

JOINT USE AGREEMENT

THIS JOINT USE AGREEMENT (the "Agreement") is made and entered into this 2nd day of May, 2019 (the "Effective Date") by the TOWN OF ERIE, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town"), and Aspen Ridge School, Inc. ("ARPS"), a Colorado nonprofit corporation with an address of 705 Austin Avenue, Erie, Colorado 80516 ("ARPS") (each a "Party" and collectively the "Parties").

WHEREAS, the Parties are owners of various facilities and equipment, which they will make available for use by the other;

WHEREAS, the Parties are given the task of utilizing facilities and equipment in the most efficient manner possible; and

WHEREAS, it is in the public interest and the best interests of the Parties, and will promote the general welfare of ARPS and the Town, to reach an agreement over the joint and shared use of each Party's respective facilities and equipment.

NOW, THEREFORE, for and in consideration hereinafter set forth, the receipt and sufficiency of which are acknowledged through this Agreement, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to allow for cooperation between the Parties for the use of facilities and the delivery of programs and the planning of future development. Cooperation in the first two areas and use of facilities and delivery of programs is essential and should be maintained on an ongoing basis and promoted as a forerunner for cooperative planning. Planning for future development will draw the two agencies into a union resulting in positive benefits to both.

2. Term and Termination. This Agreement shall be in effect from May 30, 2019 to May 31, 2020, provided that either Party shall have the right to terminate this Agreement for any reason upon 60 days' written notice to the other Party.

3. Interagency Review. Representatives of the Parties involved in the implementation of this Agreement shall meet as necessary to review this Agreement and to discuss pertinent topics as determined by either Party. Concerns regarding this Agreement by either Party must be submitted, in writing, at least 30 days before a scheduled meeting to discuss said concerns. Any amendments to the Agreement required by the review process shall be in writing and signed by both Parties.

4. Use of ARPS Facilities by the Town.

a. Maintenance. ARPS agrees to maintain and keep in usable condition certain school grounds and facilities set forth in **Exhibit A**, attached hereto and incorporated herein by this reference (the "ARPS Facilities").

b. *Availability.* ARPS shall make available the ARPS Facilities when requested by the Town for the purposes of Town-sponsored activities. No structural changes or additions to these properties may be made by the Town without ARPS' advanced written permission.

c. *Application.* ARPS requires that an approved Facilities Use Application shall be on file for each use of said ARPS facilities.

d. *Fees.* ARPS shall not charge the Town any fees for activities which directly involve Town groups, clubs or classes. The ARPS Director of Operations may waive fees at his or her discretion for other Town activities.

e. *Priority.* Priority for the usage of school grounds and facilities by the Parties and other users shall be as follows: ARPS; then the Town; and then all other parties.

f. *Programs and Activities.* Town-sponsored activities may include without limitation the following; so long as such activities are not in direct competition with programs offered by ARPS or would be otherwise prohibited by ARPS Facility Use Policy and Procedures:

- i. A state licensed summer day camp for children ages 5 through 14;
- ii. Special events;
- iii. Interest classes and certification courses;
- iv. Non-school day activities;
- v. Neighborhood programs and meetings; and
- vi. Youth athletic activities.

g. *Supervision.* All Town-sponsored activities at ARPS Facilities shall be under the direct supervision of at least one of the following who shall be present at the facility at all times: Town official, Recreation Division Employee, Town Employee or Town Volunteer, 18 years of age or older, with 21 years of age being preferred. ARPS shall charge the Town for any direct costs ARPS incurs for supervision.

h. *Cleaning and Costs.* The Town shall be responsible for cleanup following its use of the ARPS Facilities. The Town shall pay for any direct costs ARPS incurs for any maintenance, repair or clean up requiring more than the ordinary costs usually incurred for such activities resulting from use by the Town.

j. *Advertising.* ARPS may display a Town flyer promoting its programs at the ARPS Facilities. All flyers must be approved in advance by the ARPS Director of Operations or designee prior to display.

5. Use of Town Facilities by ARPS.

a. *Maintenance.* The Town agrees to maintain and keep in usable condition park grounds, ball fields and other facilities as set forth on **Exhibit B**, attached hereto and incorporated herein by this reference (the "Town Facilities").

b. *Availability.* The Town shall make available park grounds, ball fields and other facilities when requested by ARPS for the purposes of ARPS-sponsored activities. No structural changes or additions to these properties may be made by ARPS without the Town's advanced written permission.

c. *Application.* The Town requires that an approved application on the "Parks & Recreation Department's Facility Rental Form" shall be on file for each use of said Town facilities.

d. *Fees.* The Town shall not charge ARPS any fees or application fees for activities which directly involve ARPS groups, clubs or classes. The Town's Parks & Recreation Director or designee may at its discretion, waive fees for other ARPS activities.

