

Draft Joint Use and Planning Agreement

Joint Use and Planning Agreement





DRAFT

THIS AGREEMENT made as of the _____ day of _____ 202 ____ (“Effective Date”).

THE CITY of CALGARY (“The City”)

- and -

THE CALGARY BOARD OF EDUCATION (“CBE”)

- and -

THE BOARD OF TRUSTEES OF THE CALGARY ROMAN CATHOLIC SEPARATE SCHOOL DIVISION (“CRCSSD”)

- and -

THE FRANCOPHONE REGIONAL AUTHORITY OF SOUTHERN FRANCOPHONE EDUCATION REGION (“FrancoSud”)
(Each a “Party” and together “the Parties”)

This agreement represents a partnership between The City, CBE, CRCSSD, and FrancoSud. The partners work together to enrich communities with impactful educational, park, and recreational opportunities that foster vibrant inclusive communities. Each partner brings an individual perspective to the table to build a collective strength and a better Calgary, while realizing their unique yet aligned mandates. This agreement strives to provide the tools and guidance required to achieve complete communities. It also outlines the coordinated approach to the allocation, use, planning and development, maintenance, and ownership of Municipal Reserve, School Reserve, Municipal and School Reserve, open space and school sites to address the evolving needs of Calgarians.



PREAMBLE:

- A. The City, CBE, and CRCSSD entered into a Joint Use Agreement March 4, 1985, with amendments executed on June 18, 1993 and February 23, 2012.
- B. The City and the Regional Authorities of Greater Southern Public Francophone Education Region No. 4 and the Greater Southern Separate Catholic Francophone Education Region No. 4 entered into a separate Joint Use Agreement on February 23, 2012 and the Regional Authorities were dissolved and succeeded by the FrancoSud in 2013.
- C. On September 30, 2016, The City signed a memorandum of understanding with the CBE and CRCSSD outlining a commitment to work with one another to expand the uses allowed on municipal and school reserve lands and to modernize the Joint Use Agreement.
- D. The Parties intend to replace the Previous Agreements with this agreement to meet the requirements of section 670.1(3) of the *Municipal Government Act*, section 670.01(3) of the *Municipal Government Act* as modified by the City of Calgary Charter, 2018 Regulation, Alta Reg 40/2018 (“Calgary Charter”), and section 53.1 of the *Education Act* and to use the new authority provided in *Municipal Government Act* through the Calgary Charter, to provide for additional uses of municipal reserves that are or have been in use for school board purposes, school reserves and municipal and school reserves, that the parties agree provide a public benefit that is compatible with school board purposes.

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto covenant and agree as follows:

1. DEFINITIONS

In addition to those terms defined parenthetically, in this agreement the following terms have the following meanings:

- 1.1 “Cash-In-Lieu Monies” means those monies held jointly or severally, with or without restriction, by the parties to this agreement, or by any of them, being monies which are or have been required to be provided as “money in place” of Municipal Reserve, School Reserve, or Municipal and School Reserve by the subdivision authority under the provisions of the *Municipal Government Act* or Previous Planning Legislation;
- 1.2 “Community Services Reserve” means land designated as Community Services Reserve under the *Municipal Government Act*;
- 1.3 “*Education Act*” means the *Education Act*, SA 2012, c E-0.3;
- 1.4 “Disposal of Reserve Lands” means the sale, lease or other disposal of Reserve Lands in accordance with the *Municipal Government Act*;
- 1.5 “Disposition of Property Regulation” means the Disposition of Property Regulation, Alta Reg 86/2019;
- 1.6 “Dispute” means a disagreement between two or more of the Parties as to their respective rights or obligations under this agreement;
- 1.7 “Incremental Operating Costs” mean those additional operating costs incurred by one Party by virtue of the use of the facility by another Party;
- 1.8 “Joint Trust” means the trust created in the Joint Use Agreement between The City, CBE, and CRCSSD, executed March 4, 1985, as administered by The City, for the use and benefit of the Parties, as is in the best interests of the citizens of Calgary, and as further described in Article 4.4.
- 1.9 “Joint Use Coordinating Committee” means the committee referred to in Article 5.1 of this agreement;

- 1.10** “Joint Use Facilities” means those facilities designated by the Parties to be available for Joint Use Purposes and may be on Reserve Land or Non-Reserve Land;
- 1.11** “Joint Use Purposes” means those varied activities or programs conducted by The City or the School Boards in each other’s facilities for the benefit of the citizens of Calgary;
- 1.12** “Joint Use Reserve Fund” means those funds held in the Joint Trust prior to the Effective Date, and also include the following funds:
1. all Cash-In-Lieu Monies;
 2. all proceeds from the Disposal of Reserve Lands;
 3. all income earned by and accruing to the Joint Use Reserve Fund; and
 4. monies which the parties mutually agree in writing to be designated as Joint Use Reserve Funds;
- 1.13** “Joint Use Site” means those Reserve Lands that contain or are intended to contain a School Building Envelope operated by a School Board and the Playing Field that is contiguous to the School Building Envelope, and that may contain other compatible uses including Public Benefit Compatible Uses;
- 1.14** “Municipal Government Act” means the *Municipal Government Act* being R.S.A. 2000, chapter M-26, as amended by the City of Calgary Charter, 2018 Regulation, A.R. 40/2018;
- 1.15** “Municipal Reserve” means the land designated as Municipal Reserve under the *Municipal Government Act* or Previous Planning Legislation;
- 1.16** “Municipal and School Reserve” means the land designated as Municipal and School Reserve under the *Municipal Government Act* or Previous Planning Legislation;
- 1.17** “Non-Reserve Lands” means those lands that are owned by the Parties that are not Reserve Lands;
- 1.18** “Playing Field” means that portion of the Joint Use Site which is allocated for parks and recreational activities;
- 1.19** “Previous Agreements” means:
1. The Joint Use Agreement between The City, CBE, and CRCSSD, executed March 4, 1985, with amendments executed on June 18, 1993 and February 23, 2012; and
 2. The Joint Use Agreement between The City and the Regional Authorities of Greater Southern Public Francophone Education Region No. 4 and the Greater Southern Separate Catholic Francophone Education Region No. 4 which Regional Authorities were dissolved and succeeded by the FrancoSud, executed February 23, 2012;
- 1.20** “Previous Planning Legislation” means:
1. The Planning Act, RSA 1980 cP-9;
 2. The Planning Act, 1977, SA 1977 c89;
 3. The Planning Act, R.S.A. 1970, c. 276;
 4. The Planning Act, S.A. 1963, c. 43;
 5. The Surveys and Expropriation Act, S.A. 1955, c. 328;
 6. The Town and Rural Planning Act, R.S.A. 1955, c, 337; and
 7. The Subdivision Regulation, Alta. Reg. 88/57;

