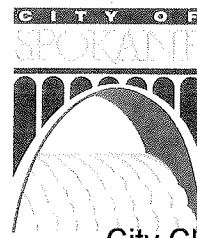


# **City of Spokane**

## **Resolution 2019-0052**



July 22, 2019



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

City Clerk File No.:

RES 2019-0052

OPR 2019-0534

OPR 2019-0536

OPR 2019-0571

OPR 2019-0572

COUNCIL ACTION MEMORANDUM

RE: (1) RESOLUTION 2019-0052 DECLARING CERTAIN UTILITY PROPERTY SURPLUS AND AUTHORIZING EXECUTION OF A REAL PROPERTY PURCHASE, SALE, AND EXCHANGE AGREEMENT WITH SPOKANE SCHOOL DISTRICT NO. 81; (2) INTERLOCAL AGREEMENT BETWEEN SPOKANE PUBLIC SCHOOLS, CITY OF SPOKANE, SPOKANE PUBLIC LIBRARY, AND SPOKANE PARKS AND RECREATION RELATED TO PASSAGE OF BOND ISSUES BY THE VOTERS OF THE CITY AND THE SCHOOL DISTRICT; AND (3) TWO LAND LEASE AND USE AGREEMENTS BETWEEN SPOKANE PARKS AND RECREATION AND SPOKANE PUBLIC LIBRARY FOR PROPERTY TO BUILD AN EXPANSION OF THE SHADLE BRANCH LIBRARY AND TO CONSTRUCT A NEW LIBERTY PARK BRANCH LIBRARY

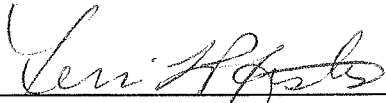
During its 6:00 p.m. Legislative Session, the Spokane City Council held a hearing on the above-described items. The City Council received presentations from the following individuals on the matters: Rick Romero, Special Projects - Mayor's Office; City Attorney Mike Ormsby, Interim Parks Director Garrett Jones, Library Director Andrew Chanse, and Mike Wiser of the Board of Directors of Spokane Public Schools. Public testimony was received from one individual and Council commentary was held, with staff response. Subsequently, the following action was taken:

**Upon Unanimous Roll Call Vote (Council President Stuckart absent), the City Council adopted/approved, the following items:**

- Adopted Resolution 2019-0052 declaring certain utility property surplus to the needs of the City and also authorizing the execution of a Real Property Purchase, Sale, and Exchange Agreement with Spokane School District No. 81. (CR: OPR 2019-0571)
- Approved Interlocal Agreement between Spokane Public Schools, City of Spokane, Spokane Public Library, and Spokane Parks and Recreation identifying the framework for collaborative efforts and communication by and

among the various involved entities for projects related to the passage of bond issues by the voters of the City and the School District. (OPR 2019-0534)

- Approved Two Land Lease and Use Agreements between Spokane Parks and Recreation and Spokane Public Library for property to build an expansion of the Shadle Branch Library and to construct a new Liberty Park Branch Library. (OPR 2019-0536 and OPR 2019-0572)

A handwritten signature in cursive script, appearing to read "Terri Pfister", written over a horizontal line.

Terri L. Pfister, MMC  
Spokane City Clerk



# Agenda Sheet for City Council Meeting of: 07/22/2019

|                       |               |
|-----------------------|---------------|
| <b>Date Rec'd</b>     | 7/10/2019     |
| <b>Clerk's File #</b> | RES 2019-0052 |
| <b>Renews #</b>       |               |
| <b>Cross Ref #</b>    | OPR 2019-0571 |
| <b>Project #</b>      |               |
| <b>Bid #</b>          |               |
| <b>Requisition #</b>  |               |

|                           |                                       |
|---------------------------|---------------------------------------|
| <b>Submitting Dept</b>    | CITY ATTORNEY                         |
| <b>Contact Name/Phone</b> | MIKE ORMSBY 6287                      |
| <b>Contact E-Mail</b>     | MORMSBY@SPOKANECITY.ORG               |
| <b>Agenda Item Type</b>   | Hearings                              |
| <b>Agenda Item Name</b>   | RESOLUTION DECLARING SURPLUS PROPERTY |

## Agenda Wording

A Resolution declaring certain utility property surplus to the needs of the City and also authorizing the execution of a Real Property Exchange Agreement with the Spokane School District (District). Legal Notice has been given.

## Summary (Background)

The City and District have been working together developing projects that will benefit both entities and the populations they serve. Certain City properties (a portion of the N. Foothills Site and a site adjacent to Mullan Rd. Elementary) would be transferred by the City to the District and the District would transfer property on E. Sprague to the City for library purposes. This resolution also approves the execution of an agreement effecting the transfer of the properties.

## Fiscal Impact

Grant related? NO  
Public Works? NO

## Budget Account

|        |    |   |
|--------|----|---|
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |

## Approvals

|                          |                 |
|--------------------------|-----------------|
| <b>Dept Head</b>         | PICCOLO, MIKE   |
| <b>Division Director</b> |                 |
| <b>Finance</b>           | BUSTOS, KIM     |
| <b>Legal</b>             | DALTON, PAT     |
| <b>For the Mayor</b>     | ORMSBY, MICHAEL |

## Council Notifications

|                      |         |
|----------------------|---------|
| <b>Study Session</b> | 7/22/19 |
| <b>Other</b>         |         |

## Distribution List

rromero@spokanecity.org, cwolff@spokanecity.org  
dsteele@spokanecity.org, gjones@spokanecity.org  
achanse@spokanelibrary.org,  
comalley@spokanelibrary.org  
pdalton@spokanecity.org  
mpiccolo@spokanecity.org  
jrichman@spokanecity.org

## Additional Approvals

## Purchasing

ADOPTED BY  
SPOKANE CITY COUNCIL:

7/22/2019  
*[Signature]*  
CITY CLERK



**RESOLUTION 2019-0052**

A RESOLUTION DECLARING SURPLUS PROPERTY ORIGINALLY ACQUIRED FOR PUBLIC UTILITY PURPOSES AND AUTHORIZING THE TRANSFER OF SAID PROPERTY TO SPOKANE SCHOOL DISTRICT NO. 81.

WHEREAS, the City of Spokane is the owner of certain properties located in the City of Spokane, County of Spokane, State of Washington, and more particularly described in Exhibits A and B hereto (the "Properties"); and

WHEREAS, the Properties were originally acquired for public utility purposes, but are now surplus to the City's needs and are not required for providing continued public utility service; and

WHEREAS, RCW 35.94.040 authorizes the City to determine that any land or property originally acquired for public utility purposes is surplus to the City's needs and no longer required for providing public utility service; and

WHEREAS, following such determination, the City may, after a public hearing, cause such lands or property to be leased, sold, or conveyed, setting forth the fair market value or rent or consideration to be paid and such other terms and conditions for such disposition as the city deems to be in the best public interest; and

WHEREAS, RCW 35.22.280(3) authorizes the City to dispose of surplus property, with RCW 39.33.020 providing the method for the intergovernmental transfer of surplus City property with an estimated value in excess of fifty thousand dollars (\$50,000.00); and

WHEREAS, previously, pursuant to Resolution 2019-0005, the City Council approved a Partnership Umbrella Agreement between Spokane Public Schools, the City of Spokane, and Spokane Public Library (the "Partnership Agreement"); and

WHEREAS, the previously approved Partnership Agreement anticipates the City's transfer of the Properties to Spokane School District No. 81 in exchange for property and other consideration all as detailed in the Partnership Agreement; and

WHEREAS, because of the City Council's approval of the Partnership Agreement and the property transfers anticipated therein, the City Council finds that the process outlined in Chapter 12.10 SMC is unnecessary with respect to the dispositions authorized by this resolution;

NOW, THEREFORE - - it is hereby resolved by the Spokane City Council, that the Properties are hereby declared to be surplus to the City's needs and are not required for providing continued public utility service, and that the Mayor is authorized to sign the Real

Property Purchase, Sale and Exchange Agreement attached hereto as Exhibit C and to execute such other documents as are reasonably necessary to consummate the transactions provided for in said agreement.

ADOPTED by the Spokane City Council this 22<sup>nd</sup> day of July, 2019.

*Verni H. Hester*  
City Clerk

Approved as to form:

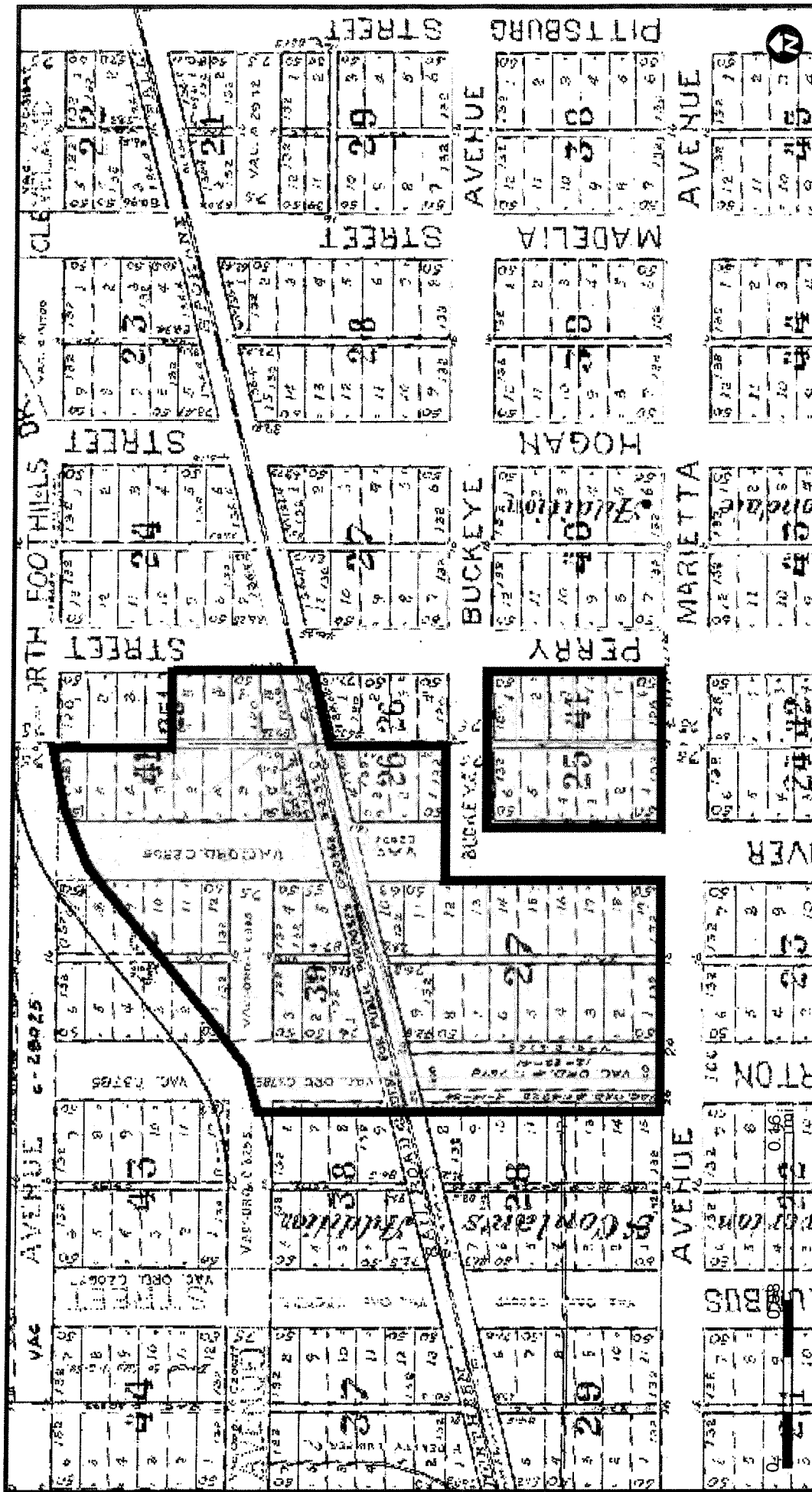
*Michael C. Guply*  
~~Assistant~~ City Attorney



**Exhibit A**

**FOOTHILLS PROPERTY**

# City of Spokane Foothills Property



City of Spokane GIS

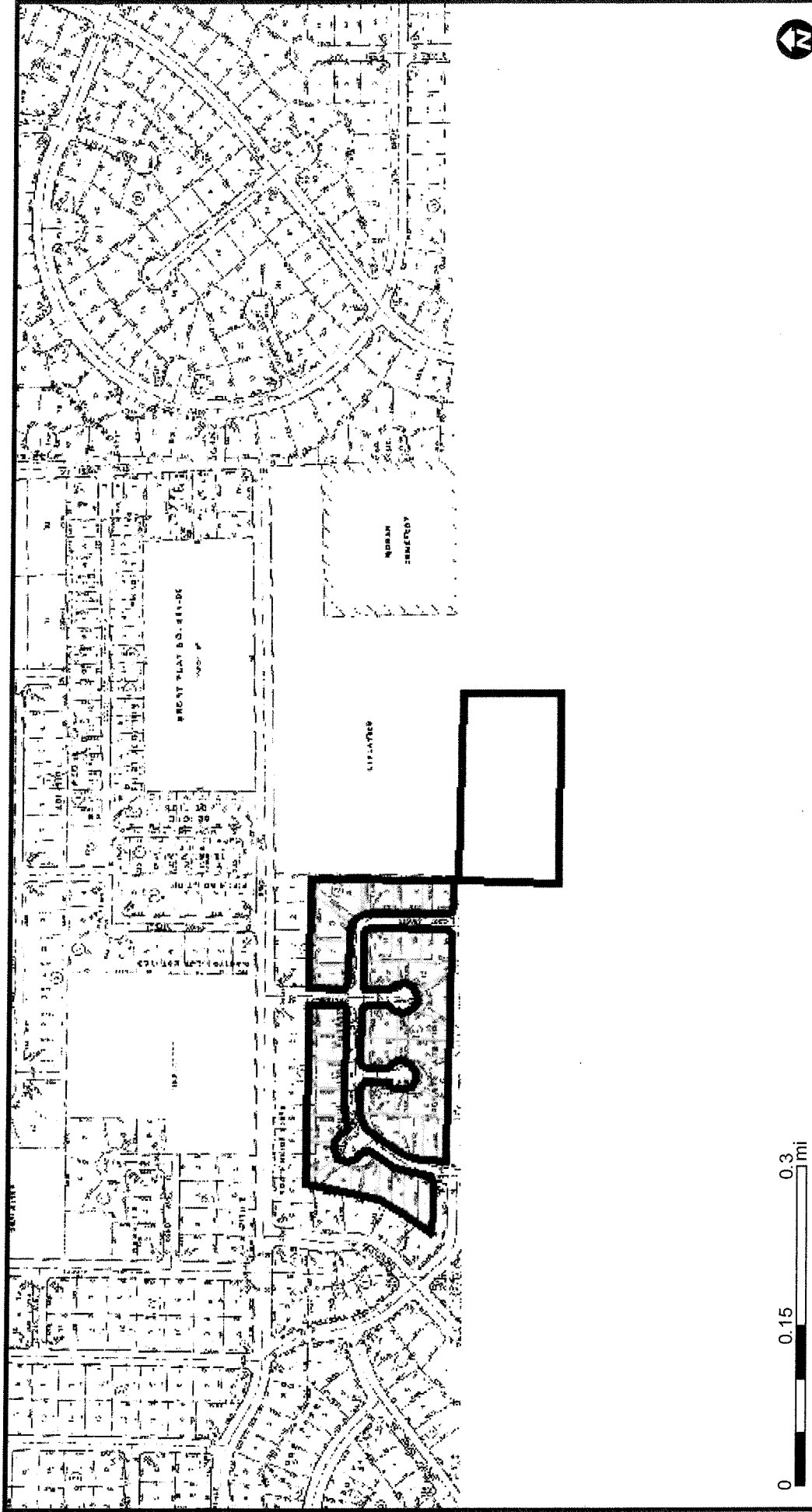


THIS IS NOT A LEGAL DOCUMENT.  
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.

**Exhibit B**

**SOUTH SIDE PROPERTY**

# City of Spokane South Side Property



City of Spokane GIS



THIS IS NOT A LEGAL DOCUMENT.  
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.

## **Exhibit C**

### **Real Property Purchase, Sale and Exchange Agreement**

# Property Exchange Agreement





## REAL PROPERTY PURCHASE, SALE AND EXCHANGE AGREEMENT

This Real Property Purchase, Sale and Exchange Agreement ("Agreement") is made this <sup>August</sup>~~July~~ 2<sup>nd</sup> day of ~~July~~, 2019 ("Effective Date"), by and between Spokane School District No. 81, a Washington state municipal corporation ("District"), and City of Spokane, a Washington state municipal corporation ("City"). The District and City may be individually referred to as a "Party" and jointly referred to as "Parties" in this Agreement.

### RECITALS

**WHEREAS**, the City and District have entered into a Partnership Umbrella Agreement that contemplates certain property transactions, including property transfers between the City and District;

**WHEREAS**, the City owns certain real property located adjacent to the South Side Landfill and Mullan Road Elementary near E. 63rd Avenue and S. Altamont Street, in Spokane, Washington (Assessor's Tax Parcel Nos. 34091.0125, 34044.1915, 34044.1807, 34044.2004, 34044.1903, 34044.2007, 34044.1809, 34044.1806, 34044.2001, 34044.1814, 34044.2008, 34044.1808, 34044.1912, 34044.1904, 34044.1901, 34044.2003, 34044.1902, 34044.1908, 34044.1811, 34044.1914, 34044.2002, 34044.2006, 34044.1910, 34044.1905, 34044.1907, 34044.1812, 34044.1906, 34044.1916, 34044.2005, 34044.1813, 34044.1911, 34044.1810, 34044.1913, 34044.1909, and 34044.1805) and located at 1250 E. North Foothills Drive, in Spokane, Washington (Assessor's Tax Parcel Nos. 35081.3104, 35081.3402, 35081.3403, 35081.3404, 35081.3301, 35092.2505, 35092.2506, 35092.2507, 35092.5707, 35092.4101, 35092.4102, 35092.4103, 35092.4104, 35092.4105, and 35092.4106), as more particularly described on attached Exhibit A ("City Property");

**WHEREAS**, the District owns certain real property located at 2904 E. Sprague Avenue, in Spokane, Washington (Assessor's Tax Parcel Nos. 35222.0801, 35222.0802, 35222.0803, 35222.0804, 35222.0805, 35222.0806, 35222.0807, and 35222.0808), as more particularly described on attached Exhibit B ("District Property");

**WHEREAS**, City desires to sell and District desires to purchase City Property as described on attached Exhibit A;

**WHEREAS**, District desires to sell and City desire to purchase District Property as described on attached Exhibit B;

**WHEREAS**, the District Property and the City Property may be collectively referred to as the "Exchange Property" in this Agreement; and

**WHEREAS**, the Parties also wish to establish up to a 60-foot wide public right-of-way over, under, through, and across the western edge of that certain land to be conveyed by the City to the District pursuant to that certain Option Agreement and Real Estate Purchase and Sale Agreement, dated August 28, 2013, by and between the Parties ("Option Agreement"), relating to certain property commonly known as Joe Albi Stadium and more particularly described in said Option Agreement.

**WHEREAS**, the Parties agree that the purchase, sale and exchange transaction contained herein is an intergovernmental disposition of property made pursuant to Chapter 39.33 RCW and that each party has held a public hearing with proper and timely notice per RCW 39.33.020.

NOW THEREFORE, in consideration of the following terms, conditions and covenants, the Parties agree as follows:

## AGREEMENT

1. **Purchase, Sale and Exchange.** The Parties hereby agree to convey and exchange the District Property for the City Property and vice versa. In addition, the District hereby agrees to convey to the City a 60-foot wide strip of land for public street purposes and all uses incidental thereto, in substantial form and content as set forth in Exhibit C.

2. **Consideration and Full Value.** The Parties have concluded, after due diligence by each, that the District and City will each receive, as consideration, full value for the exchange of properties due to: (a) the respective value of each property; (b) the right by each party to use each other's property as described in the Interlocal Cooperation Agreement between Spokane Public Schools, City of Spokane, Spokane Public Library, and Spokane Parks and Recreation, and (c) the other benefits, efficiencies, and value accruing to each party by virtue of this Agreement and by virtue of the other agreements to be entered into by the Parties and as described more fully and contemplated by in the Partnership Umbrella Agreement, dated February 14, 2019. The Parties further conclude, after due diligence by each, that the District and City shall receive equivalent full value for the exchange of properties and the other consideration described herein, and thus no cash shall be exchanged between the Parties.

3. **Escrow and Title Insurance.**

3.1 **Escrow.** The purchase and sale of the Exchange Property shall be accomplished through an escrow ("Escrow") established at First American Title Insurance Company, 40 E. Spokane Falls Blvd., Spokane, WA 99202 (509) 456-0550, or other entity mutually agreed upon by the Parties ("Escrow Holder"). Upon the request of the Escrow Holder, the Parties shall execute any supplemental escrow instructions required by Escrow Holder for the purpose of implementing and carrying out the terms of this Agreement. In the event of a conflict between the terms of this Agreement and the escrow instructions, this Agreement shall control.

3.2 **Close of Escrow.** The purchase and sale of the Exchange Property will close on or before **Thursday, October 31, 2019**, or such other date as the Parties may agree upon in writing ("Closing Date").

3.3 **City Title Policy.** Escrow Holder, unless otherwise advised by District, shall cause a Title Insurance Company ("Title Insurance Company") to issue City an owner's policy of title insurance ("City Title Policy"), with liability in the amount of \$1,000,000.00 showing title to the District Property vested in City, subject only to the City Permitted Exceptions (as defined below).

3.4 **District Title Policy.** Escrow Holder, unless otherwise advised by City, shall cause Title Insurance Company to issue District owners policies of title insurance ("District Title Policies"), with liability in the amount of \$1,000,000.00 showing title to the City Properties vested in District, subject only to the District Permitted Exceptions (as defined below).

