

SKATEBOARD PARK MEMORANDUM OF UNDERSTANDING

This Skateboard Park Memorandum of Understanding ("MOU") is made this 25th day of July, 2016 between the City of Leavenworth, Washington, a Washington municipal corporation ("City") and Cascade School District No. 228, a Washington school district ("School District"), sometimes collectively referred to as the "Parties".

Recitals

- A. The City and the School District are parties to an existing Interlocal Agreement ("ILA") relating to a skateboard park. A true copy of said ILA is attached to this MOU as Attachment A.
- B. The skateboard park is built on the School District's high school site.
- C. The skateboard park was built using monies from the Washington State Recreation and Conservation Office ("RCO"). The grant requires that the improvements be maintained for use for 25 years from 2000 through the year 2025.
- D. The School District desires to build a new high school on the high school site which will require the demolition of the skateboard park.
- E. The School District owns property and improvements called Osborn Elementary School (the "Property"). The School District intends to cease operation of said school within the next three (3) years and to re-develop in part, and potentially surplus in part, the Property. The legal description for the Property is attached to this MOU as Attachment B. Based on the School District's current plans, the portions of the Property to be retained and to be potentially declared surplus are depicted on Attachment C (the portion that may be declared surplus, shall hereafter be referred to as the "SP Portion").
- F. The City and the School District have mutually negotiated the terms under which the ILA will be terminated. Those terms are set out and agreed to in this MOU. This MOU between the Parties is an interlocal agreement within the meaning of Chapter 39.34 of the Revised Code of Washington (the Interlocal Cooperation Act), and shall be electronically posted or recorded with the County Auditor as required RCW 39.34.040.

Now, therefore, the City and the School District agree as follows:

1. Termination of ILA. The Parties agree that the ILA is terminated, effective immediately. The City shall be solely responsible for entering an agreement with RCO and for all costs and expense associated therewith to fulfill the obligations of the City associated with the original RCO grant that resulted in the skateboard park on School District property. The City hereby agrees to indemnify, defend and hold the School District harmless from any and all claims, of any kind or nature, arising from or related to the termination of the ILA, the City's RCO obligations, and the demolition of the skateboard park as set forth in Section 3, below.

2. Processing of Permits. Consistent with applicable law, the City agrees to process the School District's applications for permits for the high school site in regular course and the City will not interpose or raise the ILA or its provisions as an objection to delay, hinder or withhold permits for the high school site.

3. Demolition of Skateboard Park. Upon issuance of necessary permits from the City, the School District will demolish and remove the skateboard park from the high school site. The School District shall bear all costs of said demolition and removal. If there is any salvage value associated with the skateboard park improvements, the School District shall be entitled to the salvage value. This MOU shall constitute and be deemed the City's bill of sale of said improvements to the School District, without warranty of title, merchantability or otherwise, provided however that the City warrants that this transfer of title shall be free and clear of any claim or demand of the RCO. Said improvements are conveyed to the School District "as is, where is, with all faults."

4. Option Agreement. The City is hereby granted an option to purchase the SP Portion, on the terms and conditions set forth in this Section 4 (the "Option").

A. If the School District decides that the Property is no longer needed or necessary for School District purposes and declares the SP Portion surplus to the needs of the School District, then the City shall have sixty (60) days after the decision to surplus the SP Portion to exercise the Option by delivering written notice to the School District.

B. Following receipt of the notice from the City exercising the Option, the School District shall undertake the steps necessary so that the SP Portion is recognized as a legal lot of record. Consistent with applicable law, the City shall cooperate in the steps necessary to establish the SP Portion as a legal lot of record. The Parties acknowledge that the Property is comprised of several lots associated with an older subdivision and that resurrection of some or all of these lot boundaries, combined with a boundary line adjustment, may likely be the most expedient means in which to establish the SP Portion as a legal lot of record.

C. Following the establishment of the SP Portion as a legal lot of record as set forth above, the School District shall update an existing appraisal obtained by the School District for the entire property performed by Pacific Appraisal Associates. The update shall appraise the SP Portion as a separate parcel of property and be delivered to the Parties. The costs of the update shall be paid by the City. The update prepared by Pacific Appraisal shall be binding on the Parties for purposes of establishing the "base purchase price", unless the value of the property has declined since the original appraisal and the School District objects to said update within fifteen (15) days of its delivery to the Parties. In the event of an objection, the Parties shall meet and confer in good faith to establish the purchase price.