1.21 “Public Benefit Compatible Uses” means uses the Parties agree through this agreement provide a public benefit that are compatible with school board purposes;

1.22 “Reserve Lands” means:

- (1) lands that are designated as Municipal Reserve, School Reserve, Municipal and School Reserve, or Community Services Reserve;
- (2) lands that are designated as reserved for use as parks, recreation areas, or schools, pursuant to Previous Planning Legislation;
- (3) lands purchased with Joint Use Reserve Funds; and
- (4) lands specified to be Reserve Lands by agreement;

Excepting thereout from this definition of “Reserve Lands” all lands dedicated or designated as Reserve Lands which have been or which may be removed from Reserve Land status pursuant to the planning legislation then in force, and disposed of;

1.23 “School Boards” mean CBE, CRCSSD, and FrancoSud;

1.24 “School Building Envelope” mean those lands upon which school buildings, related ornamental lawn areas, sidewalks, parking lots and paved, gravel, or chipped play areas, and playgrounds are located;

1.25 “School Development” means the school facilities and buildings including related ornamental lawn areas, sidewalks, parking lots and paved, gravel or chipped play areas, and playgrounds; and

1.26 “School Reserve”, means the land designated as School Reserve under the *Municipal Government Act* or Previous Planning Legislation.

2. VISION

2.1 The Parties will support the creation of great communities by optimizing Joint Use Sites that are well planned, adaptable, sustainable and allow students to attain their full potential.

3. GOALS

3.1 This agreement supports:

1. the provision of safe, inclusive and engaging places to learn in Calgary;
2. the delivery of integrated mixed-use sites that provide public spaces, recreation, community services, cultural and public facilities for the public good;
3. the role of schools and Reserve Lands as anchors in creating community hubs and neighbourhood gathering places;
4. the delivery and use of a high-quality public park system and recreational amenities; and
5. an integrated planning and administrative approach for Reserve Lands between the School Boards and The City.



4. PRINCIPLES OF AGREEMENT

4.1 Optimal Use of Land

Joint Use Sites should be planned and delivered in a flexible manner to provide the optimal use of Reserve Lands throughout their lifecycle.

4.2 Collaboration and Transparency

The Parties will collaborate and coordinate to achieve the vision and implement the policies of this agreement by sharing information and coordinating planning efforts in a transparent and inclusive manner.

4.3 Decision-making

Decisions arising within the context of this agreement will be made in the best interests of the citizens of Calgary in an equitable, sustainable, and financially responsible manner.

4.4 The Joint Trust

1. The Previous Agreements established the Joint Trust for all Reserve Lands and the Joint Use Reserve Fund. The Parties hereby continue the Joint Trust and agree that their rights and obligations under the Joint Trust as well as the terms and conditions of the Joint Trust shall be as amended and restated in this agreement.
2. The Parties agree that FrancoSud shall be added as a trustee of the Joint Trust and the Parties further agree that each Party is a trustee of the Joint Trust as described in this agreement.

3. All Reserve Lands and the Joint Use Reserve Fund will be held or allocated in the Joint Trust, for the use and benefit of the Parties, as is in the best interest of the citizens of Calgary. The Parties shall hold the Joint Trust with none of the Parties in a senior position relative to the other Parties, as hereinafter set forth. The Parties will govern and manage the Joint Trust through the Joint Use Coordinating Committee as set forth in this agreement.
4. The main assets of the Joint Trust are the Reserve Lands and the Joint Use Reserve Fund. The principles governing the Joint Trust also encompass considerations relating to facilities, amenities, use, development and maintenance which are peripheral to the Reserve Lands and the Joint Use Reserve Fund as well as considerations relating to planning, programs, services and people, arising from the Reserve Lands and the Joint Use Reserve Fund.
5. This agreement sets forth flexible principles and considerations for the Joint Trust so that the Joint Trust assets can be optimally allocated based upon need at various points in time. This agreement provides a set of rules to guide the administration of the Joint Trust.

5. Governance

5.1 Joint Use Coordinating Committee

The Joint Use Coordinating Committee is established to ensure that the vision, goals, and principles of this agreement as described in Articles 2 to 4 are upheld and will consist of one representative from each School Board administration and two from The City administration all of whom will have decision-making authority to implement this agreement within their respective organizations.