3.5 **Permitted Exceptions.** As used in this Agreement, "City Permitted Exceptions" means such matters appearing in the commitment for the City Title Policy as may be approved in writing by City or deemed approved by City as provided in this Agreement.

As used in this Agreement, "District Permitted Exceptions" means such matters appearing in the commitment for the District Title Policies as may be approved in writing by District or deemed approved by District as provided in this Agreement.

**3.6 Actions of Escrow Holder.** On the Closing Date, Escrow Holder shall perform the following:

**3.6.1 Statutory Warranty Deeds and Right-of-Way Dedication Deed.** Cause Statutory Warranty Deeds and Right-of-Way Dedication Deed, with accompanying excise tax affidavits and any other applicable documents, to be recorded in the official records of the County where the Exchange Property is located, and obtain conformed copies thereof for distribution to District and City.

**3.6.2 Disburse Funds.** Disburse all funds deposited with Escrow Holder as follows (and in the following order):

Pay all closing costs to be paid through Escrow (including, without limitation, recording fees, property and excise taxes, if any, premiums for the City Title Policy and District Title Policies and escrow fees);

Pay, or cause to be removed from title, all mortgages, deeds of trust and other liens; and

Disburse any remaining funds to the Parties in accordance with separate wiring or other payment instructions delivered to Escrow Holder.

**3.7 Additional Matters.** Escrow Holder shall:

Direct the Title Insurance Company to issue the City Title Policy to City and the District Title Policies to District; and

Deliver to the Parties: (i) conformed copies of the Statutory Warranty Deeds and other recorded documents; (ii) originals of the Closing Documents; (iii) City's closing statement and (iv) District's closing statement.

**4. Closing Matters.** The Parties shall execute and deliver to Escrow Holder the following documents, before the Closing Date and, except as otherwise provided below, Escrow Holder shall deliver to the Parties immediately following the Closing Date, the following documents ("Closing Documents"), all in form and substance acceptable to the Parties:

**4.1 Statutory Warranty Deeds and Right-of-Way Dedication Deed.** Statutory Warranty Deed, in recordable form, conveying title to the District Property to City free and clear of all defects and encumbrances and subject only to the City Permitted Exceptions ("City Deed"), which shall be recorded at the time of the Closing Date. The City Deed shall provide that the District Property is to be used for purposes of construction of a new library and, if a new library is not constructed on the property within ten (10) years, title shall revert to the District.

Statutory Warranty Deeds, in recordable form, conveying title to the City Properties to District free and clear of all defects and encumbrances and subject

only to the District Permitted Exceptions ("District Deeds"), which shall be recorded at the time of the Closing Date. The District Deeds shall provide that the City Properties are to be used for purposes of construction of new schools and, if the District does not construct a new school on the property within ten (10) years, title shall revert to the City.

The City Deed and the District Deeds are collectively referred to as the "Deeds."

Public Right-of-Way Dedication Deed, in recordable form, in substantial form and content as set forth in Exhibit C, which shall be recorded at the time of the Closing Date. The Right-of-Way Dedication Deed shall provide that the right-of-way is to be used for public street purposes and all uses incidental thereto and, if a new public street is not constructed on the property within ten (10) years, the easement shall revert to the District.

- 4.2 **FIRPTA.** Non-foreign person affidavits ("FIRPTA Affidavits") stating that District and City are not foreign persons as defined in Section 1445(b)(2) of the Internal Revenue Code.
- 4.3 **Real Estate Excise Tax Affidavits.** The parties shall execute Real Estate Excise Tax Affidavits.
- 4.4 **Other Documents.** All other documents reasonably necessary to effectuate the transactions contemplated by this Agreement.

5. **Closing Costs.**

5.1 **City Closing Costs.** On the Closing Date, City shall pay the following costs:

- 5.1.1 The cost of a standard owner's policy for the District Title Policies.
- 5.1.2 Prorated real property taxes.
- 5.1.3 Recording fees for recording of the City Deeds and the Right-of-Way Dedication Deed.
- 5.1.4 Real estate excise taxes applicable to the sale of the City Properties (the Parties agree that the sale of City Properties is not subject to payment of real estate excise taxes).
- 5.1.5 One-half of the escrow fees.

5.2 **District Closing Costs.** On the Closing Date, District shall pay the following costs:

- 5.2.1 The cost of a standard owners' policies for the City Title Policy.
- 5.2.2 Prorated real property taxes.
- 5.2.3 Recording fees for recording of the District Deed.

5.2.4 Real estate excise taxes applicable to the sale of the District Property (the Parties agree that the sale of District Property is not subject to payment of real estate excise taxes).

5.2.5 One-half of the escrow fees.

6. **Conditions Precedent.**

6.1 **City's Conditions.** City's obligation to purchase the District Property and sell the City Properties is subject to satisfaction, in its sole discretion, of the conditions set forth below, on or before the dates set forth below, or, if no date is set forth, by the Feasibility Date. As used herein, the term "Feasibility Date" shall mean from the Effective Date until the Closing Date. City may waive in writing any or all of such conditions, without prejudicing or affecting any other rights City may have. If any conditions are not satisfied or waived in the time periods provided or by the Feasibility Date, as applicable, City shall have the right to cancel Escrow, and terminate this Agreement without liability.

6.1.1 **Title Commitment.**

(1) Within thirty (30) calendar days after the later of the Effective Date of this Agreement or the City's receipt of the commitment for the City Title Policy with copies of all documents referenced in exceptions identified on Schedule B to such commitments ("City's Title Review Period"), City may give written notice to the District identifying any title exceptions to the City Title Policy disapproved by City (for purposes of this Section only, "City's Title Notice"). If City fails to give such notice, City shall be deemed to have approved all title exceptions other than mortgages, deeds of trust, mechanic's liens and similar matters constituting monetary liens, all of which shall be paid in full and removed by District at District's cost on or before the Closing Date.

(2) If District will be unable to remove any of the disapproved title exceptions on or before the Closing Date, then within ten (10) calendar days after receipt of City's Title Notice, District shall give written notice to City identifying the disapproved title exceptions that District is unable to remove (for purposes of this Section only, "District's Title Notice"). If District fails to give such notice, District shall be deemed to have agreed to remove the title exceptions disapproved by City.

(3) City shall have until the Closing Date to either: (i) approve the title exceptions identified in District's Title Notice that District is unable to remove; or (ii) terminate this Agreement and cancel Escrow, by giving written notice of such termination and cancellation to District and Escrow Agent. If City fails to deliver such notice to District, City shall be deemed to have disapproved of the title exceptions identified in the District's Title Notice that District is unable to remove.

6.1.2 **Due Diligence.** City shall have ninety (90) calendar days ("Due Diligence Period") after execution of this Agreement to do any and all soil engineering, environmental testing and site investigation as City deems necessary. Upon review of such

investigation City may, at its option, terminate this Agreement during the Due Diligence Period.

The District shall provide to City, or make available to City for inspection, as soon as possible (but in any event no later than ten (10) calendar days after the Effective Date) all materials relating to the District Property specified in this Section 6.1.2 that exist and that are in the District's actual possession or that the District knows exist and to which the District has access (collectively, the "City Due Diligence Materials"). If the District thereafter discovers any additional items that should have been included among the due diligence materials, the District shall promptly deliver them to the City. City Due Diligence Materials will include:

- copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the District's knowledge, affect title to the District Property and that are not disclosed by the Preliminary Commitment;
- all surveys, plats or plans relating to the District Property;
- all leases for the District Property, or any portion thereof, if any, which remain in effect;
- all existing service contracts pertaining to items such as janitorial, trash removal, maintenance, snow removal, laundry service, extermination and similar services, if any;
- all labor contracts affecting the District Property, if any;
- all warranties and guarantees affecting any portion of the District Property;
- notice of any existing or threatened litigation affecting or relating to the District Property and copies of any pleadings with respect to that litigation;
- (i) all governmental permits and approvals obtained or held by the District and relating to (A) the construction, operation, use or occupancy of any part of the District Property or (B) zoning, land-use, subdivision, environmental, building and construction laws and regulations restricting, regulating or otherwise affecting the use, occupancy or enjoyment of the District Property (collectively, "Permits") and (ii) any notices of violation of any Permits, or of any of the laws and regulations described in this Section 6.1.2; and
- (i) all environmental assessment reports with respect to the District Property that were performed or that are being performed by or for the District and remain in the possession of or reasonably available to the District, (ii) any raw data that relates to the environmental condition of the District Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of hazardous material and/or substances on, in or under the District Property, and (iv) any other information material to the environmental condition or potential contamination of the District Property.

**6.1.3 Title Policy.** The Title Insurance Company shall have issued, or irrevocably and unconditionally committed to issue, the City Title Policy. There shall have been no material adverse change to the District Exchange Property.

**6.1.4 No Pending Actions.** No lawsuit, arbitration or other action, proceeding or claim shall be pending which: (i) seeks to restrain or prevent the sale of the District

Exchange Property to City; or (2) the outcome of which would have an adverse effect on City's ownership of the District Exchange Property.

**6.2 District's Conditions.** District's obligation to purchase the City Properties and sell the District Property is subject to satisfaction, in its sole discretion, of the conditions set forth below, on or before the dates set forth below, or, if no date is set forth, by the Feasibility Date. The District may waive in writing any or all of such conditions, without prejudicing or affecting any other rights District may have. If any conditions are not satisfied or waived in the time periods provided or by the Feasibility Date, as applicable, District shall have the right to cancel Escrow and terminate this Agreement without liability.

**6.2.1 Title Commitment.**

(1) Within thirty (30) calendar days after the later of the Effective Date of this Agreement or the District's receipt of the commitment for the District Title Policies with copies of all documents referenced in exceptions identified on Schedule B to such commitments ("District's Title Review Period"), District may give written notice to City identifying any title exceptions to the District Title Policies disapproved by District (for purposes of this Section only, the "District's Title Notice"). If District fails to give such notice, District shall be deemed to have approved all title exceptions other than mortgages, deeds of trust, mechanic's liens and similar matters constituting monetary liens, all of which shall be paid in full and removed by City at City's cost on or before the Closing Date.

(2) If City will be unable to remove any of the disapproved title exceptions on or before the Closing Date, then within ten (10) calendar days after receipt of District's Title Notice, City shall give written notice to District identifying the disapproved title exceptions that City is unable to remove (for purposes of this Section only, the "City's Title Notice"). If City fails to give such notice, City shall be deemed to have agreed to remove the title exceptions disapproved by District.

(3) District shall have until the Closing Date to either: (i) approve the title exceptions identified in the City's Title Notice that City is unable to remove; or (ii) terminate this Agreement and cancel Escrow, by giving written notice of such termination and cancellation to City and Escrow Agent. If District fails to deliver such notice to City, District shall be deemed to have disapproved the title exceptions identified in the City's Title Notice that City is unable to remove.

**6.2.2 Due Diligence.** District shall have ninety (90) calendar days ("Due Diligence Period") after execution of this Agreement after execution of this Agreement to do any and all soil engineering, environmental testing and site investigation as District deems necessary. Upon review of such investigation, the District may, at its option, terminate this Agreement during the Due Diligence Period.

The City shall provide to District, or make available to the District for inspection, as soon as possible (but in any event no later than ten (10) calendar days after the Effective Date) all materials relating to the City Property specified in this Section 6.2.2 that exist and that are in the City's actual possession or that the City knows exist and to which the City has access (collectively, the "District Due Diligence Materials"). If the City thereafter

discovers any additional items that should have been included among the due diligence materials, the City shall promptly deliver them to the District. District Due Diligence Materials will include:

- copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the City's knowledge, affect title to the City Property and that are not disclosed by the Preliminary Commitment;
- all surveys, plats or plans relating to the City Property;
- all leases for the City Property, or any portion thereof, if any, which remain in effect;
- all existing service contracts pertaining to items such as janitorial, trash removal, maintenance, snow removal, laundry service, extermination and similar services, if any;
- all labor contracts affecting the City Property, if any;
- all warranties and guarantees affecting any portion of the City Property;
- notice of any existing or threatened litigation affecting or relating to the City Property and copies of any pleadings with respect to that litigation;
- (i) all governmental permits and approvals obtained or held by the City and relating to (A) the construction, operation, use or occupancy of any part of the City Property or (B) zoning, land-use, subdivision, environmental, building and construction laws and regulations restricting, regulating or otherwise affecting the use, occupancy or enjoyment of the City Property (collectively, "Permits") and (ii) any notices of violation of any Permits, or of any of the laws and regulations described in this Section 6.1.2; and
- (i) all environmental assessment reports with respect to the City Property that were performed or that are being performed by or for the City and remain in the possession of or reasonably available to the City, (ii) any raw data that relates to the environmental condition of the City Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of hazardous material and/or substances on, in or under the City Property, and (iv) any other information material to the environmental condition or potential contamination of the City Property.

**6.2.3 Title Policy.** The Title Insurance Company shall have issued, or irrevocably and unconditionally committed to issue, the District Title Policies. There shall have been no material adverse change to the City Exchange Properties.

**6.2.4 No Pending Actions.** No lawsuit, arbitration or other action, proceeding or claim shall be pending which: (i) seeks to restrain or prevent the sale of the City Exchange Properties to District; or (2) the outcome of which would have an adverse effect on District's ownership of the City Exchange Properties.

**6.3 Parties' Conditions.** The Parties obligation to close is also conditioned upon:

**6.3.1 Interlocal Cooperation Agreement.** Execution by all named parties, on or before July 31, 2019, of the Interlocal Cooperation Agreement between Spokane Public Schools, City of Spokane, Spokane Public Library, and Spokane Parks and Recreation; and



**6.3.2 Right-of-Way Dedication Deed.** The District's delivery of a Right-of-Way Dedication Deed, in the form attached hereto as Exhibit C.

7. **Right of Entry.** Following acceptance of this Agreement, each Party, its agents, employees, contractors or its potential tenants/users may enter the Exchange Property to be purchased by such Party for the purpose of investigating, inspecting, surveying, testing the soil or improvements (including buildings, structures, etc.) and conducting feasibility studies to determine the suitability of such Exchange Property, including improvements for such Party's intended use. The Party entering such Exchange Property, its agents, contractors or tenants/users shall, in a commercially reasonable manner, have the right to conduct invasive testing or boring, with the prior consent of the Party that owns such Exchange Property, which shall not be unreasonably withheld.

City agrees to indemnify and hold District harmless for any loss, cost or expense resulting from damage to the District Exchange Property, or injury to persons resulting from the work conducted pursuant to this Section, except and only to the extent such damage is caused by the negligence or intentional acts of District or its agents. District agrees to indemnify and hold City harmless for any loss, cost or expense resulting from damage to the City Exchange Properties, or injury to persons resulting from the work conducted pursuant to this Section, except and only to the extent such damage is caused by the negligence or intentional acts of the City or its agents.

Each Party shall provide the other with reasonable prior written notice of its intent to enter such Exchange Property describing the date of entry, the purpose and activities to be conducted on such Exchange Property. A Party's activity or work on such Exchange Property shall be performed with minimum disturbance to such Exchange Property. Upon completion of the work or activity, such Exchange Property shall be restored to the condition in which it was found.

8. **Cooperation.** The Parties agree to cooperate in the execution of all documents or instruments reasonably necessary to affect the conveyance of the Exchange Property, and such other and further documentation as is required by either Party to perform the obligations of the Parties hereunder.

9. **Consents, Approval, and Agreement.** Any requirement of consent, permission approval or agreement in this Agreement by a Party shall be accomplished in good faith, and in such Party's reasonable discretion.

10. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed delivered when received at the address set forth below.

If to District:

Spokane Public Schools  
Associate Superintendent, School Support Services  
200 North Bernard Street  
Spokane, Washington 99201  
(509) 354-7272

If to City:

City of Spokane  
Mayor  
7th Floor, City Hall  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201  
(509) 625-6064

Copy to:

City Attorney  
5<sup>th</sup> Floor, City Hall  
808 West Spokane Falls Blvd  
Spokane, WA 99201

11. **Possession.** City shall be entitled to possession of the District Exchange Property on the Closing Date, and District shall be entitled to possession of the City Exchange Properties on the Closing Date.

12. **Time.** Time is of the essence with respect to this Agreement. If the date for any performance under this Agreement falls on a weekend or a holiday, the time for such performance shall extend to the next business day.

13. **Default.** If either party breaches its obligation to purchase the Property in accordance with the terms of this Agreement and Escrow fails to close by reason of such breach, then the non-breaching Party's sole remedy for such breach shall be to terminate this Agreement.

14. **Entire Agreement and Modification.** This written Agreement constitutes the entire and complete Agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth. No modifications of this Agreement and waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the Parties hereto.

15. **Binding Effect and Governing Law.** All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. This Agreement shall be governed by the laws of the State of Washington.

16. **Attorneys' Fees.** If any action is brought by either Party against the other party related to the enforcement of this Agreement or any document or instrument delivered pursuant hereto, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action or any appeal thereof. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the Parties hereto, which may include expert witness fees, printing, duplicating and other expenses, delivery charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney.

17. **As-Is Sale.** THE PARTIES HEREBY AGREE AND ACKNOWLEDGE THAT EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND STATUTORY WARRANTY DEEDS, (I) THEY ARE BUYING THEIR RESPECTIVE PORTIONS OF THE EXCHANGE PROPERTY ON AN "AS-IS" BASIS; (II) THEY HAVE MADE OR WILL HAVE MADE THEIR OWN INVESTIGATIONS AND INSPECTIONS OF THE EXCHANGE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE PHYSICAL ASPECTS OF THE EXCHANGE PROPERTY AND THE EXCHANGE PROPERTY'S COMPLIANCE WITH ALL LAWS APPLICABLE TO THE EXCHANGE PROPERTY'S CURRENT OR INTENDED USE OR DEVELOPMENT; (III) THEY ARE RELYING SOLELY ON SUCH REPORTS AND THEIR OWN INVESTIGATIONS AS TO THE EXCHANGE PROPERTY, ITS CONDITION AND OTHER CHARACTERISTICS AND COMPLIANCE WITH LAWS; AND (IV) EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, THEY ARE NOT MAKING THE PURCHASE OF THE EXCHANGE PROPERTY IN RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS, EXPRESS OR IMPLIED, MADE BY THE OTHER PARTY, AS TO THE CONDITION OF OR CHARACTERISTICS OF THE EXCHANGE PROPERTY, ITS FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, THE EXCHANGE PROPERTY'S COMPLIANCE WITH ANY ZONING OR OTHER RULES, REGULATIONS, LAWS OR STATUTES APPLICABLE TO THE EXCHANGE PROPERTY, OR THE USES PERMITTED ON, OR THE DEVELOPMENT REQUIREMENTS FOR, OR ANY OTHER MATTERS RELATING TO THE EXCHANGE PROPERTY.

18. **Representations and Warranties.** The Parties make the following representations and warranties, each of which is material and relied upon by the other Party. The provisions of this Section will survive Close of Escrow.

18.1 **Environmental.** The Parties make no representations or warranties of any kind concerning the environmental condition of the Exchange Property being sold by such Party. Each of the Parties shall make a good faith effort to provide copies to the other Party of all material environmental studies and audits conducted in relation to the Exchange Property in the last thirty (30) years of which a Party has custody or control. Notwithstanding any other provisions of this Agreement, the Parties acknowledge and agree that the representations and warranties contained in this Section are the only representations and warranties given by the Parties with respect to environmental matters or compliance with environmental laws and hazardous substances and no other provisions of this Agreement shall be interpreted as containing any representation or warranty with respect thereto.

18.2 **Binding Agreements, Authority, and Conflicts.** This Agreement and all exhibits and documents to be delivered by the Parties pursuant to this Agreement have been duly executed and delivered by the Parties and constitute the valid and binding obligations of the Parties, enforceable in accordance with their terms. Each Party has all necessary authority, has taken all action necessary to enter into this Agreement and to consummate the transactions contemplated hereby, and to perform its obligations hereunder. The execution, delivery and performance of this Agreement will not conflict with or constitute a breach or default under the organizational documents of the Parties and, to each Party's knowledge, (i) any material instrument, contract, or other agreement to which a Party is a party which affects the portion of the Exchange Property being sold by such Party; or (ii) any statute or any regulation, order, judgment or decree of any court or governmental authority.

18.3 **Sole Owner.** City is the sole fee owner of the City Exchange Properties and has good and marketable title thereto. District is the sole fee owner of the District Exchange Property and has good and marketable title thereto.

**18.4 Condemnation.** There is no pending or, to each Party's knowledge, threatened condemnation affecting the portion of the Exchange Property being sold by such Party. There is no pending or, to each Party's knowledge, threatened proceedings that would adversely affect access to the portion of the Exchange Property being sold by such Party.

**19. Survival.** All provisions of this Agreement which by their terms would survive the Close of Escrow shall survive the Close of Escrow and not be merged with the Deeds.

**20. Assignment.** Neither Party may assign its interest in this Agreement without the written consent of the other Party.

**21. Survey and Legal Lot.** The City Properties are in the process of being created into legal lots by the City, and the City shall supply at its sole cost and expense a survey and legal description of the City Properties substantially conforming to the depiction set forth on Exhibit B. The survey shall be prepared by a professional land surveyor in the State of Washington.

The City shall diligently pursue such subdivision approvals or boundary line adjustments and pay all the costs thereof. At the Closing Date, the City shall ensure the City Properties are legal lots under applicable state and local subdivision or boundary line adjustment laws and regulations.

**22. Cooperation After Closing.** After the Closing Date, the parties shall execute such documents and take further actions as may be reasonably required or desirable to carry out the provisions and intent of this Agreement.

In witness whereof, the Parties hereto have executed this Agreement as of the Effective Date.

