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# **PERFORMANCE AUDIT OF THE CITY'S ADMINISTRATION OF JOINT USE AGREEMENTS WITH SAN DIEGO UNIFIED SCHOOL DISTRICT**

**Office of the  
City Auditor**

**City of San Diego**



The Administration of Joint Use Agreements Can Be Improved through Alignment of Policy to Practice and Implementing Internal Controls to Ensure Equitable Financial Contributions for the Development and Maintenance of Joint Use Facilities

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## THE CITY OF SAN DIEGO

April 9, 2019

Honorable Mayor, City Council, and Audit Committee Members  
City of San Diego, California

Transmitted herewith is a performance audit report of the City's Administration of Joint Use Agreements with San Diego Unified School District. This report was conducted in accordance with the City Auditor's Fiscal Year 2019 Audit Work Plan, and the report is presented in accordance with City Charter Section 39.2. The Results in Brief are presented on page 1. Audit Objectives, Scope, and Methodology are presented in Appendix B. Management's responses to our audit recommendations are presented after page 57 of this report.

We would like to thank staff from the Parks and Recreation Department for their assistance and cooperation during this audit. All of their valuable time and efforts spent on providing us information is greatly appreciated. The audit staff members responsible for this audit report are Kevin Christensen and Chris Kime.

Respectfully submitted,

Kyle Elser  
Interim City Auditor

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## Results in Brief

Joint Use Agreements (JUAs) are a great way to open more accessible park space to the public. To that end, the City of San Diego (City) has entered into more than 85 agreements with the San Diego Unified School District (District) to allow public access to over 300 acres of fields and other amenities on District property during off-school hours. The City and District are continuing these agreements through the "Play All Day" parks program initiative put forth to break ground on over 45 new joint use park sites in the next 5–10 years. As stated in the program literature, joint use partnerships with schools fill an essential gap in addressing the City's need for more park land and additional recreational opportunities in our communities.

The City and the District have each made significant financial contributions for the joint use park program with an estimated total valuation of \$275 million for land, development and maintenance as of FY2018. However, the City has not followed the financial terms of the joint use program as required by the Memorandum of Understanding (MOU) and the JUAs. These financial terms require updating land, development, and maintenance costs as appraisals are done, park development is completed, and maintenance cost adjusted for increases. There is also a parity formula in the JUAs to calculate shared cost for the largely 25-year terms based on these financial inputs and then split the maintenance cost between the City and the District once financial parity has been reached on a joint use site.

In addition to not following the financial terms, City officials continue to present JUAs to the City Council with the pledge that the contracts are in compliance with the MOU, despite City managements' decision not to follow the MOU and JUA required financial calculations.

The City's reasoning for not following the financial terms are:

1. City officials stated the cost calculation methodology has never been implemented due its complexity and the lack of staff to adequately track the different calculations required. Both City and District officials stated they, in effect, agreed not to use the cost calculation methodology and strive to operate the program with a broader understanding of equity.
2. City and District officials have agreed the District will provide the land and the development costs, and the City will provide the maintenance for the joint use sites. Both City and District officials have referred to joint use as a "win-win" that more accurately represents the partnership between the City and District to allow for the shared use of public lands that are available for the exclusive use of San Diego school children during the day and all San Diego residents after school hours.
3. The City interpreted that it should not invoice the District for a joint use site when financial parity is reached for an individual JUA, since the District has made the larger financial contribution for all joint use sites combined.
4. Updating appraisals of District property every 25 years will only make the District financial contribution greater as time goes on. In many cases, parity will never be reached, or the parity terms will reset upon renewal of an agreement.

However, without a process to record and update financial contributions, there is no master record of financial contributions made by the City and the District to show that the contributions are shared and that there are mutual benefits for the parties involved. These financial contributions are also necessary to determine any remaining value of City improvements in the event the District leases or sells the property on which a joint use field is located. Without updated financial information, the parity calculations will not be accurate.

The parity formula is complex and has shown to be problematic to implement for 85 joint use sites. However, if the parity formula was applied as stated in the MOU and JUAs, the District is potentially responsible for an estimated \$1.2 million of prior maintenance costs at 11 joint use sites. Additionally, the District is potentially responsible for an estimated \$355,000 annually, beginning in FY2019, for ongoing maintenance costs for 12 joint use sites.

As part of fieldwork, we interviewed several municipalities, school district officials, and non-profit specialists in joint use partnerships. All separately expressed skepticism over the efficiency, effectiveness and usefulness of the financial parity calculation proscribed by the MOU. All interviewees stated that simpler contractual terms exist for operating joint use programs.

To address the issues mentioned above, we recommend the Parks and Recreation Department revise the MOU to reflect the vision and the shared goals of the City and the District. During the revision process, the Parks and Recreation Department should work with the City Attorney's Office to determine an acceptable solution for any outstanding maintenance amounts that are the District's responsibility per the existing MOU requirements.

In addition, we recommend that the Parks and Recreation Department implement a tracking system for the JUA to encompass land, development, and maintenance cost; park location; acres; agreement start date; agreement expiration date and, if applicable, parity calculations. The Department should also develop policies and procedures with a process narrative describing the Parks and Recreation Department, Planning Department, and other applicable City departments' responsibilities for the inputs into the tracking system.



Lastly, we recommend the Parks and Recreation Department, with the assistance of the Planning Department and the City Attorney's Office, develop a proposal for City Council to consider revisions to Council Policy 700-35, which should include a strategic vision for the joint use parks program, program objectives, City department responsibilities, and reporting requirements to ensure City Council receives information on achieving program objectives.

We made four recommendations and City Management agreed to implement all of the recommendations.

# Background

## **Parks and Recreation Department**

The Parks and Recreation Department (PRD) plays a key role in the quality of life for San Diego residents. PRD manages three major service areas: Parks and Open Space, Recreational Facilities, and Recreational Programs. PRD's mission is to provide healthy, sustainable, and enriching environments for all. PRD's vision is to connect all to the City of San Diego's (City) diverse, world-class park system. PRD administers and oversees more than 42,000 acres of City-owned park assets, which includes about 27,000 acres of open space. It also operates and maintains recreational facilities including recreation centers, playgrounds, athletic fields, pools, and campgrounds. In an effort to open more accessible park space, the City has entered into more than 85 agreements, called Joint Use Agreements (JUAs), with the San Diego Unified School District (District) to open playgrounds and fields to the general public on District property during off-school hours.

## **Joint Use Agreements**

A JUA is a written agreement between a school district and one or more public or private (nonprofit) entities setting forth the terms and conditions for sharing the use of the district's facilities. A JUA can allow community access to school property by allowing a district to share with another agency the costs and risks associated with opening the property for after-hours use.

JUAs have become so prevalent throughout the state that the League of California Cities lists the exploration of joint use opportunities in its *New Mayors and Council Members Academy Resource Guide* as a best practice.

**Joint Use Agreements  
Between City and San  
Diego Unified School  
District**

In 1948, the City and the District spearheaded a movement to begin using portions of school campuses as park space open to the community. The City and the District entered into an agreement to improve and maximize the shared use of public facilities and resources to meet the recreational and physical education needs of the communities both agencies serve.

According to PRD, the San Diego City Council adopted Council Policy 700-35 in August 1981 after the District communicated its inability to fund the construction and improvement of new joint use facilities due to financial constraints. The Council Policy established the City's policy for joint use sites in this context.<sup>1</sup>

The City and the District updated this relationship in October 2002 by entering into a Memorandum of Understanding (MOU) for the development and maintenance of joint use facilities with the goal of meeting the needs of the region's growing population, especially in the populated urban core, and the expected public demand for joint use development. Meeting these needs required greater collaboration between the City and District. The MOU sought to ensure that the City and the District shared in the contributions to the development and maintenance of joint use facilities. The MOU laid out specific valuation criteria for contract negotiations.

The contractual terms for the City and the District are guided by two documents that together form the contract. The first is the MOU, which set forth basic principles such as setting values for land contributions, development costs, and the cost of maintenance. The second, the JUA, is negotiated for each individual property and more specifically sets forth the specific duties tailored to the needs of that property.

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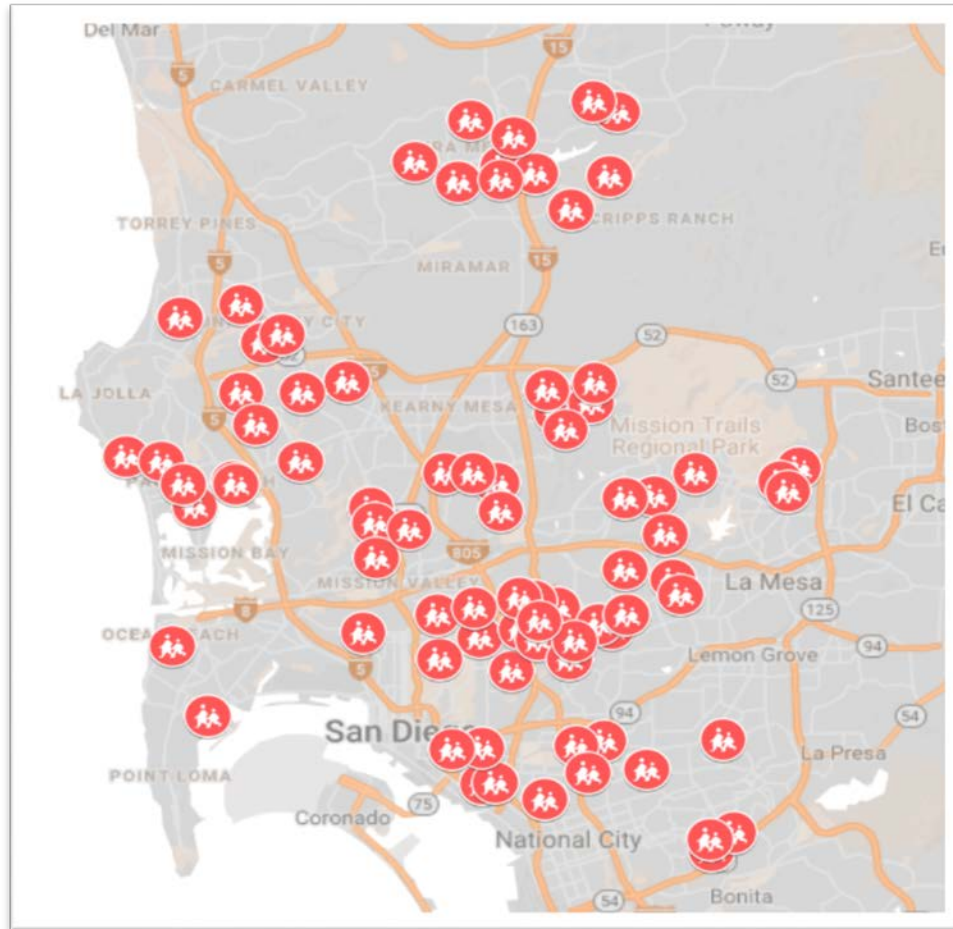
<sup>1</sup> The Background of the Council Policy states, "During the past several years, the City of San Diego has worked cooperatively with the San Diego Unified School District in the development of school sites. The School District now indicates they will be unable to financially participate in such projects."

At the time the MOU was executed in 2002, the City and the District had executed 75 joint use agreements. These and other agreements have accommodated the need to provide recreational space within the region by establishing designated school sites for park use including multi-purpose courts, parking lots, and turf-ed multi-purpose athletic fields.

