

After recording return to:  
Superintendent  
Washougal School District  
6855 Evergreen Way  
Washougal, WA 98671

## **INTERLOCAL AGREEMENT**

In accordance with the Interlocal Cooperation Act (RCW 39.34), and subject to RCW 28A.335 (school district enabling legislation) this Agreement is entered into this \_\_\_\_\_ day of June, 2008, by the WASHOUGAL SCHOOL DISTRICT (the "District"), a Washington municipal corporation, and the CITY OF WASHOUGAL (the "City"), a Washington municipal corporation, hereinafter collectively referred to as "the Parties".

### **RECITALS**

- A. The District owns real property that is located north of the Evergreen Highway, between 45<sup>th</sup> Street and Sunset View road and property that is west of Jemtegaard Middle School (the "Property"). This property includes space for three (3) sports fields. One (1) sports field has been constructed and completed pursuant to previous Interlocal agreements and there are two (2) additional sites for sports fields yet to be constructed.
- B. The sports fields could be used by both District and City patrons. Use of the sports fields by City patrons does not interfere with the District's use of the sports fields for its programs and related activities. The District does not currently contemplate needing the sports fields for other school purposes for the next twenty-five (25) years.
- C. The District and the City entered into an Interlocal Agreement initially on January 14, 2003 regarding design, construction and maintenance of sports fields on the Property. An additional Interlocal Agreement was entered into on the 2<sup>nd</sup> day of May, 2005 updating the terms of the Agreement. The Interlocal Agreements allocate responsibilities based on an assessment that the costs the City has and will continue to pay for improvements that are made to the sports fields, as well as the cost for infrastructure improvements and water, are reasonable compensation for the use of the District's property. The City and District's contributions associated with joint use of the sports fields fairly and equitably allocate costs; neither party is making a disproportionate contribution in light of the benefits that are conferred.
- D. The District and the City desire to enter into this revised Interlocal Agreement (Agreement) to set forth the Parties ongoing obligations and those that specifically relate to a grant received from the City by the Recreation Conservation Office (RCO).

E. The Parties acknowledge that the terms of the previous Agreement had been partially fulfilled as follows:

1. **City Obligations.** The City has:

- a. Obtained and paid for the design of sports field No. 1.
- b. Paid all necessary costs associated with the construction of sports field No. 1.
- c. Prepared necessary public contract bid documents.
- d. Awarded contracts that were necessary to construct the sports fields to the lowest responsible bidder in accordance with state law.
- e. Administered the contracts that were awarded and inspected the construction that occurred.
- f. Paid all the necessary costs associated with constructing the sports field No. 1.
- g. Paid all water utility costs associated with Field No. 1.

2. **District Obligations.** The District has:

- a. Allowed the public to use sports field No. 1 with reasonable restrictions.
- b. Managed and scheduled use of sports field No. 1.
- c. Maintained the sports field No. 1.
- d. Paid operating expenses that were incurred for use of the sports field No. 1.

### AGREEMENT

In order to fulfill the requirements of the RCO grant and to continue the common interest of the City and District in facilitating joint use of the District's property and facilities, the Parties agree to the following:

1. **New Obligations.**

- a. The District shall authorize the City to use the Property designated as sports field No. 2 subject to the terms and conditions in this Agreement
- b. The term of this Agreement shall be for a period of twenty-five (25) years from the date of the signing of this Agreement.
- c. This Agreement may be terminated:
  1. Upon the written Agreement of both parties;
  2. If either party violates a material term of the Agreement and fails to remedy the violation within thirty days of being notified by the non-breaching party; or

*Grant required*

3. By the District to the extent termination is necessary to recapture use of the property for future school purposes or if the joint use of the property interferes with the District's educational programs and related activities (see RCW 28A.335.040)