**DISTRICT:**

**CITY:**

By: Linda McDermott  
Linda McDermott  
Associate Superintendent,  
School Support Services

By: David A. Condon  
David A. Condon  
Mayor



Attest:

Terri K. Fikes  
City Clerk

Approved as to form:

Michael C. Gable  
Assistant City Attorney

## Exhibit A

### Legal Descriptions of City Properties

Real property in the County of Spokane, State of Washington, described as follows:

#### South Side Landfill Buffer Parcels

Lots 5 through 14, Block 1; Lots 1 through 16, Block 2; Lots 1 through 7, Block 3; TOGETHER WITH a 10 foot strip between Lots 4 and 5, Block 3 (Dedicated for use as access to adjacent school property) All of South Ridge Forest Forth Addition, as per Plat thereof recorded in Volume 15 of Plats, page 23,

And Lot 3 of MCINNIS TRACTS, according to plat recorded in Volume "P" of Plats, Page 33, including the south half of vacated 65<sup>th</sup> Avenue lying north of and adjacent to lot 3, and west of Mount Vernon Road, in Spokane County, Washington.

#### Foothills Properties

Blocks 27, 39, 41, 42 and all of vacated Morton Street lying between Blocks 27, 28, 38 and 39 and all of vacated Grace Avenue lying between Blocks 39 and 42 and all of vacated Denver Street lying between Blocks 39, 41, 42 and all of the alleys in said Blocks 27, 39, 41 and 42 and the platted Spokane and Northern Railroad right of way lying southerly and adjacent to said Blocks 39 and 41, Wolverton and Conlan's Addition, according to Plat recorded in Volume "B" of Plats, Page 59.

**Together** with the East 21.00 feet of said Block 28;

**Also together** with the extension of said East 21.00 feet of said Block 28, North to the south line of said Block 38;

**Also together** with the East 21.00 feet of said Block 38;

**Also together** with the extension of said East 21.00 feet of said Block 38, North to the south right of way of said North Foothills Drive;

**Except** all those portions of Land lying northerly of the south right of way line of said North Foothills Drive.

And being more particularly described as follows:

**Beginning** at the northeast corner of Lot 6 of said Block 41, and being on the south right of way of North Foothills Drive, Thence southerly along the east line of said Block 41 to the intersection of the south line of the Spokane and Northern Railroad and the northeast corner of Lot 4 of Block 26; Thence southwestwardly along the south right of way of said Spokane and Northern Railroad to the Northeast corner of Lot 10 of said Block 27; Thence southerly along the east line of said Block 27 to the southeast corner of said Block 27; Thence westerly along the south line of said Block 27 to the southwest corner of said Block 27; Thence westerly to the southeast corner of said Block 28; Thence westerly along said south line, 21.00 feet; Thence northerly with a line parallel with and 21.00 feet west of the easterly line of said Blocks 28 and 38 to the south right of way of said North Foothills Drive;

Thence northeasterly along said south line of North Foothills Drive to the **Point of Beginning**.

All situate in the City of Spokane, Spokane County, Washington.

Containing  $\pm$  10.10 Acres of land more or less.

#### Parcel 35092.2505

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 5 and 6 of Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.2506

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 7, Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.2507

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 8, Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.5707

A portion of the Burlington Northern Railroad, located in the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

That portion the Burlington Northern Railroad, Newport to Spokane Branch (formerly the Spokane Falls & Northern Railroad), 60 feet wide, being 30 feet wide on each side of said Main Track centerline across the northwest quarter of said Section 9 lying between the west line of said northwest quarter and the westerly right-of-way line of Perry Street,

All situate in City of Spokane, State of Washington.

Parcel 35081.3402

A portion of the Wolverton and Conlan's Addition, as per plat recorded in Volume B of Plats, Page 59, records of Spokane County, all being in located in the northeast quarter of Section 8, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 1 thru 4 of Block 26 of said Wolverton and Conlan's Addition,

Together with that portion of vacated Denver Street (per City of Spokane Ordinance C-3071, dated 5-7-1923) and described as follows:

A strip of land lying between the south line of the right of way of the Spokane Falls & Northern Railway Company and the north line of Buckeye Avenue extended and that portion lying east of the east line of Block 27 and west of the west line of said Block 26, the sidelines of the above described strip of land shall be extended and shortened to terminate at the said Spokane Falls & Northern Railway Company southerly right of way line and said Buckeye Avenue extension,

All situate in City of Spokane, State of Washington.

Parcel 35081.3301

A portion of the Wolverton and Conlan's Addition, as per plat recorded in Volume B of Plats, Page 59, records of Spokane County, all being in located in the northeast quarter of Section 8, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 1 thru 6 of Block 25 of said Wolverton and Conlan's Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4101

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 1, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4102

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 2, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4103

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 3, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4104

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 4, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4105

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

The west 40 feet of Lots 5 and 6 of Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4106

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 5 and 6 of Block 41 of said Avondale Addition,

Except the west 40 feet,

All situate in City of Spokane, State of Washington.

In the event such legal description should be inaccurate or incomplete, it is agreed between the Parties that the Escrow Holder may supply or correct such description.

Exhibit B

Legal Descriptions of District Properties

Sprague Avenue Parcels

Real property in the County of Spokane, State of Washington, described as follows:

LOTS 1 THROUGH 12 INCLUSIVE, BLOCK 2, BISBEE'S ADDITION, ACCORDING TO PLAT RECORDED IN VOLUME "B" OF PLATS, PAGE 1, IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON.

In the event such legal description should be inaccurate or incomplete, it is agreed between the Parties that the Escrow Holder may supply or correct such description.



Exhibit C

AFTER RECORDING RETURN TO:

City Clerk  
City of Spokane  
W. 808 Spokane Falls Boulevard  
Spokane, WA 99201

Ptn. Parcel No. \_\_\_\_\_

**RIGHT-OF-WAY DEDICATION DEED**

THE GRANTOR, Spokane School District No. 81, a Washington state municipal corporation, for good and valuable consideration in hand paid, dedicates to the City of Spokane, a municipal corporation of the State of Washington, an easement for public street purposes and all uses incidental thereto, the real property described in Exhibit "A" hereto, situate in the City and County of Spokane, State of Washington, SUBJECT TO all existing interests, including but not limited to all reservations, rights of way and easements of record.

Prior to the initial construction, removal, or replacement of the public street, Grantee shall submit notice of the same to the Grantor. No such work by Grantee shall be commenced without the Grantor's prior written approval, which approval shall not be unreasonably withheld or delayed. Grantee shall coordinate the dates of its construction with the Grantor. Grantee shall exercise its rights under this instrument so as to minimize interference with Grantor's use of Grantor's adjoining property for school purposes. The Grantor shall have no obligation to pay for any costs and expenses of the installation, maintenance, repair, removal, and replacement of the public street or appurtenances thereto.

If a public street is not constructed on the property within ten (10) years, this easement and all of Grantee's rights hereunder shall, without any payment to Grantee, automatically terminate and revert to Grantor.

All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to Parties at the address set forth below, or at such other address as the Parties shall from time-to-time designate by notice in writing to the other Party:

|          |  |
|----------|--|
| Grantee: | City of Spokane<br>Mayor<br>Fifth Floor, City Hall<br>808 West Spokane Falls Boulevard<br>Spokane, Washington 99201                  |
| Grantor: | Spokane Public Schools<br>Associate Superintendent, School Support Services<br>200 North Bernard Street<br>Spokane, Washington 99201 |

IN WITNESS WHEREOF, the Grantor, has caused this instrument to be executed by affixing its signature hereunto this \_\_\_\_ day of \_\_\_\_\_, 2019.

GRANTOR

By: Linda McCormick  
Its: Associate Superintendent, School Support Services

GRANTEE

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Exhibit "A"

A 60-foot wide public right-of-way over, under, through, and across the western edge of that certain land to be conveyed by the City to the District pursuant to that certain Option Agreement and Real Estate Purchase and Sale Agreement, dated August 28, 2013, by and between the Parties ("Option Agreement"), relating to certain property commonly known as Joe Albi Stadium and more particularly described in said Option Agreement. The Parties will include a legal description at the Closing Date. In addition, the Parties shall meet and confirm prior to any construction of the right-of-way, to confer on the final alignment of the right-of-way.



# Interlocal Master Agreement





**Agenda Sheet for City Council Meeting of:**  
07/22/2019

|                       |               |
|-----------------------|---------------|
| <b>Date Rec'd</b>     | 7/10/2019     |
| <b>Clerk's File #</b> | OPR 2019-0534 |
| <b>Renews #</b>       |               |
| <b>Cross Ref #</b>    |               |
| <b>Project #</b>      |               |
| <b>Bid #</b>          |               |
| <b>Requisition #</b>  |               |

|                           |  |
|---------------------------|--|
| <b>Submitting Dept</b>    | CITY ATTORNEY                                    |
| <b>Contact Name/Phone</b> | MIKE ORMSBY 6287                                 |
| <b>Contact E-Mail</b>     | MORMSBY@SPOKANECITY.ORG                          |
| <b>Agenda Item Type</b>   | Contract Item                                    |
| <b>Agenda Item Name</b>   | INTERLOCAL AGREEMENT WITH SPOKANE PUBLIC SCHOOLS |

**Agenda Wording**

This Agreement between Spokane Public Schools, City of Spokane, Spokane Parks & Recreation and Spokane Public Library (SPL) has been approved by the School Board and the Boards of Parks and the SPL and is now before the City Council for consideration

**Summary (Background)**

This Interlocal Agreement identifies the framework for collaborative efforts and communication by and among the various involved entities for projects related to the passage of bond issues by the voters of the City and the School District. City Council Members are on the Park and Library Boards and two City Council Members were on the Policy Committee which coordinated the efforts of all of the involved entities.

|                      |                   |                       |
|----------------------|-------------------|-----------------------|
| <b>Fiscal Impact</b> | Grant related? NO | <b>Budget Account</b> |
|                      | Public Works? NO  |                       |

|        |    |   |
|--------|----|---|
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |

|                             |  |
|-----------------------------|--|
| <b>Approvals</b>            | <b>Council Notifications</b>                         |
| <b>Dept Head</b>            | <b>Study Session</b> 7/22/19                         |
| <b>Division Director</b>    | <b>Other</b>   |
| <b>Finance</b>              | <b>Distribution List</b>                             |
| <b>Legal</b>                | rromero@spokanecity.org, cwolff@spokanecity.org      |
| <b>For the Mayor</b>        | dstele@spokanecity.org, gjones@spokanecity.org       |
| <b>Additional Approvals</b> | achanse@spokanecity.org,<br>comalley@spokanecity.org |
| <b>Purchasing</b>           | pdalton@spokanecity.org                              |
|                             | mpiccolo@spokanecity.org                             |
|                             | jrichman@spokanecity.org                             |
|                             |  |

APPROVED BY  
SPOKANE CITY COUNCIL:

7/22/2019

*[Signature]*  
CITY CLERK

446

Return to: Terri Pfister, City Clerk  
W 808 Spokane Falls Blvd.  
Spokane, Washington 99201

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN SPOKANE PUBLIC SCHOOLS,  
CITY OF SPOKANE, SPOKANE PUBLIC LIBRARY,  
AND SPOKANE PARKS AND RECREATION**

**THIS AGREEMENT** is made effective the 2<sup>nd</sup> day of <sup>August</sup> ~~July~~, 2019 (the "Effective Date"), by and between **Spokane School District No. 81** (commonly known as Spokane Public Schools), a Washington state municipal corporation, hereinafter referred to as "School District," the **City of Spokane**, a Washington state municipal corporation, hereinafter referred to as "City," the **Spokane Public Library**, a public library operating under Chapter 27.12 RCW, hereinafter referred to as "Library," and the **City of Spokane Park Board, by and through the City of Spokane Parks and Recreation Department**, hereinafter referred to as "Parks", jointly hereinafter referred to as the "Parties", and individually referred to as "Party."

**RECITALS:**

**WHEREAS**, on November 6, 2018, School District voters approved a ballot proposition authorizing the School District to issue \$495,300,000.00 of general obligation bonds to pay for the construction of three new middle schools, replacing or renovating three other middle schools and Albi Stadium and other renovation and construction projects ("School District Bond Projects");

**WHEREAS**, construction of the School District Bond Projects will enable the District to invest in and develop new and renovated educational facilities which provide the residents of the School District and the City with fully utilized, cost-effective public facilities;

**WHEREAS**, on November 6, 2018, the voters of the City approved a ballot proposition authorizing the City to issue \$77,000,000.00 of general obligation bonds to pay cost of modernizing the Downtown, South Hill and Indian Trail library branches, expanding and modernizing the Shadle library branch, remodeling or relocating the Hillyard library branch, constructing new library branches in the Liberty Park neighborhood and on Sprague Avenue, installing library kiosks throughout the City, and equipping and outfitting the library branches ("City/Library Bond Projects");

**WHEREAS**, construction of the City/Library Bond Projects will enable the School District, the City, and the Library to invest in and develop new and renovated educational and recreational facilities for the joint use of School District, City, Parks, and Library constituents and will provide the citizens and taxpayers of both the School District and the City with fully utilized, cost-effective public facilities; and

**WHEREAS**, the recently approved Partnership Umbrella Agreement (“Partnership Agreement”) sets forth the preliminary interests and understandings with respect to a collaborative joint venture between the School District, City, and Library allowing for the investment in and development of new and renovated public school facilities, library facilities and recreational facilities, all of which will be used jointly by City, Library, Parks and School District constituents;

**WHEREAS**, the Partnership Agreement also describes generally the roles, rights, and responsibilities as to the partnership, as well as the additional documents and tasks necessary to carry out the projects, and anticipates subsequent definitive agreements providing for all of the terms, covenants, conditions, and understandings relative to the projects;

**WHEREAS**, in order to make the most efficient use of their powers, Chapter 39.34 RCW (Interlocal Cooperation Act), authorizes the Parties to enter into agreements for joint or cooperative action to exercise any power, or privileges, or authority exercised or capable of exercise by any of the Parties;

**WHEREAS**, the Parties wish to enter into this Agreement to provide for the definitive agreements anticipated by the Partnership Agreement that will facilitate completion of the School District Bond Projects and City/Library Bond Projects and various use agreements around the newly renovated and constructed public facilities;

**WHEREAS**, simultaneous with the approval of this Agreement, the Parties will approve the following list of agreements for which the terms are incorporated into this Agreement (“Transaction”):

**A. Agreements Related to Real Property:**

1. Attachment A-1: Real Property Purchase, Sale and Exchange Agreement Between the City and School District;
2. Attachment A-2: Amendment to Interlocal Agreement Between the City and Library for Land Lease and Use Agreement;

**B. Agreements Related to Joint Use:**

1. Attachment B-1: Interlocal Agreement for Joint Use Between the Parks and School District;
2. Attachment B-2: Interlocal Agreement for Joint Use Between the School District and Library;
3. Attachment B-3: Interlocal Agreement for Joint Use Between the Parks and Library;

**C. Agreement Related to Operating Costs:**

1. Attachment C-1: Interlocal Agreement for Operating Costs Between the School District and Library;

**WHEREAS**, the Transaction will help the Parties make the most efficient use of their powers and resources to provide services and public facilities that accord best with the geographic, economic, population and other factors influencing the needs and development of the communities serviced by the Parties; and



**WHEREAS**, the School District, the City, Parks and the Library each hereby find and determine that this Agreement and the Transaction contemplated hereby is mutually fair and advantageous to the School District, the City, Parks and the Library and their respective constituents.

**NOW, THEREFORE**, for and in consideration of the mutual promises set forth hereinafter, the Parties do mutually agree as follows:

## **AGREEMENT**

1. **Real Property Purchase, Sale and Exchange Agreement between City and School District.** Contemporaneously with the execution of this Agreement, the City and School District shall execute the Real Property Purchase, Sale and Exchange Agreement, in the form attached as Attachment A-1, providing for the transfer by the City to the School District of two City-owned properties (North Foothills Drive and Mullan Road sites), as further described therein, and further providing for the transfer by the School District to the City of School District property (Sprague Avenue site), as further described therein, and further providing for the transfer by the School District to the City a Right-of-Way Dedication Deed of School District property (Joe Albi Stadium site), as further described therein.

2. **Interlocal Agreement between City and Library for Land Lease and Use Agreement.** Contemporaneously with the execution of this Agreement, the City and Library shall execute land lease and use agreements, in the form attached as Attachment A-2, providing for the expansion of the existing Shadle Library Branch and Library's construction of a new library branch located in the Liberty Park neighborhood with both locations remaining under the ownership of Parks.

3. **Exercise of Option for Joe Albi Stadium.** Contemporaneously with the execution of this Agreement, the School District shall deliver written notice of its exercise of its purchase rights under that certain Option Agreement and Real Estate Purchase and Sale Agreement ("Option Agreement"), dated August 28, 2013, by and between the City and the School District, relating to certain property commonly known as Joe Albi Stadium and more particularly described in said Option Agreement. Upon closing under the Option Agreement, that certain Albi Stadium Lease Agreement, dated August 28, 2013, by and between the City and the School District, shall terminate pursuant to Section 18.1 in the Albi Stadium Lease Agreement.

4. **Interlocal Agreement for Joint Use between Parks and School District.** Contemporaneously with the execution of this Agreement, the Parks and School District shall execute a joint use agreement, in the form attached as Attachment B-1, providing for use of School District facilities for City programs and use of City Parks for School District programs.

5. **Interlocal Agreement for Joint Use between School District and Library.** Contemporaneously with the execution of this Agreement, the School District and Library shall execute a joint use agreement, in the form attached as Attachment B-2, providing for use of School District facilities for School District programs and Library programs and for use of Library facilities for Library programs and School District programs.

6. **Interlocal Agreement for Joint Use Between Parks and Library.** Contemporaneously with the execution of this Agreement, the Parks and Library shall execute a joint use agreement, in the form attached as Attachment B-3, providing for use of each other's facilities for programs.

7. **Interlocal Agreement for Operating Costs Between School District and Library.** Contemporaneously with the execution of this Agreement, the School District and Library shall execute an agreement, in the form attached as Attachment C-1, providing for the construction and operation of the library facility located at Shaw Middle School to be constructed by the School District and the library facility located on Sprague Avenue to be constructed by the Library and the library facility located at Shadle to be renovated by the Library.

8. **Notices.** All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to Parties at the address set forth below, or at such other address as the Parties shall from time-to-time designate by notice in writing to the other Parties:

**City:** City of Spokane  
Mayor  
7th Floor, City Hall  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Copy to:  
City Attorney  
5th Floor, City Hall  
808 West Spokane Falls Blvd  
Spokane, Washington 99201

**Park:** Spokane Parks & Recreation  
Director  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201

**School District:** Spokane Public Schools  
Associate Superintendent, School Support Services  
200 North Bernard Street  
Spokane, Washington 99201

**Library:** Spokane Public Library  
Library Director  
906 W Main Ave.  
Spokane, Washington 99201

9. **Assignment.** This Agreement shall be binding upon the Parties, their successors and assigns. No Party may assign, in whole or in part, its interest in this Agreement without the approval of the other Parties.

10. **Liability.** Each of the Parties shall indemnify, defend and hold harmless the other Parties, their officers and employees from all claims, demands, or suits in law or equity arising from the indemnifying Party's intentional or negligent acts or breach of its obligations under the Agreement. This duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the indemnified Parties, their officers and employees.

If the comparative negligence of the Parties and their officers and employees is a cause of such damage or injury, the liability, loss, cost, or expense shall be shared between the Parties in proportion to their relative degree of negligence and the right of indemnity shall apply to such proportion.

Where an officer or employee of a Party is acting under the direction and control of the other Party, the Party directing and controlling the officer or employee in the activity and/or omission giving rise to liability shall accept all liability for the other Party's officer or employee's negligence.

Each Party's duty to indemnify shall survive the termination or expiration of the Agreement.

Each Party waives, with respect to the other Parties only, its immunity under RCW Title 51, Industrial Insurance. The Parties have specifically negotiated this provision.

**11. Insurance.** During the term of the Agreement, each Party shall maintain in force, at its own expense, each insurance noted below:

**11.1** Workers' Compensation Insurance in compliance with RCW 51.12.020, and Employer's Liability or Stop Gap Insurance in the amount of \$5,000,000;

**11.2** General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$10,000,000 each occurrence for bodily injury and property damage. Such insurance shall include contractual liability coverage for the indemnity provided under this Agreement; and

**11.3** Automobile Liability Insurance with a combined single limit, or the equivalent, of not less than \$5,000,000 each accident for bodily injury and property damage, to include coverage for owned, hired and non-owned vehicles.

Limits set forth herein may be met with a combination of self-insured deductible or retention, and underlying primary or excess insurance that is maintained by a Party.

Any Party may fulfill its insurance obligations under this Section 11 of this Agreement in whole or in part by securing and maintaining, for the duration of this Agreement, membership in a risk management pool providing that Party contractual defense, indemnity, and such coverages and protections, as equivalent to the protective scope and limits otherwise required by the insurance coverages and limits required by this Section 11.

**12. Anti-Kickback.** No officer or employee of any of the Parties, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Agreement.

**13. Venue Stipulation.** This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement,

or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

14. **Compliance with Laws.** The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

15. **Non-Discrimination.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.

16. **Representations and Warranties.** Each of the Parties represent and warrant to the other Parties that the statements contained in this Section are correct and complete as of the Effective Date, will be correct and complete as of the closing dates of the transactions contemplated herein, and shall continue in full force and effect after such closings regardless of what investigations any of the Parties may have made with respect to the subject matter thereof. Each of the Parties acknowledge that the statements contained in this Section are material and are relied upon by the other Parties.

16.1 **Organization.**

- a. The City is a first-class charter city, duly organized and validly existing under and by virtue of the constitution and laws of the State of Washington, and the Charter of the City.
- b. The School District is a first-class school district operating under Title 28A RCW, duly organized and validly existing under and by virtue of the constitution and laws of the State of Washington.
- c. The Library is a public library operating under Chapter 27.12 RCW, duly organized and validly existing under and by virtue of the constitution and laws of the State of Washington.
- d. The Parks is an entity created in Article V of the City of Spokane Charter.