In 2016, San Diego Mayor Kevin Faulconer and District Superintendent Cindy Marten announced the "Play All Day" Parks Program. The goal of the program is to create 45 new or expanded joint use facilities in the next 5-to-10 years. The initiative is meant to strengthen the long-standing partnership between the City and the District to maximize the shared use of public facilities and resources for educational and community use. Below is a map showing the locations of joint use sites.

**Exhibit 1:**

**Map of Joint Use Facilities in City of San Diego<sup>2</sup>**



Source: OCA generated based on list of joint use sites provided by the Parks and Recreation Department.

Since the launch of the new Play All Day program, the City and the District have identified more than 32 potential new joint use sites. It is anticipated that four or five of the Play All Day sites will begin development soon. According to PRD officials, each joint use site takes about a year to build and open for use.

<sup>2</sup> Map at: <https://www.google.com/maps/d/edit?mid=1F5LdpieGshKTTOxZOKIYQr4nX7osCQ5L&ll=32.80984398843607%2C-117.09132331445312&z=11> (Last visited: March 27, 2019)

**Memorandum of Understanding Between City and San Diego Unified School District**

The City and the District entered into an MOU in 2002 to guide the identification, negotiation, and cost calculation methodologies for joint use sites. These cost methodologies included the concept of parity. The MOU introduces the concept of parity, where the District's up-front contribution will be matched over time by the City paying operations and maintenance costs for the joint use area until the amounts are equal.

As previously described, the program had been in existence since the 1940s. For these older sites, the City and District made initial investments for construction and ongoing investments in annual maintenance under JUAs that did not include the parity concept. Rather, these were akin to leases with 25-year terms. The City and District therefore needed to devise an MOU that recognized these past contributions while determining a parity schedule where maintenance costs are split 50/50 at some future date. As a result, the MOU set forth financial calculation methodologies to determine when parity is reached for new agreements and a separate methodology for JUAs in effect before 1996.

Critically, the MOU distinguishes between pricing methodologies for: (1) new JUAs; (2) original expiring JUAs entered into prior to 1996; and (3) original expiring JUAs entered into from 1996 or later.

**MOU Financial Contributions, Section III.A**

The cost calculation for new JUAs provided methodologies for the valuation of land contributions, total project costs, and maintenance and operations contributions. The MOU states financial contribution criteria are designed to "ensure that the City and District equitably contribute to the development, and maintenance of joint use facilities."

**Land Contributions** Per the MOU, the value of the land contribution will be 50 percent of its appraised value.

The MOU provided three options to determine the appraised value of land.

- **Option 1:** Either the City or the District, will agree to advise in writing, called a Commencement Notice, on the party's opinion as to the value of the asset.<sup>3</sup> The proposed value sets its Highest and Best Private Use, or valued for the highest private use.<sup>4</sup>
- **Option 2:** In instances where the City's and District's values are not the same but are within 20 percent (as a percentage of the larger proposed value), the value shall be the average. If the values are more than 20 percent apart, the parties will negotiate.
- **Option 3:** If the parties cannot agree on the price, the parties shall each appoint an appraiser. These two appraisers will, in turn, hire a third qualified appraiser to opine on the property. This appraisal will be binding.

**Total Project Costs** According to the MOU, the total project costs will be the total design, construction, and non-construction costs.

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<sup>3</sup> According to the MOU, "As part of the negotiation of the site-specific joint use agreement, City and District shall document in writing the need to value land for the proposed joint use agreement by letter signed by the City Manager or designee and the District Superintendent or designee [the Commencement Notice] identifying the subject property [the Asset] and agreeing to advise the other Party in writing of such Party's opinion as to the value of the Asset [for each, the Proposed Value] within ninety (90) days of the date of the Commencement Notice."

<sup>4</sup> According to the MOU, Highest and Best Value "shall mean that reasonably probable and legal private use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible and that results in the highest value. Uses that are not considered 'highest and best uses' are: interim use, special use, non-conforming use, speculative use, and excess land. The term 'private' is used to denote typical private sector uses, such as residential, commercial, industrial, etc. versus public sector special uses such as parks, schools, open space, fire stations, libraries, etc."

**Maintenance and Operations**

As stated in the MOU, annual maintenance and operations costs are established when the contract is negotiated. The costs will be re-evaluated bi-annually throughout the term of the JUA. Labor costs will be calculated in accordance with the Consumer Price Index (CPI) for the San Diego Area, as published by the U.S. Bureau of Labor Statistics.

**Original Expiring Agreements**

The MOU established a methodology for renewing JUAs where the original agreement between the City and District was executed from 1996 or later. The financial amount of contribution for these JUAs shall be calculated using the methodology established in MOU Financial Contributions, Section III.A.

**MOU Financial Contributions, Section III.B**

The MOU has a separate methodology for JUAs executed prior to 1996.<sup>5</sup> According to the MOU, in instances where these JUA agreements between the City and the District expire, the parties enter into a new agreement with the following pricing terms.

Under the methodology designated for original JUAs prior to 1996, the City or District receives a value of \$500,000 per acre of land. The City or the District receives a \$200,000 per acre of land valuation for new construction. Finally, the City or District will receive an annual assigned value of \$8,000 per acre for operations and maintenance, which will be re-evaluated every two years based on the CPI.

**Maintenance Responsibility for Expiring Agreements**

If at expiration of these agreements, both parties have made equal financial contributions, each party will equally contribute to the annual maintenance costs under the renewed agreement. If at the expiration of the agreement,

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<sup>5</sup> For example, the City and the District entered into an agreement in 1975 with a 25-year term for a joint use site. This original agreement would expire in the year 2000. Because the original agreement was entered into before 1996, the contract would be renegotiated using the methodology established in MOU Financial Contributions, Section III.B.



the financial contribution of one party was greater, then the party who contributed the lesser amount will be solely responsible for payment of all maintenance costs under the renewed agreement until the cost differential has been eliminated. If financial parity is reached prior to the expiration of an existing agreement, that agreement shall be immediately amended to reflect a 50/50 shared maintenance.

**Expansions of Facilities  
Subject to the JUA**

According to the MOU, the assigned values described in the New Joint Use Agreements section will also be used when existing joint use facilities are expanded or otherwise altered within existing City or District property. Expansion of facilities typically includes the acquisition of additional land or improvements. The additional land or improvements will be evaluated using the valuation described in the New Joint Use Agreements section.

**Financial Parity  
Formula for Land,  
Development, and  
Maintenance of Joint  
Use Sites**

The MOU and JUAs state that for joint use sites where the City and District contribute equally for land and development costs, the parties will split maintenance costs. The MOU stated that if the City and District made equal financial contributions, "then each party will equally contribute to the annual maintenance costs required under the renewed Agreement." This language is echoed in the JUA. For joint use sites where the City and District contributed equally to the property and development, the JUA states the City and District "share maintenance costs equally."

The City and the District contemplated that for some sites, one party would likely contribute more than the other party after land and development costs are totaled. The City and the District agreed the party that contributed less would pay for all maintenance cost at the site, until the party's contributions equalized. Once the contributions have equalized, the parties have reached parity. The MOU and JUAs also provide guidance on calculating the parity schedule and how to split maintenance equally between the City and District after parity is reached.

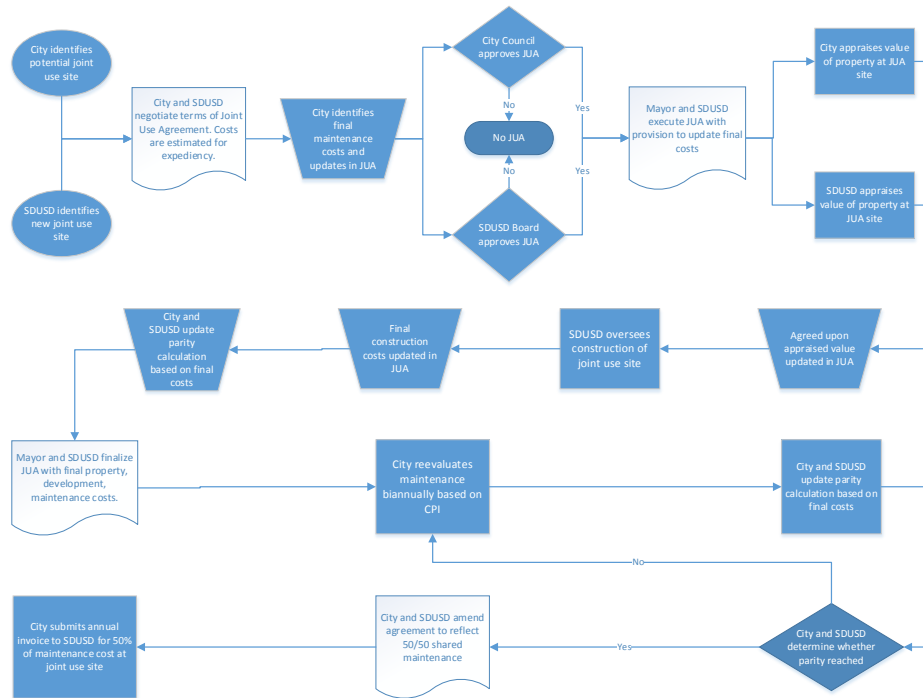
First, the MOU and JUAs provide a set of calculations for joint use sites where one party contributes more for the land and development costs than the other. The MOU states that after the property, development, and maintenance costs are aggregated, "the party who contributed the lesser amount will be solely responsible for the payment of all maintenance costs." This requirement is included in the separate JUAs. The JUAs states for joint use sites where one party contributes more for the property and development and costs, the party contributing less is "responsible for one hundred percent (100%) of the maintenance costs of the Joint Use Area."

Second, the MOU and JUAs state the party paying full maintenance costs is temporary. This party pays all maintenance costs only until the financial contributions have equalized and parity is reached. The MOU states that once the "cost differential is eliminated . . . that agreement shall be immediately amended to reflect a 50/50 shared maintenance." The JUA proscribes the same requirements. The JUA states, "after CITY and DISTRICT have contributed equally to the costs of the Joint Use Area . . . CITY and DISTRICT shall each be responsible for fifty percent (50%) of the cost of maintenance of the Joint Use Area."

The process diagram in **Exhibit 2** illustrates the valuation process.

**Exhibit 2:**

**Process for Negotiating and Conducting Cost Calculation Methodology for New Joint Use Agreements**



Source: OCA generated based on Memorandum of Understanding between City of San Diego and San Diego Unified School District.

**Selection and Approval of Joint Use Sites**

The determination to jointly use the selected school sites was made in partnership between the City and the District. According to PRD, several factors were evaluated based on the specific merits of each site. The following factors were considered in the selection of the Play All Day joint use field sites:

- Pre-identified for school district funding;
- On the District’s schedule for implementation;
- Identified in the Community Plan or Facilities Financing Plan as a future joint use park; and
- Located in park-deficient communities.

City Council Policy 600-33 provides guidelines to assure that the public has adequate notification and opportunity to participate in the public input process for all public park projects, including joint use parks.

A General Development Plan (GDP) is prepared for each joint use facility. The GDP is a conceptual master plan that identifies the activities and amenities to be included in a proposed joint use facility. The proposed joint use field is presented to the public during a series of Recreation Council meetings. The Recreation Council is officially recognized by the City and is comprised of community members who are tasked to promote park and recreation opportunities within their designated community.