5.2 Responsibilities of the Joint Use Coordinating Committee

The Joint Use Coordinating Committee is responsible for:

1. implementing this agreement,
2. creating awareness of this agreement within their respective organizations,
3. recommending amendments to this agreement,
4. evaluating the effectiveness of this agreement,
5. evaluating Public Benefit Compatible Uses,
6. evaluating proposals for accepting Cash-In-Lieu Monies,
7. oversight of the Joint Trust including making recommendations on the use of the Joint Use Reserve Fund,
8. reporting to the Parties on the Joint Use Reserve Fund and Joint Use Coordinating Committee annually,
9. holding an annual information session open to the public,
10. creating sub-committees with terms of references when needed,
11. providing advice to the subdivision authority on the allocation of Reserve Lands, and
12. planning, managing and optimizing the use of Joint Use Sites.

5.3 Decision-making

The Joint Use Coordinating Committee will make decisions as is in the best interest of the citizens of Calgary and by consensus, with each representative having a vote, in an equitable, sustainable, and financially responsible manner.

5.4 Information Sharing

Subject to applicable freedom of information and protection of privacy legislation, the Parties will share information as required to implement this agreement and support decision-making. The Parties will negotiate data sharing agreements on an as-needed basis.

5.5 Annual Reporting

The Joint Use Coordinating Committee shall provide an annual report to the Parties that includes:

1. the status of the Joint Use Reserve Fund;
2. Joint Use Reserve Fund contributions and expenditures over the last year; and
3. anticipated and estimated Joint Use Reserve Fund revenue and expenditures over the next five years.

5.6 Sub-committees

1. The Joint Use Coordinating Committee may establish sub-committees to address issues or perform delegated functions of the Joint Use Coordinating Committee.
2. The Joint Use Coordinating Committee shall approve, and may terminate or change, the terms of reference of any subcommittee it creates.

5.7 Costs

The Parties shall share the costs of administering this agreement equally.

5.8 Dispute Resolution

If there is a Dispute between two or more of the Parties as to their respective rights or obligations under this agreement and not relating to the purchase of Non-Reserve Land under Schedule "A", not relating to a Party's internal process, and not relating to the exercise of authority, power and duties vested in such Parties pursuant to the *Municipal Government Act* and the *Education Act*, such Dispute will be resolved in accordance with Schedule "C" of this agreement.

6. PREVIOUS AGREEMENTS, TERMINATION, AMENDMENT, AND REVIEW

- 6.1 Upon the Effective Date, the Previous Agreements will terminate and be of no further force and effect and will be superseded and replaced in their entirety by this agreement.
- 6.2 The Parties may terminate or amend this agreement upon written consent of all of the Parties.
- 6.3 The Parties shall review the terms of this agreement every ten (10) years from the Effective Date. Any Party may at any time request an earlier review of this agreement and the Parties may agree to a review at that time.

7. RESERVE LANDS

7.1 Protection of All Reserve Lands

All Reserve Lands will be dealt with according to this agreement.

7.2 Planning of Joint Use Sites

1. The Parties recognize that the School Boards will determine their present and future needs for School Developments to meet their obligations to deliver educational programs in accordance with the *Education Act* and associated regulations.



2. The Parties shall consider Public Benefit Compatible Uses at the time The City is drafting Area Structure Plans, Area Redevelopment Plans, or other relevant statutory plans authorized in the *Municipal Government Act*.
3. Determining the number, size, and composition of Joint Use Sites required for school-aged children in the 5 to 14 years of age cohort will be undertaken jointly by The City and the School Boards as part of the drafting of an Area Structure Plan using the document titled “Joint Use Site Calculation Methodology, Principles and criteria for determining the number of Joint Use Sites required for school-age children (5 to 14) in area structure plans” dated February 18, 2016, as amended and replaced from time to time by the Joint Use Coordination Committee.
4. Determining the number, size and composition of Joint Use Sites required for senior high schools will be undertaken jointly by The City and the School Boards as part of drafting an Area Structure Plan.
5. Possible Public Benefit Compatible Uses, site layout including location of School Building Envelopes and Playing Fields, Playing Fields design, and infrastructure details should be determined during the Outline Plan/ Land Use Amendment process and considered by the Joint Use Coordinating Committee or relevant sub-committee.
6. The City will solicit input from and involve the School Boards in the development of Area Redevelopment Plans to support schools and student transportation in the advancement of the goals and vision of this agreement.
7. Where The City acquires lands that will form part of a School Building Envelope through dedication or use of the Joint Use Reserve Fund, the lands shall be designated Municipal and School Reserve in the name of The City and the appropriate School Board.
8. The City shall be responsible for the assembly of Joint Use Sites as is practicable using the relevant provisions of the *Municipal Government Act* and this agreement for: dedication and deferral of Reserve Land; accepting of Cash-in-Lieu Monies; spending of the Joint Use Reserve Fund as recommended by the Joint Use and Coordinating Committee; and Disposal of Reserve Land as endorsed by the Joint Use and Coordinating Committee.

7.3 Priority for location and allocation of Reserve Land at subdivision

The following are the priorities for the location and allocation of Reserve Lands at the time of subdivision dedication;

1. Priority #1: Neighbourhood needs, which may include School Board operated elementary schools or elementary/junior high schools, and neighbourhood parks;
2. Priority #2: Community needs, which may include School Board operated junior high schools, community associations, open space linkages and priority environmentally significant lands;
3. Priority #3: Regional needs, which may include School Board operated high schools, regional parks and regional recreation areas such as athletic parks.

These priorities are not equivalent to school catchments.

7.4 Development Responsibility for Joint Use Sites

1. Through development agreements with developers, the City shall develop Joint Use Sites without a School Development in accordance with current City of Calgary technical and design specifications and will endeavour to have off-site infrastructure required for a Joint Use Site installed.