16.2 **Binding Effect.** Each of the Parties has full power and authority to execute and deliver this Agreement, and to perform said party's obligations under this Agreement. This Agreement constitutes the valid and legally binding obligation of each of the Parties and is enforceable in accordance with its provisions. Prior to closing of the transactions contemplated hereunder, each of the Parties shall use best efforts to obtain all consents, permits, approvals, or other authorizations required from any authority in order for said Parties to effectuate the transactions contemplated in this Agreement.

16.3 **Authority of Signatories.** All individuals executing this Agreement on behalf of each of the Parties have the requisite power and authority to do so.

17. **Miscellaneous.**

17.1 **Non-Waiver.** No waiver by any party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.

- 17.2 **Entire Agreement.** This Agreement contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the Parties unless such change or addition is in writing, executed by the Parties.
- 17.3 **Modification.** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- 17.4 **Headings.** The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.
- 17.5 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.
- 17.6 **Severability.** If any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the Parties shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provision of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify to conform to such statutory provision.
- 17.7 **Relationship of the Parties.** The Parties intend that an independent contractor relationship will be created by this Agreement. No agent, employee, servant or representative of any of the Parties shall be deemed to be an employee, agent, servant or representative of one of the other Parties for any purpose.

18. **Chapter 39.34 RCW Required Clauses.**

- 18.1 **Purpose.** See Recitals above.
- 18.2 **Duration.** This Agreement shall be effective on the Effective Date and shall continue until terminated in accordance with Section No. 18.7 (Termination).
- 18.3 **Organization of Separate Entity and its Powers.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- 18.4 **Responsibilities of the Parties.** See provisions herein.
- 18.5 **Agreement to be Filed.** The City, Parks, and Library shall file this Agreement with the Spokane City Clerk. The School District shall file this Agreement with the Spokane County Auditor or place it on its web site or other electronically retrievable public source.

- 18.6 **Financing.** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- 18.7 **Termination.** This Agreement shall terminate on the termination of all five agreements identified in Section No. 19 (Attachments). Each agreement identified in Section No. 19 (Attachments) shall terminate in accordance with its individual terms and conditions.
- 18.8 **Property Upon Termination.** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement. Jointly acquired property shall be divided in proportion to the percentage share of each party contributing to its acquisition.
19. **Attachments.**
- A. **Agreements Related to Real Property:**
1. Attachment A-1: Real Property Purchase, Sale and Exchange Agreement Between the City and School District;
  2. Attachment A-2: Amendment to Interlocal Agreement Between the City and Library for Land Lease and Use Agreement;
- B. **Agreements Related to Joint Use:**
1. Attachment B-1: Interlocal Agreement for Joint Use Between the Parks and School District;
  2. Attachment B-2: Interlocal Agreement for Joint Use Between the School District and Library;
  3. Attachment B-3: Interlocal Agreement for Joint Use Between the Parks and Library;
- C. **Agreement Related to Operating Costs:**
1. Attachment C-1: Interlocal Agreement for Operating Costs Between the School District and Library.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date and year opposite their respective signature blocks.

DATED: 7/18/19

**SPOKANE PUBLIC SCHOOLS**

By: Rene McDermott  
Its: Associate Superintendent, School Support Services

DATED: 8/2/2019

**CITY OF SPOKANE**

By: David A. Cunniff  
Its: Mayor

Attest:

Lerni Effects  
City Clerk

Approved as to form:

Michael C. Gusty  
Assistant City Attorney

DATED: 7/15/19

**CITY OF SPOKANE PARK BOARD**

By: [Signature]  
Its: President

DATED: 7/16/19

**SPOKANE PUBLIC LIBRARY**

By: [Signature]  
Its: Chair



# Property Exchange Agreement





## REAL PROPERTY PURCHASE, SALE AND EXCHANGE AGREEMENT

This Real Property Purchase, Sale and Exchange Agreement ("Agreement") is made this <sup>August</sup> ~~July~~ 2<sup>nd</sup> day of ~~July~~, 2019 ("Effective Date"), by and between Spokane School District No. 81, a Washington state municipal corporation ("District"), and City of Spokane, a Washington state municipal corporation ("City"). The District and City may be individually referred to as a "Party" and jointly referred to as "Parties" in this Agreement.

### RECITALS

**WHEREAS**, the City and District have entered into a Partnership Umbrella Agreement that contemplates certain property transactions, including property transfers between the City and District;

**WHEREAS**, the City owns certain real property located adjacent to the South Side Landfill and Mullan Road Elementary near E. 63rd Avenue and S. Altamont Street, in Spokane, Washington (Assessor's Tax Parcel Nos. 34091.0125, 34044.1915, 34044.1807, 34044.2004, 34044.1903, 34044.2007, 34044.1809, 34044.1806, 34044.2001, 34044.1814, 34044.2008, 34044.1808, 34044.1912, 34044.1904, 34044.1901, 34044.2003, 34044.1902, 34044.1908, 34044.1811, 34044.1914, 34044.2002, 34044.2006, 34044.1910, 34044.1905, 34044.1907, 34044.1812, 34044.1906, 34044.1916, 34044.2005, 34044.1813, 34044.1911, 34044.1810, 34044.1913, 34044.1909, and 34044.1805) and located at 1250 E. North Foothills Drive, in Spokane, Washington (Assessor's Tax Parcel Nos. 35081.3104, 35081.3402, 35081.3403, 35081.3404, 35081.3301, 35092.2505, 35092.2506, 35092.2507, 35092.5707, 35092.4101, 35092.4102, 35092.4103, 35092.4104, 35092.4105, and 35092.4106), as more particularly described on attached Exhibit A ("City Property");

**WHEREAS**, the District owns certain real property located at 2904 E. Sprague Avenue, in Spokane, Washington (Assessor's Tax Parcel Nos. 35222.0801, 35222.0802, 35222.0803, 35222.0804, 35222.0805, 35222.0806, 35222.0807, and 35222.0808), as more particularly described on attached Exhibit B ("District Property");

**WHEREAS**, City desires to sell and District desires to purchase City Property as described on attached Exhibit A;

**WHEREAS**, District desires to sell and City desire to purchase District Property as described on attached Exhibit B;

**WHEREAS**, the District Property and the City Property may be collectively referred to as the "Exchange Property" in this Agreement; and

**WHEREAS**, the Parties also wish to establish up to a 60-foot wide public right-of-way over, under, through, and across the western edge of that certain land to be conveyed by the City to the District pursuant to that certain Option Agreement and Real Estate Purchase and Sale Agreement, dated August 28, 2013, by and between the Parties ("Option Agreement"), relating to certain property commonly known as Joe Albi Stadium and more particularly described in said Option Agreement.

**WHEREAS**, the Parties agree that the purchase, sale and exchange transaction contained herein is an intergovernmental disposition of property made pursuant to Chapter 39.33 RCW and that each party has held a public hearing with proper and timely notice per RCW 39.33.020.

**NOW THEREFORE**, in consideration of the following terms, conditions and covenants, the Parties agree as follows:

## **AGREEMENT**

1. **Purchase, Sale and Exchange.** The Parties hereby agree to convey and exchange the District Property for the City Property and vice versa. In addition, the District hereby agrees to convey to the City a 60-foot wide strip of land for public street purposes and all uses incidental thereto, in substantial form and content as set forth in Exhibit C.

2. **Consideration and Full Value.** The Parties have concluded, after due diligence by each, that the District and City will each receive, as consideration, full value for the exchange of properties due to: (a) the respective value of each property; (b) the right by each party to use each other's property as described in the Interlocal Cooperation Agreement between Spokane Public Schools, City of Spokane, Spokane Public Library, and Spokane Parks and Recreation, and (c) the other benefits, efficiencies, and value accruing to each party by virtue of this Agreement and by virtue of the other agreements to be entered into by the Parties and as described more fully and contemplated by in the Partnership Umbrella Agreement, dated February 14, 2019. The Parties further conclude, after due diligence by each, that the District and City shall receive equivalent full value for the exchange of properties and the other consideration described herein, and thus no cash shall be exchanged between the Parties.

3. **Escrow and Title Insurance.**

3.1 **Escrow.** The purchase and sale of the Exchange Property shall be accomplished through an escrow ("Escrow") established at First American Title Insurance Company, 40 E. Spokane Falls Blvd., Spokane, WA 99202 (509) 456-0550, or other entity mutually agreed upon by the Parties ("Escrow Holder"). Upon the request of the Escrow Holder, the Parties shall execute any supplemental escrow instructions required by Escrow Holder for the purpose of implementing and carrying out the terms of this Agreement. In the event of a conflict between the terms of this Agreement and the escrow instructions, this Agreement shall control.

3.2 **Close of Escrow.** The purchase and sale of the Exchange Property will close on or before **Thursday, October 31, 2019**, or such other date as the Parties may agree upon in writing ("Closing Date").

3.3 **City Title Policy.** Escrow Holder, unless otherwise advised by District, shall cause a Title Insurance Company ("Title Insurance Company") to issue City an owner's policy of title insurance ("City Title Policy"), with liability in the amount of \$1,000,000.00 showing title to the District Property vested in City, subject only to the City Permitted Exceptions (as defined below).

3.4 **District Title Policy.** Escrow Holder, unless otherwise advised by City, shall cause Title Insurance Company to issue District owners policies of title insurance ("District Title Policies"), with liability in the amount of \$1,000,000.00 showing title to the City Properties vested in District, subject only to the District Permitted Exceptions (as defined below).

3.5 **Permitted Exceptions.** As used in this Agreement, "City Permitted Exceptions" means such matters appearing in the commitment for the City Title Policy as may be approved in writing by City or deemed approved by City as provided in this Agreement.

As used in this Agreement, "District Permitted Exceptions" means such matters appearing in the commitment for the District Title Policies as may be approved in writing by District or deemed approved by District as provided in this Agreement.

**3.6 Actions of Escrow Holder.** On the Closing Date, Escrow Holder shall perform the following:

**3.6.1 Statutory Warranty Deeds and Right-of-Way Dedication Deed.** Cause Statutory Warranty Deeds and Right-of-Way Dedication Deed, with accompanying excise tax affidavits and any other applicable documents, to be recorded in the official records of the County where the Exchange Property is located, and obtain conformed copies thereof for distribution to District and City.

**3.6.2 Disburse Funds.** Disburse all funds deposited with Escrow Holder as follows (and in the following order):

Pay all closing costs to be paid through Escrow (including, without limitation, recording fees, property and excise taxes, if any, premiums for the City Title Policy and District Title Policies and escrow fees);

Pay, or cause to be removed from title, all mortgages, deeds of trust and other liens; and

Disburse any remaining funds to the Parties in accordance with separate wiring or other payment instructions delivered to Escrow Holder.

**3.7 Additional Matters.** Escrow Holder shall:

Direct the Title Insurance Company to issue the City Title Policy to City and the District Title Policies to District; and

Deliver to the Parties: (i) conformed copies of the Statutory Warranty Deeds and other recorded documents; (ii) originals of the Closing Documents; (iii) City's closing statement and (iv) District's closing statement.

**4. Closing Matters.** The Parties shall execute and deliver to Escrow Holder the following documents, before the Closing Date and, except as otherwise provided below, Escrow Holder shall deliver to the Parties immediately following the Closing Date, the following documents ("Closing Documents"), all in form and substance acceptable to the Parties:

**4.1 Statutory Warranty Deeds and Right-of-Way Dedication Deed.** Statutory Warranty Deed, in recordable form, conveying title to the District Property to City free and clear of all defects and encumbrances and subject only to the City Permitted Exceptions ("City Deed"), which shall be recorded at the time of the Closing Date. The City Deed shall provide that the District Property is to be used for purposes of construction of a new library and, if a new library is not constructed on the property within ten (10) years, title shall revert to the District.

Statutory Warranty Deeds, in recordable form, conveying title to the City Properties to District free and clear of all defects and encumbrances and subject

only to the District Permitted Exceptions ("District Deeds"), which shall be recorded at the time of the Closing Date. The District Deeds shall provide that the City Properties are to be used for purposes of construction of new schools and, if the District does not construct a new school on the property within ten (10) years, title shall revert to the City.

The City Deed and the District Deeds are collectively referred to as the "Deeds."

Public Right-of-Way Dedication Deed, in recordable form, in substantial form and content as set forth in Exhibit C, which shall be recorded at the time of the Closing Date. The Right-of-Way Dedication Deed shall provide that the right-of-way is to be used for public street purposes and all uses incidental thereto and, if a new public street is not constructed on the property within ten (10) years, the easement shall revert to the District.

- 4.2 **FIRPTA.** Non-foreign person affidavits ("FIRPTA Affidavits") stating that District and City are not foreign persons as defined in Section 1445(b)(2) of the Internal Revenue Code.
- 4.3 **Real Estate Excise Tax Affidavits.** The parties shall execute Real Estate Excise Tax Affidavits.
- 4.4 **Other Documents.** All other documents reasonably necessary to effectuate the transactions contemplated by this Agreement.

5. **Closing Costs.**

- 5.1 **City Closing Costs.** On the Closing Date, City shall pay the following costs:
  - 5.1.1 The cost of a standard owner's policy for the District Title Policies.
  - 5.1.2 Prorated real property taxes.
  - 5.1.3 Recording fees for recording of the City Deeds and the Right-of-Way Dedication Deed.
  - 5.1.4 Real estate excise taxes applicable to the sale of the City Properties (the Parties agree that the sale of City Properties is not subject to payment of real estate excise taxes).
  - 5.1.5 One-half of the escrow fees.
- 5.2 **District Closing Costs.** On the Closing Date, District shall pay the following costs:
  - 5.2.1 The cost of a standard owners' policies for the City Title Policy.
  - 5.2.2 Prorated real property taxes.
  - 5.2.3 Recording fees for recording of the District Deed.

5.2.4 Real estate excise taxes applicable to the sale of the District Property (the Parties agree that the sale of District Property is not subject to payment of real estate excise taxes).

5.2.5 One-half of the escrow fees.

6. **Conditions Precedent.**

6.1 **City's Conditions.** City's obligation to purchase the District Property and sell the City Properties is subject to satisfaction, in its sole discretion, of the conditions set forth below, on or before the dates set forth below, or, if no date is set forth, by the Feasibility Date. As used herein, the term "Feasibility Date" shall mean from the Effective Date until the Closing Date. City may waive in writing any or all of such conditions, without prejudicing or affecting any other rights City may have. If any conditions are not satisfied or waived in the time periods provided or by the Feasibility Date, as applicable, City shall have the right to cancel Escrow, and terminate this Agreement without liability.

6.1.1 **Title Commitment.**

(1) Within thirty (30) calendar days after the later of the Effective Date of this Agreement or the City's receipt of the commitment for the City Title Policy with copies of all documents referenced in exceptions identified on Schedule B to such commitments ("City's Title Review Period"), City may give written notice to the District identifying any title exceptions to the City Title Policy disapproved by City (for purposes of this Section only, "City's Title Notice"). If City fails to give such notice, City shall be deemed to have approved all title exceptions other than mortgages, deeds of trust, mechanic's liens and similar matters constituting monetary liens, all of which shall be paid in full and removed by District at District's cost on or before the Closing Date.

(2) If District will be unable to remove any of the disapproved title exceptions on or before the Closing Date, then within ten (10) calendar days after receipt of City's Title Notice, District shall give written notice to City identifying the disapproved title exceptions that District is unable to remove (for purposes of this Section only, "District's Title Notice"). If District fails to give such notice, District shall be deemed to have agreed to remove the title exceptions disapproved by City.

(3) City shall have until the Closing Date to either: (i) approve the title exceptions identified in District's Title Notice that District is unable to remove; or (ii) terminate this Agreement and cancel Escrow, by giving written notice of such termination and cancellation to District and Escrow Agent. If City fails to deliver such notice to District, City shall be deemed to have disapproved of the title exceptions identified in the District's Title Notice that District is unable to remove.

6.1.2 **Due Diligence.** City shall have ninety (90) calendar days ("Due Diligence Period") after execution of this Agreement to do any and all soil engineering, environmental testing and site investigation as City deems necessary. Upon review of such

investigation City may, at its option, terminate this Agreement during the Due Diligence Period.

The District shall provide to City, or make available to City for inspection, as soon as possible (but in any event no later than ten (10) calendar days after the Effective Date) all materials relating to the District Property specified in this Section 6.1.2 that exist and that are in the District's actual possession or that the District knows exist and to which the District has access (collectively, the "City Due Diligence Materials"). If the District thereafter discovers any additional items that should have been included among the due diligence materials, the District shall promptly deliver them to the City. City Due Diligence Materials will include:

- copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the District's knowledge, affect title to the District Property and that are not disclosed by the Preliminary Commitment;
- all surveys, plats or plans relating to the District Property;
- all leases for the District Property, or any portion thereof, if any, which remain in effect;
- all existing service contracts pertaining to items such as janitorial, trash removal, maintenance, snow removal, laundry service, extermination and similar services, if any;
- all labor contracts affecting the District Property, if any;
- all warranties and guarantees affecting any portion of the District Property;
- notice of any existing or threatened litigation affecting or relating to the District Property and copies of any pleadings with respect to that litigation;
- (i) all governmental permits and approvals obtained or held by the District and relating to (A) the construction, operation, use or occupancy of any part of the District Property or (B) zoning, land-use, subdivision, environmental, building and construction laws and regulations restricting, regulating or otherwise affecting the use, occupancy or enjoyment of the District Property (collectively, "Permits") and (ii) any notices of violation of any Permits, or of any of the laws and regulations described in this Section 6.1.2; and
- (i) all environmental assessment reports with respect to the District Property that were performed or that are being performed by or for the District and remain in the possession of or reasonably available to the District, (ii) any raw data that relates to the environmental condition of the District Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of hazardous material and/or substances on, in or under the District Property, and (iv) any other information material to the environmental condition or potential contamination of the District Property.

**6.1.3 Title Policy.** The Title Insurance Company shall have issued, or irrevocably and unconditionally committed to issue, the City Title Policy. There shall have been no material adverse change to the District Exchange Property.

**6.1.4 No Pending Actions.** No lawsuit, arbitration or other action, proceeding or claim shall be pending which: (i) seeks to restrain or prevent the sale of the District

Exchange Property to City; or (2) the outcome of which would have an adverse effect on City's ownership of the District Exchange Property.

**6.2 District's Conditions.** District's obligation to purchase the City Properties and sell the District Property is subject to satisfaction, in its sole discretion, of the conditions set forth below, on or before the dates set forth below, or, if no date is set forth, by the Feasibility Date. The District may waive in writing any or all of such conditions, without prejudicing or affecting any other rights District may have. If any conditions are not satisfied or waived in the time periods provided or by the Feasibility Date, as applicable, District shall have the right to cancel Escrow and terminate this Agreement without liability.

**6.2.1 Title Commitment.**

(1) Within thirty (30) calendar days after the later of the Effective Date of this Agreement or the District's receipt of the commitment for the District Title Policies with copies of all documents referenced in exceptions identified on Schedule B to such commitments ("District's Title Review Period"), District may give written notice to City identifying any title exceptions to the District Title Policies disapproved by District (for purposes of this Section only, the "District's Title Notice"). If District fails to give such notice, District shall be deemed to have approved all title exceptions other than mortgages, deeds of trust, mechanic's liens and similar matters constituting monetary liens, all of which shall be paid in full and removed by City at City's cost on or before the Closing Date.

(2) If City will be unable to remove any of the disapproved title exceptions on or before the Closing Date, then within ten (10) calendar days after receipt of District's Title Notice, City shall give written notice to District identifying the disapproved title exceptions that City is unable to remove (for purposes of this Section only, the "City's Title Notice"). If City fails to give such notice, City shall be deemed to have agreed to remove the title exceptions disapproved by District.

(3) District shall have until the Closing Date to either: (i) approve the title exceptions identified in the City's Title Notice that City is unable to remove; or (ii) terminate this Agreement and cancel Escrow, by giving written notice of such termination and cancellation to City and Escrow Agent. If District fails to deliver such notice to City, District shall be deemed to have disapproved the title exceptions identified in the City's Title Notice that City is unable to remove.

**6.2.2 Due Diligence.** District shall have ninety (90) calendar days ("Due Diligence Period") after execution of this Agreement after execution of this Agreement to do any and all soil engineering, environmental testing and site investigation as District deems necessary. Upon review of such investigation, the District may, at its option, terminate this Agreement during the Due Diligence Period.

The City shall provide to District, or make available to the District for inspection, as soon as possible (but in any event no later than ten (10) calendar days after the Effective Date) all materials relating to the City Property specified in this Section 6.2.2 that exist and that are in the City's actual possession or that the City knows exist and to which the City has access (collectively, the "District Due Diligence Materials"). If the City thereafter

discovers any additional items that should have been included among the due diligence materials, the City shall promptly deliver them to the District. District Due Diligence Materials will include:

- copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the City's knowledge, affect title to the City Property and that are not disclosed by the Preliminary Commitment;
- all surveys, plats or plans relating to the City Property;
- all leases for the City Property, or any portion thereof, if any, which remain in effect;
- all existing service contracts pertaining to items such as janitorial, trash removal, maintenance, snow removal, laundry service, extermination and similar services, if any;
- all labor contracts affecting the City Property, if any;
- all warranties and guarantees affecting any portion of the City Property;
- notice of any existing or threatened litigation affecting or relating to the City Property and copies of any pleadings with respect to that litigation;
- (i) all governmental permits and approvals obtained or held by the City and relating to (A) the construction, operation, use or occupancy of any part of the City Property or (B) zoning, land-use, subdivision, environmental, building and construction laws and regulations restricting, regulating or otherwise affecting the use, occupancy or enjoyment of the City Property (collectively, "Permits") and (ii) any notices of violation of any Permits, or of any of the laws and regulations described in this Section 6.1.2; and
- (i) all environmental assessment reports with respect to the City Property that were performed or that are being performed by or for the City and remain in the possession of or reasonably available to the City, (ii) any raw data that relates to the environmental condition of the City Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of hazardous material and/or substances on, in or under the City Property, and (iv) any other information material to the environmental condition or potential contamination of the City Property.