Once the project is approved by the Parks and Recreation Board, a JUA is prepared. The JUA is the legal agreement between the City and the District and is first approved through the District Board of Education and then City Council.

**Funding for Joint Use  
Projects**

According to PRD, Propositions S and Z, approved by San Diego voters, are District bond measures that created funding for capital improvement projects to repair, renovate, and revitalize school sites. The District is using a portion of these funds to construct new turf fields at school sites that do not already have turf fields.

# Audit Results

## ***Finding 1: The City Does Not Track Key Financial Terms Related to Joint Use Sites***

The City of San Diego (City) and the San Diego Unified School District (District) have each made significant financial contributions for the joint use park program with an estimated valuation of \$275 million for land, development and maintenance as of FY2018. However, the City has not followed the financial terms of the joint use program as set forth by the Memorandum of Understanding (MOU) and the Joint Use Agreements (JUAs). These financial terms require updating land, development, and maintenance costs as appraisals are done and park development is completed and adjusting maintenance costs for increases. There is also a parity formula in the JUAs to calculate shared cost based on these financial inputs and then split the maintenance cost between the City and the District once financial parity is reached on a joint use site.

In addition to not following the financial terms, City officials continue to present JUAs to the City Council with the pledge that the contracts are in compliance with the MOU, despite City management's decision not to follow the MOU and JUA required financial calculations.

The City's reasoning for not following the financial terms are:

1. City officials stated the cost calculation methodology has never been implemented due its complexity and the lack of staff to adequately track the different calculations required. Both City and District officials stated they, in effect, agreed not to use the cost calculation methodology and strive to operate the program with a broader understanding of equity.

2. City and District officials have agreed the District will provide the land and the development costs, and the City will provide the maintenance for the joint use sites. Both City and District officials have referred to joint use as a "win-win" that more accurately represents the partnership between the City and District to allow for the shared use of public lands that are available for the exclusive use of San Diego school children during the day and all San Diego residents after school hours.
3. The City interpreted that it should not invoice the District for a joint use site when financial parity is reached for an individual JUA, since the District has made the larger financial contribution for all joint use sites combined.
4. Updating appraisals of District property every 25 years will only make the District financial contribution greater as time goes on. In many cases, parity will never be reached, or the parity terms will reset upon renewal of an agreement.

However, without a process to record and update financial contributions, there is no master record of financial contributions made by the City and the District to show that the contributions are shared and there are mutual benefits for the parties involved. These financial contributions are also necessary to determine any remaining value of City improvements in the event the District leases or sells the property on which a joint use field is located. Without updated financial information, the parity calculations will not be accurate.

The parity formula is complex and has shown to be problematic to implement for 85 joint use sites. However, if the parity formula was applied as stated in the MOU and JUAs, the District is potentially responsible for an estimated \$1.2 million of prior maintenance costs at 11 joint use sites. Additionally, the District is potentially responsible for an

estimated \$355,000 annually, beginning in FY2019, for ongoing maintenance costs for 12 joint use sites.

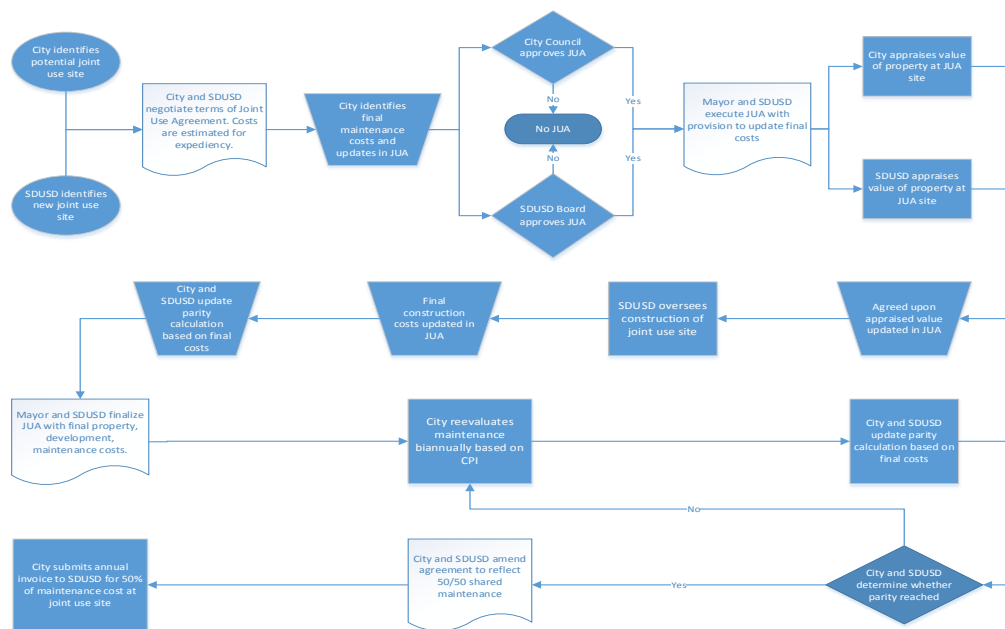
As part of fieldwork, we interviewed several municipalities, school district officials, and non-profit specialists in joint use partnerships. All separately expressed skepticism over the efficiency, effectiveness and usefulness of the financial parity calculation proscribed by the MOU. All interviewees stated that simpler contractual terms exist in operating joint use programs.

**WHAT WE FOUND    The City is Completing Less than Half of the Steps in the Process for Execution and Administration of Joint Use Agreements**

The process for the steps of negotiation and updating of the JUAs is set forth in **Exhibit 3**. As illustrated in **Exhibit 4**, we found that the City is completing less than half of these steps.

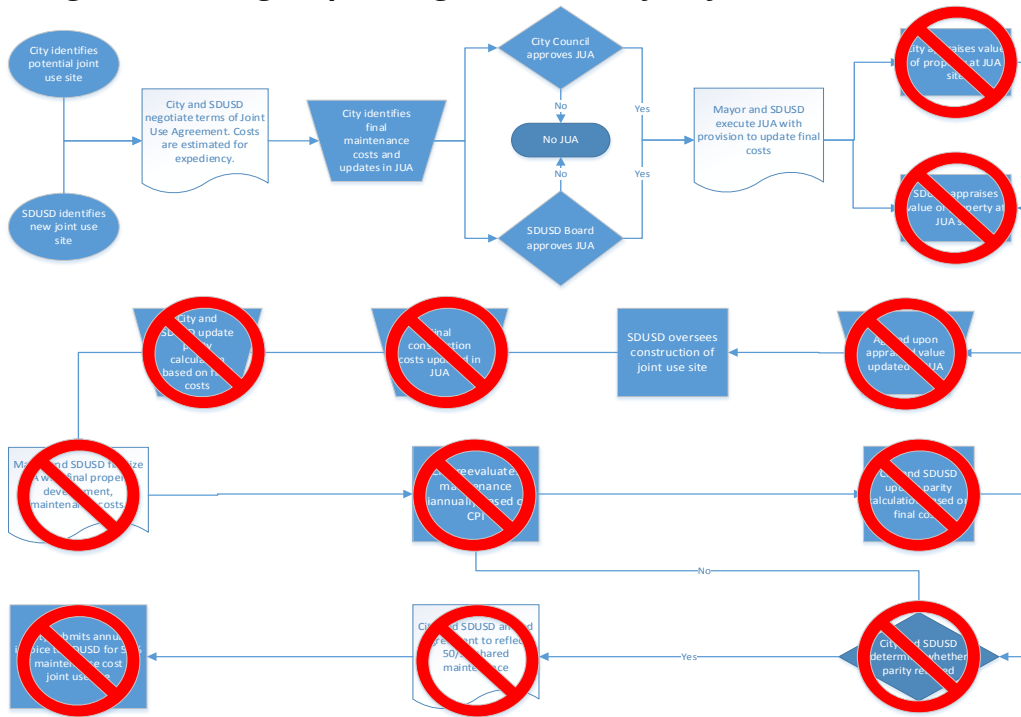
**Exhibit 3:**

**Process Diagram Showing Steps for Execution of Joint Use Agreements Established in MOU**



Source: OCA generated based on Memorandum of Understanding between City of San Diego and San Diego Unified School District.

**Exhibit 4:**  
**Process Diagram Showing Steps Being Conducted by City and District**



Source: OCA generated based on interviews and documents provided by City Departments.

As is illustrated above and further discussed in the sections below, the City is not consistently completing many of the steps required by the MOU and the individual JUAs after agreements are completed and the construction is finalized.

**The City Has Not Followed MOU Terms Requiring Development Cost Updates in Most Joint Use Agreements upon Completion of a Joint Use Site Development**

The City has not included the final construction costs for improvements to the new joint use sites in most of the JUAs executed prior to 2018. An important component of ensuring equitable financial contributions for the creation and operation of each joint use site is calculating the final development (construction) costs or development contribution for each completed facility. However, the City has not updated the final construction costs for individual sites as required by the MOU and individual JUAs. As stated in the Background section, a primary goal of the MOU and JUAs is ensuring the City and the District share in the cost of the construction, operation, and maintenance of



the joint use facilities. One key step in achieving equity is the calculation and insertion of the final construction costs of the joint use site in the parity calculation. This is required by both the MOU and the individual JUAs.

The MOU defines "Total Project Costs" as "The actual project costs will be the total design, construction and non-construction costs". The JUA for Angier Elementary included language stating, "These figures are estimates calculated using the formula in Section III.B of the 2002 Memorandum of Understanding (MOU) between the CITY and DISTRICT. The parity calculation shall be adjusted in the future to meet the requirements of Section III.A of the MOU for 'New Locations.'"<sup>6</sup>

For example, the City Council approved the JUA for the construction, operation, and maintenance of a joint use site at Angier Elementary in 2015. The information presented to the City Council seeking approval stated the "terms of the proposed agreement are consistent" with the MOU. The actual construction costs have not been updated for the Angier Elementary JUA. As illustrated in **Exhibit 5**, the JUA contains development costs of \$200,000 per acre, for a total of \$580,000.

**Exhibit 5:**

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**Development Contribution Data from Angier Elementary Joint Use Agreement**

**EXHIBIT "B"**  
**ANGIER ELEMENTARY SCHOOL**  
**CALCULATION OF FINANCIAL CONTRIBUTIONS**  
**Pursuant to Section III.A of the MOU**

Value of CITY's Development Contribution	\$200,000/acre	X	2.9 acres	=	\$ 580,000
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Source: Joint Use Agreement for Angier Elementary School provided by the Parks and Recreation Department.

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<sup>6</sup> Our review of the 58 JUAs executed since the approval of the MOU in 2002 indicate that this language, or similar language similar, is included in the terms of each agreement.

However, the final construction cost for the turfed multi-purpose sports fields, multi-purpose courts, walkways, landscaping and accessibility upgrades was \$2,671,575. Construction began in Fiscal Year 2016 and was completed in Fiscal Year 2017. In this case, the City's development contribution is undervalued by a little over \$2 million. District contributions have also not been updated for the majority of agreements prior to Fiscal Year 2018.

This is critical because the MOU and the JUA both state the construction costs will be updated to reflect the full cost. Specifically, the MOU states: "When Agreements are negotiated for new joint use locations, the total financial contribution of each party will be calculated based on . . . Total Project Costs. The actual project costs will be the total design, construction and non-construction costs." The JUA also states the costs will be updated. Specifically, the JUA states, "The parity calculation shall be adjusted to meet the requirements of Section III.A of the MOU."

