is agreed that the City's payment for the cost of the Program for the fiscal years 2014-2016 is based on the personnel costs (salary and benefits) related to the Program, including 100% of the time of the School District's Recreation Coordinator,

82% of the time of a registration/facility scheduling secretary, 25% of the time of an administrative assistant, and 5% of the time of the Community Services Department Director.

It is further agreed that the following costs (totaling \$39,377) will be the School District's in-kind contribution to the Program:

- i. Costs related to web-based registration software and user fees, including one-third of the one-time purchase price, use fees and merchant fees generated by the 83% of registrations, which are related to recreation, and 83% of annual fees.
(Current cost: \$14,790).
 - ii. 23% of copying costs of the Department, which are related to recreation.
(Current cost: \$1,498.00).
 - iii. Costs related to the recreation portion of the seasonal brochures mailed to all School District residents three times a year.
(Current cost: \$1,836). **
- **The value of the ability to promote recreation programs in schools (flyers, newsletters) is not included in the total.
- iv. School District facilities used for recreation programs
(Current value \$21,253)

These percentages and the underlying costs attributable to the Program shall be reviewed by the parties from time to time, upon the request of either party, and the parties shall cooperate in adjusting the City's payment to the Program based on any changes in the costs and percentages reasonably attributable to the Program.

It is agreed that each party shall bear any separate costs associated with its own facilities which costs are not related to the Program or specifically mentioned herein.

- c. **Annual Budget.** An annual budget for the Program shall be prepared by the Director of the Department and shall be submitted to the City Council and the School Board for approval on or before June 15 of each year. Each proposed budget shall estimate all revenue and expenditures for the upcoming fiscal year, shall set forth the recommended program of activities for the next fiscal year including administrative costs, and shall be in sufficient detail to allow proper review. The Director shall provide to the City Council and the School Board such financial statements, records and reports as may be requested by the City Council and/or the School Board from time to time.
- d. **User Fees, Advertising, and Sponsorship.** Any user fee, facility usage fee, advertising revenue and/or sponsorship donation collected shall be the revenue of the facilitating agency, unless prior arrangement have been made on user fees and revenue sharing.

9. FACILITIES AND EQUIPMENT.

- a. **Facilities.** The City and the School District will make facilities available to the Program as needed, provided that the Department shall give the City seasonal schedules of events affecting City facilities, and notice of any changes in or additions to those schedules, at least 72 hours in advance of any change or addition, which changes or additions shall be subject to approval by the City's Public Works Director or his/her designee. Except for operations and management associated with the Program, each party shall provide general maintenance, including landscape maintenance, and repair, to its respective facilities. Each party shall provide final field and site preparation for Program events at its facilities, provided that the City has advance notice of events at its facilities. The Director shall notify the appropriate party of any facilities that need repair or maintenance, with a suggested time when repair or maintenance might be performed so as not to disrupt programmed activities.
- b. **Equipment.** The City shall provide for storage of portable recreation equipment used for Program activities at City facilities.

10. **INSURANCE.** Each party shall maintain general liability insurance in the minimum amount of one million five hundred thousand (\$1,500,000.00) dollars to cover claims related to the condition of its respective facilities and shall be responsible for any such claims. The acts and omissions of any and all volunteers involved in the Program shall be considered the responsibility of the School District.

11. INDEMNIFICATION.

- a. The School District shall indemnify, protect, save, hold harmless and insure the City, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the School District or its agents, employees, contractors, subcontractors, or sub-consultants with respect to the School District's performance of its obligations under this Agreement. The School District shall defend the City against the foregoing, or litigation in connection with the foregoing, at the School District's expense, with counsel reasonably acceptable to the City. The City, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Article shall not apply to damages or other losses proximately caused by or resulting from the gross negligence or willful misconduct of the City. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.
- b. The City shall indemnify protect, save, hold harmless and insure the School District, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may

arise out of or be caused by the City or its agents, employees, contractors, subcontractors or sub-consultants with respect to the City's performance of its obligations under this Agreement. The City shall defend the School District against the foregoing, or litigation in connection with the foregoing, at the City's expense, with counsel reasonably acceptable to the School District. The School District, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Article shall not apply to damages or other losses proximately caused by or resulting from the gross negligence or willful misconduct of the School District. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

- c. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the City or the School District.