**6.2.3 Title Policy.** The Title Insurance Company shall have issued, or irrevocably and unconditionally committed to issue, the District Title Policies. There shall have been no material adverse change to the City Exchange Properties.

**6.2.4 No Pending Actions.** No lawsuit, arbitration or other action, proceeding or claim shall be pending which: (i) seeks to restrain or prevent the sale of the City Exchange Properties to District; or (2) the outcome of which would have an adverse effect on District's ownership of the City Exchange Properties.

**6.3 Parties' Conditions.** The Parties obligation to close is also conditioned upon:

**6.3.1 Interlocal Cooperation Agreement.** Execution by all named parties, on or before July 31, 2019, of the Interlocal Cooperation Agreement between Spokane Public Schools, City of Spokane, Spokane Public Library, and Spokane Parks and Recreation; and



**6.3.2 Right-of-Way Dedication Deed.** The District's delivery of a Right-of-Way Dedication Deed, in the form attached hereto as Exhibit C.

7. **Right of Entry.** Following acceptance of this Agreement, each Party, its agents, employees, contractors or its potential tenants/users may enter the Exchange Property to be purchased by such Party for the purpose of investigating, inspecting, surveying, testing the soil or improvements (including buildings, structures, etc.) and conducting feasibility studies to determine the suitability of such Exchange Property, including improvements for such Party's intended use. The Party entering such Exchange Property, its agents, contractors or tenants/users shall, in a commercially reasonable manner, have the right to conduct invasive testing or boring, with the prior consent of the Party that owns such Exchange Property, which shall not be unreasonably withheld.

City agrees to indemnify and hold District harmless for any loss, cost or expense resulting from damage to the District Exchange Property, or injury to persons resulting from the work conducted pursuant to this Section, except and only to the extent such damage is caused by the negligence or intentional acts of District or its agents. District agrees to indemnify and hold City harmless for any loss, cost or expense resulting from damage to the City Exchange Properties, or injury to persons resulting from the work conducted pursuant to this Section, except and only to the extent such damage is caused by the negligence or intentional acts of the City or its agents.

Each Party shall provide the other with reasonable prior written notice of its intent to enter such Exchange Property describing the date of entry, the purpose and activities to be conducted on such Exchange Property. A Party's activity or work on such Exchange Property shall be performed with minimum disturbance to such Exchange Property. Upon completion of the work or activity, such Exchange Property shall be restored to the condition in which it was found.

8. **Cooperation.** The Parties agree to cooperate in the execution of all documents or instruments reasonably necessary to affect the conveyance of the Exchange Property, and such other and further documentation as is required by either Party to perform the obligations of the Parties hereunder.

9. **Consents, Approval, and Agreement.** Any requirement of consent, permission approval or agreement in this Agreement by a Party shall be accomplished in good faith, and in such Party's reasonable discretion.

10. **Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed delivered when received at the address set forth below.

If to District:

Spokane Public Schools  
Associate Superintendent, School Support Services  
200 North Bernard Street  
Spokane, Washington 99201  
(509) 354-7272

If to City:

City of Spokane  
Mayor  
7th Floor, City Hall  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201  
(509) 625-6064

Copy to:

City Attorney  
5<sup>th</sup> Floor, City Hall  
808 West Spokane Falls Blvd  
Spokane, WA 99201

11. **Possession.** City shall be entitled to possession of the District Exchange Property on the Closing Date, and District shall be entitled to possession of the City Exchange Properties on the Closing Date.

12. **Time.** Time is of the essence with respect to this Agreement. If the date for any performance under this Agreement falls on a weekend or a holiday, the time for such performance shall extend to the next business day.

13. **Default.** If either party breaches its obligation to purchase the Property in accordance with the terms of this Agreement and Escrow fails to close by reason of such breach, then the non-breaching Party's sole remedy for such breach shall be to terminate this Agreement.

14. **Entire Agreement and Modification.** This written Agreement constitutes the entire and complete Agreement between the Parties hereto and supersedes any prior oral or written agreements between the Parties with respect to the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and conditions herein set forth. No modifications of this Agreement and waiver of any of its terms and conditions shall be effective unless in writing and duly executed by the Parties hereto.

15. **Binding Effect and Governing Law.** All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns. This Agreement shall be governed by the laws of the State of Washington.

16. **Attorneys' Fees.** If any action is brought by either Party against the other party related to the enforcement of this Agreement or any document or instrument delivered pursuant hereto, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action or any appeal thereof. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the Parties hereto, which may include expert witness fees, printing, duplicating and other expenses, delivery charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney.

17. **As-Is Sale.** THE PARTIES HEREBY AGREE AND ACKNOWLEDGE THAT EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND STATUTORY WARRANTY DEEDS, (I) THEY ARE BUYING THEIR RESPECTIVE PORTIONS OF THE EXCHANGE PROPERTY ON AN "AS-IS" BASIS; (II) THEY HAVE MADE OR WILL HAVE MADE THEIR OWN INVESTIGATIONS AND INSPECTIONS OF THE EXCHANGE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE PHYSICAL ASPECTS OF THE EXCHANGE PROPERTY AND THE EXCHANGE PROPERTY'S COMPLIANCE WITH ALL LAWS APPLICABLE TO THE EXCHANGE PROPERTY'S CURRENT OR INTENDED USE OR DEVELOPMENT; (III) THEY ARE RELYING SOLELY ON SUCH REPORTS AND THEIR OWN INVESTIGATIONS AS TO THE EXCHANGE PROPERTY, ITS CONDITION AND OTHER CHARACTERISTICS AND COMPLIANCE WITH LAWS; AND (IV) EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, THEY ARE NOT MAKING THE PURCHASE OF THE EXCHANGE PROPERTY IN RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS, EXPRESS OR IMPLIED, MADE BY THE OTHER PARTY, AS TO THE CONDITION OF OR CHARACTERISTICS OF THE EXCHANGE PROPERTY, ITS FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, THE EXCHANGE PROPERTY'S COMPLIANCE WITH ANY ZONING OR OTHER RULES, REGULATIONS, LAWS OR STATUTES APPLICABLE TO THE EXCHANGE PROPERTY, OR THE USES PERMITTED ON, OR THE DEVELOPMENT REQUIREMENTS FOR, OR ANY OTHER MATTERS RELATING TO THE EXCHANGE PROPERTY.

18. **Representations and Warranties.** The Parties make the following representations and warranties, each of which is material and relied upon by the other Party. The provisions of this Section will survive Close of Escrow.

18.1 **Environmental.** The Parties make no representations or warranties of any kind concerning the environmental condition of the Exchange Property being sold by such Party. Each of the Parties shall make a good faith effort to provide copies to the other Party of all material environmental studies and audits conducted in relation to the Exchange Property in the last thirty (30) years of which a Party has custody or control. Notwithstanding any other provisions of this Agreement, the Parties acknowledge and agree that the representations and warranties contained in this Section are the only representations and warranties given by the Parties with respect to environmental matters or compliance with environmental laws and hazardous substances and no other provisions of this Agreement shall be interpreted as containing any representation or warranty with respect thereto.

18.2 **Binding Agreements, Authority, and Conflicts.** This Agreement and all exhibits and documents to be delivered by the Parties pursuant to this Agreement have been duly executed and delivered by the Parties and constitute the valid and binding obligations of the Parties, enforceable in accordance with their terms. Each Party has all necessary authority, has taken all action necessary to enter into this Agreement and to consummate the transactions contemplated hereby, and to perform its obligations hereunder. The execution, delivery and performance of this Agreement will not conflict with or constitute a breach or default under the organizational documents of the Parties and, to each Party's knowledge, (i) any material instrument, contract, or other agreement to which a Party is a party which affects the portion of the Exchange Property being sold by such Party; or (ii) any statute or any regulation, order, judgment or decree of any court or governmental authority.

18.3 **Sole Owner.** City is the sole fee owner of the City Exchange Properties and has good and marketable title thereto. District is the sole fee owner of the District Exchange Property and has good and marketable title thereto.

**18.4 Condemnation.** There is no pending or, to each Party's knowledge, threatened condemnation affecting the portion of the Exchange Property being sold by such Party. There is no pending or, to each Party's knowledge, threatened proceedings that would adversely affect access to the portion of the Exchange Property being sold by such Party.

**19. Survival.** All provisions of this Agreement which by their terms would survive the Close of Escrow shall survive the Close of Escrow and not be merged with the Deeds.

**20. Assignment.** Neither Party may assign its interest in this Agreement without the written consent of the other Party.

**21. Survey and Legal Lot.** The City Properties are in the process of being created into legal lots by the City, and the City shall supply at its sole cost and expense a survey and legal description of the City Properties substantially conforming to the depiction set forth on Exhibit B. The survey shall be prepared by a professional land surveyor in the State of Washington.

The City shall diligently pursue such subdivision approvals or boundary line adjustments and pay all the costs thereof. At the Closing Date, the City shall ensure the City Properties are legal lots under applicable state and local subdivision or boundary line adjustment laws and regulations.

**22. Cooperation After Closing.** After the Closing Date, the parties shall execute such documents and take further actions as may be reasonably required or desirable to carry out the provisions and intent of this Agreement.

In witness whereof, the Parties hereto have executed this Agreement as of the Effective Date.

**DISTRICT:**

**CITY:**

By: \_\_\_\_\_  
Linda McDermott  
Associate Superintendent,  
School Support Services

By: \_\_\_\_\_  
David A. Condon  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

## Exhibit A

### Legal Descriptions of City Properties

Real property in the County of Spokane, State of Washington, described as follows:

#### South Side Landfill Buffer Parcels

Lots 5 through 14, Block 1; Lots 1 through 16, Block 2; Lots 1 through 7, Block 3; TOGETHER WITH a 10 foot strip between Lots 4 and 5, Block 3 (Dedicated for use as access to adjacent school property) All of South Ridge Forest FORTH Addition, as per Plat thereof recorded in Volume 15 of Plats, page 23,

And Lot 3 of MCINNIS TRACTS, according to plat recorded in Volume "P" of Plats, Page 33, including the south half of vacated 65<sup>th</sup> Avenue lying north of and adjacent to lot 3, and west of Mount Vernon Road, in Spokane County, Washington.

#### Foothills Properties

Blocks 27, 39, 41, 42 and all of vacated Morton Street lying between Blocks 27, 28, 38 and 39 and all of vacated Grace Avenue lying between Blocks 39 and 42 and all of vacated Denver Street lying between Blocks 39, 41, 42 and all of the alleys in said Blocks 27, 39, 41 and 42 and the platted Spokane and Northern Railroad right of way lying southerly and adjacent to said Blocks 39 and 41, Wolverton and Conlan's Addition, according to Plat recorded in Volume "B" of Plats, Page 59.

**Together** with the East 21.00 feet of said Block 28;

**Also together** with the extension of said East 21.00 feet of said Block 28, North to the south line of said Block 38;

**Also together** with the East 21.00 feet of said Block 38;

**Also together** with the extension of said East 21.00 feet of said Block 38, North to the south right of way of said North Foothills Drive;

**Except** all those portions of Land lying northerly of the south right of way line of said North Foothills Drive.

And being more particularly described as follows:

**Beginning** at the northeast corner of Lot 6 of said Block 41, and being on the south right of way of North Foothills Drive, Thence southerly along the east line of said Block 41 to the intersection of the south line of the Spokane and Northern Railroad and the northeast corner of Lot 4 of Block 26; Thence southwesterly along the south right of way of said Spokane and Northern Railroad to the Northeast corner of Lot 10 of said Block 27; Thence southerly along the east line of said Block 27 to the southeast corner of said Block 27; Thence westerly along the south line of said Block 27 to the southwest corner of said Block 27; Thence westerly to the southeast corner of said Block 28; Thence westerly along said south line, 21.00 feet; Thence northerly with a line parallel with and 21.00 feet west of the easterly line of said Blocks 28 and 38 to the south right of way of said North Foothills Drive;

Thence northeasterly along said south line of North Foothills Drive to the **Point of Beginning**.

All situate in the City of Spokane, Spokane County, Washington.

Containing  $\pm$  10.10 Acres of land more or less.

#### Parcel 35092.2505

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 5 and 6 of Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.2506

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 7, Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.2507

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 8, Block 25 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.5707

A portion of the Burlington Northern Railroad, located in the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

That portion the Burlington Northern Railroad, Newport to Spokane Branch (formerly the Spokane Falls & Northern Railroad), 60 feet wide, being 30 feet wide on each side of said Main Track centerline across the northwest quarter of said Section 9 lying between the west line of said northwest quarter and the westerly right-of-way line of Perry Street,

All situate in City of Spokane, State of Washington.

Parcel 35081.3402

A portion of the Wolverton and Conlan's Addition, as per plat recorded in Volume B of Plats, Page 59, records of Spokane County, all being in located in the northeast quarter of Section 8, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 1 thru 4 of Block 26 of said Wolverton and Conlan's Addition,

Together with that portion of vacated Denver Street (per City of Spokane Ordinance C-3071, dated 5-7-1923) and described as follows:

A strip of land lying between the south line of the right of way of the Spokane Falls & Northern Railway Company and the north line of Buckeye Avenue extended and that portion lying east of the east line of Block 27 and west of the west line of said Block 26, the sidelines of the above described strip of land shall be extended and shortened to terminate at the said Spokane Falls & Northern Railway Company southerly right of way line and said Buckeye Avenue extension,

All situate in City of Spokane, State of Washington.

Parcel 35081.3301

A portion of the Wolverton and Conlan's Addition, as per plat recorded in Volume B of Plats, Page 59, records of Spokane County, all being in located in the northeast quarter of Section 8, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 1 thru 6 of Block 25 of said Wolverton and Conlan's Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4101

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 1, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4102

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 2, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4103

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 3, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4104

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lot 4, Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4105

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

The west 40 feet of Lots 5 and 6 of Block 41 of said Avondale Addition,

All situate in City of Spokane, State of Washington.

Parcel 35092.4106

A portion of the Avondale Addition, as per plat recorded in Volume A of Plats, Page 96, records of Spokane County, all being in located in the northwest quarter of Section 9, Township 25 North, Range 43 East, W.M., more particularly described as follows:

Lots 5 and 6 of Block 41 of said Avondale Addition,

Except the west 40 feet,

All situate in City of Spokane, State of Washington.

In the event such legal description should be inaccurate or incomplete, it is agreed between the Parties that the Escrow Holder may supply or correct such description.

Exhibit B

Legal Descriptions of District Properties

Sprague Avenue Parcels

Real property in the County of Spokane, State of Washington, described as follows:

LOTS 1 THROUGH 12 INCLUSIVE, BLOCK 2, BISBEE'S ADDITION, ACCORDING TO PLAT RECORDED IN VOLUME "B" OF PLATS, PAGE 1, IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON.

In the event such legal description should be inaccurate or incomplete, it is agreed between the Parties that the Escrow Holder may supply or correct such description.



Exhibit C

AFTER RECORDING RETURN TO:

City Clerk  
City of Spokane  
W. 808 Spokane Falls Boulevard  
Spokane, WA 99201

Ptn. Parcel No. \_\_\_\_\_

**RIGHT-OF-WAY DEDICATION DEED**

THE GRANTOR, Spokane School District No. 81, a Washington state municipal corporation, for good and valuable consideration in hand paid, dedicates to the City of Spokane, a municipal corporation of the State of Washington, an easement for public street purposes and all uses incidental thereto, the real property described in Exhibit "A" hereto, situate in the City and County of Spokane, State of Washington, SUBJECT TO all existing interests, including but not limited to all reservations, rights of way and easements of record.

Prior to the initial construction, removal, or replacement of the public street, Grantee shall submit notice of the same to the Grantor. No such work by Grantee shall be commenced without the Grantor's prior written approval, which approval shall not be unreasonably withheld or delayed. Grantee shall coordinate the dates of its construction with the Grantor. Grantee shall exercise its rights under this instrument so as to minimize interference with Grantor's use of Grantor's adjoining property for school purposes. The Grantor shall have no obligation to pay for any costs and expenses of the installation, maintenance, repair, removal, and replacement of the public street or appurtenances thereto.

If a public street is not constructed on the property within ten (10) years, this easement and all of Grantee's rights hereunder shall, without any payment to Grantee, automatically terminate and revert to Grantor.

All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to Parties at the address set forth below, or at such other address as the Parties shall from time-to-time designate by notice in writing to the other Party:

Grantee: City of Spokane  
Mayor  
Fifth Floor, City Hall  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201

Grantor: Spokane Public Schools  
Associate Superintendent, School Support Services  
200 North Bernard Street  
Spokane, Washington 99201

IN WITNESS WHEREOF, the Grantor, has caused this instrument to be executed by affixing its signature hereunto this \_\_\_\_ day of \_\_\_\_\_, 2019.

GRANTOR

By: \_\_\_\_\_  
Its: Associate Superintendent, School Support Services

GRANTEE

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Exhibit "A"

A 60-foot wide public right-of-way over, under, through, and across the western edge of that certain land to be conveyed by the City to the District pursuant to that certain Option Agreement and Real Estate Purchase and Sale Agreement, dated August 28, 2013, by and between the Parties ("Option Agreement"), relating to certain property commonly known as Joe Albi Stadium and more particularly described in said Option Agreement. The Parties will include a legal description at the Closing Date. In addition, the Parties shall meet and confirm prior to any construction of the right-of-way, to confer on the final alignment of the right-of-way.

STATE OF WASHINGTON                    )  
  :ss.  
County of Spokane                        )

This record was acknowledged before me on \_\_\_\_\_, 2019 by Linda McDermott as Associate Superintendent, School Support Services of Spokane School District No. 81, a Washington state municipal corporation.

\_\_\_\_\_  
Notary Public in and for the State of Washington,  
My commission expires:\_\_\_\_\_

STATE OF WASHINGTON                    )  
  :ss.  
County of Spokane                        )

This record was acknowledged before me on \_\_\_\_\_, 2019 by \_\_\_\_\_  
as \_\_\_\_\_ of City of Spokane, a Washington state municipal corporation.

\_\_\_\_\_  
Notary Public in and for the State of Washington,  
My commission expires:\_\_\_\_\_

# **Land Lease and Use Agreement**

## **Shadle Library Branch**



**Agenda Sheet for City Council Meeting of:**

07/22/2019

|                       |                                |
|-----------------------|--------------------------------|
| <b>Date Rec'd</b>     | 7/10/2019                      |
| <b>Clerk's File #</b> | OPR 2019-0536<br>OPR 2019-0572 |
| <b>Renews #</b>       |                                |
| <b>Cross Ref #</b>    |                                |
| <b>Project #</b>      |                                |
| <b>Bid #</b>          |                                |
| <b>Requisition #</b>  |                                |

|                           |  |
|---------------------------|--|
| <b>Submitting Dept</b>    | CITY ATTORNEY  |
| <b>Contact Name/Phone</b> | MIKE ORMSBY 6287   |
| <b>Contact E-Mail</b>     | MORMSBY@SPOKANECITY.ORG  |
| <b>Agenda Item Type</b>   | Contract Item  |
| <b>Agenda Item Name</b>   | LEASES BETWEEN SPOKANE PARKS AND RECREATION AND SPOKANE PUBLIC |

**Agenda Wording**

Two Land Lease and Use Agreements between Parks and Spokane Public Library (SPL) for property to build and expansion of the Shadle Branch Library and to construct a new Liberty Park Branch.

**Summary (Background)**

The leases provide for property to be used by SPL for facilities and requires the Library to install improvements that can be used by both Parks and SPL. The Boards of both Parks and Libraries will be approving these leases prior to presentation to the City Council.

|                             |                |    |                              |
|-----------------------------|----------------|----|------------------------------|
| <b><u>Fiscal Impact</u></b> | Grant related? | NO | <b><u>Budget Account</u></b> |
|                             | Public Works?  | NO |                              |

|        |    |   |
|--------|----|---|
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |
| Select | \$ | # |

|                                    |                 |   |         |
|------------------------------------|-----------------|---|---------|
| <b><u>Approvals</u></b>            |                 | <b><u>Council Notifications</u></b>             |         |
| <b><u>Dept Head</u></b>            | DALTON, PAT     | <b><u>Study Session</u></b>                     | 7/22/19 |
| <b><u>Division Director</u></b>    |                 | <b><u>Other</u></b>                             |         |
| <b><u>Finance</u></b>              | BUSTOS, KIM     | <b><u>Distribution List</u></b>                 |         |
| <b><u>Legal</u></b>                | DALTON, PAT     | rromero@spokanecity.org, cwolff@spokanecity.org |         |
| <b><u>For the Mayor</u></b>        | ORMSBY, MICHAEL | dsteele@spokanecity.org, gjones@spokanecity.org |         |
| <b><u>Additional Approvals</u></b> |                 | achanse@spokanecity.org,                        |         |
| <b><u>Purchasing</u></b>           |                 | pdalton@spokanecity.org                         |         |
|                                    |                 | mpiccolo@spokanecity.org                        |         |
|                                    |                 | jrichman@spokanecity.org                        |         |
|                                    |                 | parksaccounting@spokanecity.org                 |         |

APPROVED BY  
SPOKANE CITY COUNCIL:

7/22/2019  
  
CITY CLERK

## SHADLE LIBRARY BRANCH LAND LEASE AND USE AGREEMENT

This Land Lease and Use Agreement ("Agreement") is between the City of Spokane Park Board ("Park Board") and the Spokane Public Library Board of Trustees ("Library Board").