As a result, the City and District continue to administer most of the agreements without updating the financial contributions and parity formula to include the accurate development and construction costs at the new joint use sites.

Beginning in Fiscal Year 2018, the City and the District started attempting to include more accurate development costs in some JUAs and include these amounts in the parity formula. For example, the JUA for the Harriet Tubman Charter School included the budgeted construction costs contributed by the District.

**Exhibit 6:**

**Development Contribution from Harriet Tubman Charter School Joint Use Agreement**

**EXHIBIT "B"**  
**HARRIET TUBMAN CHARTER SCHOOL**  
**CALCULATION OF FINANCIAL CONTRIBUTIONS**  
**Pursuant to Section III.A of the MOU**

Value of DISTRICT's Development Contribution				=	\$2,956,220
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Source: Joint Use Agreement for Harriet Tubman Charter School provided by the Parks and Recreation Department.

In summary, the updated values for the development and construction contribution will be higher than the \$200,000 per acre estimate used in the majority of the JUAs executed between the City and the District. As a result, the development contribution costs in nearly all new JUAs are understated, which means the final costs for both the City and District are unknown and the parity calculations are not accurate.

**The City Has Not Consistently Followed the MOU Terms Requiring the Use of Current Maintenance Costs in New Joint Use Agreements**

To achieve equity, the MOU and the JUAs for the individual joint use sites require the City to include current costs for maintenance in each agreement. However, we found that the City has not included the current maintenance costs in the majority of JUA's executed since 2002. However, starting in 2017, the City has provided the accurate maintenance costs in some agreements, as illustrated below in **Exhibit 7**.

The MOU states that "ensuring the City and District equitably contribute to the cost of the joint use facilities, the equity contribution will be determined by evaluating, in part, the annual maintenance and costs" for the site. The MOU further states, "When Agreements are negotiated for new joint use locations, the total financial contribution of each party will be calculated based on . . . Maintenance of Operations. Annual maintenance and operations costs will be established at the

time the Agreement is negotiated and will be reevaluated bi-annually throughout the term of the Agreement.”

The City has not increased the annual maintenance costs in most JUAs commensurate with the increased in maintenance costs absorbed by the City. Specifically, from 2002 to 2016, the City assessed a range of maintenance costs from \$8,000 to \$12,500 per acre.

Meanwhile, PRD maintains and updates per acre maintenance on an annual basis as part of the City-wide budget process. PRD provided the maintenance cost calculations between FY2014 and FY2018. Beginning in 2017, the City has included the accurate value of the maintenance costs in some JUAs. In **Exhibit 7** below, we compare a series of contracts entered between FY2014 and FY2018 to show the discrepancies between the City's rising maintenance costs and the amount the City included in the JUAs.

**Exhibit 7:**

**Comparison of the Parks and Recreation Department's Actual Maintenance Costs versus the Maintenance included in the Joint Use Agreements**

Name of Joint Use Site	Year JUA Executed	Parks and Recreation Maintenance Costs (per acre)	Value of City's Maintenance Contribution per JUA (\$ per acre)
Wegeforth Elementary	2014	\$11,610	\$8,500
Angier Elementary	2015	\$12,668	\$8,500
McKinley Elementary	2016	\$13,404	\$8,500
Linda Vista Elementary	2017	\$13,671	\$14,179
Pershing Middle School	2017	\$13,671	\$8,500
CPMA Middle	2017	\$13,671	\$14,179
Gage Elementary	2017	\$13,671	\$14,179
Marvin Elementary	2017	\$13,671	\$14,179
Horton Elementary	2018	\$14,179	\$14,179
Cubberly Elementary	2018	\$14,179	\$8,000
Encanto Elementary	2018	\$14,179	\$8,000

Source: OCA generated based on data provided by the Parks and Recreation Department.

The City charged actual maintenance costs in 2017 and 2018 for most joint use agreements and has charged the 2002 MOU-specified maintenance costs on other agreements. The City is therefore charging less for annual maintenance costs in some JUA's than the actual cost of performing the work.

As a result, the City's true maintenance costs are not accurately being shown as a financial contribution nor are they being included in any parity calculations. As a result, the City may be bearing the full cost of maintenance longer than required.

**The City Has Not Consistently Followed the MOU Terms Requiring Biennial Maintenance Cost Adjustments Based on CPI**

The City does not calculate and apply maintenance cost adjustments to account for inflation, as required by the MOU and individual JUAs. The MOU and the individual JUAs provide that, beginning in 2002, maintenance costs be reevaluated every two years based on the Consumer Price Index (CPI).<sup>7</sup> This calculation has not been completed for any of the JUAs. PRD management stated that no policies or framework exist to calculate increased maintenance cost, and this has never been done.

A primary purpose of the MOU and the JUA is to ensure that the City and District equitably contribute to the development, and maintenance of the facilities. Because the JUAs are generally 25-year terms, in order to ensure continued equity, the MOU requires that labor costs related to maintenance increase over that time. In order to ensure that these labor cost increases are realized, the maintenance costs set in the original JUA would be adjusted every two years based on changes in the CPI.

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<sup>7</sup> The Consumer Price Index (CPI) is a measure that examines the weighted average of prices of a basket of consumer goods and services, such as transportation, food and medical care. It is calculated by taking price changes for each item in the predetermined basket of goods and averaging them. Changes in the CPI are used to assess price changes associated with the cost of living. The CPI is one of the most frequently used statistics for identifying periods of inflation or deflation.

For example, the City entered a JUA with the District for the development and operation of a joint use park at Montgomery Elementary School in 2009 as shown in **Exhibit 8**. The agreement included the following estimated annual costs for maintenance:

**Exhibit 8:**

**Calculation of Financial Contribution for City's Annual Maintenance Cost for Montgomery Middle School**

**MONTGOMERY MIDDLE SCHOOL  
CALCULATION OF FINANCIAL CONTRIBUTIONS  
Pursuant to Section III.A of the MOU  
PHASE I**

Value of CITY's Maintenance Contribution	\$8,500/acre	x	3.5 acres (excluding slopes)	=	\$ 29,750/YEAR
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Source: Joint Use Agreement for Montgomery Middle School provided by the Parks and Recreation Department.

Per the terms of the contract, the City and District should apply a price escalator to the \$29,750 every two years based on the CPI. The following exhibit shows the application of the CPI adjustment to the base maintenance cost identified in the Montgomery Middle School JUA:

**Exhibit 9:**

**Consumer Price Index Calculation for City's Annual Maintenance Cost for Montgomery Middle School**

Bi-Annual CPI Calculation per MOU					
Year	Maintenance Cost	CPI Base	CPI Change	Difference in Labor Cost	Total Annual Maintenance Costs
2009	\$29,750	243.655	NA	NA	\$29,750
2011	\$29,750	253.368	3.99%	\$1,186	\$30,936
2013	\$30,936	261.679	3.28%	\$1,015	\$31,951
2015	\$31,951	271.526	3.76%	\$1,202	\$33,153
2017	\$33,153	284.464	4.76%	\$1,580	\$34,733
2019	\$34,733	290.076	1.97%	\$685	\$35,418

Source: OCA generated based on data provided by the Parks and Recreation Department.

As seen in the table, when the CPI is applied, the maintenance cost for Montgomery Elementary has increased from \$29,750 to \$35,418, an increase of \$5,668 over 10 years. The City has not performed this calculation for any of the 85 JUAs administered by PRD at this time.

**The City Has Not Followed MOU Terms Requiring Property Appraisals for New Joint Use Agreements**

To achieve equity in the construction and operation of joint use sites, the MOU and JUAs require the City to conduct property appraisals for new and certain renewed JUAs. The appraisal determines the value of the property to be used in the parity calculation. However, the City has not conducted any appraisal for the sites we reviewed.

As stated in the Background section, a primary goal of the MOU and JUAs is ensuring the City and the District contribute equitably in the cost of the land, construction, and maintenance of the joint use facilities. To equitably split costs, the MOU requires the City and District to determine the value of the property by performing an appraisal. The MOU provided three options to determine the value of the land.

- **Option 1:** Either the City or the District, will agree to advise in writing, called a Commencement Notice, on the party's opinion as to the value of the asset.<sup>8</sup> The proposed value sets its Highest and Best Private Use, or valued for the highest private use.<sup>9</sup>

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<sup>8</sup> According to the MOU, "As part of the negotiation of the site-specific joint use agreement, City and District shall document in writing the need to value land for the proposed joint use agreement by letter signed by the City Manager or designee and the District Superintendent or designee [the Commencement Notice] identifying the subject property [the Asset] and agreeing to advise the other Party in writing of such Party's opinion as to the value of the Asset [for each, the Proposed Value] within ninety (90) days of the date of the Commencement Notice."

<sup>9</sup> According to the MOU, Highest and Best Value "shall mean that reasonably probable and legal private use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible and that results in the highest value. Uses that are not considered 'highest and best uses' are: interim, use, special use, non-conforming use, speculative use and excess land. The term 'private' is used to denote typical private sector uses, such as residential, commercial industrial, etc. versus public sector special uses such as parks, schools, open space, fire stations, libraries, etc."

- **Option 2:** In instances where the City's and District's values are not the same but are within 20 percent (as a percentage of the larger proposed value), the value shall be the average. If the values are more than 20 percent apart, the parties will negotiate.
- **Option 3:** If the parties cannot agree on the price, the parties shall each appoint an appraiser. These two appraisers will, in turn, hire a third qualified appraiser to opine on the property. This appraisal will be binding. According to the City staff, an appraisal costs between \$3,000 and \$50,000, depending on the complexity involved in analyzing the site. The agreed-upon value of the property is then split by 50 percent, and this value then serves as the basis for the calculation of the parity schedule.

However, the City has not conducted an appraisal for any of JUAs executed before 2017 as required by the MOU. Rather, the City has used the same estimate—\$500,000 per acre—on each joint use site since the MOU was executed in 2002. For example, the City and District entered a JUA for the construction and maintenance of a new park facility at Marvin Elementary School. The City used an estimate of \$500,000 per acre value for the property without completing an appraisal.

**Exhibit 10:**

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**Property Land Contribution from Marvin Elementary Joint Use Agreement**

EXHIBIT "B"  
 MARVIN ELEMENTARY SCHOOL  
 CALCULATION OF FINANCIAL CONTRIBUTIONS  
 Pursuant to Section III.A of the MOU

Value of DISTRICT's Land Contribution	\$500,000 /ACRE	X	3.87 acres	=	\$1,935,000
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Source: Joint Use Agreement for Marvin Elementary School provided by the Parks and Recreation Department.

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Beginning in 2018, the City and the District employed a new method of determining the value of the property for the purpose of the parity calculation. The District provided the land purchase and sales prices for properties it has acquired or sold within the past five years. The District then takes the average of the sites, divided by 50 percent, in order to produce the value of the land contribution.

Using the methodology above for land valuation, the value of the per acre land contribution for the District is \$870,908 per acre for the JUA parity calculations. As illustrated in the exhibit below, the City and the District used this land contribution amount—\$871,908 per acre—in the recent negotiation for a JUA at the site of Harriet Tubman Charter School.

**Exhibit 11:**

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**Property Land Contribution from Harriet Tubman Charter School Joint Use Agreement**

**EXHIBIT "B"**  
**HARRIET TUBMAN CHARTER SCHOOL**  
**CALCULATION OF FINANCIAL CONTRIBUTIONS**  
**Pursuant to Section III.A of the MOU**

Value of DISTRICT's Land Contribution	\$871,000 /ACRE	X	1.6 acres	=	\$1,393,600
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Source: Joint Use Agreement for Harriet Tubman Charter School provided by the Parks and Recreation Department.

