

**AGREEMENT BETWEEN THE PACIFICA SCHOOL DISTRICT
AND THE SPINDRIFT SCHOOL OF PERFORMING ARTS TO EXCHANGE SERVICE
FOR USE OF FACILITIES**

This Agreement to provide performing arts workshops for Pacifica School District students in exchange for use of the school district property at Oddstad School for Spindrift School activities ("Agreement"), entered into this 1st day of February, 2017 by and between the Pacifica School District (the "District"), and the Spindrift School of Performing Arts (the "Spindrift School," and, together with the District, the "Parties"):

WITNESSETH

WHEREAS, the District is the owner of certain real property located in the City of Pacifica, California, currently used for the operation of an elementary school known as Oddstad School;

WHEREAS, the Spindrift School is a nonprofit corporation formed and existing under the laws of the State of California;

WHEREAS, the Parties wish to provide extracurricular activities for Pacifica School District students; and

WHEREAS, the Parties and students will benefit from the Parties offering experiences in the performing arts;

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions contained in this Agreement, the Parties agree as follows:

1. Site: The District agrees to make available, pursuant to Education Code sections 10900, et seq. and 17400, et seq., Oddstad School Portable Classrooms P2 and P3 for use by Spindrift School. The District also agrees to make storage space (Library) available and a set of student bathrooms with outside access.

Spindrift School acknowledges that aside from the limited term use rights provided for herein, this Agreement confers on Spindrift School no ownership or other rights with respect to any District property. Further, the Parties understand and agree that nothing in this agreement shall be construed as conferring on Spindrift School title to any portion of district property.

Spindrift School shall have sole responsibility for cleaning and supplying the portable classroom and student bathrooms. The District reserves the right to enter and inspect the portable classroom and student bathrooms for safety, emergency, and cleanliness purposes without prior notice to Spindrift School.

Spindrift School agrees to leave the portable classroom and main building locked at the conclusion of each day's activities.

2. Term

This Agreement shall be for a period of one year, from February 1, 2017 to January 31, 2018.

3. Exchange of Services:

The Pacifica School District shall provide the Spindrift School the following considerations:

- the use of two portable classrooms at Oddstad School (P3) and (P2)
- the use of student bathrooms at the Oddstad site
- additional storage at Oddstad (Library)
- the use of Cabrillo's multipurpose room, A-1, P1, Art room and AD43G from June 19, 2017 to July 28, 2017, multipurpose room, Art room and AD43G from July 31, 2017 – August 4, 2017. This includes bathroom access for students and staff and district maintenance of the bathrooms.
- the use of the Sunset Ridge multipurpose room and four classrooms in C-Wing from June 21, 2017 to July 28, 2017. MPR and Wet/Dry room from July 31, 2017 to August 4, 2017. This includes bathroom access for students and staff and district maintenance of the bathrooms.

This does NOT include the access to or use of any ancillary space such as custodial closets, electrical rooms, etc. within or adjacent to the leased space. The District reserves the right to enter and inspect the facilities for safety, emergency, and cleanliness purposes without prior notice to Spindrift School. Any violation of this agreement will result in immediate removal of any items stored in unauthorized locations.

In exchange for the district's considerations, the Spindrift School shall provide the following services to the school district:

- Provide for a full year drama program at Sunset Ridge School serving approximately 90 students on a once a week basis after school. There will be no charge to students participating in this program.
- Provide for a half-year program of dance at Ingrid B. Lacy Middle School serving students on a once a week basis after school.
- Provide consultation/training to staff and students for stage equipment.
- Provide up to 4 weeks of instruction for the IBL variety show, consultation services for the Cabrillo and Sunset Ridge variety shows.

4. Default:

A. Default by Spindrift School. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Spindrift School

- (1) The failure to provide the agreed upon services for Pacific School District students.
- (2) The failure to lock and alarm school sites upon the conclusion of each day's activities.
- (3) The failure to maintain a safe environment for participants in Spindrift School activities on the campuses.

B. District's Remedies. In the event of any such default and breach by Spindrift School described hereinabove, District may at any time thereafter terminate Spindrift School's right to use of the school campuses with a written notice terminating this Agreement.

5. Mutual Hold Harmless and Insurance:

A. It is agreed that all activities held at any property of the Pacifica School District are the responsibility of Spindrift School and that Spindrift School assumes full and complete liability for all activities under its direction.

B. It is agreed that Spindrift School shall defend, hold harmless and indemnify the District, its officers, agents and/or employees from any and all liability, damage, cost, expense, and/or claims for injuries to persons (including, but not limited to, Spindrift School participants and spectators) and/or damage to property which arise from Spindrift School's use of any district property (including ingress and egress to the property), and/ or Spindrift School sponsored activities for such liability, damage, cost, expense, and/or claims arising from the negligent acts or omissions of Spindrift School, its officers, agents and/or employees.

C. It is agreed that the District shall defend, hold harmless and indemnify Spindrift School, its officers, agents and/or employees from any and all liability, damage, cost, expense, and/or claims for injuries to persons (including, but not limited to, participants and spectators) and/or damage to property which arise from the classes at any district property and for such liability, damage, cost, expense, and/or claims arising from the negligent acts or omissions of the District, its officers, agents and/or employees

D. Spindrift School agrees to have and maintain, for the duration of the contract, a general liability insurance policy insuring Spindrift School in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and in the aggregate for bodily injury, personal injury and property damage. Spindrift School shall add the District as additional insured to this policy. Spindrift School

shall provide the District with an endorsement effecting coverage required by this subparagraph. Further, Spindrift School, upon the District's request, shall furnish the District with a Certificate of Insurance, which shall provide that the District will receive ten (10) days prior notice of cancellation, change in scope or modification in coverage of such insurance coverage.

- E. District agrees to have and maintain, for the duration of the contract, a general liability insurance policy insuring District in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and in the aggregate for bodily injury, personal injury and property damage. This policy may be in the form of self-insurance.

6. Assignment and Subletting:

Spindrift School shall not assign or encumber its interest in this without District's advance written consent. Any assignment or encumbrance without District's consent shall be voidable and, at District's election, shall constitute a default. No consent to any assignment or encumbrance shall constitute a further waiver of provisions of this Section.

7. General Provisions:

- (A) Compliance with Law. Spindrift School will obey all laws and policies that govern school district property including those laws and policies applying to possession and use of alcohol and tobacco (such as, for example, Board Policy 3513.3, Tobacco-Free Schools). Spindrift School will follow all California Education Code and other local, state, and federal laws and policies that pertain to school property.
- (B) Rules and Regulations. The Parties agree that the Premises shall be used in compliance with any relevant provisions of law, and that the Parties shall meet and confer to formulate any necessary rules and regulations regarding the use of the Premises.
- (C) No employment. Nothing in this Agreement shall be construed as establishing either an employer/employee or joint venture relationship between Spindrift School and/or its agents and the District. Spindrift School expressly acknowledges and accepts that neither it or its agents has any rights, benefits, privileges, and/or claims in any form whatsoever under, from, through, and/or pursuant to any civil service statutes, regulations or rules applicable to the District.