e. *Priority.* Priority for the usage of such park grounds, ball fields and other facilities by the Parties and other users will be as follows: the Town; then St. Vrain Valley School District; then ARPS; and then all others.

f. *Program and Activities.* Activities sponsored and offered by ARPS may include without limitation the following; provided they are not in direct competition with programs offered by the Parks & Recreation Department:

- i. Athletic practices, games, leagues, and tournaments;
- ii. Special events;
- iii. Before and after school programs;
- iv. Interest classes and certification courses;
- v. Non-school day activities;
- vi. Education activities, programs and meetings;
- vii. Summer activities; and
- viii. Classroom activities/field trips.

g. *Supervision.* All ARPS-sponsored activities at Town Facilities shall be under the direct supervision of at least one of the following who shall be present at the facility at all times in a ratio of at least 1 adult per 24 students: ARPS official, ARPS Employee over the age of 21, or volunteer chaperones and parents of ARPS students. The Town shall charge ARPS for any direct costs the Town incurs for supervisory services on behalf of ARPS.

h. *Cleaning.* The Town shall charge ARPS for any direct costs the Town incurs for any maintenance, repair and cleanup requiring more than the ordinary costs usually incurred for such activities resulting from use, custodial services or food preparation on behalf of ARPS. ARPS shall be responsible for cleanup following its use of the Town Facilities. ARPS shall pay for any direct costs the Town incurs for any maintenance, repair or clean up requiring more than the ordinary costs usually incurred for such activities resulting from use by ARPS.

k. *Advertising.* The Town may post an ARPS flyer on the community bulletin board at the Erie Community Center for the duration of this Agreement. ARPS may distribute a flyer to all of the Town's summer camp participants one time during the summer season at a time to be coordinated with the Parks and Recreation Director or designee. All flyers must be approved in advance by the Town's Parks and Recreation Director or designee.

6. Scheduling of Facilities.

a. *Staff.* To facilitate clear communication and avoid scheduling conflicts, the Town's Recreation Division Manager, or designee and the ARPS Director of Operations shall be the designated contact persons for reserving facilities. Joint use planning and decision-making will occur each year at least 2 weeks prior to the start of each program or activity.

b. *Single Use Requests.* Requests to use ARPS or Town facilities, outside the joint use scheduling process, should be submitted to each agency's central scheduling office. The request will be granted only if the allotted time and space is available. A response shall be given to the requesting agency within 10 business days of the request.

c. *Conflicts.* Resolution of space availability issues are first handled between the Town's Recreation Division Manager or designee and the ARPS Director of Operations. The central scheduling offices of both agencies will, whenever possible, identify options or ways to accommodate the interests of both agencies.

d. *Change in Availability.* The Parties shall honor the scheduled events to the greatest extent possible and not disrupt scheduled programs. If an event occurs which precludes an activity or program from occurring, the Parties will seek to accommodate the scheduled program at an alternate facility as listed in **Exhibit A** and **Exhibit B**.

7. Insurance. Each Party shall carry, at its own cost and expense, for themselves, their agents, successors, assigns, lessees, licensees, and agents, the following insurance: (i) commercial general liability insurance with a minimum limit of liability of \$2,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (ii) workers' compensation insurance as required by law. Neither Party nor its agents, successors, assigns, lessees or licensees shall commence any use, construction, operation, or maintenance of the other Party's facilities or equipment until it has obtained all insurance required under this Section and shall file a certificate of insurance or a certified copy of the insurance policy with the other Party. Each Party shall name the other as an additional insured under its commercial general liability policy. Coverage shall not be cancelled without 30 days' prior written notice to the other Party.

8. Liability. Each Party assumes responsibility for the actions or omissions of its agents and its employees in the use of the other's facilities. Each Party, to the extent authorized by the law, agrees to hold the other harmless for such actions or omissions of their respective employees or agents.

9. Miscellaneous.

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

h. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

i. *Governmental Immunity.* Both parties and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

k. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

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EXHIBIT A
AVAILABLE FACILITIES AND GROUNDS AT ASPEN RIDGE PREPARATORY
SCHOOL FOR USE BY THE TOWN

1. Available Facilities

- a. Gym
- b. Gym Storage (no children)
- c. Cafeteria
- d. Room 152
- e. Room 159
- f. Restrooms (1st floor only, not including the Lower Building)
- g. Playground – East
- h. Turf area
- i. Heart
- j. Climbing Wall