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Updating property values will result in the City performing maintenance for longer periods of time in the majority of JUAs. The values of the properties are most likely higher than the \$500,000 per acre estimate used in the majority of the JUAs executed between the City and the District. The parity calculations for nearly all of the JUAs currently in effect between the City and the District therefore underestimate the

value of the land contribution in the parity requirement. One important impact of using the accurate property values is the City will be paying for maintenance on these facilities for a longer period due to increases in the District's financial contributions to the site.

**The City Has Not Implemented a Tracking System to Monitor Financial Equity Related to Joint Use Sites**

The primary means for ensuring equity in the operation of the joint use program is the proper updating of construction, maintenance, and land costs for the joint use sites. The MOU and JUA also establish a formula to calculate the parity requirement. However, PRD and Planning management stated the parity calculation has never been updated and tracked after the execution of the JUA, and the City does not have a tracking system to update cost and calculate changes to the parity formula for the JUAs.

In order to achieve equity of financial contributions, the City and the District agreed to a cost contribution methodology to achieve parity. To ensure the City and the District contribute equitably to joint use site, the costs for the development and land costs must be determined. Once these costs are determined, the City and District total their respective contributions.

Each JUA executed after the MOU was executed contains a "Calculation of Financial Contributions" form that specifies both the land contribution and the development contribution for each joint use site. Below is an example of the calculation methodology for Pershing Middle School in which the District contributed the land and the City contributed the development costs:

**Exhibit 12:**

**Calculation of Financial Contribution for City's Land and Development Costs for Pershing Middle School**

**EXHIBIT B**

**PERSHING MIDDLE SCHOOL  
CALCULATION OF FINANCIAL CONTRIBUTIONS AS OF FEBRUARY 1, 2016  
Pursuant to Section III of the MOU**

Value of DISTRICT's Land Contribution	\$500,000	X	5 acres	=	\$2,500,000
Value of DISTRICT's Development Contribution	\$0			=	\$0
<b>TOTAL DISTRICT CONTRIBUTION</b>					<b>\$2,500,000</b>
Value of CITY's Development Contribution	\$200,000	X	5 acres	=	\$1,000,000

Source: Joint Use Agreement for Pershing Middle School provided by the Parks and Recreation Department.

As can be seen above, the District contributed \$2.5 million while the City contributed \$1 million leaving a difference of \$1,500,000.

In devising the parity concept, the City and the District contemplated that for each site, one party would likely contribute more than the other party after land and development costs are totaled. The City and the District agreed the party that contributed less would pay for all maintenance cost at the site, until the party's contributions equalized.

For example, the Pershing Middle School property, the City and the District agreed that maintenance cost for the property would be \$42,500 annually.

**Exhibit 13:**

**Calculation of Financial Contribution for City's Annual Maintenance Cost for Pershing Middle School**

**EXHIBIT B**

**PERSHING MIDDLE SCHOOL  
CALCULATION OF FINANCIAL CONTRIBUTIONS AS OF FEBRUARY 1, 2016  
Pursuant to Section III of the MOU**

Value of CITY's Annual Maintenance Contribution:	\$8,500	X	5 acres	=	\$42,500
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Source: Joint Use Agreement for Pershing Middle School provided by Parks and Recreation Department.

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The City and the District agreed the party with the contribution deficit for the site would assume all maintenance costs—the \$42,500 annually—until the \$1.5 million is paid off. To determine the number of years the City will assume full maintenance costs, the following formula is applied:

**Exhibit 14:**

**Calculation of Financial Contribution for Parity for Pershing Middle School**

$$\text{Years until Parity shall be reached} = \frac{\text{TOTAL DISTRICT CONTRIBUTION} - \text{TOTAL CITY CONTRIBUTION}}{\text{ANNUAL CITY MAINTENANCE CONTRIBUTION (Total Maintenance Cost / Total Years in Term)}}$$

$$\text{Years until Parity shall be reached} = \$2,500,000 - \$1,042,500 / \$42,500 = 34.3 \text{ years}$$

Source: Joint Use Agreement for Pershing Middle School provided by the Parks and Recreation Department.

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For the Pershing Middle School site, the City will assume full maintenance costs for a period of 34.3 years. When parity is reached, the MOU requires the City and the District to immediately amend the JUA to split the maintenance costs "50/50."<sup>10</sup>

The City has not deployed a tracking system to capture cost or calculate the different parity schedules for the any active JUAs. The City has not developed a tracking methodology to capture the changes in property values, construction costs, and CPI adjustments to the maintenance costs. This is particularly problematic because each JUA contains different expiration dates, different financial contribution calculations, and different parity schedules. As a result, City management may not know how long the City is contractually required to pay the full maintenance costs at each joint use site.

**WHY THIS OCCURRED**

**City Management Stated the Financial Contributions Framework Set Forth in the MOU is Confusing, Cumbersome, and Ineffective**

City management at both the Parks and Recreation and the Planning Department stated the MOU is not followed because of the costly, confusing nature of the terms, and the extensive staff time required to oversee complete implementation. In addition, City management at PRD stated the terms of the MOU are not reflective of the current intent of the relationship between the City and the District rendering them ineffective.

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<sup>10</sup> The MOU states, "That party will be solely responsible for the payments until the cost differential has been eliminated. If financial parity is reached prior to the expiration of an existing agreement, that agreement shall be immediately amended to reflect a 50/50 shared maintenance."

**The MOU's Financial Calculation Methodology Terms are Confusing**

City management pointed to several areas of the MOU that are confusing and overly complex. As described in the Background section, the MOU provides a series of separate methodologies to calculate the financial contributions made by the City and the District to ensure that these contributions are equitable. First, there is a contribution methodology for new joint use sites. Second, there is a methodology for JUAs that were executed prior to 1996 that are expiring. Third, there is a methodology for JUAs executed after 1996 that are expiring.

City officials stated that MOU terms dictating when the three methodologies are used are so complicated that neither the City nor District have implemented them. Rather, City officials have largely only included the MOU proscribed financial contributions intended for renewed JUAs.<sup>11</sup> City officials stated that District officials negotiating the contracts also agreed to this, which was essentially a work around.

Management stated they were unable to discern the confusing language because the MOU was drafted in 2002 and the original drafters are no longer employed with the City or the District. Management stated they were therefore unable to discern the intent of the MOU drafters as to clarity of the terms.

Finally, PRD and Planning management stated they believed that language in the MOU allowed the department to forego the terms of the agreement. PRD and Planning pointed to a portion of the MOU that stated, "[S]ite-specific joint use agreements shall take precedence over this MOU in the event of inconsistency." However, PRD management stated the department recently realized that the specific terms in the JUAs reference the application of the MOU's financial contribution methodologies.

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<sup>11</sup> The MOU proscribes separate financial calculation methodologies for (1) JUAs for new joint use sites; (2) JUAs for sites subject to agreements entered into prior to 1996 that expired; and (3) JUAs for sites subject to agreements entered into after 1996 that expired.

**City Management Stated They Do Not Have the Funding or Staffing Required to Track Financial Terms**

City management at both PRD and Planning stated the specific terms of the MOU and the JUA are impractical due to the heavy burdens on budgets and staff for updating and tracking financial contributions. City management point to the appraisal requirements and the biennial adjustment to maintenance costs based on the CPI as problematic.

City management stated that requiring an appraisal for every joint use site is not practical. PRD management stated they do not have money in their budget for appraisals at joint use sites. According to City staff, appraisals cost between \$3,000 and \$50,000 per joint use site. City management stated that both the City and the District are aware that they are not conducting and have agreed not to conduct appraisals.

City management stated the performing the CPI adjustment biennially as part of the parity formula is also impractical. PRD management stated the PRD does not have the staff to perform the adjustments for each JUA executed under the MOU.

**City Management Stated the MOU No Longer Reflects the Intent of the City and District**

City management stated that the MOU is not a practical agreement and does not reflect the intent and purposes of the joint use program. Both City and District officials stated the program has not been operated to achieve the level of financial parity set forth in the agreements. Rather, both City and District officials stated the program is operated with the understanding that the District is able and willing to provide the land and development funding through proposition funding. Conversely, the City is able and willing to provide the maintenance on the sites. Both City and District officials described this understanding as a "win-win" to avoid negotiations that would benefit one at the expense of the other.

**City and District Financial Contributions Should Be Viewed in Total, Not by Individual Joint Use Sites**

PRD management does not believe they should invoice the District for any shared maintenance cost after parity is reached on a particular joint use site because the District has made a greater financial contribution, in total, than the City for the program in its entirety. We estimated the financial contributions of the City and the District at \$275 million using the current values in the agreements. The District has made contributions for land and development valued at \$164 million while the City has made contributions for land, development and maintenance valued at \$111 million. By our estimates, the City still needs to contribute \$53 million to reach financial parity with the District when viewed in its entirety.

**Exhibit 15:**

**Comparison of Total City and District Contributions to Date**

Total Contributions	Value of Land Contribution	Value of Development Contribution	Value of Past Maintenance Contribution	Total Contribution to Date
San Diego Unified School District	\$145,346,816	\$24,688,312	\$0	\$163,854,013
City of San Diego	\$12,600,000	\$43,480,250	\$58,595,029	\$110,816,822
<b>Totals</b>	\$157,946,816	\$68,168,562	\$58,595,029	\$274,670,835

Source: OCA generated based on data provided from the Parks and Recreation Department.

However, the parity terms of the JUAs do not include adjustment of financial contributions at another site as an option for sharing maintenance cost when parity is met. The JUAs state, "After the Parties reach parity, City and District shall each be responsible for fifty percent (50%) of the cost of maintenance of the Joint Use Area except where specifically excluded in other sections of this Agreement."

The new agreements include a clause on Remaining Value Reimbursement that discusses the value to be reimbursed to the City if an agreement is terminated and the improvements were funded in part or full by the City. The new JUAs state:



"The agreed to value shall be reimbursed to the City and may be, but not limited to, cash, adjustments to the parity calculation at another joint use site or sites, waiving of City maintenance cost reimbursement to District at another joint use site or sites, or any other means determined to be equitable by both Parties." However, this language is for terminated agreements and while the argument that the City should not invoice the District for maintenance when the District has made a larger financial contribution is the current understanding, it is not supported by the current terms of the JUAs or the MOU.

**The City Would Chase Parity into Perpetuity by Using the Current MOU Parity Formula**

The application of the MOU's financial contribution section that property is appraised at the renewal of an agreement ensures the City will chase parity into perpetuity. As such, if the current MOU parity formula remains in effect, the City and District would allocate significant resources to track the parity contribution with the knowledge that parity will rarely be achieved.

Another scenario is that the City may reach parity and invoice the District for 50 percent of maintenance cost only to have the terms change, per the MOU, when the land is appraised at a higher value when the agreement is renewed. Under the MOU, the agreements prior to 1996 used the assigned value of \$500,000 per acre. The more recent agreements show a value of \$871,000 per acre based on the District's evaluation of recent land transactions. If the District's land values keep increasing every 25 years, the City may never reach parity or even go from invoicing the District for 50 percent of maintenance cost to paying 100 percent of the maintenance cost as shown below for the Clay Elementary agreement. The City would reach parity in 2016 and bill the District for 50 percent of the maintenance until the agreement expires in 2030.