**2. Continuing Obligations of the City.**

- a. The City may use the District's sports field No. 2 for a period of twenty-five (25) years from the date of signing this Agreement provided the City pays the District one dollar (\$1.00) each year and satisfies its obligations under this Agreement.
- b. Upon the signing of this Agreement control of sports field No. 2 will be granted to the City. The City will then retain authority to schedule usage of sports field No. 2 subject to the District's rights to use the facilities for regularly scheduled school events. The City however may delegate the authority to schedule usage of sports field No. 2 to District with the understanding that District will schedule usage consistent with the RCO grant.
- c. The City will pay all costs associated with construction sports fields No. 2 and No. 3, as specified in the Master Plan, including costs for awarding and administering contracts, provided that such costs are within the limits that are approved by City Council, and provided further that the costs associated with future road improvements adjacent to the property shall be shared in accordance with paragraph 4(c.) below.
- d. If the City Council limits the amount of money that can be spent to perform its obligations under this Agreement, and it appears unlikely that the sports field can be constructed within the limit that is set by City Council, the District may terminate this Agreement. In the alternative, the Parties may amend the Agreement to address the shortage in funds as necessary to construct the sports fields No. 2 and No. 3.

**3. Continuing Obligations of the District.**

- a. The District hereby authorizes the City to use sports field No. 2 for a period of twenty-five (25) years at the rate of one (\$ 1.00) dollar per year. In addition to authorizing the City to use sports field No. 2, the District grants the City the right of access to sports field No. 2 including the use of parking facilities serving sports fields No. 1, No. 2 and No. 3.
- b. The District will pay operating expenses that are incurred for use of ball fields

No. 1, No. 2 and No. 3, subject to paragraph 5f. below.

- c. The District agrees to maintain sports fields No. 1, No. 2 and No. 3, subject to paragraph 4 (e.) below.
- d. If requested in accordance with 2c above, the District will schedule use of field No. 2 with usage to be consistent with requirements of the RCO grant.

4. **City and District Ongoing Joint Obligations.** The City and District shall:

- a. Consult with local users regarding the appropriate designs of the sports fields.
- b. Work cooperatively on continuing grant applications and seek opportunities to obtain grants to fund the development and/or maintenance and operation of the sports fields.
- c. Share the construction costs for future streets and sidewalks that serve the Property such that the Parties share of the costs is equal to the proportionate share of the automobile or pedestrian traffic that is attributed to the City (Community Park) or District (School Event) use. In allocating the costs under this paragraph, if the Parties do not mutually to allocate the proportionate share of the costs, a transportation study shall be done by a mutually agreed consultant who will determine the total vehicle/pedestrian traffic and what percentage of the total traffic is fairly allocated to each of the parties.
- d. Obtain and maintain general liability insurance.
- e. Develop a mutually agreed upon plan for sharing the field maintenance costs for Fields No. 1, No. 2 and No. 3.
- f. Divide equally and pay water utility costs associated with Fields No. 1, No. 2 and No. 3 for the duration of the agreement, utilizing mutually agreed upon field irrigation protocol.
- g. The City and the District are entering into this Agreement with the understanding that the City as the RCO grant recipient shall not allow at any time conversion of the ballfield No. 2 for uses other than those purposes for which the grant was originally approved, without the approval of the Funding Board of Directors of RCO, and in compliance with applicable statutes, rules, and Funding Board policies as identified in the Grant Agreement. The City and the District agree that it is the intent of the Funding Board's Conversion Policy that all lands acquired and all lands developed with the funding assistance from the RCO Funding Board remain in the public domain in perpetuity unless otherwise identified in the

Agreement.

If the City and District mutually agree to terminate this Agreement prior to expiration of the twenty-five (25) year term and the ballfield is converted to uses other than those specified by the RCO grant the City will be obligated to remedy the conversion of the ballfield under terms of the conditions of approval of the RCO grant. This may include replacement of the converted ballfield with an equivalent recreational facility.

If the District unilaterally terminates this Agreement prior to the expiration of the twenty-five (25) year term and the ballfield is converted to uses other than that specified by the RCO grant, the District will reimburse the City for any and all expenses and costs related to the City's obligation to remedy the conversion including the replacement of the ballfield with an equivalent recreational facility.