WHEREAS, the Park Board is empowered by Article V of the City Charter with the authority to care for, manage, control and improve all parks and grounds used for park purposes and the authority to grant leases and privileges under such restrictions and for such compensation as the Board may prescribe; and

WHEREAS, the Library Board is empowered by Chapter 27.12 RCW with the supervision, care and custody of all Library property, exclusive control of Library finances and the authority to lease land for library buildings; and

WHEREAS, the Library Board issued a Future and Facilities Study in 2016, which provided that the current Shadle Library Branch located on property owned and operated by the Park Board was insufficient to provide necessary library services to the surrounding neighborhood and the Library proposed a ballot proposition to the voters of the City to fund the design, acquisition, construction and remodel of an expanded Shadle Library Branch; and

WHEREAS, the Parks Board issued a resolution on August 9, 2018, in support of adding a library location in Liberty Park and expanding the existing library in Shadle Park in response to the Future and Facilities Study; and

WHEREAS, on November 6, 2018, the voters of the City of Spokane approved a \$77 million dollar bond proposition to finance Spokane Public Library capital improvements, including the expansion and modernization of the Shadle Library Branch; and

WHEREAS, the Park Board and the Library Board have previously entered into an agreement dated July 3, 1995, (OPR 95-506) for the construction and operation of the Shadle Library Branch located on Park property that is under the care, custody and control of the Park Board; and

WHEREAS, the parties desire to enter into this Land Lease and Use Agreement for the expansion of the Shadle Library Branch and the subsequent use and operation --

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE. The purpose of this Agreement is for the Park Board to lease land to the Library Board in order to allow the Library Board to construct and operate a branch library on property, which is part of Shadle Park and under the care, custody and control of the Park Board. This authority shall include the continued operation of the Shadle Branch Library as authorized in the July 3, 1995, Agreement as well as the expansion of the Shadle Branch as set forth in Paragraph 2. The lease from the Park Board to the Library Board shall be for fifty years, with an option to renew the lease for an additional fifty years, on the condition that the leased property be used solely by the Library Board for a branch library. The Park Board agrees to lease to the Library Board land adjacent to the existing Shadle Branch library for a branch library building expansion. The total amount of Park land to be leased to the Library Board at Shadle Park will not exceed 77,000 square feet, which shall consist of the footprint of the building, and additional land for required parking, sidewalks, landscaping, and other requirements (hereinafter referred to as the "Branch Site.")
2. EXPANSION OF THE EXISTING SHADLE LIBRARY BRANCH. This Agreement authorizes the Library Board to remodel and expand the existing Shadle Library Branch as generally depicted in Exhibit A.
3. PROPERTY. The property to be leased by the Library Board is located on the northwest corner of Shadle Park, on the corner of Belt and Wellesley as depicted in Exhibit B, attached hereto and incorporated by this reference. The Library Board shall have exclusive control of the Branch Site during the time a library branch is maintained on that site. All structures erected on the property shall remain the property of the Library Board as long as the property is used as a branch library.
4. CONDITIONS. The Park Board leases to the Library Board the continued use of park property for use a branch library, included the expanded site subject to the following conditions:

A.. During the design and development of the branch library remodel and expansion, the Park Board will be presented the design plans for review and comment limited to the exterior building, landscaping and impact on the Park. The Library Board, staff and construction project team shall review, consider, and, when feasible, incorporate the Park Board's comments into the construction design. After the Park Board's review and the Library Board's



approval of the design and development phase of design for the remodeled and expanded branch library, only substantial changes to the agreed improvements specified in the construction documents need to be reviewed by the Park Board and approved by the Library Board;

C. The design and construction of the improvements shall be the responsibility of the Library Board, to be completed during the general construction of the branch library remodel and expansion;

D. The Library Board shall replace every existing tree removed from the Branch Site with two new trees placed within the park, after consultation and concurrence from Park staff, and shall repair any damage to the turf and irrigation system during construction of the library expansion; and

E. The Park Board may lease additional park property as a staging area for construction upon such terms as agreed upon by the Park Board and the Library Board. The Library Board agrees to return the property to its condition before use.

F. The parties shall develop programs that will enable 1) the Parks Department to have access to the branch library, 2) the Parks Department to participate in Library programs, and 3) joint use of branch library space.

5. MAINTENANCE. The Library Board shall be responsible for maintenance of the branch library, the parking lot used by the Library and associated landscaping, all driveways and all sidewalks adjacent to the Branch Site, including snow removal, surface sweeping, and restriping of parking space lanes. The parties shall address cost sharing for any surface parking lot repairs in the event the need to repair or replace the asphalt surface. The Park Board shall maintain all park land adjacent to the branch library. It shall be a cooperative venture worked out in the best interests of the taxpayers.
6. TERMINATION. If the Library Board closes the Shadle Library Branch, the lease shall terminate. The Library Board shall remove all structures from the property and restore the property to park condition unless the Park Board, in its discretion, notifies the Library Board that the improvements may remain.
7. PARK SALE. In the event the Park Board elects to sell Shadle Park, or such parts of Shadle Park as may be occupied by the branch library, the Park Board agrees to sell a parcel that includes the branch library footprint and associated parking lot to the Library Board.

8. RENT. The Library shall pay the Park Board \$1 per year as rent for the use of the park land as described in this Lease. It is the understanding of the parties hereto that rent is in a negligible amount because of the value to the Park Board of having the Shadle Library Branch located in Shadle Park and because of the cooperative nature of the relationship between the parties.

SPOKANE PARK BOARD

By: [Signature]

7-15-19  
Date

(Name) Nick Sumner

(Title) President

SPOKANE PUBLIC LIBRARY BOARD

By: [Signature]

7/16/19  
Date

(Name) Mary Hickey

(Title) Chair

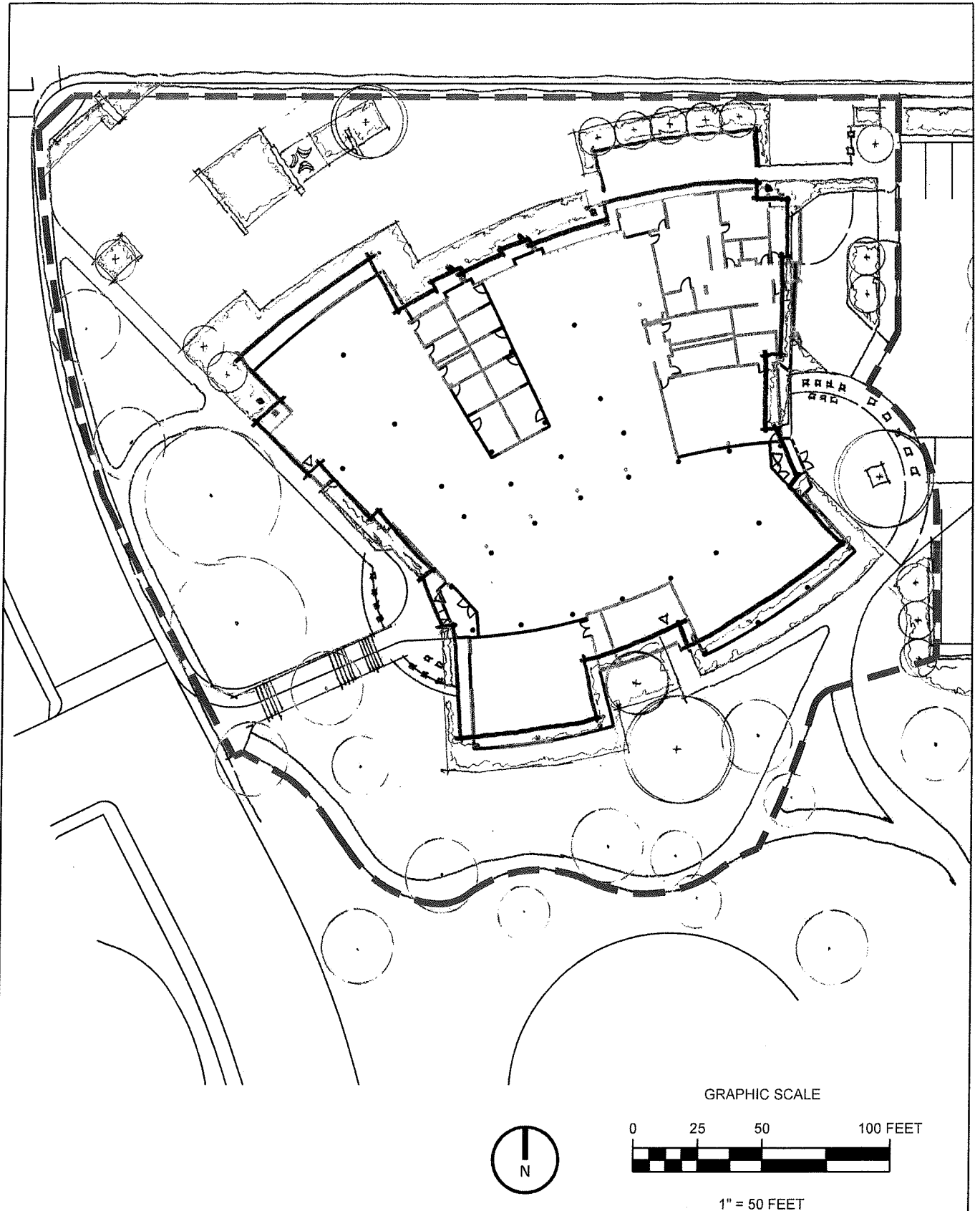
Approved as to form:

[Signature]  
Assistant City Attorney

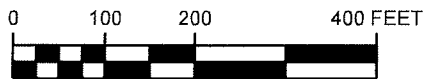
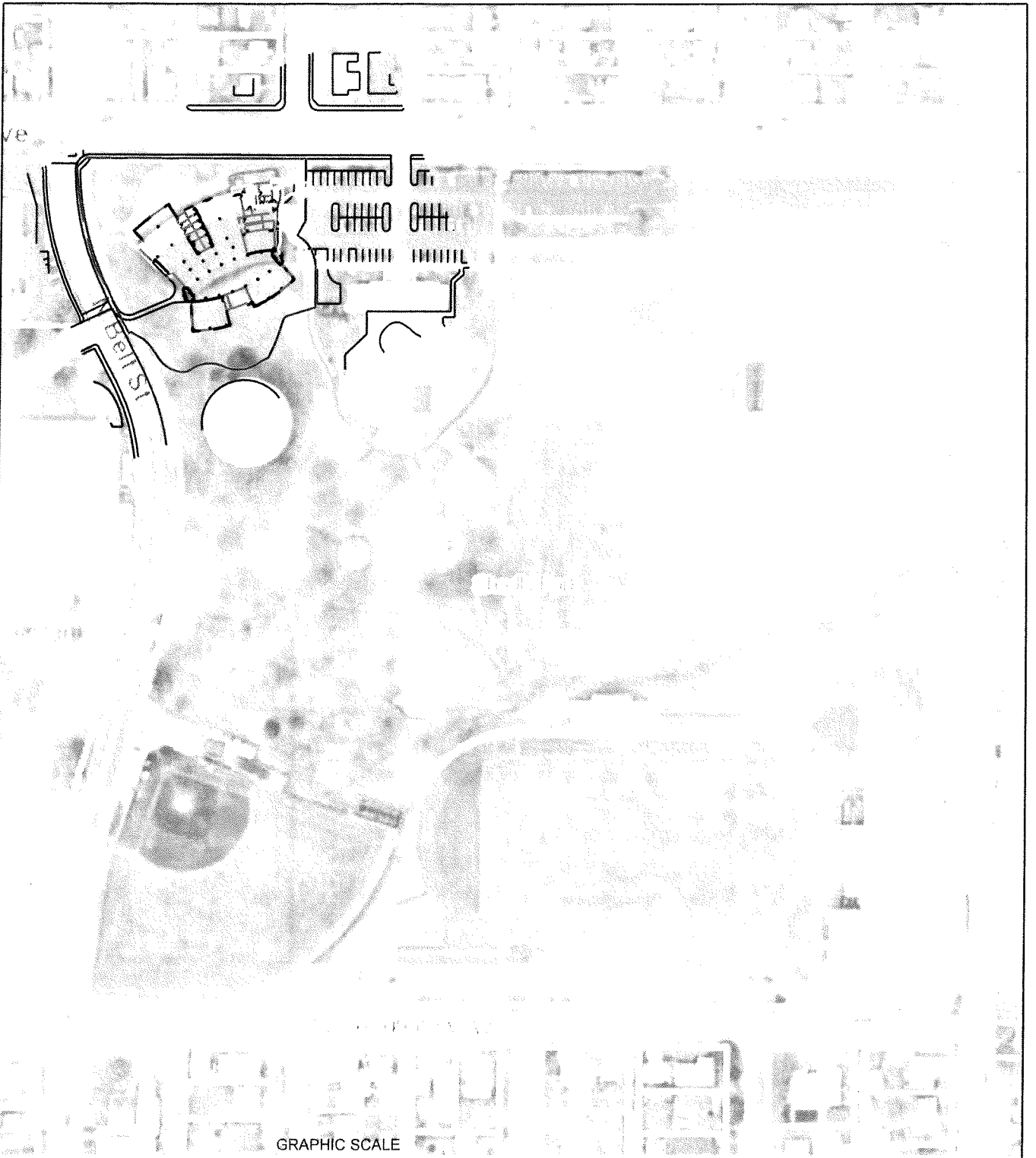
Attest:

[Signature]  
Spokane City Clerk





827 W 1ST AVE STE 220  
PHONE (509) 252-5019 FAX (509) 315-8862



1" = 200 FEET



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# **Land Lease and Use Agreement**

## **Liberty Park Library Branch**



## LIBERTY PARK LIBRARY BRANCH LAND LEASE AND USE AGREEMENT

This Land Lease and Use Agreement ("Agreement") is between the City of Spokane Park Board ("Park Board") and the Spokane Public Library Board of Trustees ("Library Board").

WHEREAS, the Park Board is empowered by Article V of the City Charter with the authority to care for, manage, control and improve all parks and grounds used for park purposes and the authority to grant leases and privileges under such restrictions and for such compensation as the Board may prescribe; and

WHEREAS, the Library Board is empowered by Chapter 27.12 RCW with the supervision, care and custody of all Library property, exclusive control of Library finances and the authority to lease land for library buildings; and

WHEREAS, the Library Board issued a Future and Facilities Study in 2016 which addressed the future library services at the neighborhood branch libraries. The Library Board proposed a ballot proposition to the voters of the City to fund the construction of a new Liberty Park Library Branch on property owned and operated by the Park Board; and

WHEREAS, the Parks Board issued a resolution on August 9, 2018 in support of adding a library location in Liberty Park and expanding the existing library in Shadle Park in response to the Future and Facilities Study; and

WHEREAS, on November 6, 2018, the voters of the City of Spokane approved a \$77 million dollar bond proposition to finance Spokane Public Library capital improvements, including the construction of a new Liberty Park Library Branch; and

WHEREAS, the parties desire to enter into this Land Lease and Use Agreement for the construction of a new Liberty Park Library Branch and the subsequent use and operation --

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE. The purpose of this Agreement is for the Park Board to lease land to the Library Board in order to allow the Library Board to construct and operate a new branch library in Liberty Park. The lease from the Park Board to the Library Board shall be for fifty years, with an option to renew the lease for an additional fifty years, on the condition that the leased property be used solely by the Library Board for a branch library. The Park Board agrees to lease to the Library Board land at Liberty Park for a new branch library. The total amount of Park land to be lease to the Library Board at Liberty Park will not exceed 43,000 square feet. This 43,000 square feet includes land for a building, required parking, sidewalks,

landscaping and other necessary requirements (hereinafter referred to as the "Branch Site").

2. PROPERTY. The property to be leased to the Library Board is located on the northeast quadrant of Liberty Park, on the corner of Pittsburgh St and 4<sup>th</sup> Ave as depicted in Exhibit A, attached hereto and incorporated by this reference. The Library Board shall have exclusive control of the Branch Site during the time a library branch is maintained on that site. All structures erected on the property shall remain the property of the Library Board as long as the property is used as a branch library.
3. CONDITIONS. The Park Board leases to the Library Board the use of park property for a branch library subject to the following conditions:
  - B. During the design, development and construction of the branch library, the Park Board will be presented the design plans for review and comment limited to the exterior building, landscaping and impact on the Park. . The Library Board, staff and construction project team shall review, consider, and, when feasible, incorporate the Park Board's comments into the construction design. After the Park Board's review and the Library Board's approval of the design and development phase of design for the construction of the branch library, only substantial changes to the construction documents need to be reviewed by the Park Board and approved by the Library Board;
  - C. The Library Board shall replace every existing tree removed from the Branch Site with two new trees placed within the park, after consultation and concurrence from Park staff, will provide remediation for the displacement of existing tennis courts, and shall repair any damage to the turf and irrigation system during construction of the library expansion; and
  - D. The Park Board may lease additional park property to the Library Board to be used as a staging area for construction upon such terms as agreed upon by the Park Board and the Library Board. The Library Board agrees to return the property to its condition before use.
  - E. The parties shall develop programs that will enable 1) the Parks Department to have access to the branch library, 2) the Parks Department to participate in Library programs, and 3) joint use of branch library space.
4. MAINTENANCE. The Library Board shall be responsible for maintenance of the branch library, the parking lot used by the Library and associated

landscaping, all driveways and all sidewalks adjacent to the Branch Site, including snow removal, surface sweeping, and restriping of parking space lanes. The parties shall address cost sharing for any surface parking lot repairs in the event the need to repair or replace the asphalt surface. The Park Board shall maintain all park land adjacent to the branch library. It shall be a cooperative venture worked out in the best interests of the taxpayers.

5. TERMINATION. If the Library Board closes the Liberty Park Library Branch, the lease shall terminate. The Library Board shall remove all structures from the property and restore the property to park condition unless the Park Board, in its discretion, notifies the Library Board that the improvements may remain.
6. PARK SALE. In the event the Park Board elects to sell Liberty Park or such parts of Liberty Park as may be occupied by the branch library, the Park Board agrees to assign ownership of a parcel that includes the branch library footprint and associated parking lot to the Library Board.
7. RENT. The Library shall pay the Park Board \$1 per year as rent for the use of the park land as described in this Lease. It is the understanding of the parties hereto that rent is in a negligible amount because of the value to the Park Board of having the Liberty Park Library Branch located in Liberty Park and because of the cooperative nature of the relationship between the parties.

SPOKANE PARK BOARD

By: [Signature]  
(Name) Nick Sumner  
(Title) President

7-15-19  
Date

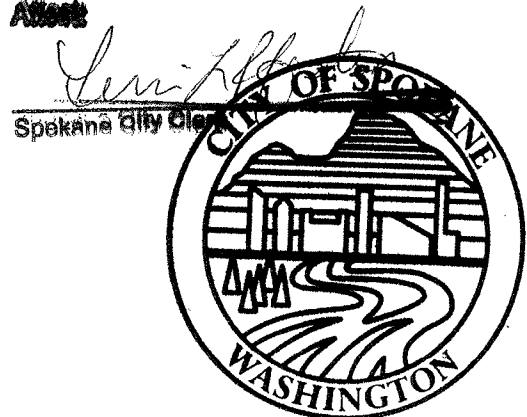
SPOKANE PUBLIC LIBRARY BOARD

By: [Signature]  
(Name) Mary Starkey  
(Title) Chair

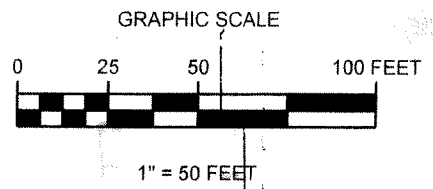
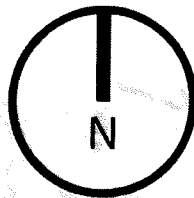
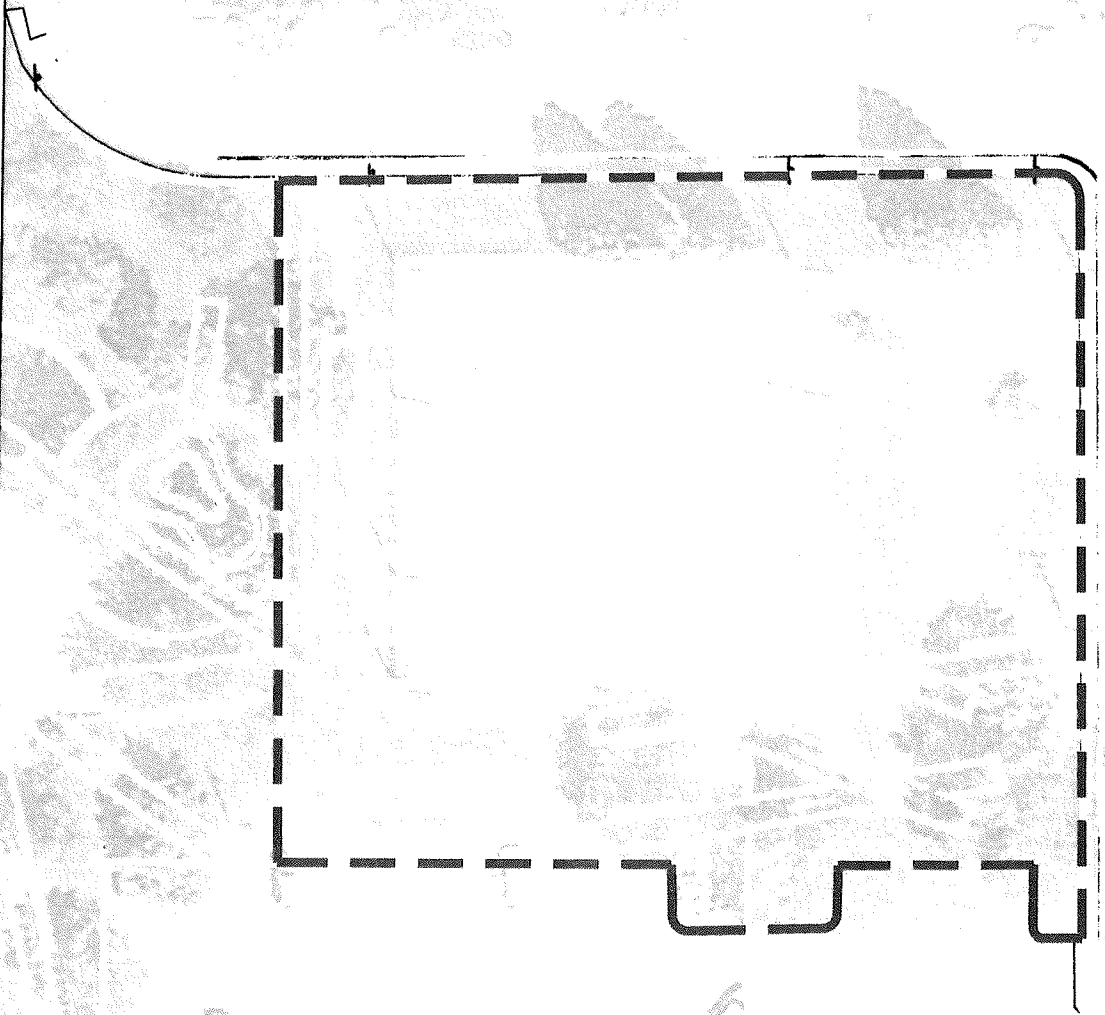
7/16/19  
Date