**Exhibit 16:**

**Example of Application of Parity Formula Set Forth in MOU at Clay Elementary School**

Clay Elementary School: 3.68 acres Joint Use Agreement Renewed 2005 Expiration 2030		
	<u>City Contributions</u>	<u>District Contributions</u>
Land (\$500,000 per acre)	\$ -	\$1,840,000
Development	\$736,000	
Maintenance	\$736,000	
	\$1,472,000	\$1,840,000
City Parity Requirement	\$368,000	
City Annual Maintenance	\$31,280	
Total Maintenance @ FY2031*	\$1,001,766	
City Parity Requirement	\$368,000	
City Amount over Requirement	\$633,766	
Due from SDUSD (50%)	\$316,883	

Source: OCA generated based on data provided by the Parks and Recreation Department.

\* Adjusted every two years for CPI.

Upon the expiration of the agreement in 2030, the financial calculation is run anew with an updated appraisal amount for the District land. As a result, the updated appraised value of the property pushes the parity calculation farther out and extends the period of time the City pays full maintenance cost for the site for another 25 years.

**Exhibit 17:**

**Example of Application of Parity Formula Set Forth in MOU at Clay Elementary School**

Agreement Renewal 2030 Expiration 2055		
	City Contributions	District Contributions
Land (\$871,000 per acre)	\$ -	\$3,205,280
Development	\$736,000	
Past Maintenance	\$684,883	316,883
	<u>\$1,420,883</u>	<u>\$3,522,163</u>
City Parity Requirement	\$2,101,280	
City Annual Maintenance	\$44,976	

Source: OCA generated based on data provided by the Parks and Recreation Department.

And then the parity calculation is done again in 2055 and the “chasing parity” effect continues.

**EFFECT OF NOT TAKING ACTION      The City May Accrue Maintenance Costs that Should Be the Responsibility of the District for Some Joint Use Sites**

We found that if the City tracked the financial contributions according to the language in the JUAs, the District is potentially responsible for an estimated \$1.2 million of prior maintenance costs, as of FY2018, for 11 joint use sites in which financial parity has been reached. Additionally, the District is potentially responsible for an estimated \$355,000 annually, beginning in FY2019, for ongoing maintenance costs for 12 joint use sites.

Per the terms of the individual joint use agreements, the District may be responsible for 50 percent of the maintenance cost for eight sites in which parity has been reached. Additionally, the District may also be responsible for 100 percent of the maintenance cost for four sites in which the City made the greater financial contribution yet continues to pay 100 percent of the maintenance cost. The MOU addresses this scenario under Expiring Agreements in which

it states that the party who contributed the lesser amount will be solely responsible for the payment of all maintenance costs under the renewed agreement.

The 12 Joint Use Agreements are: Adams Elementary, Cabrillo Elementary, Cadman Elementary, Clay Elementary, Dingeman Elementary, Ellen Browning Scripps Elementary, Fletcher Elementary, Keiller Middle School, Language Academy, School of Performing Arts (Penn Athletic Field), Valencia Park Elementary, and Wangenheim Elementary.

**The City Continues to Propose Joint Use Agreements Containing Financial Equity Contribution Provisions that the City Has Not Consistently Followed**

The City continues to propose new JUAs to the City Council that contain some of the deficiencies outlined above, such as agreements that contain inaccurate maintenance costs, land values, and development costs. Additionally, backup materials submitted to the City Council state the JUAs are in compliance with the terms of the MOU.

For example, in 2018, City management proposed to the City Council the approval of a JUA for Cubberly Elementary School. As illustrated below, the City included in the Calculation of Financial Contributions the \$500,000 per acre for the property contribution and \$8,000 per acre for the maintenance contribution despite being in possession of the updated property values and the updated maintenance values.

**Exhibit 18:**

**Calculation of Financial Contributions for Cubberly Elementary School**

**EXHIBIT "B"  
CUBBERLEY ELEMENTARY SCHOOL  
CALCULATION OF FINANCIAL CONTRIBUTIONS  
Pursuant to Section III.A of the MOU**

Value of DISTRICT's Land Contribution	\$500,000 /ACRE	X	3.65 acres	=	\$1,825,000
Value of DISTRICT's Development Contribution	\$200,000 /ACRE	X	3.65 acres	=	\$730,000
<b>TOTAL DISTRICT CONTRIBUTION</b>					<b>\$2,555,000</b>
Value of CITY's Maintenance Contribution	\$8,000/ YEAR/ACRE	X	3.65 acres	=	\$29,200/YEAR

Source: Joint Use Agreement for Cubberly Elementary School provided by the Parks and Recreation Department.

As stated above, these values do not reflect the accurate value of the contributions, do not provide the basis for an accurate representation of the parity schedule, and are potentially not in compliance with the terms of the MOU and JUAs as approved by the City Council.

What's more, when seeking approval of the JUA, City management represented that the JUA followed the MOU. Specifically, the Staff Report presented to the City Council stated the "terms of the proposed agreement are consistent with" the MOU.

Notably, the City Council approved JUAs for six additional joint use sites in 2017 and 2018—including Encanto Elementary School, Pershing Middle School, Creative Performing Media Arts Middle School, Gage Elementary School, Linda Vista Elementary School, and Marvin Elementary School—that contain some of the inaccuracies in property, construction, and maintenance values. The backup materials presented to the City Council for each of these JUAs stated the "terms of the proposed agreement are consistent" with the MOU. Notably, according to PRD management, none of these JUAs have been updated.

**WHAT SHOULD HAVE OCCURRED**

**The City Should Have Used Practical Joint Use Agreements Similar to Other Cities and as Recommended by Best Practices**

The MOU executed by the City and District in 2002 contains the concept of parity paired with a complex set of financial contribution methodologies that are not used by the majority of other municipalities and school districts engaged in these agreements.

As opposed to a proscriptive MOU, best practices recommend a document detailing the broad vision and goals for the program. For example, ChangeLab Solutions recommended

the formal adoption of a policy that includes a vision statement of facilities use by the Board of Education and the local municipal government will set a clear direction for district and municipal action.<sup>12</sup> In the vision statement, the school district and the municipality should clearly state their agreement on the potential benefits of community use of facilities. The vision statement should be co-constructed and shared with key partners and stakeholders who have a vested interest in community use in the district's facilities.

***Los Angeles Unified School District***

The Los Angeles Unified School District (LAUSD) has entered into agreement with several municipalities to open school sites after school hours. LAUSD employs different types of contracts to memorialize agreements to open school sites during off-school hours including Joint Powers Agreements, and MOUs coupled with individual JUAs.

For example, the LAUSD and the City of Bell operate joint use sites under a MOU that includes basic principles guiding the program. LAUSD and the City of Bell then negotiate a separate JUA with terms for individual joint use site.

According to LAUSD management, LAUSD performs the maintenance on the joint use sites that are open during off-school hours. For each agreement, LAUSD and the City of Bell negotiate a monetary amount for the use of the facility by the City of Bell. Once the contract is executed, LAUSD opens the joint use site during proscribed hours and performs the maintenance. The amount is different for each site based on the agreement between LAUSD and the City of Bell.

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<sup>12</sup> ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. ChangeLab Solutions works across the nation to advance equitable laws and policies that ensure healthy lives for all. ChangeLab Solutions aims to prioritize communities whose residents are at highest risk for poor health. Its interdisciplinary team of lawyers, planners, policy analysts, and more, works with neighborhoods, cities, and states to create thriving communities.

***Santa Barbara School District and City of Santa Barbara***

The City of Santa Barbara and the Santa Barbara School District (SBUSD) entered into an overarching agreement for the provision of joint use and maintenance of recreational and educational facilities and the joint programming and development of recreational and educational activities.

The relationship was established through an agreement that establishes the basic principles for the joint use sites. For example, the agreement stated that maintenance of SBUSD sports fields and playgrounds may be provided by the SBUSD or the City of Santa Barbara as specifically agreed to by the parties. The City of Santa Barbara annually determines the funds available for such maintenance and appropriates funds according to this determination.

The agreement specified that the City of Santa Barbara and the SBUSD may agree to jointly develop or redevelop facilities they deem beneficial to both agencies. The cost of developing or redeveloping such facilities may be shared as deemed appropriate and approved by both agencies. The responsibility for preparing designs, specifications, bidding, supervision of work and maintenance of the facility to be jointly developed or redeveloped shall be defined and approved by the City of Santa Barbara and SBUSD before starting the development.

Where new construction is undertaken on a site, SBUSD and the City of Santa Barbara negotiate a separate agreement specifying the long-term use, maintenance responsibilities and other appropriate issues regarding the improvements consistent with the provisions of this agreement. After a reasonable period of time, as mutually agreed to by the parties, title to any improvements on SBUSD property shall vest to SBUSD.

***La Mesa-Spring Valley School District and City of La Mesa***

The City of Las Mesa and the La Mesa-Spring Valley School District (LMSVSD) have executed "Joint Use and Operation Agreement" for the provision joint use and maintenance of recreational and educational facilities.

The City of La Mesa and the LMSVSD use sub-agreements to the Joint Use and Operation Agreement to expand of the concept of joint use to include joint maintenance and repair of shared facilities, joint master planning of properties.

For new developments, the City of La Mesa and LMSVSD form a Steering Committee comprised of City of La Mesa and LMSVSD representatives responsible for reviewing project design, monitoring construction and representing the interest of their respective agency. The City of La Mesa and LMSVSD should develop a reasonable cost sharing agreement for new development that are part of the MOU for each new site. The Joint Use and Operation Agreement states the cost sharing agreement shall be based on the proportional use of the facilities or equipment by each agency.

The Joint Use and Operation Agreement includes a matrix listing all joint use sites and specifies which agency is responsible for maintenance activities.

**The MOU Should Reflect the Best Interests of the City and District**

City of San Diego (City) management stated that the MOU as currently written no longer represents the interests of the City and the San Diego Unified School District (District). As discussed above, the MOU included specific terms designed to ensure that the City and the District equitably contribute to the development and operation of the joint use sites. Since the execution of the MOU, the City and District have illustrated a desire to move away from the concept of equity as defined in the parity calculation methodology.

Both City and District management asserted the MOU should not be so prescriptive to specify details and terms for JUA negotiations for different sites. City and District management



stressed that many of the joint use sites are unique and the terms of the MOU cannot be applied.

For example, each joint use site requires different property contributions from the City and District. In some instances, the District contributes all of the properties, in some instances the City contributes all of the property, and in other instances the City and District each contribute parcels combined to form a joint use site. City and District officials stress that the sites are so different that latitude is needed to tailor the JUA to the needs of the site. City and District management envisioned future agreements negotiated individually.

City and District envisioned an MOU, or some other overarching guiding document, that did not proscribe specific terms for the JUA. Rather, the MOU would note the positive working relationship with the City and District in opening and operating the joint use sites. The more distinct terms of the agreements would be negotiated separately for each joint use site.

**Internal Control Standards Should Be Used to Achieve the Joint Use Program Objectives**

Our evaluation of internal controls focused primarily on the implementation and tracking of the financial terms of the MOU and JUAs. We found that the internal control design was not sufficient to ensure the financial objectives of the agreements were realized. Instead, the internal control structure reflected the strategic vision of management, which was to work with the District to create more joint use park space with the understanding that the ongoing financial arrangement was a benefit to the residents of San Diego regardless of the financial terms in the MOU.