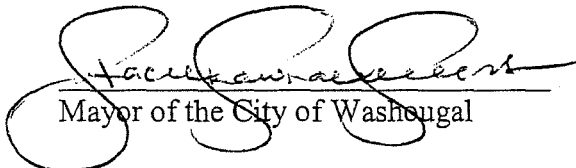
5. **General Provisions.**

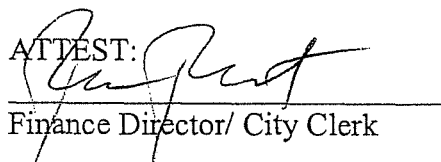
- a. **Indemnification and Hold Harmless.** The City shall indemnify, defend and save harmless the District, its elected officials, officers, employees and agents from any and all liability, loss, damage, expense, action and claims, including costs and reasonable attorneys fees, incurred by the District, its elected officers, employees and agents in defense thereof, asserting or arising directly on account of or out of the City's negligent or willful acts or omissions. The District shall indemnify, defend and save harmless the City, its elected officials, officers, employees and agents from any and all liability, loss, damage, expense, action and claims, including costs and reasonable attorneys fees, incurred by the City, its elected officers, employees and agents in defense thereof, asserting or arising directly on account of or out of the District's negligent or willful acts or omissions.
- b. **Dispute Resolution.** All disputes regarding the Property shall be heard by the Mayor of the City of Washougal and the Superintendent of Washougal School District. In the event these officials cannot effect resolution the Parties shall first mediate the matter with a mutually agreeable third party mediator and if unsuccessful submit the matter to binding arbitration before an arbitrator mutually agreeable to both Parties.
- c. **No Third Party Beneficiary.** This Agreement is entered into by the District and City in their governmental capacities. Nothing in this Agreement is intended or shall be construed to create any third party beneficiary or rights in any private person.
- d. **Integration Clause.** This Agreement constitutes the entire agreement between

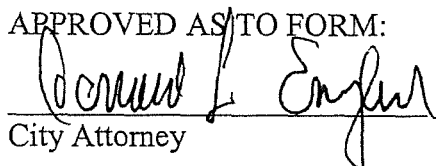
the Parties. Any prior Written agreements and any written or oral communications between the Parties are superseded by this Agreement. Any amendments to this Agreement shall be in writing and signed by both Parties.

- e. **Severability.** If any portion of this Agreement is deemed to be null and void or unenforceable by a court of competent jurisdiction, such portion shall be severable and shall not affect any other provision of the balance of this Agreement which shall remain in full force and effect.
- f. **Waiver.** A waiver of any provision in this Agreement shall not be deemed a waiver of any other provision in this Agreement nor shall it prohibit the Parties from enforcing any other provision in this Agreement.

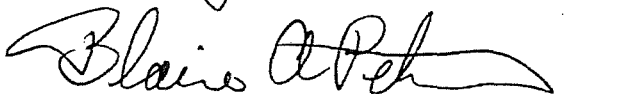
DATED this 24<sup>th</sup> day of June, 2008.

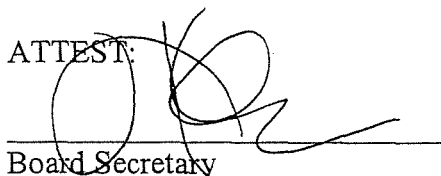
  
Mayor of the City of Washougal

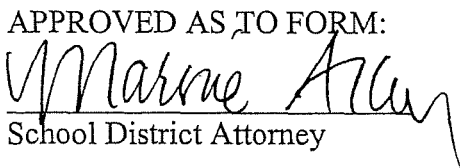
ATTEST:   
Finance Director/ City Clerk

APPROVED AS TO FORM:  
  
City Attorney

DATED this 24<sup>th</sup> day of June, 2008.

  
President of the Washougal School District  
Board of Directors

ATTEST:   
Board Secretary

APPROVED AS TO FORM:  
  
School District Attorney