Approved as to form:  
[Signature]  
Assistant City Attorney

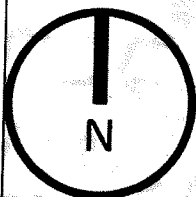
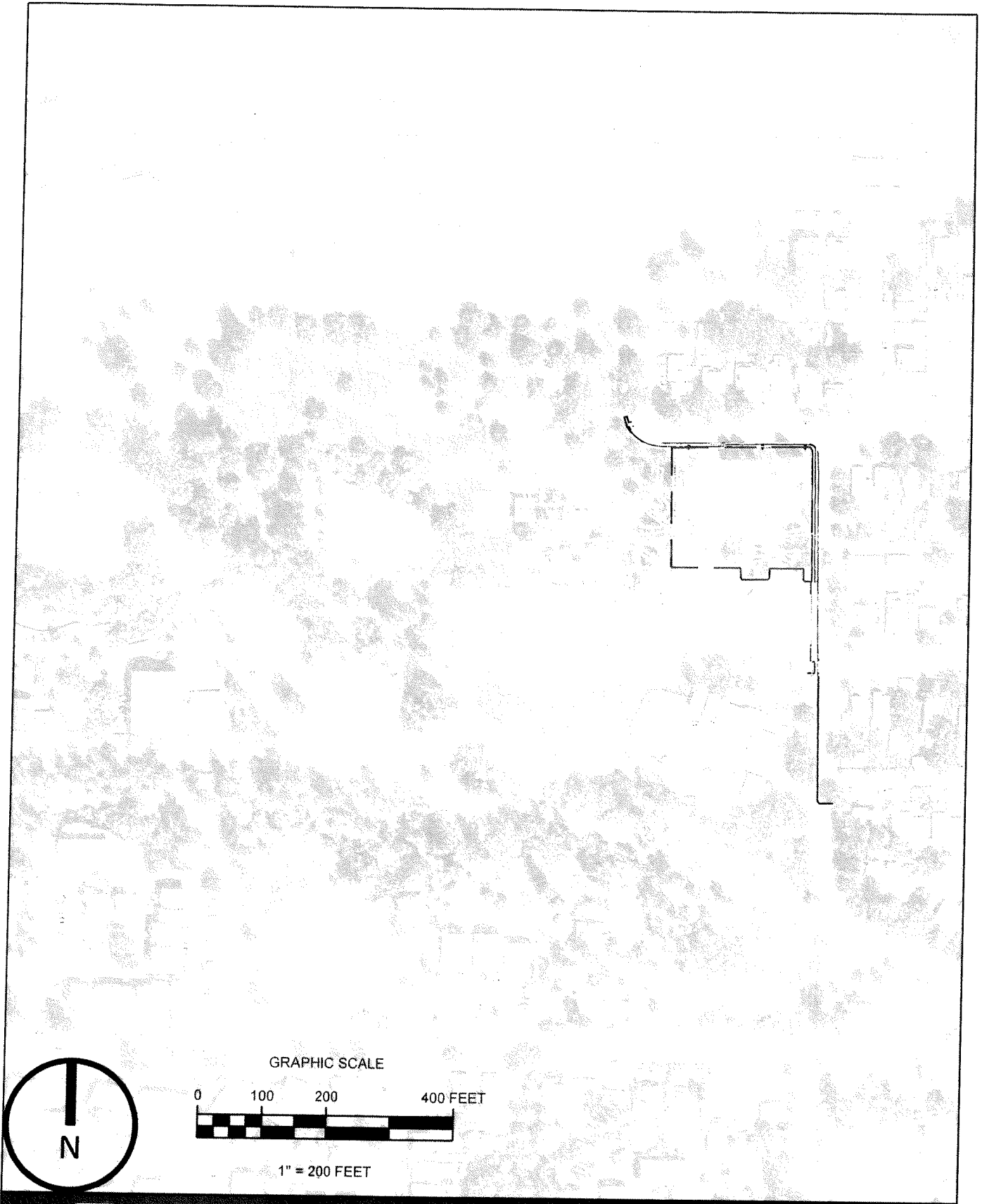
Attest



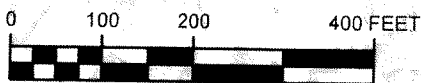




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PHONE (509) 252-5019 FAX (509) 315-8862



GRAPHIC SCALE



1" = 200 FEET

**AHBL**

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# Joint Use Agreement



**INTERLOCAL AGREEMENT BETWEEN  
SPOKANE PUBLIC SCHOOLS AND  
CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT  
REGARDING JOINT USE OF FACILITIES**

1. **Parties.** This Agreement is entered into by and between Spokane Public Schools, legally referenced as Spokane School District No. 81 ("District"), a Washington state municipal corporation, whose address is 200 North Bernard Street, Spokane, WA 99201, and the City of Spokane Parks and Recreation Department ("City"), a municipal corporation of the State of Washington, whose address is 808 West Spokane Falls Boulevard, Spokane, WA 99201.

2. **Authority and Purpose.** The Revised Code of Washington, Chapter 39.34, recognizes and authorizes local government units to make agreements for joint performance of functions and activities which they have the authority to perform.

The intent of this Agreement is to promote maximum public utilization of public facilities and grounds owned by the City and District within the ability of their available budgets and legal restrictions in order to best accommodate their respective activity programs and for provision of adequate facilities for the leisure, enrichment and well-being of the community; thus minimizing the economic waste of providing duplicate land and facilities at the expense of the common taxpayer.

This purpose includes coordinated planning for new acquisitions and facilities, particularly in the area of schools and parks.

3. **Administration.** The parties acknowledge that regular ongoing communication is vital to the success of the collaboration and administration of this Agreement. This joint undertaking shall be conducted by the parties according to the terms of this Agreement and jointly administered by the District Superintendent or designee and the Director of Parks and Recreation or designee. The following joint meetings of the parties shall occur throughout the term of this Agreement:

3.1 **Meetings.** District and City staff involved with the direct provision of services will meet a minimum of three times a year, in person, to address issues regarding delivery of services under this Agreement.

3.2 **Coordinator of Services.** Each party hereby designates the following persons to be its Coordinator of Services:

District: Associate Superintendent, School Support Services (509-354-7272)

City: Director of Parks and Recreation (509-625-6204)

The parties agree that Coordinator of Staff duties can be delegated to staff as appropriate by notice in writing to the other party.

4. **Duration.** This Agreement shall remain in force upon execution and filing through August 31, 2119, with automatic annual renewals thereafter from September 1st through August 31st unless terminated earlier as provided for in Section 12 below.

5. **Definitions.**

5.1 **“Campus Schools”** shall mean schools which are located adjacent to City park property and utilize City park property for regular school activities. The following is a list of “Campus Schools” including but not limited to:

Schools/Parks

Bemiss/Courtland Park

Finch/Audubon Park

Grant/Grant Park

Hamblen/Hamblen Park

Indian Trail/Indian Trail Park

Madison/Franklin Park

Garry Middle/Nevada Park

Shadle Park High/Shadle Park

5.2 **“City Facilities”** shall mean those park and recreation open spaces and facilities on City property which includes: ball fields, tennis courts, swimming pools/splash pads, golf courses and conservation lands. Riverfront Park facilities are based on availability and include open spaces and the North Bank and Forestry Shelters. Current policy is available on the City website at [www.spokaneparks.org](http://www.spokaneparks.org).

5.3 **“Class I Organization Sanctioned School Sponsored Activities”** shall mean those activities defined in Section III. A. 2. a., School District Procedure 4260 as now or hereafter amended. Current Policy/Procedure 4260 (Use of School Facilities) is available on the District website at [www.spokaneschools.org](http://www.spokaneschools.org).

5.4 **“Direct Cost”** shall mean costs incurred solely as a result of the other party’s specific use of a facility or grounds such as labor, supervision or custodial costs, equipment maintenance costs.

5.5 **“District Facilities”** shall refer to both “School Grounds” and “School Buildings”.

5.6 **“Exhibits”** shall include the following:

A. Joint Use Scheduling Procedures

B. SPRD/SPS Annual August Meeting Agenda

C. GSL Golf Joint Use Agreement Protocol

D. Shared Maintenance of Grounds at Designated Location Drawings

5.7 **“Joint Use Partner”** shall mean any entity that has a reciprocal agreement with either party to this Agreement.

5.8 **“School Buildings”** shall refer to the physical school building including the gyms, the multi-purpose rooms, the classrooms, libraries, auditoriums, conference rooms, kitchens and cafeterias.

5.9 **“School Grounds”** shall refer to grounds, tennis courts, and playfields owned by the District.

6. **Priority of Use.**

6.1 **First Priority Use.** The Property owner has first priority for scheduling their facilities.

6.2 **Second Priority Use.** Second priority is given to the joint use partner under this agreement as described in **Exhibit A and B.**

6.3 **Limitation.** Each entity reserves the right to limit Joint Use to no more than fifty percent (50%) of an area (e.g., room or field) at any given facility per week. Specific time adjustments may be made by mutual agreement of the parties. Late submissions of requests may result in denial of such requests.

6.4 **Third and Lower Priority Use.** Shall be at the discretion of the entity.

7. **Use of Facilities.**

7.1 **Usage and Facility Availability.** District Facilities available for use are primarily elementary and middle schools; high schools gyms may be requested but availability is extremely limited. During the usual and regular school year, all City property adjacent to a District school site, and all other City park property not adjacent, but which is used by District for school activities as allowed by this Agreement, shall be considered to be operated and controlled by the District for purposes of RCW 28A.635.020 until 5 p.m. or at such time each day when the school activity is completed. Additional details are available in **Exhibit A** to this Agreement.

7.2 **Scheduling.**

7.2.1 **Scheduling of School Buildings.** Scheduling shall be in accordance with the details identified in **Exhibit A: "Schools/Park & Recreation Scheduling Procedures"** as mutually agreed upon between the parties. Site approval is needed for scheduling high school gyms, multi-purpose rooms and auditoriums. Nutrition Services approval is required for kitchens.

7.2.2 **Scheduling Fields and Other Facilities.** Scheduling shall be in accordance with the details identified in **Exhibits A, B, and C** as mutually agreed upon between the parties.

7.2.3 **Non-school Day and Holiday Use.** Either party can request use of the other party's facilities for non-school days and holiday use in the same manner as above providing the user shall pay all Direct Costs incurred by the facility owner.

7.2.4 **Cancellation.** Either party will provide minimum notice as provided for in **Exhibit A.** Alternate sites will be provided as available. If no alternate site is available, the cancelled party will be afforded a make-up day

7.2.5 **Play Equipment Availability.** Play equipment on parks adjacent to Campus Schools will be available to the public during school hours except where the District desires exclusive use. When exclusive use is desired, the District shall either post notice of the District's exclusive use in the Park or otherwise provide notice to the public of the District's exclusive use.

8. **Shared Maintenance.**

8.1 **Grounds Maintenance.** The District and City shall share ground maintenance at Bemiss, Cooper, Finch, Grant, Indian Trail, Madison, Garry, and Shadle Schools in accordance with **Exhibit D**.

8.2 **Facility Improvement Requests.** Any requests by District to modify or improve City Facilities shall be submitted to the City's Director of Parks and Recreation for advance approval. This would include cutting and removing sod, relocation of backstops, installation of batting cages, buildings and other improvements.

9. **Rights and Responsibilities of Both Parties.**

9.1 **Compliance with Rules and Laws.** The parties shall comply with all applicable laws, ordinances and regulations as well as applicable local policies and procedures. The District is a tobacco free, drug free, and weapon free environment. Employees, patrons and agents of the parties who use or participate in activities pursuant to this Agreement shall conform to the policies applicable to the host party at all times.

9.2 **Supervision and Inspection.**

9.2.1 With regard to any programs or activities engaged in under this Agreement, neither party shall have supervisory responsibility over the other party's programs, activities, employees, agents, representatives, volunteers, guests, licensees, invitees. Any party has the right to withhold use of facilities under this Agreement until that party is provided a written statement to its satisfaction designating who is supervising a program or activity along with the details of supervision for a program or activity.

9.2.2 Each party is solely responsible for inspecting the other party's facilities or property prior to use to identify any defects or hazards therein or thereupon which may render the facilities or property not reasonably safe for the intended use. Upon identifying any such unsafe defects or hazards, the party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party and are removed, repaired, or otherwise made safe by the owning party.

9.3 **Fees, Maintenance and Custodial Service.**

9.3.1 No fees except for Direct Costs shall be charged the other party for use of District and City Facilities.

9.3.2 Routine maintenance of the properties shall be the responsibility of the owning party. Pre-game dragging, in-field watering or lining, etc. will be the responsibility of the using party. In no circumstances shall any entity other than the equipment owner or owner's vendor make repairs or alterations to the owning party's equipment.

9.3.3 Custodial services shall be provided by the owner of the facility, except in instances where other specific arrangements are agreed to in writing. Maintenance and custodial costs shall be borne by using party only when such maintenance involves extra costs to the owning party.

**9.4     Utilities.** The party owning the facility shall furnish all necessary utilities.

**9.5     Equipment and Supplies.**

**9.5.1** The equipment used during and for all programs and activities conducted under the terms of this Agreement shall, for the most part, be furnished by the party who owns the property, except consumable equipment and supplies shall be provided by the using party. District-owned or City-owned equipment which is not easily moved (for example, tumbling mats, volleyball standards, baseball bases, field liners, permanently mounted time clocks), may be used by the using party. The using party shall be responsible for any damage to the equipment (other than normal wear and tear) and shall repair or replace the equipment so that it is returned to a condition as good as or better than the condition prior to damage.

**9.5.2** Regardless of which party has furnished equipment or supplies, the using party shall be solely responsible for inspecting all such equipment and supplies prior to usage and is solely responsible for assuring that the equipment and supplies are in reasonably safe condition and appropriate for intended use.

**9.5.3** The using party is solely responsible for inspecting the other party's facilities or real property to identify any defects or hazards therein or thereupon which may render the facilities or real property not reasonably safe for the using party's intended usage. Upon identifying any such unreasonably unsafe defects or hazards, the using party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party by the using party, and are removed, repaired, or otherwise made safe by the owning party.

**9.6     Manner of Financing, Budgeting, and Billing.** One objective of this Agreement is to minimize billings and rental agreements between the parties; however, if it is more convenient for the using party to pay incurred cost for specific events/use, that party may do so at its option. The annual cost of such events/use shall be based upon a general rule of 'Direct Cost'. This requires that each party maintain sufficient records to determine the Direct Cost that was incurred by and due to each party's use of facilities during the previous year. Direct Cost shall include direct incremental costs such as labor, supervision, custodial, maintenance, utilities, or a percentage of total use times the total costs. Items such as depreciation, debt retirement, normal wear and tear, and utilities that will occur regardless of use by the other party, may not be included as a cost to the using party. Usages which will create Direct Cost will be identified, costs estimated, and notification given to the user at the time of reservation.

**9.7     No Dual Employment.** Nothing contained in this Agreement, or related documents shall be construed as creating any form of an employment relationship between the parties, or the agents, officers, volunteers or employees of the parties. The officers, agents, employees or volunteers of each party shall not be entitled to any rights or privileges of employment with the other party. Each party assumes exclusive responsibility for any and all actions, rights and obligations of its respective officers, agents, employees or volunteers.

**9.8     Nondiscrimination.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged



veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

**9.9 ADA Requirements.** Each party is responsible for its own facilities' compliance with ADA requirements. If the District receives an accommodation request relating to use of a City facility, it will notify the City of the request, and vice versa. The parties will cooperate to respond to and resolve any accessibility complaints.

**9.10 Damage to Property.** When either party to this Agreement shall use, operate, occupy, or have the care, custody, or control of any facility owned by the other party, the party using the facility or grounds shall bear any risk, loss, or damage to the facility or grounds being used up to the amount of damage.

**10. Assignment/Binding Effect.** Performance of any or all aspects of this Agreement may not be assigned without written authorization by all the parties. Likewise, neither party may assign its respective rights to any claims or actions arising out of or relating to this Agreement without written authorization.

**11. Integration/Modification/Supersession.** This Agreement constitutes the entire and exclusive agreement between the parties regarding this matter and no deviations from its terms shall be allowed unless a formal, written, mutual amendment occurs between the parties. No modification of this Agreement shall be valid unless the written modification is first provided via certified mail or personal delivery to each of the parties listed in Section 12.2 of this Agreement. Actual receipt by either party constitutes compliance with the requirement to send by certified mail or personal delivery. This Agreement shall specifically supersede the Joint Use Agreement entered into between Spokane School District No. 81 and the City of Spokane on August 27, 1997. Albi Stadium shall not be considered property subject to this Agreement under the August 27, 1997 Joint Use Agreement, or any other prior joint use agreements previously entered into between the District and the City.

**12. Termination/Written Notice.**

**12.1 Termination.** This Agreement may be terminated with one hundred eight (180) days written notice by either party for a material breach of this Agreement. In its written notice of termination, the terminating party shall provide the basis for the material breach. The non-terminating party shall have the opportunity to rectify the material breach within the 180 day time period. The parties shall engage in the mandatory dispute resolution provision in Section 12 of this Agreement prior to termination of the Agreement.

**12.2 Recipients of Termination Notices.** Notice shall be sent to the parties as follows:

**District:** Office of School Support Services  
Associate Superintendent, School Support Services  
Spokane Public Schools  
200 North Bernard Street  
Spokane, WA 99201-0282

**City:** Spokane Parks and Recreation Department Director  
City Hall  
808 West Spokane Falls Boulevard  
Spokane, WA 99201-3317

**12.3 Financial Crisis.** In the event of a financial crisis, declared by resolution of the governing body of either party, that party reserves the right to terminate this Agreement upon one hundred eighty (180) day notice to the other party.

**13. Mandatory Dispute Resolution.** In the event that a dispute shall arise regarding the terms, conditions, or breach of this Agreement, the parties shall, as a condition precedent to taking any action, mediate the dispute using the services of a mutually agreed upon independent mediator. The parties shall equally split the expenses of the mediator and the facility for the mediation. Each party shall otherwise pay its own expenses.

**14. Governing Law/Venue.** The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of this Agreement, the venue of such action shall be in Spokane County, Washington.

**15. Exhibits.** Exhibits A – D attached hereto are a part of this Agreement.

**16. Authority to Sign and Obligate.** The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the parties.

**17. Effective Date of Agreement.** This Agreement shall not become effective unless and until it is properly executed by the parties and all filing requirements are met.

**18. RCW 39.34 Required Clauses.**

**18.1 Purpose.** See Section 2 above.

**18.2 Duration.** See Section 4 above.

**18.3 Organization of Separate Entity and Its Powers.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

**18.4 Administration.** See Section 3 above.

**18.5 Responsibilities.** See provisions herein.

**18.6 Agreement to be Filed.** The City shall file this Agreement with its City Clerk and file it with the Spokane County Auditor or place it on its web site or other electronically retrievable public source in accordance with state law. The District shall file this Agreement with the Spokane County Auditor or place it on its web site or other electronically retrievable public source.

**18.7 Financing.** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

**18.8 Termination.** See Section 12 above.

**18.9 Property Upon Termination.** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement. Jointly acquired property shall be divided in proportion to the percentage share of each party contributing to its acquisition.

SPOKANE PUBLIC SCHOOLS

Linda McDermott  
Dr. Linda McDermott  
Associate Superintendent, School Support Services

7/17/2019  
Date

CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT

Garrett Jones  
Garrett Jones  
Director

07/15/19  
Date

Attest:

Terri R. Rasmussen  
City Clerk

Approved as to form:  
Pat Dahl  
Assistant City Attorney



## EXHIBIT A

### Spokane Public Schools (SPS) Spokane Parks & Recreation Department (SPRD) Joint Use of Facilities

#### Scheduling Procedures

##### **I SPS/SPRD Scheduling Procedures for Joint Use**

The SPS/SPRD Joint Use agreement is a partnership between SPS and SPRD to allow reciprocal use of facilities owned by both parties.

##### **II Authorization Protocol**

- a. SPRD Director of Recreation or designated staff are authorized to make requests on behalf of SPRD or approve requests.
- b. SPS staff authorized to make requests on behalf of SPS or approve requests from SPRD are the Event Services Team or designated staff.

##### **III SPS and SPRD Facilities & Availability**

- a. Property owner has first priority for scheduling their facilities. Second priority is given to the joint use partner under this agreement.
- b. *During the academic school year*, sites having Express After-School Child Care programs are available at 6:15 pm in the multipurpose rooms and 6:00 pm in the gyms (if the gym and multipurpose room are separate from each other.) All other sites are available at 5:15 pm. Express site information is available online at: <http://spokaneschools.org>
- c. The latest that an activity at an SPS Facility can be scheduled to end is 9:30 pm unless otherwise approved by SPS Event Services. The latest that an activity can be scheduled at an SPRD Facility is 11:00pm.
- d. SPRD may request building use on a non-student day however use may be limited to custodial staffing hours. If the event is outside of regular custodial hours direct costs will apply. In general, custodial coverage is available until 3:00 pm on non-student days; after 3:00 pm on non-student days a fee for custodial services is charged.