An effective internal control system should include the establishment of an organizational structure and assigned responsibility for PRD, Planning Department, City Attorney's Office, and the District to carry out the program objectives.

The internal control system should also be documented and communicated to those responsible for performance.

Management should define the objectives for the joint use program, so they are understood by all levels of the entity. This involves clearly defining what is to be achieved, who is to achieve it, how it will be achieved and the timeframes for achievement. This must include the financial terms as well.

As part of a risk assessment or a similar process, management should analyze and respond to identified changes and related risks to maintain an effective internal control system. Changes in conditions affecting the entity and its environment often require changes to the entity's internal control system, as existing controls may not be effective for meeting objectives or addressing risks under changed conditions. In the case of the JUAs, management identified changes that needed to be made, but has been slow to respond.

Management should document in policies for each unit its responsibility for an operational process' objectives and related risks, and control activity design, implementation, and operating effectiveness. Each unit, with guidance from management, should determine the policies necessary to operate the process based on the objectives and related risks for the operational process. Each unit also should document policies in the appropriate level of detail to allow management to effectively monitor the control activity. However, we found that management did not document the policies for tracking the financial terms as it was not recognized as a program objective.

Management should identify information requirements in an iterative and ongoing process that occurs throughout an effective internal control system. As change in the entity and its objectives and risks occurs, management should change information requirements as needed to meet these modified objectives and address these modified risks. However, we

found that information requirements were infrequently changed upon adoption of the MOU in 2002.

Management should remediate identified internal control deficiencies on a timely basis through reporting, evaluation and corrective actions. However, we found that although issues with the financial terms of the JUAs were identified by management and other personnel, they were not communicated to the City Council for evaluation and potential remediation.

**Recommendation #1:**

We recommend that the Parks and Recreation Department revise the MOU to reflect the vision and the shared goals of the City and the District.

During the revision process, the Parks and Recreation Department should work with the City Attorney's Office to determine an acceptable solution for any potential maintenance amounts that may be the District's responsibility per the requirements set forth in the existing MOU.

If an updated MOU is adopted, the Parks and Recreation Department should develop a contract template for the Joint Use Agreements. (Priority 1)

**Recommendation #2:**

We recommend that the Parks and Recreation Department implement a tracking system for the Joint Use agreements for each site to include, but not be limited to: land, development, and maintenance cost; park location; acres; agreement start date; agreement expiration date; and, if applicable, parity calculations. (Priority 2)

**Recommendation #3:**

We recommend the Parks and Recreation Department develop policies and procedures with a process narrative describing the Parks and Recreation Department, Planning Department, and other applicable City departments' responsibilities for the data inputs into the tracking system as described in Recommendation 2. (Priority 2)

## ***Finding 2: The City Council Policy Guiding the Development of School Sites for Park Purposes No Longer Reflects Program Administration***

### **WHAT WE FOUND    The Council Policy Guiding the City's Joint Use Program was Adopted in 1981 and No Longer Reflects the Administration of the Program**

The City Council approved Council Policy 700-35 in 1981 to provide guidance on the selection, funding, and construction of joint use sites between the City of San Diego (City) and San Diego Unified School District (District). According to Parks and Recreation Department (PRD) management, the Council Policy reflected the economic status of the City and the District at that time. The Council Policy stated the "School District now indicates they will be unable to financially participate in such projects." PRD management stated that, at this time, the City was paying for the improvements of the property and performing the maintenance. Additionally, the agreements between the City and the District were leases. The Council Policy states that the lease agreement will "guarantee community use during non-school hours and or a minimum term to insure the amortization of the City's cost of improvement." The agreements were executed with mostly 25-year terms. The City and District entered into more than 25 agreements between 1975 and 2001 for joint use sites.

However, significant changes to the administration of the joint use program have occurred in the 38 years since the Council Policy was last updated in 1981. Specifically, as described in Finding 1, the City and District entered into an Memorandum of Understanding (MOU) in 2002, which included the Joint Use Agreements (JUAs) and a complex financial contribution methodology. This was a material shift

away from the lease agreements discussed in Council Policy 700-35.

Additionally, the Council Policy stated that the "School District now indicates they will be unable to financially participate in such projects." As described in the Background section, the District is the primary contributor of development of joint use sites through a series of Bond Propositions approved by voters.

**WHAT SHOULD HAVE OCCURRED**

**City Council Policy 700-35 Should Have Been Updated When the MOU was Signed in 2002 to Establish an Effective Control Environment Over the Joint Use Program**

The City and District adopted a new MOU in 2002 that changed the agreements the parties execute and created the methodology to determine equitable financial contributions. The Council Policy should have been updated at this point to establish an effective control environment to include the strategic vision, objectives, authority, responsibility and accountability for the development of school sites for park purposes. As part of developing an internal control system, the City Council can define the strategic vision and objectives for the joint use program, so they are understood by, and create accountability for, all levels of the entity.

An effective internal control system should include the establishment of an organizations structure and assigned responsibilities for the PRD, Planning Department, City Attorney's Office, and District to carry out the program objectives.

Management should document in policies the responsibility for an operational objective and related risk, control activity design, implementation, and operating effectiveness. Management should, with guidance from the board, determine the policies necessary to operate the program based on objectives and related risks for the operational process.

**WHY THIS OCCURRED**      **City Officials Stated that Updating the Council Policy Was Not a Priority**

City management in Planning and PRD stated that the Council Policy has never been updated because they believed an update was not needed.

**EFFECT OF NOT TAKING ACTION**      **The City Council May Not Receive Timely and Accurate Information Regarding the Joint Use Program**

The absence of a Council Policy update that addressed the current MOU created a disconnect between the City Council's original objectives and the objectives pursued by management in administering the joint use program under the MOU.

Without the implementation of an effective internal control environment, the City Council will not receive timely and accurate information about the administration of the joint use program. For example, City management continues to present new JUAs to the City Council with a commitment to administer the agreements in conformance with the MOU. However, as discussed in Finding 1, City management does not administer the agreements in conformance with the MOU.

The Council Policy should be updated to provide guidance on the objectives and administration of the program that is consistent with the program's administrative framework and should also include a reporting requirement to ensure the City Council or Council Committee receives quality information on the achievement of program objectives.

**Recommendation #4:** We recommend the Parks and Recreation Department, with the assistance of the Planning Department and the City Attorney's Office, develop a proposal for City Council to consider revisions to Council Policy 700-35 to include, but not be limited to:

- Strategic vision for the joint use program;
- Joint use program objectives;
- City department responsibilities; and
- Annual reporting requirements for reports to City Council or Council Committee to include:
  - Report Due Date;
  - Number and Description of joint use sites approved by Council during previous fiscal year;
  - Total number and description of joint use sites opened during previous fiscal year;
  - Prior fiscal year financial contributions by the City; and
  - Total financial contributions by the City. (Priority 2)

## Conclusion

Joint Use Agreements (JUAs) are a great way to open more accessible park space to the public. To that end, the City of San Diego (City) has entered into more than 85 agreements with the San Diego Unified School District (District) to access over 300 acres of playgrounds and fields on District property during off-school hours. To gain this access for the public, the City and the District have each made significant financial contributions for the joint use park program with a current total valuation of \$275 million for land, development and maintenance as of FY2018.

However, the City has not followed the financial terms of the joint use program as required by the Memorandum of Understanding (MOU) and the JUAs. In addition to not following the financial terms, City officials continue to present JUAs to the City Council with the pledge that the contracts are in compliance with the MOUs, despite City managements' choice not to follow the MOU and JUA required financial calculations.

Without a process to record and update financial contributions, there is no master record of financial contributions made by the City and the District to show that the contributions are equitable and that there are mutual benefits for the parties involved. In addition, the parity calculations will not be accurate. The parity formula is complex and has shown to be problematic to implement for 85 joint use sites. However, we found that if the parity formula was applied as stated in the MOU and JUAs, the District is potentially responsible for an estimated \$1.2 million of prior maintenance costs as 11 joint use sites. Additionally, the District is potentially responsible for an estimated \$355,000 annually, beginning in FY2019, for ongoing maintenance costs for 12 joint use sites.



As part of fieldwork, we interviewed several municipalities, school district officials, and non-profit specialists in joint use partnerships. All separately expressed skepticism over the efficiency, effectiveness and usefulness of the financial parity calculation proscribed by the MOU.

To address these issues, we recommended that the Parks and Recreation Department revise the MOU to reflect the vision and the shared goals of the City and the District and determine an acceptable solution for any potential maintenance amounts that may be the District's responsibility, implement a tracking system for JUAs, develop policies and procedures describing program responsibilities and develop a proposal for revisions to Council Policy 700-35.

# Recommendations

**Recommendation #1:** We recommend that the Parks and Recreation Department revise the MOU to reflect the vision and the shared goals of the City and the District.

During the revision process, the Parks and Recreation Department should work with the City Attorney's Office to determine an acceptable solution for any potential maintenance amounts that may be the District's responsibility per the requirements set forth in the existing MOU.

If an updated MOU is adopted, the Parks and Recreation Department should develop a contract template for the Joint Use Agreements. (Priority 1)

**Recommendation #2:** We recommend that the Parks and Recreation Department implement a tracking system for the Joint Use agreements for each site to include, but not be limited to: land, development, and maintenance cost; park location; acres; agreement start date; agreement expiration date; and, if applicable, parity calculations. (Priority 2)

**Recommendation #3:** We recommend the Parks and Recreation Department develop policies and procedures with a process narrative describing the Parks and Recreation Department, Planning Department, and other applicable City departments' responsibilities for the data inputs into the tracking system as described in Recommendation 2. (Priority 2)

**Recommendation #4:**

We recommend the Parks and Recreation Department, with the assistance of the Planning Department and the City Attorney's Office, develop a proposal for City Council to consider revisions to Council Policy 700-35 to include, but not be limited to:

- Strategic vision for the joint use program;
- Joint use program objectives;
- City department responsibilities; and
- Annual reporting requirements for reports to City Council or Council Committee to include:
  - Report Due Date;
  - Number and Description of joint use sites approved by Council during previous fiscal year;
  - Total number and description of joint use sites opened during previous fiscal year;
  - Prior fiscal year financial contributions by the City; and
  - Total financial contributions by the City. (Priority 2)

# Appendix A: Definition of Audit Recommendation Priorities

## DEFINITIONS OF PRIORITY 1, 2, AND 3

### AUDIT RECOMMENDATIONS

The Office of the City Auditor maintains a priority classification scheme for audit recommendations based on the importance of each recommendation to the City, as described in the table below. While the City Auditor is responsible for providing a priority classification for recommendations, it is the City Administration's responsibility to establish a target date to implement each recommendation taking into consideration its priority. The City Auditor requests that target dates be included in the Administration's official response to the audit findings and recommendations.

Priority Class <sup>13</sup>	Description
1	Fraud or serious violations are being committed. Significant fiscal and/or equivalent non-fiscal losses are occurring. Costly and/or detrimental operational inefficiencies are taking place. A significant internal control weakness has been identified.
2	The potential for incurring significant fiscal and/or equivalent non-fiscal losses exists. The potential for costly and/or detrimental operational inefficiencies exists. The potential for strengthening or improving internal controls exists.
3	Operation or administrative process will be improved.

<sup>13</sup>The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher priority.

