

City of Aurora, Illinois-Short Term Use Agreement

This is a **SHORT TERM USE AGREEMENT** for a portable soccer field ("**Agreement**"), dated as of _____ by and between **The City of Aurora**, a municipal corporation and home rule government, (herein after "**the City**") and **West Aurora School District 129**, an Illinois public school district (hereinafter "**the District**") collectively referred to herein as the "**Parties**".

In consideration of the covenants, and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged and agreed, the City and the District covenant, warrant, and agree as follows:

1. Property

(a) The District hereby allows the City, to place its PORTABLE SOCCER FIELD (hereinafter "Equipment") on the District's property as provided in Section 3 for the Term of this Agreement. See Exhibit A for Description of Equipment.

(b) The District shall have access to the Equipment.

(c) The District agrees to accept possession of the Equipment in its existing **AS-IS** condition on the date of this agreement, without representation or warranty by the City, express or implied, and with no obligation of the City to repair, improve, or alter the Equipment, or to perform any construction, remodeling, or other work of improvement. Without limiting the generality of the foregoing, the District acknowledges that neither the City nor any agent of the City has made any representation or warranty regarding the condition of the Equipment, the suitability of the Equipment for the District's use or the condition, capacity, or performance of the Equipment.

2. Purpose

The purpose of this use agreement is to allow the District to access and use the Equipment for operating their school programming which assists with physical education and sporting competition while also allowing the City to provide use of the equipment to the community in which the equipment will be placed.

3. Term

(a) This Use Agreement and placement of the equipment at Greenman Elementary School (729 W. Galena Blvd. Aurora, IL 60506) shall commence on May 1, 2025, or the date on which this agreement is executed by both parties. The term of the Use Agreement shall expire on May 15, 2025, at which time the City will remove the equipment from Greenman Elementary School (729 W. Galena Blvd. Aurora, IL 60506).

(b) A second use term shall commence at Smith Elementary School (1332 Robinwood Dr. Aurora, IL 60506) on September 16, 2025, and will expire on September 30, 2025. at which time the City will remove the equipment from Smith Elementary School (1332 Robinwood Dr. Aurora, IL 60506).

4. Delivery

The District grants to the City the right to enter the property at the said street addresses for delivery, and required set up, if any, and for subsequent pick up of the Equipment and any associated equipment or packing materials at the approximately specified times. The District agrees to provide sufficient unobstructed space for delivery, installation, dismantlement and removal of all equipment. Normal delivery would include ground level areas, accessible to the City's vehicles, unless otherwise agreed upon by the Parties. Prior to the removal of equipment, the District shall remove all personal property of the District or third party which therefore has been protected by the City's equipment. If any such personal property is not removed as required, prior to removal of equipment, the City may enter the premises, move or remove any such personal property at the District's risk and cost, and remove equipment without further notice, and the District hereby indemnifies the City from any cost, expense, or liability arising there from. Delivery is to be ground floor only.

5. Installation

(a) Although the City will endeavor to minimize damage to the District's lawn, plantings, underground utilities and premises generally (including power failures and other hazards), the District assumes the risk and releases the City from liability for any such damage that may occur. The District shall advise the City as to the existence and location of any underground cables, sprinklers, pipes conduits, etc. In the absence of such advice, the City can assume that no such underground obstructions exist and releases the City from any liability for such damage.

(b) The equipment shall not be removed by the District from the place of installation without prior written authorization by the City.

6. Payment

(a) There is no cost for installation or use of the equipment as set forth in this agreement.

7. Permitted Use of Equipment, Compliance with Laws

(a) The Equipment shall be used for school and after-school programming for the day-to-day operations of Greenman Elementary School (729 W. Galena Blvd. Aurora, IL 60506) and Smith Elementary School (1332 Robinwood Dr. Aurora, IL 60506).

(b) Equipment shall be used only for the permitted use, and for no other unauthorized purposes.

(c) The District, at the District's sole cost and expense, shall comply with all applicable laws, ordinances, rules, and regulations of governmental and quasi-governmental authorities, including, without limitation, the Americans with Disabilities Act of 1990, (and as amended by any Americans with Disabilities Act Amendments adopted thereafter) that are applicable to the Equipment, if applicable.

8. Alterations

The District is prohibited from making any permanent alterations or improvements to the Equipment.

9. District Not to Misuse or Sublet/Assign Equipment

(a) The District will not allow the Equipment to be used for any purpose other than school and after-school/neighborhood activities.

(b) The District will not permit the Equipment to be use for any unlawful purpose or for any purpose that will injure the reputation of the City.

(c) The District will not make or allow anyone using the equipment to make any permanent improvements without prior written authorization of the City.

(d) The District shall not have the right to assign this Use Agreement or to sublet the Equipment or any part thereof without the prior written consent of the City.

10. Insurance

The City will provide the District with a certificate of insurance with their standard coverage, naming the District as an additional insured for the occurrences contemplated in this use agreement.