D. The purchase price for the SP Portion shall be the base purchase price minus one-half of the cost to rebuild the skate park up to a maximum of One Hundred Thousand and NO/100 Dollars (\$100,000), and shall be paid in cash by the City at closing.

E. Upon satisfaction of the conditions set forth in subparagraphs A, B and C, above, the School District shall open up an escrow at a title company doing business in Chelan County, Washington. The School District shall deposit a counterpart hereof with the escrow agent and this Section 4 shall serve as the agent's escrow instructions. The escrow agent may attach its standard conditions of acceptance to such counterpart, but if its conditions are inconsistent or in conflict with the terms and conditions hereof, those contained herein shall control.

F. The City shall obtain its own title insurance. The School District is not responsible for providing or paying for title insurance. Title to the SP Portion shall be conveyed by statutory warranty deed, subject to restrictions, conditions, easements and matters apparent on the property or of record. The City and the School District shall each pay one-half of the escrow agent's closing fee and the City shall be responsible for the costs to record the statutory warranty deed and to process the real estate excise tax affidavit. The statutory warranty deed and real estate excise tax affidavit shall be prepared by the School District.

G. If the School District decides not to surplus the SP Portion by June 30, 2019, or if an intergovernmental disposition of property agreement is not entered by the Parties on or before August 31, 2019, or if the City does not timely exercise its Option, then the Option set forth herein shall terminate and be of no further force or effect between the Parties, and the School District shall pay the City the sum of one-half of the cost to rebuild the skate park up to a maximum of One Hundred Thousand and NO/100 Dollars (\$100,000) on or before September 30, 2019, in total satisfaction of all obligations arising under this MOU.

H. At the election of the School District, the School District may propose an intergovernmental disposition of property consistent with Chapter 39.33 of the Revised Code of Washington. If acceptable to the City, then all the terms and conditions associated with the appraisal update, price, terms, timing and closing shall be the same as this Section 4.

I. If the Parties decide to record a Memorandum of Option Agreement, it shall be in a form agreed upon by the City and the School District. In the event the Option terminates as set forth in subparagraph G, above, then the City expressly grants and consents to the School District recording a termination of the Option Agreement without the signature of the City, and said termination shall be binding on the Parties. Furthermore, the City agrees to sign any and all documents reasonably requested of the School District to clear title, if necessary, if the Option is not exercised.

5. Enforcement. The City and the School District agree that venue and jurisdiction for the enforcement of this MOU shall be in the Superior Court of the State of Washington, Chelan County.

6. Complete Agreement. This MOU constitutes the complete agreement between the parties concerning the subject matter of this MOU.

7. Amendment. This MOU only may be amended in writing by an amendment signed by authorized representatives of the City and the School District.

8. Counterparts. This MOU may be signed in counterparts and shall be effective when a counterpart is signed both by the City and the School District.

9. Effective Date. This MOU shall become effective when authorized by the Board of the School District and the Council of the City and it is signed by duly authorized representatives of both and electronically posted or recorded as set forth in the Recitals.

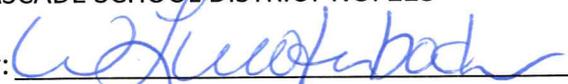
Dated: 8/9/2016

CITY OF LEAVENWORTH

By: 
CHERYL K. FARIVAR, Mayor

Dated: 7-25-16

CASCADE SCHOOL DISTRICT NO. 228

By: 
BILL MOTSENBOCKER, Superintendent

**INTERLOCAL AGREEMENT BETWEEN THE
CITY OF LEAVENWORTH AND THE CASCADE SCHOOL DISTRICT
FOR THE OPERATION OF A SKATEBOARD/IN-LINE SKATE FACILITY
AT
CASCADE HIGH SCHOOL**

This Agreement is entered into this 15th day of August, 2000, between the City of Leavenworth, hereinafter referred to as "CITY" and the Cascade School District, hereinafter referred to as "DISTRICT."

The purpose of this agreement is to establish a skate park for the use of CITY and DISTRICT residents as outlined in the CITY's 1997 Parks and Recreation Comprehensive Plan. This agreement shall be filed with the County Auditor as required under RCW 39.34.040.

CITY and DISTRICT hereby agree to the use of property, as defined in Attachment A, at Cascade High School as a skateboard/in-line skate facility for a period of twenty five (25) years, with an option to extend the agreement for additional one (1) year periods.