2. The School Boards are responsible for developing School Developments on Joint Use Sites.
3. Responsibility for the development of Public Benefit Compatible Uses on Joint Use Sites will be determined on a site-by-site basis and in accordance with Article 7.7 paragraph 2.
4. The relevant School Board shall rehabilitate Playing Fields that are damaged as a result of the construction of a School Development.
5. To the extent that any such Public Benefit Compatible Uses impact School Development on the intended site of the School Building Envelope. The City shall be responsible for returning the site to its original condition prior to the scheduled start date of the relevant School Development

7.5 Maintenance Responsibilities for Joint Use Sites

1. Maintenance responsibilities for Joint Use Sites and associated facilities, designated or acquired before the Effective Date, will remain as in existence at the Effective Date.
2. If a Joint Use Site is declared permanently surplus to school needs and legal title is transferred to The City, The City will assume responsibility for the maintenance of the Joint Use Site.
3. The City shall maintain Joint Use Sites designated or acquired after the Effective Date until a School Development has commenced. Once a School Development has commenced on a Joint Use Site, The City will maintain the Playing Field and the School Board operating the school will maintain the School Building Envelope unless otherwise agreed to by The City and the relevant School Board.



7.6 Licenses of Occupation

1. The Parties shall obtain consent from the Joint Use Coordinating Committee prior to granting Licenses of Occupation of Reserve Lands that they have title to on terms and conditions acceptable to the Joint Use Coordinating Committee, unless the Joint Use Coordinating Committee has already agreed to the proposed Public Benefit Compatible Use under Article 7.7 or the license of occupation is in a School Development.
2. Any revenue from a License of Occupation of Reserve Lands will be retained by the licensor in recognition of their liability for operating and maintenance costs.

7.7 Public Benefit Compatible Uses

1. The Parties agree that uses that meet the following criteria are Public Benefit Compatible Uses:
 - a. the use aligns with or supports the School Board's educational goals and objectives to deliver quality educational services to students in a safe and responsible manner, and does not impact or interfere in any manner with the ability of students to receive educational services from the School Board, and does not impact the School Board's personnel, including teachers and support staff, from delivering educational services to students;
 - b. the use creates, supports, or sustains inclusive, vibrant, safe and healthy communities that improves the quality of life for the community;
 - c. the design, development and ongoing operations of a use established prior to a school must not negatively affect the establishment of a school or its operations; and



- d. the use supports the function of a Joint Use Site as a key activity node in a community, supports the open space network, and complements surrounding uses.
2. Public Benefit Compatible Uses may be allowed on Reserve Land if they meet the following criteria:
 - a. the Joint Use Coordinating Committee agrees to the proposed Public Benefit Compatible Uses;
 - b. The City and the School Board that is on title to the subject land agree to all proposed uses and enter into an agreement regarding the uses if necessary. If no School Boards are on title to a site, The City will determine the Public Benefit Compatible Uses;
 - c. the uses are proposed on Municipal Reserves that are or have been in use for school board purposes, School Reserves, or Municipal and School Reserves, as required by the Calgary Charter; and
 - d. the proposed uses may be considered whether or not a school building is located on the subject land.

7.8 Joint Use Facility

Subject to Article 7.7, where a new Joint Use Facility that includes a Public Benefit Compatible Use is being considered by the Parties, the Parties should complete a joint feasibility study and execute all relevant agreements, including but not limited to construction, operation, maintenance, access, and potential future school closure, prior to construction commencing.

7.9 Consideration Upon Transfer of Reserve Lands

All transfers of legal title to Reserve Lands, as between Parties will be for consideration of \$1.00, subject to Article 9.1 (Improvements on School Sites Declared Surplus).

7.10 Disposal of Reserve Land

The City shall obtain Joint Use Coordinating Committee endorsement prior to taking any steps for the sale, lease or other disposal of any Reserve Lands, so as to ensure that the future needs of the School Boards are taken into consideration.

7.11 Reserve Land Declared Surplus to School Board Needs

1. When a School Board intends to close a school that is on Reserve Land, it will advise the Joint Use Coordinating Committee.
2. Subject to the *Municipal Government Act*, the *Education Act*, and the Disposition of Property Regulation, if a School Board intends to declare that Reserve Land is surplus to the School Board's needs, the School Board will advise the Parties and the Joint Use Coordinating Committee of their intention.
 - a. The Parties will have ninety (90) days after receiving notice to notify the School Board and the Joint Use Coordinating Committee in writing if they have an interest in the surplus school.
 - b. If none of the School Boards notifies the School Board and the Joint Use Coordinating Committee that they are interested in the surplus school, the School Board will facilitate a transfer of legal title to the Reserve Land to The City in accordance with the Disposition of Property Regulation and the *Municipal Government Act*.
 - c. If more than one School Board notifies the School Board and the Joint Use Coordinating Committee that it has an interest in the surplus school, the Parties will resolve the Dispute considering the following priority of uses:
 - i. Priority #1: School Board interest to accommodate a school operated by a School Board;
 - ii. Priority #2: City interest to accommodate parks or recreation uses; and
 - iii. Priority #3: any Party interest in accommodating Public Benefit Compatible Uses.

7.12 Community Services Reserve

The City shall obtain Joint Use Coordinating Committee endorsement prior to The City taking any steps for the designation of the whole or any portion of Reserve Land that was previously declared surplus by a School Board as Community Services Reserve.



8. JOINT USE RESERVE FUND

8.1 Source of Funds

1. All Cash-In-Lieu Monies and proceeds from the Disposal of Reserve Lands must be allocated and paid into the Joint Use Reserve Fund, which will be administered by The City, in trust and used as further specified in this agreement.
2. The Joint Use Reserve Fund shall be invested in accordance with the *Municipal Government Act* and the income earned shall be accrued to the Joint Use Reserve Fund. Correspondingly any investment losses will be borne by the Joint Use Reserve Fund.
3. The Parties may agree in writing to designate other monies as Joint Use Reserve Funds.