11. Indemnification

To the extent that the it is allowed by the law and public policy of the State of Illinois, the City shall indemnify, defend, and hold the District, its employees, agents, elected officials, and agents or any such other person harmless from and against any and all claims, losses, costs, liabilities, damages, and expenses, to the extent incurred in connection with or arising from the use of Equipment.

Neither by the insurance or indemnifications requirements of this Agreement does the City waive any privilege, defense, or immunity, which may be available to it, its elected officials, officers, or employees by law, including, but not limited to those set forth in the Local Governmental and Governmental Employees Tort Immunity Act.

12. Safety

While being used by District students during the school day, the District will take all necessary precautions regarding the equipment and protect all persons and property from injury or damage.

13. City's Access to Premises

The City, its agents, employees, and independent contractors shall have the right to inspect the Equipment upon not less than twenty-four (24) hours' notice to:

- (a) inspect the Equipment;
- (b) supply any service or repair to be provided or performed by the City to the District;
- (c) inform the District of any repairs or services that are needed for the Equipment. The City will conduct weekly inspections and provide minor repairs as needed, which includes but is not limited to, replacing small parts, netting, and/or graffiti removal.
- (d) determine if the District is complying with its obligations under this Use Agreement.
- (e) alter, improve, or repair the Equipment

Notwithstanding the foregoing, the City shall not be required to provide prior notice to the District in the event of an emergency. Except to the extent caused by the City's gross negligence or willful misconduct, the District waives any claim for damages for any injury, or inconvenience to or interference with the District's business.

14. End of Term

- (a) No later than the expiration of the use agreement date, the City shall remove the Equipment. The District shall not be responsible for normal wear or for damage to the equipment.
- (b) If Equipment needs to be replaced or removed due to any damage, City may terminate the agreement. The City is not responsible for providing replacement Equipment during use agreement term.

15. Term of Convenience

The City has the right to terminate this Agreement, in whole or in part, for any reason.

16. Notices

Notices or other writings which either party is required to, or may wish to send to the other in connection with this Lease, shall be in writing and shall be delivered personally or sent by U.S. registered or certified mail, return receipt required addressed as follows:

If to the City:

City of Aurora
Community Services Department
44 East Downer Place
Aurora, Illinois 60507

With a Copy to:
City of Aurora
Corporation Counsel
44 E. Downer Place
Aurora, Illinois 60507

If to the District:
West Aurora School District 129
c/o
1877 W. Downer Place
Aurora, Illinois 60506

17. Severability

It is the intention of both of the parties hereto that the provisions of this Use Agreement shall be severable in respect to a declaration of invalidity of any provision hereof.

If any provision of this Use Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Use Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall remain in effect and shall be enforceable to the full extent permitted by law.

18. Modification of Use Agreement Terms

This use agreement may only be amended, modified, or supplemented by an agreement in writing duly executed by both the City and the District.

19. Governing Law and Jurisdiction

The Laws of the State of Illinois shall govern the validity, performance and enforcement of this use agreement. Any legal action or proceeding relating this Agreement shall be brought exclusively in the 16th Judicial Circuit Court in Kane County, Illinois. The District consents to such exclusive jurisdiction and agrees that venue is proper.

20. Miscellaneous Provisions

(a) **Illinois Freedom of Information Act.** The Lessee acknowledges the requirements of the Illinois Freedom of Information Act (FOIA) and agrees to comply with all requests made by the City of Aurora for public records (as that term is defined by Section 2(c) of FOIA) in the undersigned's possession and to provide the requested public records to the City of Aurora within two (2) business days of the request being made by the City of Aurora. The undersigned agrees to indemnify and hold harmless the City of Aurora from all claims, costs, penalty, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other

dispute resolution costs) arising out of or relating to its failure to provide the public records to the City of Aurora under this agreement.

(b) **Entire Agreement.** This Agreement represents the entire agreement between the parties with respect to the performance of the Services. No other contracts, representations, warranties or statements, written or verbal, are binding on the parties. This Agreement may only be amended as provided herein.

(c) **Consents and Approvals.** The Parties represent and warrant to each other that each has obtained all the requisite consents and approvals, whether required by internal operating procedures or otherwise, for entering into this Agreement and the undertakings contemplated herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Use Agreement as of the date first above written.

WEST AURORA SCHOOL DISTRICT 129
an Illinois Public School District

CITY OF AURORA,
an Illinois Municipal Corporation

BY: _____
[Title]

BY: _____

ATTEST: _____

ATTEST: _____

EXHIBIT A
DESCRIPTION OF EQUIPMENT

EQUIPMENT is a 21 x 13-meter (approximately 69 x 43 feet) steel structure, in the form of a soccer field, which includes netting, doors on both sides of each goal, and panels, which may have removeable ad signs. Rules for usage of this field are placed on both sides of the goals, on panels, in both English & Spanish. Photo of EQUIPMENT is included below.