TERMS AND CONDITIONS

I. DISTRICT Agrees:

- A. To allow the designated area at Cascade High School to be used by CITY for a twenty five (25) year period from the date of signature on this agreement, with an option for renewal for subsequent one (1) year periods based upon approval of the DISTRICT, for use by members of the public for the purposes of outdoor recreation without the charging of a fee of any kind therefore by CITY. Such option for renewal will be presented to DISTRICT by CITY within 60 days of expiration of the initial 25-year period and annually thereafter.
- B. To establish a schedule agreed upon between DISTRICT and CITY for the opening of the facility in the morning and the closing of the facility in the evening.
- C. To evaluate CITY activity at DISTRICT's discretion and direct CITY to correct any conditions which may be unsatisfactory and in need of change or correction by CITY.
- D. To require the area to be cleaned to the satisfaction of the Cascade High School Principal or his/her designee.
- E. To allow CITY freedom of design in the skate park facility upon the condition that said design complies with industry standards and is constructed by or under the supervision of skilled tradesmen within the property as defined in Attachment A.
- F. To allow CITY to terminate this agreement upon sixty days written notice, without penalty, prior to the expiration of this agreement, and upon removal of the area constructed for skateboard/in-line skating use, insofar as is possible.

II. CITY Agrees:

- A. That the design of the skateboard park will be to recognized industry standards and will provide documentation indicating such compliance prior to construction and again prior to opening of the facility.
- B. To consult with DISTRICT on any proposed changes or additions to the skating area.
- C. That all construction will be completed or supervised by qualified individuals.
- D. To notify the DISTRICT within 72 hours of any known accident or injury.
- E. To present for DISTRICT approval a maintenance checklist for the skate park. The skate park will be inspected by CITY, at a minimum, every three (3) days from April through November in accordance with the checklist, and checklist provided to DISTRICT upon request.
- F. To perform necessary maintenance of skating area and apparatus including the correction of any issues identified in accordance with Section I(C) of this agreement.
- G. To provide necessary cleanup and graffiti removal at least every three (3) days from April through November, or as required by DISTRICT in accordance with Section I(D) of this agreement.
- H. To recommend that helmets, knee and elbow pads, and wrist guards be used.
- I. To provide and post signs containing the following information:
 - 1. That the park is maintained and operated by CITY;
 - 2. The phone number for a CITY representative;
 - 3. An itemization of the Park rules that shall state the following:
 - a. This Park is not supervised;
 - b. The use of protective equipment, including helmets, knee and elbow pads, and wrist guards, is recommended;
 - c. Bicycles or BMX's are not permitted;
 - d. Be respectful of other Park users; moderate your language; keep music volume down; use trash containers provided;
 - e. Skate respectfully;
 - f. All spectators must stay off ramps;
 - g. Skate Park hours are from " _____ to _____ " (actual times will be determined as outlined under Section I(B));
 - h. This is property of the Cascade School District and the use of tobacco and/or alcohol are prohibited;
 - i. This is property of the Cascade School District weapons of any kind are prohibited;

- j. Students of the Cascade School District may not use the park during class hours.
- J. Signs shall be constructed with a standard equal to or greater than standards set by the CITY. No free hand or spray painted "homemade" signs will be allowed.
- K. CITY agrees to indemnify and hold harmless from occurrences, DISTRICT, its appointed and elected officials and employees while acting within the scope of their duties, from and against all claims, demands, loss, liability of any kind or character, including cost of defense, arising out of or in any way connected with CITY's use and/or design of the skate park. CITY is required to maintain liability insurance at the levels set by the state for municipalities and to provide a copy of said insurance, to the DISTRICT prior to construction of the skate park.
- L. Construction, maintenance and operating costs shall be the responsibility of the CITY and may include a combination of CITY funds, government grants, and private donations.
- M. CITY agrees to return the property described in Attachment A to a condition similar to the state in which it is described in Attachment A in terms of grade and landscaping at the termination of the agreement.

III. ENFORCEMENT OF PARK RULES

Both CITY and DISTRICT agree that either party may enforce the hours and rules of the Park.

IV. TERMINATION FOR CAUSE

Should DISTRICT determine that the terms and conditions of this Agreement are being breached, it may notify CITY that it shall cure the breach within seven (7) days or DISTRICT may terminate said Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first herein above written.