8.2 Use of the Joint Use Reserve Fund

1. The Joint Use Reserve Fund must be used in accordance with sections 671 and 675 of the *Municipal Government Act*.
2. Subject to Article 8.3, the Joint Use Reserve Fund may be used for:
 - a. the purchase of land so that Reserve Lands can be optimally located and used;
 - b. the purchase of land for School Board purposes or public parks and public recreational purposes where Reserve Land dedication is insufficient;
 - c. the purchase of School Board owned Non-Reserve Lands, which the School Board intends to sell, when such land is required as Reserve Land, in accordance with Article 10.2 (Disposal of School Board Owned Non-Reserve Lands);
 - d. the purchase of land for other Joint Use Purposes as determined and recommended by the Joint Use Coordinating Committee;
 - e. servicing land purchased with Joint Use Reserve Funds to current City of Calgary technical and design specifications;
 - f. demolition and site rehabilitation costs when a surplus school site on Reserve Land is transferred from a School Board to The City or when land is purchased with Joint Use Reserve Funds; or
 - g. costs associated with purchases, transfers, issuance of titles, and disposition of Reserve Lands, including the cost of surveys, appraisals, registrations, and land use redesignations.

8.3 The Joint Use Coordinating Committee will review and make recommendations for the use of, and expenditures from, the Joint Use Reserve Fund in accordance with the following priorities:

1. Priority #1: Regional needs, which includes School Board operated high schools, regional parks and regional recreation areas such as athletic parks.
2. Priority #2: Community needs, which include School Board operated junior high schools, community associations; open space linkages and priority environmentally significant lands;
3. Priority #3: Neighbourhood needs, which include School Board operated elementary schools, elementary/junior high schools, and neighbourhood parks;
4. Priority #4: servicing land purchased with Joint Use Reserve Funds to current City of Calgary technical and design specifications;
5. Priority #5: Demolition and site rehabilitation costs when a surplus school site on Reserve Land is transferred from a School Board to the City.
6. Priority #6: Demolition and site rehabilitation costs when land is purchased with Reserve Funds.

These priorities are not equivalent to school catchments.

8.4 Minimum balance

The Joint Use Reserve Fund will at all times maintain a minimum balance of fifteen million dollars (\$15,000,000) unless the Parties agree to an expenditure that is critical to meet the needs of Calgarians.

8.5 Authority for Expenditures

1. Any land purchases identified in Article 8.2 paragraphs 2(a), 2(b), 2(c), and 2(d) using the Joint Use Reserve Fund will be subject to approval by the Council of The City, upon the recommendation of the Joint Use Coordinating Committee, having regard to the needs of the Parties, the priorities identified in Article 8.3, and the appropriateness of the proposed future use, with respect to the terms of this agreement and the *Municipal Government Act*.
2. Expenditures from the Joint Use Reserve Fund identified in Article 8.2 paragraph 2(g) relating to costs associated with purchases, transfers, issuance of titles, and disposition of Reserve Lands, including the cost of surveys, appraisals, registrations, and land use redesignations, will be on the basis of an annual program and budget, established by the Joint Use Coordinating Committee and approved by the Council of The City.
3. Expenditures from the Joint Use Reserve Fund identified in Article 8.2 paragraph 2(f) relating to demolition and site rehabilitation costs when a surplus school site on Reserve Land is transferred from a School Board to The City or when land is purchased with Joint Use Reserve Funds, and expenditures from the Joint Use Reserve Fund identified in Article 8.2 paragraph 2(e) relating to servicing land purchased with Joint Use Reserve Funds to current City of Calgary technical and design specifications must be subject to written confirmation from the Joint Use Coordinating Committee and authorization by the Council of The City.

9. STRUCTURES ON RESERVE LAND

9.1 Improvements on School Sites Declared Surplus

1. If a school building or improvement on Reserve Land that has been declared by the appropriate School Board to be surplus to school needs, is to be demolished:
 - a. subject to Article 8.2 paragraph 2(e) and Article 8.5 paragraph 3, the demolition and site rehabilitation costs may be borne by the Joint Use Reserve Fund; and
 - b. the School Board must pay all the outstanding debt related to the building.
2. If a school building or improvement on Reserve Land that has been declared by the appropriate School Board to be surplus to school needs, can and is to be transferred to and used by The City, The City must pay all the outstanding debt related to the building or improvements.

10. NON-RESERVE LAND

10.1 Principle

Non-Reserve Lands acquired by the Parties in their own right are outside the Joint Trust but included within this agreement to facilitate Joint Use Purposes.



10.2 Disposal of School Board Owned Non-Reserve Land

1. Subject to the *Education Act*, and the Disposition of Property Regulation, each School Board will give The City and the other School Boards a right of first refusal as set out in Schedule “A” over Non-Reserve Land that a School Board intends to sell, unless otherwise agreed to by the Joint Use Coordinating Committee and documented as an exception and listed in Schedule “B” (excluded sites) without requiring an amendment to this agreement.
2. The School Boards have not conferred upon the Parties, a right of first refusal over those lands that are listed in Schedule “B”.
3. If the lands that the School Board intends to sell were originally obtained from The City for a nominal sum or under some special arrangement, the site will be returned to The City for similar consideration or The City will be otherwise compensated as agreed to by The City and the relevant School Board.
4. If a Party exercises the right of first refusal conferred upon it pursuant to this agreement, the transfer value of the Non-Reserve Land, together with buildings, improvements and facilities, will be determined on equitable principles, taking into account the fair market value of the property and the conditions and circumstances under which such land was acquired, if it was acquired from The City.
5. When entering into a lease or license for Non-Reserve Land for a school with a School Board, The City should grant the relevant School Board a right of first refusal to acquire the lands, such grant and the exercise of any right of first refusal to be subject to the lands being required by The City for a municipal purpose, as determined by The City.