EXHIBIT B
AVAILABLE TOWN FACILITIES AND GROUNDS FOR USE BY ARPS

1. Erie Community Center
 - a. Gymnasium - Half
 - b. Racquetball Courts (1 & 2)
 - c. Multi-Purpose Rooms
 - d. Pool/Locker Rooms
 - e. Lobby/Common Area
2. Erie Community Park
 - a. Multi-Purpose Areas (Mitchell Field & Civic Green)
 - b. Shelters (Garfield Shelter – Jackson, Stewart and McGregor Wings; Concessions East & West)
3. Arapahoe Ridge Park
 - a. Ball Field
 - b. Multi-Purpose Field
4. Coal Creek Park
 - a. Ball Field North
 - b. Ball Field South
 - c. Multi-Purpose Area
 - d. Shelter
 - e. Skate Park
5. Coal Miners Park
 - a. Grand Shelter
 - b. Sand Volleyball Court
6. Country Fields Park
 - a. Multi-Purpose Field
 - b. Ball Field 1 & 2
7. Longs Peak Park
 - a. Basketball Pad
 - b. Multi-Purpose Area
 - c. Shelter
 - d. Ball Field

8. Reliance Park
 - a. Ball Field
 - b. Shelter
 - c. Multi-Purpose Area
9. Columbine Mine Park
 - a. Ball Field
 - b. In-Line Hockey Rink
 - c. Shelter
 - d. Multi-Purpose Area
10. Crescent Park
 - a. Shelter
 - b. Multi-Purpose Area
11. Lehigh Park
 - a. Multi-Purpose Area
 - b. Shelter
12. Serene Park
 - a. Multi-Purpose Area
 - b. Shelter
13. Star Meadows Park
 - a. Multi-Purpose Area
 - b. Shelter
14. Additional parks as they become available in Erie during the dates of the agreement.

EXHIBIT C
PROGRAM OUTLINE FOR CAMP ERIE

1. Hours of Operation. Camp Erie: Monday – Friday, May 28 through August 2, 2019, from 7:00 a.m. to 6:00 p.m. (no camp on July 4, 2019).
2. Program Responsibilities.
 - a. ARPS:
 - i. Provide tables and chairs to meet the program enrollment. These can be lunchroom or cafeteria style tables.
 - ii. Provide approximately 8-10 square feet of space for storage of equipment and supplies.
 - iii. Due to State Licensing Requirements, ARPS shall provide Fire Inspection records and radon testing results to the Town.
 - b. The Town:
 - i. Handle all registrations and fee collections.
 - ii. Provide all necessary supplies and equipment necessary for activities.
 - iii. Provide storage units for secure storage.
 - iv. Provide an onsite cell phone.
 - v. Follow all building rules.
 - vi. Secure and maintain Childcare License from State of Colorado
3. Walk-Through. The ARPS Director of Operations or designee, and the Recreation Coordinator, will conduct a walk-through of the areas of use both prior to camp beginning and at the conclusion of the summer camp.
4. ARPS Reimbursements. In lieu of reimbursements for utilities, trash collections services, and custodial services, the Town agrees to provide ARPS with 20 annual memberships to the Erie Community Center at no charge, Event Sponsorship rights to the 2019 Boo! on Briggs event, Event Sponsorship rights to the 2019 Breakfast with Santa event, a banner on our Indoor Track at the Erie Community Center, and an ad on the Electronic Message Board at the Erie Community through the duration of the agreement. The annual memberships do not include free use of KidStation.
5. Daily Custodial Service. At its own expense, the Town agrees to provide custodial services for ARPS associated solely with its use of the ARPS facilities during the 10-week summer day camp, according to the following schedule: Town staff (camp staff) will sanitize and disinfect all toys, counters, tables, chair and doors (high touch areas) and dispose of trash from both interior and exterior areas. Town staff (camp staff) will sweep floors and vacuum all carpeted areas.
6. Weekly Custodial Service. At its own expense, ARPS agrees to provide custodial services for ARPS associated solely with its use of the ARPS facilities during the 10-week summer day camp, according to the following schedule: ARPS agrees to provide custodial

services at a minimum of 2 times per week to clean and sanitize the building for the Town's camp use.

EXHIBIT D
CONTACT INFORMATION

Aspen Ridge Preparatory School:

All Facility Use Requests:

Mark Ridenour, Director of Operations
705 Austin Ave.
Erie, CO 80516
Phone: 720-242-6225
Email: mridenour@aspenridgeprepschool.org

Town of Erie:

Facility Rentals and Shelters:

Erin Black, Assistant Coordinator – Guest Service
450 Powers St
Erie, CO 80516
Phone: 303-926-2553
Email: eblack@erieco.gov

Athletic Fields:

Levi Moser, Sports Coordinator
450 Powers St
Erie, CO 80516
Phone: 303-926-2559
Email: lmoser@erieco.gov

JUA Administrator:

Rachel Wysuph, Recreation Division Manager
450 Powers St
Erie, CO 80516
Phone: 303-926-2791
Email: rwysuph@erieco.gov