CASCADE SCHOOL DISTRICT

CITY OF LEAVENWORTH

Howard Cook
Signature

William J. Bauer
Signature

Howard Cook
Name (printed)

William J. Bauer
Name (printed)

Superintendent
Title

Mayor
Title

ATTEST:

ATTEST:

Kathy Leal
Signature

Beryl A. Hunt
Signature

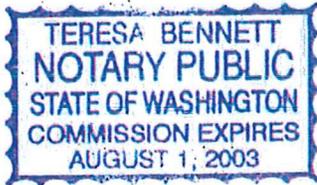
Executive Secretary
Title

Clerk/Treasurer
Title

STATE OF WASHINGTON)
) ss.
County of Chelan)

I certify that I know or have satisfactory evidence that William J. Bauer
and Cheryl A. Grant are the persons who appeared before me, and said persons
acknowledged that they signed this instrument, on oath stated that they were authorized to execute
the instrument and acknowledged it as the Agreement
of the City of Leavenworth to be the free and voluntary act of such party for the
uses and purposes mentioned in this instrument.

DATED this 18th day of August, 2000.



Teresa Bennett
(Signature)

Teresa Bennett
(Printed or typed name)
NOTARY PUBLIC, State of Washington
My Commission Expires 8-1-2003

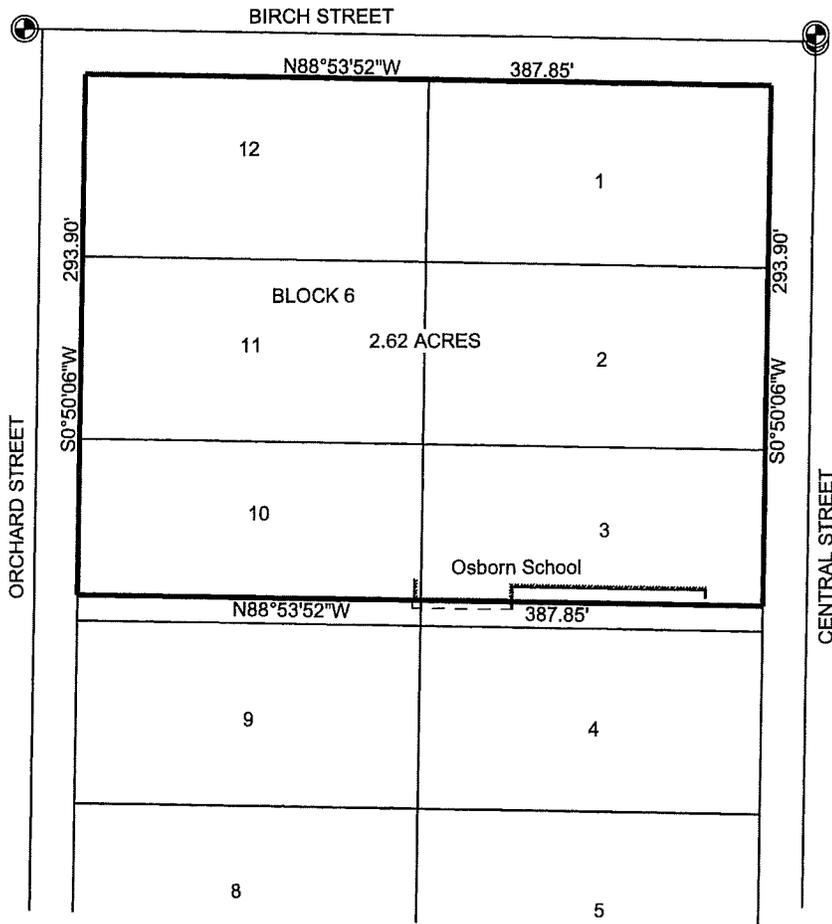
STATE OF WASHINGTON)
) ss.
County of Chelan)

I certify that I know or have satisfactory evidence that Howard Cook
~~are~~ ^{is} the persons who appeared before me, and said persons
acknowledged that they signed this instrument, on oath stated that they were authorized to execute
the instrument and acknowledged it as the agreement
of the Cascade School District No. 228 to be the free and voluntary act of such
party for the uses and purposes mentioned in this instrument.

DATED this 15th day of August, 2000.

Sandra Houston
(Signature)
Sandra Houston
(Printed or typed name)
NOTARY PUBLIC, State of Washington
My Commission Expires April 20, 2003

EXHIBIT



DESCRIPTION

The North 293.90 feet of Block 6, Plat of Leavenworth Gardens according to the Plat thereof recorded in Volume 1 of Plats at page 85, records of Chelan County, Washington.