11. PROGRAMMING COORDINATION & FACILITY USE – JOINT USE FACILITIES

11.1 Programming Coordination

The Parties will collaborate to develop and advance strategies, deliver effective programs and services, and construct and manage assets to support students and their families, connect communities, and offer a wide range of sport, recreation, and arts and cultural opportunities. Other partners or agencies may be included to support and participate in these efforts to improve outcomes.

11.2 Enhanced Amenities

If The City determines a community need for enhanced amenities associated with a school, including but not limited to libraries, gymnasiums, and fields, the Parties will collaborate to determine mutually beneficial design, operations and maintenance of the enhanced amenity. The City will be responsible for all increased construction, maintenance, operating or other costs arising in respect of the enhanced amenity.

11.3 Facility Sharing and Booking

The Parties shall contribute to a common pool of facilities that includes but is not limited to gymnasiums, fields, and other recreation amenities on the following basis:

1. each Party agrees to access Joint Use Facilities through a common booking agency administered by The City;
2. each Party shall exchange or charge for the use of its Joint Use Facilities on an Incremental Operating Cost basis;
3. Incremental Operating Costs are to be reviewed annually so as to enhance the equitable distribution of costs between The City and the School Boards.

12. LIABILITY AND INDEMNIFICATION

- 12.1 In addition to any other form of insurance as the Parties may reasonably require against risks, which a prudent owner under similar circumstances and risk would insure, the Parties shall at all times carry and continue to carry comprehensive general liability insurance in the amount of not less than FIVE MILLION (\$5,000,000) DOLLARS per occurrence in respect to bodily injury, personal injury or death. The comprehensive general liability insurance shall have an endorsement for occurrence property damage, contingent employer's liability and broad form property damage. The insurance to be maintained by each Party herein shall list each of the other Parties as an additional insured. The amount and type of insurance to be carried by the Parties may be varied from time to time by written agreement of the Parties. The insurance carried by the Parties shall contain, where appropriate, a severability of interests' clause and a cross liability clause. On Joint Use Sites that contain a school, the comprehensive general liability insurance of the School Board shall be primary and The City's insurance shall not contribute to any occurrence insured by the School Board's comprehensive general liability insurance.
- 12.2 Each Party (the "Indemnifying Party") agrees to indemnify and hold harmless the other Parties (the "Non-Indemnifying Parties"), their servants, volunteers, agents and employees from and against losses, claims, demands, payments, suits, judgments or expenses of every nature and description arising out of or in consequence of any breach or non-performance of any covenants or conditions in this agreement to be fulfilled, observed or performed by the Indemnifying Party, except for claims arising out of the sole negligence of one or more of the Non-Indemnifying Parties, its employees, agents, servants or volunteers.

13. GENERAL

- 13.1 The headings in this agreement have been inserted for convenience of reference only.
- 13.2 Each of the Parties are subject to legislation and bylaws that they must abide by and they will abide by such legislation and bylaws. To the extent that the provisions of legislation applicable to a Party contradict the terms of this agreement, the provisions of the legislation prevail.
- 13.3 The attached schedules form part of this agreement.
- 13.4 Any Party may excuse a violation of this agreement without losing any right to insist on and enforce compliance with this agreement in the future, however any term of this agreement or right created under it may not be waived or varied, except in writing signed by each Party.
- 13.5 This agreement is governed by and construed under the laws of Alberta and the applicable laws of Canada. The Parties attorn to the Alberta courts for any Disputes arising herein.
- 13.6 If any provision of this agreement is found to be invalid or unenforceable, it will be deemed to be severable herefrom and the remainder of this agreement will remain in effect.
- 13.7 This agreement may be executed in counterpart original copies that together constitute one and the same agreement.
- 13.8 Where this agreement refers to legislation, the reference is to the legislation as amended and replaced from time to time.

13.9 NOTICES AND COMMUNICATIONS

1. Notices and communications made in connection with this agreement must be in writing and provided by delivery, or facsimile transmission (or if authorized by the receiving party, by e-mail) at the addresses provided for by each party as follows:
 - a. CBE
The Calgary Board of Education
3610 - 9 Street SE
Calgary AB T2G 3C5
Attention: Superintendent, Facilities and Environmental Services
 - b. CRCSSD
The Board of Trustees of the Calgary Roman Catholic Separate School Division
1000 - 5 Avenue SW
Calgary, AB T2P 4T9
 - c. FrancoSud
The Francophone Regional Authority of Southern Francophone Education Region
Deerfoot Atria South
Suite 295, 6715 8 Street NE
Calgary, Alberta T2E 7H7
 - d. The City
The City of Calgary
5th Floor, Public Building
205 - 8th Avenue S.E.
Calgary, Alberta
T2P 2M5
2. Any Party may change its address for service of notices by delivering notice of such new address to the other parties in accordance with Article 13.9.

The Parties execute this agreement by the signatures of the properly authorized officers signing.

The Parties execute this agreement by the signatures of the properly authorized officers signing below.