# Appendix B: Objectives, Scope, and Methodology

**Objectives** In accordance with the City of San Diego (City) Auditor's FY 2019 Work Plan, we conducted a performance audit of the City's Joint Use Agreements (JUAs). The tentative objective of the project was to determine if the JUAs are reasonable and effective. The specific objectives were to:

Determine whether the operations and oversight of Joint Use Agreements between the City of San Diego and San Diego Unified School District are administered efficiently and effectively to include: (1) sufficient internal control environment; (2) compliance with relevant laws and contracts; and (3) conformance with best practices.

**Scope and Methodology** To achieve our audit objectives, we interviewed City staff and management from various departments to determine their roles and responsibilities. We also interviewed management at the San Diego Unified School District (District).

To determine the City's internal controls, we identified organizations within the City involved in the execution, operation, and administration of the JUAs. We evaluated the contract negotiation and execution process between the City Attorney's Office, the Parks and Recreation Department (PRD), and the Planning Department. We further evaluated PRD's control environment, information and communication, and monitoring controls over JUAs.

We reviewed PRD's tracking system for the JUAs executed between the City and the District including the tracking and monitoring of acreages for joint use sites and the execution and expiration dates of individual JUAs.

We reviewed the Memorandum of Understanding (MOU) all JUAs executed between the City and the District to determine whether the terms of the MOU and JUAs were followed.

To determine whether the program was operated in conformance with best practices, we reviewed materials published by and interviewed non-profits specializing in joint use agreements. We also reviewed JUAs and conducted interviews with other municipalities operating joint use programs. We also reviewed best practices materials published by the United States Government Accountability Office and the National League of Cities.

To consider the potential for fraud related to the operation of the joint use program, we met with the City's Fraud Investigator.

**Compliance Statement**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 8, 2019

TO: Kyle Elser, Interim City Auditor

FROM: Herman D. Parker, Director, Parks and Recreation Department

SUBJECT: Response to Performance Audit of the City's Administration of Joint-Use Agreements with San Diego Unified School District

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This memorandum serves as the management response to the Performance Audit of the City's Administration of Joint-Use Agreements with the San Diego Unified School District (District). The report has two (2) findings with four (4) recommendations. Some of the recommendations require coordination with the District, so the City will make concerted efforts to meet the estimated completion dates shown in the management responses contingent upon District availability. Please accept the following as our response:

**Recommendation #1**

*We recommend that the Parks and Recreation Department revise the MOU to reflect the vision and the shared goals of the City and the District. During the revision process, the Parks and Recreation Department should work with the City Attorney's Office to determine an acceptable solution for any potential maintenance amounts that may be the District's responsibility per the requirements set forth in the existing MOU. If an updated MOU is adopted, the Parks and Recreation Department should develop a contract template for the Joint Use Agreements. (Priority 1)*

**Management Response:** We agree with the recommendation and propose a multi-faceted strategy for implementation:

- a. **Revise Memorandum of Understanding (MOU):** The Parks and Recreation Department and the Planning Department (Departments) will work with San Diego Unified School District (District) to revise the current MOU to reflect the vision and the shared goals of the City and the District for consideration by the City Council.

**Estimated Completion Date: July 2020**

- b. **Establish Contract Template for Joint Use Agreements:** The Departments and District will revise the existing template agreement to comply with the proposed revised MOU.

**Estimated Completion Date: July 2020**

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April 8, 2019

- c. **Establish Interim Contract Template for Joint Use Agreements:** Given the timeline to complete negotiations for a revised MOU and for the Departments and District to bring the revised MOU forward for City Council and Board of Education approval, the Departments anticipate that an interim contract template is necessary that neither relies on the existing MOU nor must relate to the future revised MOU. Staff anticipates that additional joint-use agreements (JUAs) may require City Council and Board of Education approval during this interim period while the MOU is being revised and approved. This continuance is necessary to keep the Play All Day program moving forward and allowing the District to meet bond funding guidelines.

**Estimated Completion Date: September 2019**

- d. **Revise All Joint Use Agreements to Comply with the Revised MOU:** It is anticipated that once the revised MOU is approved by the City Council and the Board of Education, all JUAs approved under the existing MOU will need to be amended or renewed under the provision of the new MOU.

**Estimated Completion Date: July 2020**

- e. **Address whether Any Amounts Are Owed to either the City or the District:** Because the current MOU contains language regarding financial parity between parties, the Departments will work with the District in consultation with the City Attorney's Office to review JUAs developed under the current MOU to address if any financial reconciliation is necessary.

**Estimated Completion Date: July 2020**

#### **Recommendation #2**

*We recommend that the Parks and Recreation Department implement a tracking system for the Joint Use agreements for each site to include, but not be limited to: land, development, and maintenance cost; park location; acres; agreement start date; agreement expiration date; and, if applicable, parity calculations. (Priority 2)*

**Management Response:** We agree with this recommendation. The Departments will coordinate with the District to track costs associated with each joint use site in accordance with the provisions of the revised MOU and proposed new agreements. The Departments already track some of the information identified in Recommendation #2, but upon completion of the revised MOU, the Departments will establish a tracking system in accordance with the revised MOU and the JUAs. The three pillars of joint-use sites are:

- a. **Land Value.** Land costs typically increase over time, but a precise increase in land value can only be determined through contracted appraisals, often costing between \$5,000 and \$10,000 per site. The District has indicated they do not have the funding for such appraisals. The revised MOU will address how the City and District will determine and track land value in a more simplified manner than currently contemplated.
- b. **Capital Development Value.** Although both agencies have supplied capital construction funds, the District has recently funded more development costs than



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what was common at the time the MOU was approved. Additionally, the value of capital improvements depreciates over time as the improvements age. The City and District will evaluate whether a general depreciation model is needed and if so how to apply it to the contributions associated with improvements to a specific site. The revised MOU will address how the City and District will determine and track an estimate of design, engineering, and construction cost in a more simplified manner than currently contemplated.

- c. **Operations and Maintenance Costs.** The City typically funds ongoing costs to maintain and operate most joint use facilities, but exceptions exist within each agreement. During the term of the JUA, maintenance and operations costs typically increase because of aging facilities, escalating material costs, and rising labor costs. Each joint use site maintained by the City is funded for ongoing operational expenses through the annual budget process. However, onetime and unexpected maintenance costs, such as an irrigation booster pump needing replacement, are not typically included in the projected operations and maintenance budget for a site. The revised MOU will address how the City and District will determine and track an estimate of ongoing and onetime operations, maintenance, and repair costs in a more simplified manner than currently contemplated.

Completion of this recommendation is directly related to completion of the revised MOU contemplated in the first recommendation.

**Estimated Completion Date: July 2020**

**Recommendation #3**

*We recommend the Parks and Recreation Department develop policies and procedures with a process narrative describing the Parks and Recreation Department, Planning Department, and other applicable City departments' responsibilities for the data inputs into the tracking system as described in Recommendation 2. (Priority 2)*

**Management Response:** We agree with this recommendation. The primary departments within the City working on joint-use projects are Parks and Recreation Department, Planning Department, Public Works Department, and Real Estate Assets Department as follows:

- Parks and Recreation – administers the JUAs, operates and maintains fields for public and school use, inspects fields for safety, issues use permits during City hours, coordinates field closures, addresses maintenance and safety concerns at single and multiple facilities, and provides support to the Play All Day program
- Planning – coordinates the Play All Day program, which includes identification of potential joint use facility locations, public meetings with recreation advisory groups and school stakeholders, design of park amenities to be included in the joint use facility, and development of outreach materials
- Public Works – delivers City-funded capital improvement projects on District property if approved by a JUA
- Real Estate Assets – serves as the lead for all negotiations on behalf of the City for acquisition and disposition of real property

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Prior to the initiation of the Play All Day program in 2016, Public Works played a major role in joint-use projects. Public Works performed the public outreach during the early design phase, prepared the construction documents for bidding and contract award, and oversaw the construction process. During that timeframe, Parks and Recreation assisted Public Works and maintained the completed joint-use facility. Planning's primary role prior to Play All Day was to identify potential joint-use sites to address the park deficiencies found in most San Diego communities. Real Estate Assets role was essentially the same during this time period.

After the Play All Day program began in 2016, most of the Public Works responsibilities shifted to the District with Planning playing a more significant role in the public input process. This occurred because most capital funding was derived from the District's capital bonds rather than City capital funding sources. Parks and Recreation's role shifted to assisting the District by being the primary reviewer of construction documents and participating in construction inspections. Parks and Recreation's maintenance role remained the same, as did the role provided by Real Estate Assets.

In addition to the large joint-use program with San Diego Unified School District, the City has joint-use agreements with six (6) other school districts within the City's boundary. Two potential joint-use facilities are in various stages of negotiation with two other school districts.

Creation of a new process narrative will need to include provisions for the unique relationship with San Diego Unified School District as well as acknowledge and provide guidance for other school districts so that the policies and procedures will be broad enough to incorporate all joint use processes.

**Estimated Completion Date: July 2020**

#### **Recommendation 4**

*We recommend the Parks and Recreation Department, with the assistance of the Planning Department and the City Attorney's Office, develop a proposal for City Council to consider revisions to Council Policy 700-35 to include, but not be limited to:*

- *Strategic vision for the Joint-Use program;*
- *Joint-Use program objectives;*
- *City department responsibilities;*
- *Annual reporting requirements for reports to City Council or Committee to include:*
  - *Report Due Date;*
  - *Number and Description of Joint-Use sites approved by Council during previous fiscal year;*
  - *Total number and description of Joint-Use sites opened during previous fiscal year;*
  - *Prior fiscal year financial contributions by the City; and*
  - *Total financial contributions by the City. (Priority 2)*

**Management Response:** We agree with this recommendation. Council Policy 700-35 needs to be updated to reflect current policies and goals for the Joint Use program and to provide guidance on the objectives and administration of the joint use program that is consistent with the program's administrative framework. The Council Policy update will recognize the City has JUAs with a total of seven (7) school districts within the City's limits and boundaries. While the majority of the JUAs are with the San Diego Unified School District,

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the Council Policy will be broad enough to include the unique circumstances of each school district.

The Council Policy update will include a reporting requirement to ensure the City Council and/or one of its committees receive quality information on the achievement of program objectives. A cornerstone of this reporting is the tracking system outlined in Recommendation #2, as the tracking system can include the fiscal year in which the City made financial contributions to a specific joint use facility. The annual report will also outline the status of the Play All Day program, including number of joint-use facilities completed, under construction, or planned.

**Estimated Completion Date: July 2020**

If you have any questions, please contact me at (619) 236-6643 or [hparker@sandiego.gov](mailto:hparker@sandiego.gov).



Herman D. Parker  
Director, Parks and Recreation Department

cc: Honorable Mayor Kevin Faulconer  
Honorable City Attorney Mara Elliott  
Aimee Faucett, Chief of Staff  
Kris Michell, Chief Operating Officer  
Andrea Tevlin, Independent Budget Analyst  
Rolando Charvel, Chief Financial Officer  
Stacey LoMedico, Assistant Chief Operating Officer  
Ronald H. Villa, Assistant Chief Operating Officer  
Johnnie Perkins, Deputy Chief Operating Officer  
Jeff Sturak, Deputy Chief Operating Officer  
Robert Vacchi, Deputy Chief Operating Officer  
Mike Hansen, Director, Planning  
Tracy McCraner, Director and City Comptroller, Department of Finance  
James Nagelvoort, Director, Public Works  
Cybele Thompson, Director, Real Estate Assets