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SHEET 1 OF 1

<http://www.erlandsen.com>

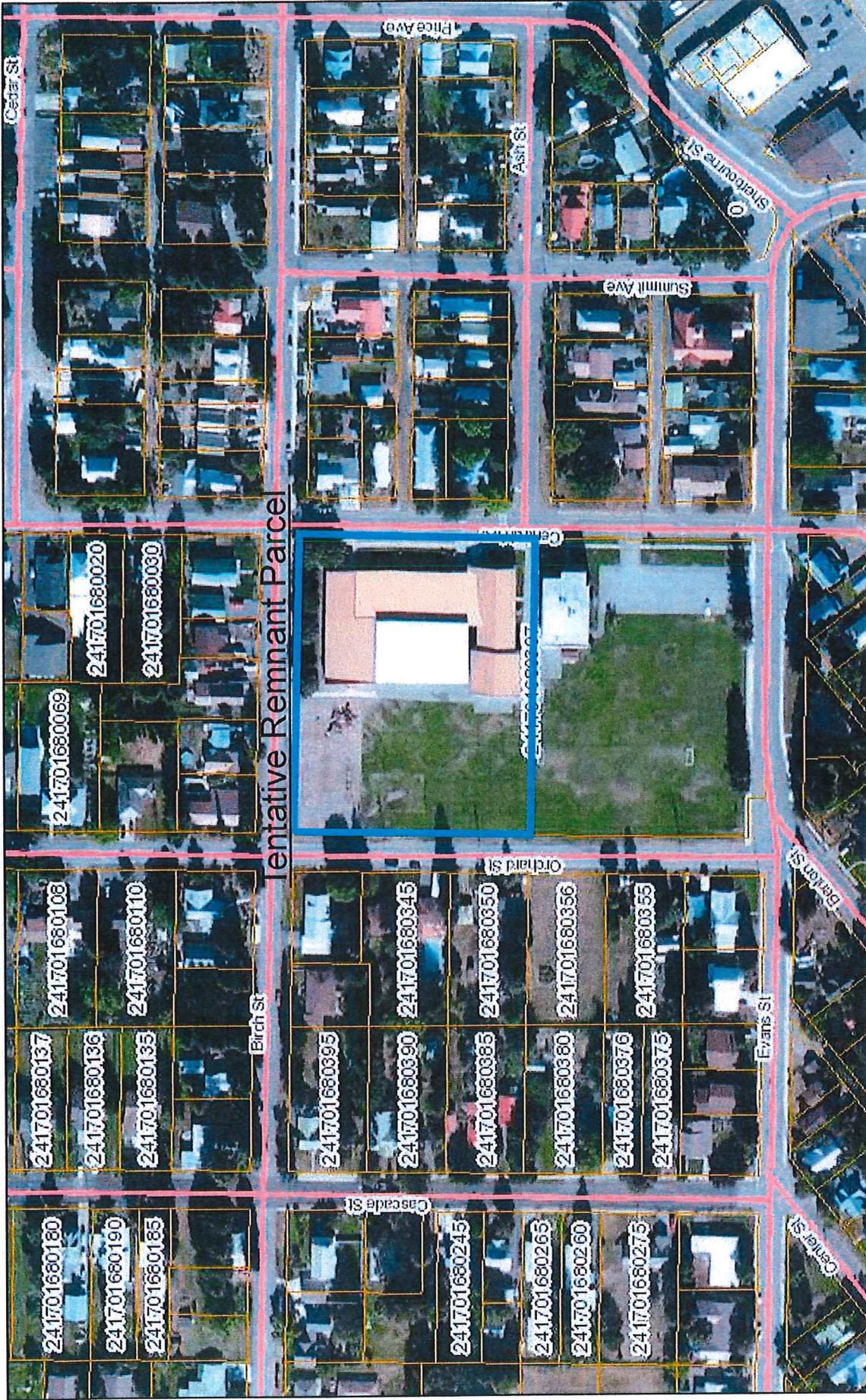
BREWSTER (509) 689-2529
 CHELAN (509) 682-4189
 • E. WENATCHEE (509) 884-2562

DRAWN BY: wap LAYOUT: OSBORN
 DATE: 7/25/2016 FILE NO: POPLAR STREET.dwg
 SCALE: 1" = 100' JOB NO: 20150168.0001

TOLL FREE (800) 732-7442

Osborn Park Property

Attachment C



May 25, 2016