APPROVED	
AS TO CONTENT	
AS TO FORM SOLICITORS	

THE CITY OF CALGARY

Per: _____

Per: _____

THE CALGARY BOARD OF EDUCATION

Per: _____

Per: _____

**THE BOARD OF TRUSTEES OF THE CALGARY ROMAN CATHOLIC
SEPARATE SCHOOL DIVISION**

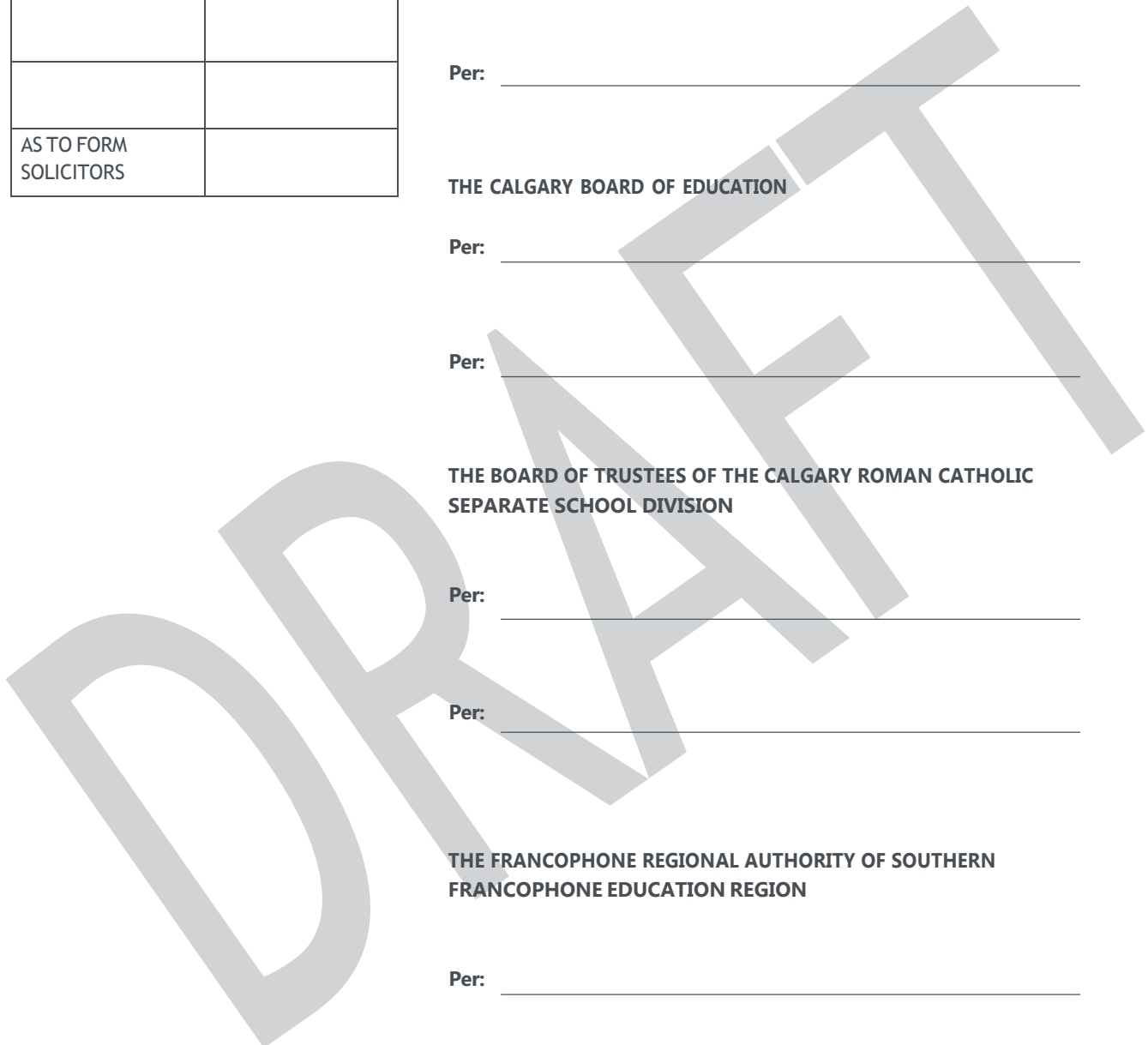
Per: _____

Per: _____

**THE FRANCOPHONE REGIONAL AUTHORITY OF SOUTHERN
FRANCOPHONE EDUCATION REGION**

Per: _____

Per: _____



SCHEDULE "A"

PROCEDURES FOR PURCHASING SCHOOL BOARD OWNED NON-RESERVE LANDS

1. The selling School Board shall give notice, in writing, to the Joint Use Coordinating Committee of Non-Reserve school sites and facilities (hereinafter referred to as "Property") that they intend to sell.
2. Each of The City and the other School Boards shall advise the selling School Board, in writing, whether or not they are interested in acquiring the Property. If the response is negative or if no response is received by the selling School Board within 90 days of the date the notice is sent, the selling School Board may dispose of such Property in any manner it deems appropriate subject to the provisions of the *Education Act* and Disposition of Property Regulation.
3. If one or more than one School Board and/or The City notifies the Joint Use Coordinating Committee that it has an interest in the Property, the priority to purchase the Property will be as follows:
 - #1 FRANCOUD;
 - #2 CBE or CRCSSD and Disputes will be resolved in accordance with Article 5.8 and Schedule "C";
 - #3 The City.
4. The procedures set out in Clauses 5 through 11 hereafter will apply to purchases of Non-Reserve Lands pursuant to the right of first refusal.
5. The relevant Parties shall forthwith explore the possibility of an exchange of properties, having regard to the land use designation (zoning) of such properties.
6. If agreement cannot be reached on the exchange, Clauses 7 through 11 will apply.
7. The Property or Properties will be appraised forthwith by two accredited appraisers, one selected by each of the relevant Parties.
8. The purchaser shall submit to the selling School Board within 90 days of receipt of appraisals, a proposal to purchase based on such appraisals.
9. If the selling School Board accepts such proposal, the Property will be transferred at the agreed price.
10. Appraisals and other costs related to these procedures will be shared equally.
11. If the selling School Board does not accept the proposal, the purchase price for the Property will be the market value for the Property, based on its highest and best use (or such lesser use as agreed to by the Parties in writing) as determined by a qualified, independent AACI (or then equivalent designation) real estate appraiser, who will be agreed to and appointed by the Parties, acting reasonably. If the Parties cannot agree on a real estate appraiser, then upon the application of either Party, the Court of Queen's Bench will appoint a panel of three arbitrators and the market value will be determined by binding arbitration in accordance with the Arbitration Act, RSA 2000, c A-43 and with reference to the principles identified in Article 10.2 of the Joint Use and Planning Agreement. In all cases, if the highest and best use of the Property is a use other than the current use of the Property at the time the proposal is made, then all development, servicing, and any other costs that could reasonably be expected to be incurred by a person to achieve such highest and best use will be deducted from the purchase price for the Property. Each Party shall be responsible for any costs incurred by it related to participating in the arbitration process, but both Parties shall equally share any costs incurred related to the panel of arbitrators.