12. **SUPERVISION OF PROGRAMS; DUTIES OF DIRECTOR.** The Director shall be responsible for operation and supervision of all components of the Program, and shall report periodically and upon request to the Superintendent of Schools and the City Administrator with regard to the status of the Program. The Director shall work cooperatively to implement the goals of the Program as recommended by the Advisory Council and approved by the City and the School District. The Director and other programming staff of the Department shall attend meetings of the City's Park and Recreation Advisory Board upon request.

13. **REVIEW; TERMINATION.** The City and the School District shall review this Agreement in three years. The Agreement shall remain in effect and shall govern the jointly sponsored community education and recreation program until June 30, 2016, unless earlier terminated by either party. Either party may terminate the Agreement at the end of any fiscal year of the School District or the end of any fiscal year of the City, provided that written notice of such intent to terminate has been served on the other party at least 6 months before the proposed date of termination.

14. **ACKNOWLEDGEMENT OF PARTNERSHIP FOR PROGRAM.** Recognition of the City's contributions to the Program shall be cited minimally in the following areas: Community Services program brochure, adult league schedules (both printed and online), and all advertising thanking sponsors of the Program.

15. **GENERAL TERMS.**

- a. **Voluntary and Knowing Action.** The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

- b. **Authorized Signatories.** The parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.
- c. **Notices.** The parties' representatives for notification for all purposes are:

CITY:

Brian Erickson
Assistant Public Works Director/City Engineer
City of Northfield
801 Washington St.
Northfield, MN 55057
Phone: (507) 645-3006
Email: Brian.Erickson@ci.northfield.mn.us

SCHOOL DISTRICT:

Erin Mayberry
Director of Community Services
Northfield Community Resource Center
1651 Jefferson Parkway
Northfield, MN 55057
Phone: (507) 664-3650
Email: Erin.Mayberry@nfld.k12.mn.us

- d. **Subcontracting.** The School District shall not enter into any subcontract for performance of any of the services of organizing, scheduling, managing and supervising all Program events by the administrative personnel listed in Paragraph 8(b) (i) without the prior written approval of the City. The School District shall be responsible for the performance of all subcontractors.
- e. **Assignment.** This Agreement may not be assigned by either party without the written consent of the other.
- f. **Modifications/Amendment.** Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the City and the School District.
- g. **Records—Availability and Retention.** Pursuant to Minn. Stat. § 16C.05, subd. 5, the School District agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the

accounting practices and procedures of the School District and involve transactions relating to this Agreement.

The School District agrees to maintain these records for a period of six years from the date of termination of this Agreement.

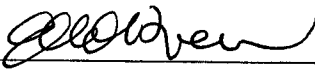
- h. **Compliance with Laws.** The School District shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the facilities, programs and staff for which the School District is responsible.
- i. **Governing Law.** This Agreement shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
- j. **Data Practices.** The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- k. **No Waiver.** Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.
- l. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- m. **Entire Agreement.** These terms and conditions constitute the entire Agreement between the parties regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Agreement.
- n. **Headings and Captions.** Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- o. **Survivability.** All covenants, indemnities, guarantees, releases, representations and warranties by any party or parties, and any undischarged obligations of the City and the

School District arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.


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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers pursuant to authority granted by the attached resolutions adopted by the City Council of Northfield and the School Board of Independent School District No. 659.

INDEPENDENT SCHOOL DISTRICT NO. 659

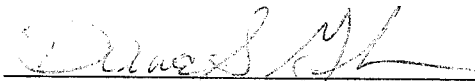
By: 
Title: Chair of the Board of Education
Print Name: Ellen Iverson

Date: 2/25/2013

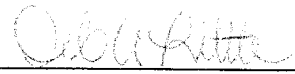
By: 
Title: Clerk
Print Name: Noel Stratmoen

Date: 2/25/2013

CITY OF NORTHFIELD

By: 
Title: Mayor
Print Name: Dana Graham

Date: 2/19/2013

By: 
Title: City Clerk
Print Name: Deb Little

Date: 2/19/2013