SCHEDULE "B"
EXCLUDED SITES

Name	Address
Our Lady of Lourdes School	2 Street & 19 Avenue S.W.
St. Mary's High School	111 - 1R Avenue S.W.
St. Monica School	19 Avenue & 2 Street S.W.
École de la Rose Sauvage	2512 4 St NW
Dr. Carl Safran Centre	930 13 Ave SW
Bowness Maintenance Depot	3600 - 69 Street NW
Midnapore Maintenance Depot	14725 Bannister Road SE
NE Maintenance Depot	2120 - 22 Street NE
Highfield Building	3610 - 9 Street SE

DRAFT

SCHEDULE "C" **DISPUTE RESOLUTION PROCEDURE**

1. The City and the School Boards shall use their best efforts to resolve any Disputes arising between them as efficiently and cost effectively as possible. The Parties shall:
 - a. make bona fide efforts to resolve all Disputes by conciliatory discussions; and
 - b. provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those discussions.
2. Once a Dispute has been identified, conciliatory discussions must commence within thirty (30) calendar days of the identification of the issue(s) in dispute.
3. If the Dispute has not been resolved within three (3) months of the commencement of discussions, the Party that originally identified or complained of the matter(s) underlying the Dispute shall send written notice of the Dispute (the "Dispute Notice") to the Joint Use Coordinating Committee that includes the details, nature, and extent of the Dispute and the remedy or resolution sought by the Party issuing the Dispute Notice. The Party issuing the Dispute Notice shall provide sufficient information in the Dispute Notice such that the other Party understands the specifics of the dispute and shall include any documentation or other information so as the other Party will understand the issues in Dispute.
4. Upon receipt of the Dispute Notice, the Joint Use Coordinating Committee will meet and use their best efforts to resolve the Dispute. If the Dispute is resolved by the Joint Use Coordinating Committee, the resolution will be formalized in writing and signed by the Parties.
5. If the Dispute cannot be resolved by the Joint Use Coordinating Committee, the Parties will refer the Dispute to their respective Chief Administrative Officers or Chief Superintendents to consider and attempt to achieve consensus between themselves. If the Dispute is resolved by the Chief Administrative Officers or Chief Superintendents, the resolution will be formalized in writing and signed by the Parties.
6. If the Chief Administrative Officers and/or Chief Superintendents cannot come to a consensus within three (3) months of being consulted, the Parties will refer the Dispute to the Mayor of The City of Calgary and the Chairs of the Board of Trustees of the School Boards to consider and attempt to achieve consensus between themselves. If the Dispute is resolved by the Mayor and the Board Chairs, the resolution will be formalized in writing and signed by the Parties.
7. If the Mayor and the Board Chairs cannot come to a consensus within three (3) months of being consulted, the Parties will refer the Dispute to an arbitrator chosen by the Parties to the Dispute. If the Parties to the Dispute cannot agree on an arbitrator, any Party on notice to the other Party (Parties) may apply to the Court of Queen's Bench of Alberta to appoint an arbitrator.
 - a. The arbitrator will have the power to obtain the assistance, advice or opinion of such engineer, architect, surveyor, appraiser, valuer or other expert as they may think fit and will have the discretion to act upon any assistance, advice or opinion so obtained; and
 - b. The Party initiating the arbitration shall bear the costs incurred by each Party involved in the Dispute as a result of the arbitration if the initiating Party is unsuccessful at the arbitration; otherwise, each Party shall bear its own costs and equally share any costs incurred related to the arbitrator.
 - c. The decision of the arbitrator will be subject to the ratification and adoption by the respective Parties.
 - d. Each of the Parties shall do all acts and things and execute all deeds and instruments necessary to give effect to any resolution reached under this Part.
 - e. Except as modified herein, the provisions of the Arbitration Act, R.S.A. 2000, c.A-43 shall apply.

Dated: _____

BETWEEN:

THE CITY of CALGARY

- and -

THE CALGARY BOARD OF EDUCATION

- and -

**THE BOARD OF TRUSTEES OF THE CALGARY ROMAN CATHOLIC SEPARATE
SCHOOL DIVISION**

- and -

**THE FRANCOPHONE REGIONAL AUTHORITY OF SOUTHERN FRANCOPHONE
EDUCATION REGION**

JOINT USE AND PLANNING AGREEMENT

JILL FLOEN
CITY SOLICITOR
the City of Calgary
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800 Macleod Trail S.E.
P. O. Box 2100, Station "M"
Calgary, Alberta
T2P 2M5

Solicitor: Hanna Oh
File No.: P9372