##### **IV. Required Time Line**

There will be a required annual meeting no later than the first week of August to establish deadlines for the year. An agenda with required topics is included as **Exhibit C**.

##### **V. Facility Use Cancellations or Changes**

- a. Cancellation and changes of scheduled events must be communicated to the facility owner at least three (3) working days prior to the event.
- b. In the event of a scheduling conflict, the facility owner must notify the user and relocate or reschedule the cancelled event. Cancellation for a conflict should be communicated at least five (5) days prior to an event.
- c. For SPS facilities changes to scheduled events shall be submitted through e-mail to the Event Services Team at [eventservices@spokaneschools.org](mailto:eventservices@spokaneschools.org). In the event of a later cancellation a call must be made to Event Services at 354-7167.
- d. For SPRD facilities changes to scheduled events shall be submitted through e-mail to the scheduler at [athleticfieldallocations@spokanecity.org](mailto:athleticfieldallocations@spokanecity.org).
- e. If schools are closed due to weather all scheduled usage is cancelled.

##### **VI Scheduling**

- a. SPS programs to take priority in SPS facilities and SPRD programs to take priority in SPRD facilities.
- b. SPS shall be responsible for scheduling all high school, middle school and Libby fields; however, Garry Middle School fields on SPRD property are scheduled by SPS until 5:00 pm on school days. Scheduling after 5:00 pm on a school day and non-school days is through SPRD.

- c. SPRD shall schedule all remaining fields within the City including elementary fields after **6:00 pm** during the school year at Express sites and after **5:15 pm** at all sites that do not have after-school programs.
- d. When scheduling a continuing event, at least one make-up day shall be designated in case of cancellation.

**VII. Field Playability**

- a. Each party will reserve the right to limit the amount of scheduled and non-scheduled play on athletic fields on an annual basis to prevent excessive damage to turf.
- b. Field Closure -- During periods of inclement weather, field maintenance, or scheduled improvements, field closures may be required.
- c. Closures may also result from poor playing conditions or damage. Notice of field closure will be sent by email.
- d. If a field is closed, no practice, games or other organized use will be allowed.

**VIII. Field Use General Rules and Regulations**

- a. The rules and regulations are in place to preserve the integrity of the fields for the best interests of all users. Both parties reserve the right to immediately terminate the use of fields and agrees to immediately vacate the premises upon notification of termination for failure to adhere to the rules and regulations. Failure to comply with these rules and regulations may jeopardize future use of fields and facilities.
- b. Rules for use will be reviewed annually at the August meeting.

**IX. Fees.**

- a. There will be no rental fees between the parties.
- b. There will be charges for direct costs outside of regular custodial hours.
- c. Additional fees for equipment replacement, extraordinary maintenance costs, or other infrequently occurring costs we be funded as mutually agreed upon.

**X. Sign-up Process to be Eligible to Use Facilities**

Rules for facility usage must be completed by the requestor prior to the scheduled start date. In order to gain access to facilities instructors/coaches are required to have a copy of their signed documents available while utilizing the facilities. Without these documents instructors/coaches may not be allowed access into the facility.

**EXHIBIT B**  
**SPRD/SPS Annual August Meeting**  
**Agenda**

Meeting to be held no later than the first week of August year

1. Update contact list
2. Review school calendar
3. Discuss needs of each program and problems solve any challenges
4. Review deadlines for priority submission of schedules
5. Review scheduling details
6. Review rules for use and process for collection of signed rules
7. Review current rate schedules for direct costs
8. Facility/field projects that impact availability
9. Discuss any program changes that may impact other programs
10. Changes to facility/program hours
11. Equipment, maintenance and other needs
12. Discuss any operational changes or concerns
13. Other

**Agenda meeting notes to be distributed to all meeting participants by e-mail and retained as documentation of operating protocols.**

**Exhibit C**  
**GSL Golf Joint Use Agreement Language**

SPS has five (5) high school golf teams that use four (4) City golf courses.

**The City has agreed to:**

1. Provide at no cost to SPS eight (8) practice tee times per school per week on the two (2) days specified by the City with four (4) practice tee times per school per day. The total quantity of tee times include both the boys and girls teams.
2. Provide at no cost to SPS three (3) events annually: two (2) during the regular season and one (1) during the post season. In addition, there will be one paid post-season event with date and course to be negotiated between Parties.
3. Finalize the SPS team schedules designating the specific dates for receipt by SPS no later than January 31 of each year.
4. Reschedule events canceled due to weather whenever feasible. This shall be a communication between the high school golf coach and the course pro directly.
5. WIAA and GSL Event charges will be the current junior golf rate (e.g., 2019 rate of \$13.00 per round, per participant; 80 golfers on Day 1 and 40 golfers on Day 2).

**SPS has agreed to:**

1. Have golf coaches be responsible for setting up and using the eight (8) tee times as assigned with no more than four (4) players per tee time.
  2. Have golf teams pay for range balls used in practice.
  3. Have the golf teams help clean up/pick up balls on range or perform other necessary jobs the golf professional deems appropriate.
  4. Submit schedule requests to the City not later than June 15 of each year. See note above- Pros and Courses have said that they are not able to create a schedule prior to the fall.
  5. S) Abide by the latest version of the attached Parks & Recreation Board adopted High School Golf Rules.
  6. Make every effort to make the public, parents and constituents aware of the benefits SPS students are receiving from the donations of the course professional and from the golf division under the umbrella of our Joint Use Agreement with the City Parks and Recreation Department.
    - a. SPS provide SPRD an outlined plan as to how they intend on sharing this message
    - b. Encourage school booster clubs who hold annual golf tournaments to support the City courses.
  7. For WIAA Event Practice Rounds charges will be the current junior golf rate (e.g., 2012 rate of \$13 per round) per participant and the adult golf rate (e.g., 2012 rate of \$25 per round) per coach. Any additional event activities such as a barbecue at the course following practice rounds for players and coaches shall be charged over and above the course fees.
-

## EXHIBIT D

### Shared Maintenance of Grounds at Designated Locations Drawings

For:

Bemiss Elementary School

Cooper Elementary School

Finch Elementary School

Grant Elementary School

Indian Trail Elementary School

Madison Elementary School

Garry Middle School

Shadle Park High School



# EXHIBIT D



Spokane Public Schools  
columbia corp

2323 EAST BRIDGEPORT AVE., SPOKANE, WA  
BEMISS ELEMENTARY SITE PLAN

|           |
|-----------|
| PLANNED   |
| SITE      |
| NOT SCALE |
| CHALK     |
| STANDARD  |
| REVISION  |

SITE PLAN

40-111

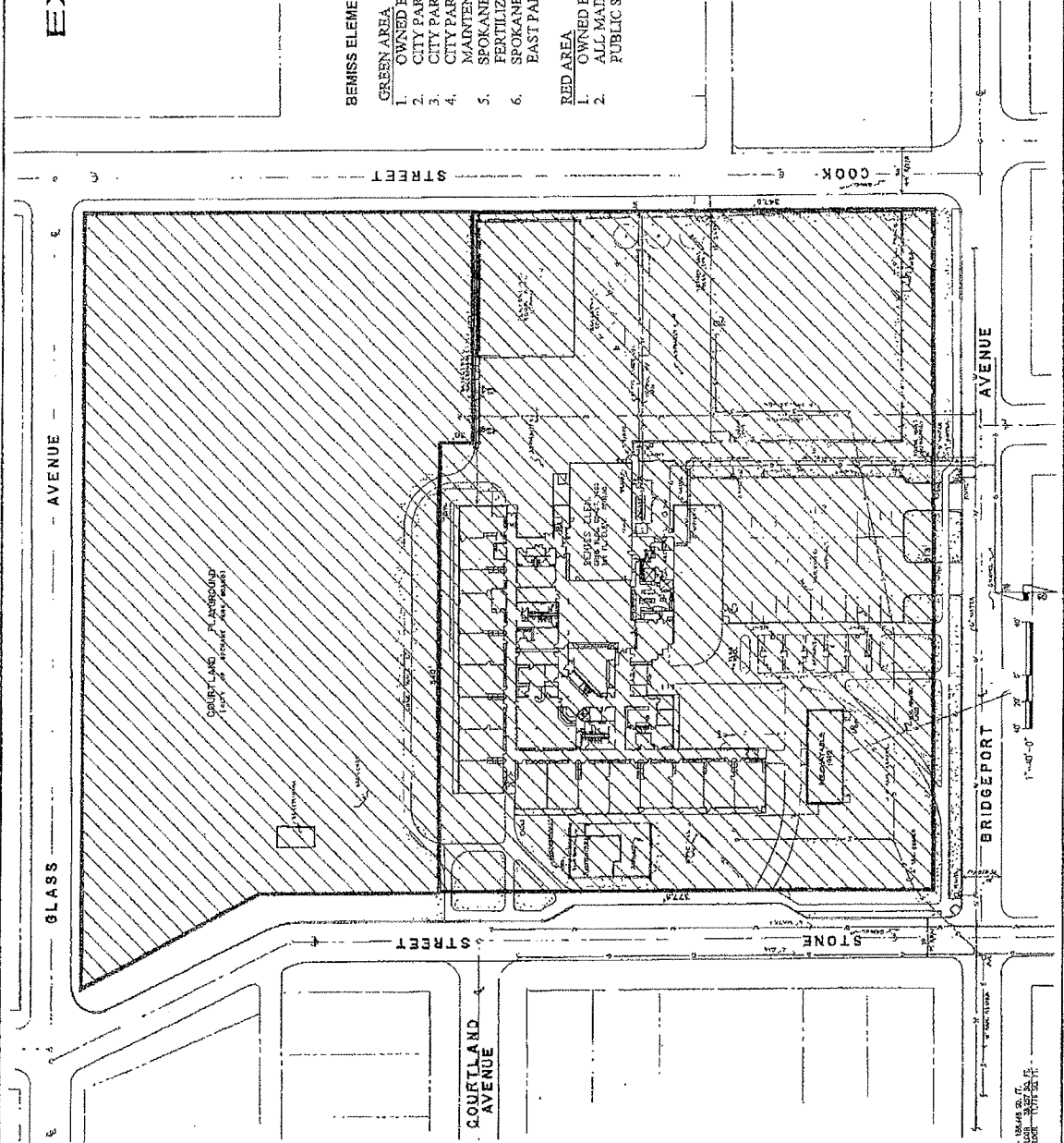
## BEMISS ELEMENTARY

### GREEN AREA

1. OWNED BY PARKS DEPARTMENT
2. CITY PARKS MAINTAINS IRRIGATION
3. CITY PARKS REMOVES GRAFFITI
4. CITY PARKS PROVIDES TREE & SHRUB MAINTENANCE
5. SPOKANE PUBLIC SCHOOLS MOWS AND FERTILIZES
6. SPOKANE PUBLIC SCHOOLS SNOW PLOWS EAST PARKING LOT

### RED AREA

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS



PROPERTY OWNED BY  
SPOKANE PUBLIC SCHOOLS  
2323 EAST BRIDGEPORT AVE., SPOKANE, WA 99201

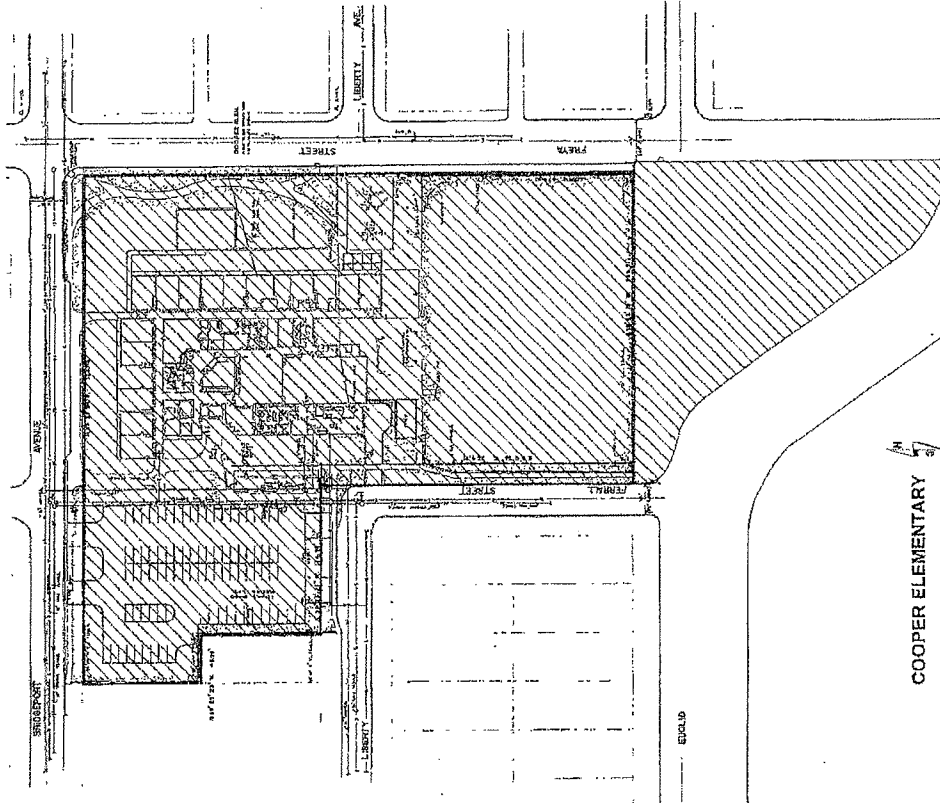
COOPER ELEMENTARY

BLUE AREA

1. OWNED BY STREET DEPARTMENT
2. MOWING, SNOW REMOVAL AND FERTILIZING DONE BY SPOKANE PUBLIC SCHOOLS
3. IRRIGATION BY CITY STREET DEPARTMENT

RED AREA

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS



COOPER ELEMENTARY

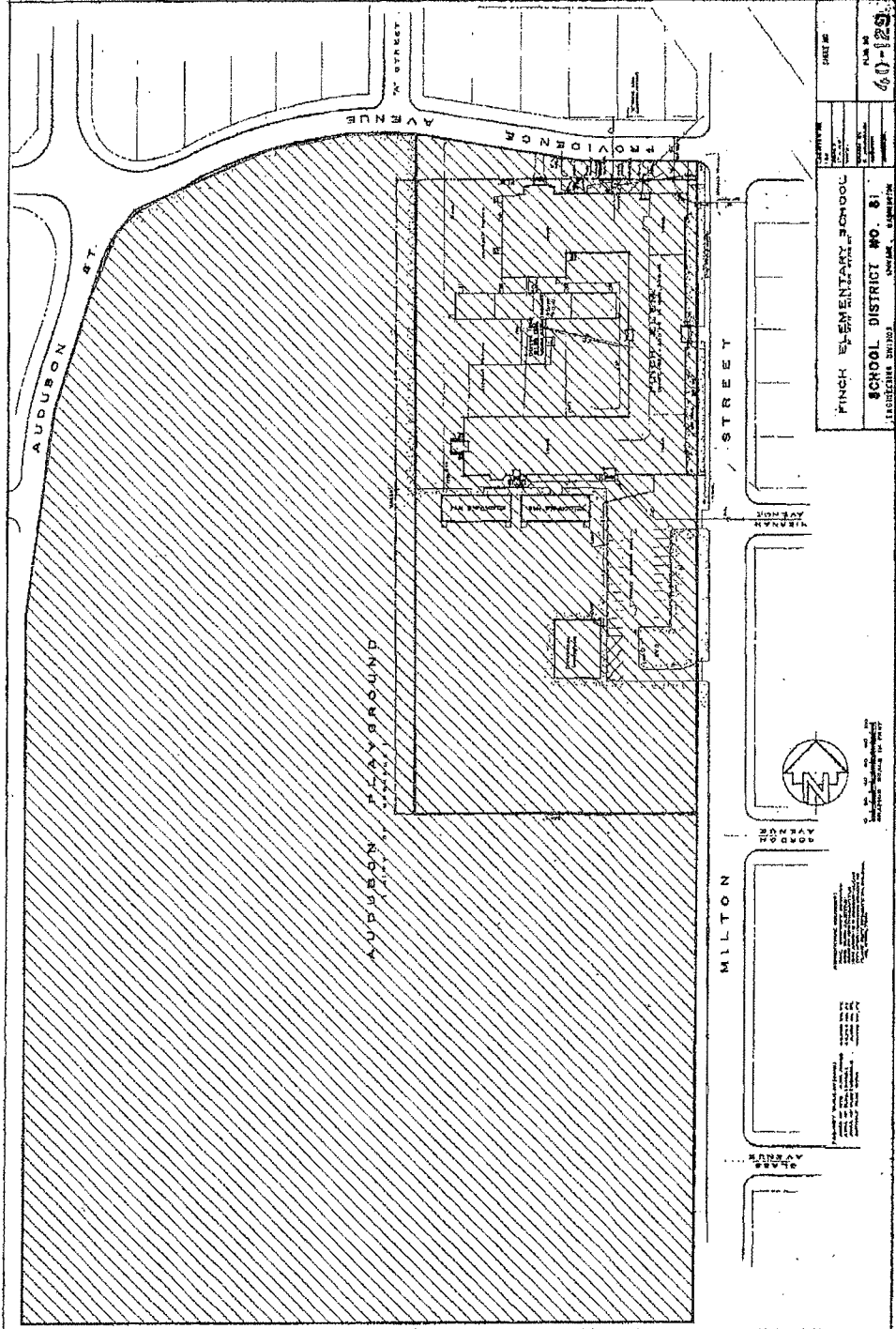
# FINCH ELEMENTARY

## GREEN AREA

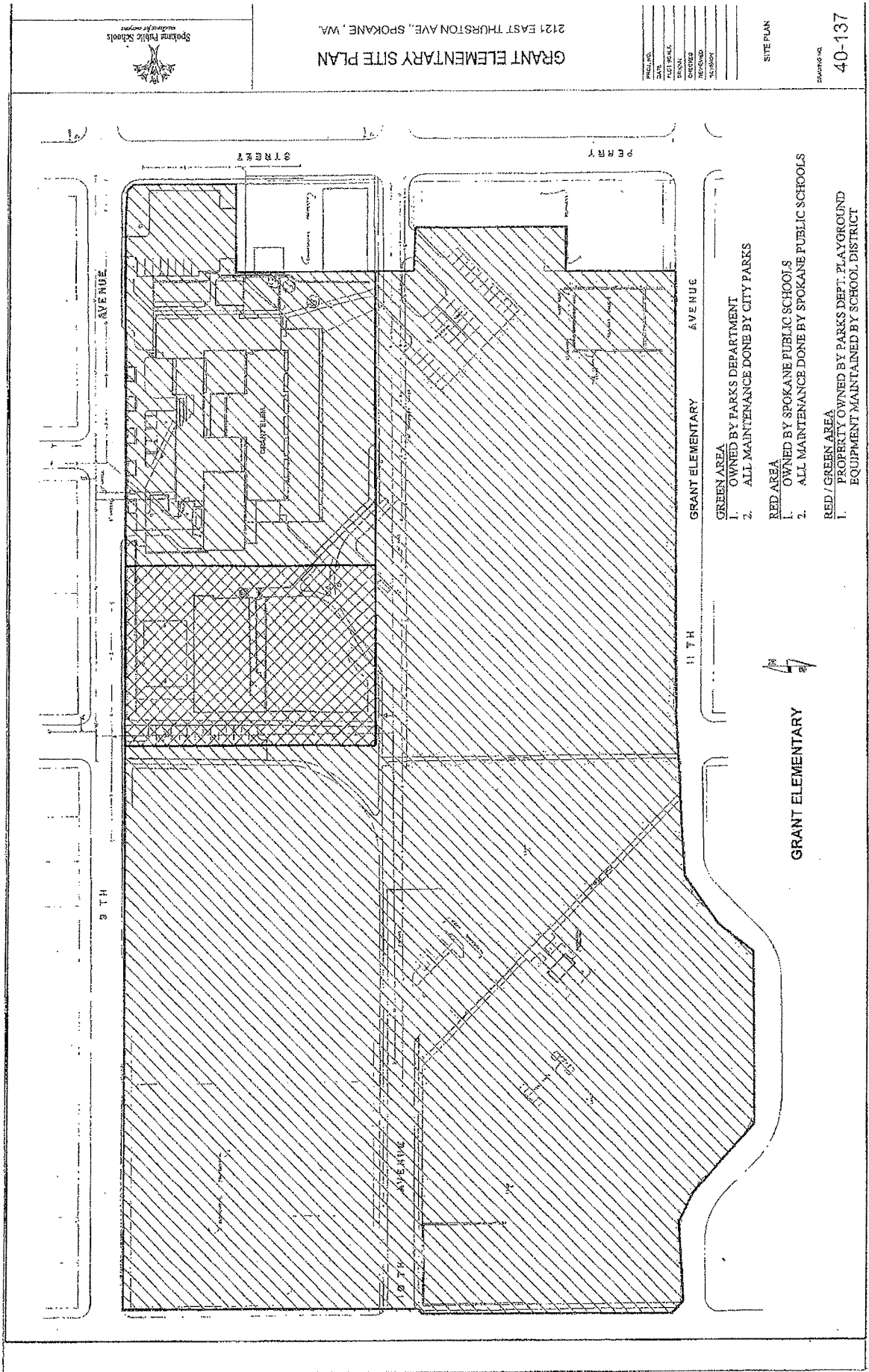
1. OWNED BY PARKS DEPARTMENT
2. ALL MAINTENANCE DONE BY PARKS DEPARTMENT
3. SPOKANE PUBLIC SCHOOLS SHALL PROVIDE SEASONAL MARKINGS FOR THE RUNNING TRACK

## RED AREA

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS



|                         |  |          |         |
|-------------------------|--|----------|---------|
| FINCH ELEMENTARY SCHOOL |  | DATE     | 6-0-125 |
| SCHOOL DISTRICT NO. 81  |  | PLAN NO. |         |
| SCHOOL DISTRICT NO. 81  |  | DATE     |         |



GRANT ELEMENTARY SITE PLAN  
2121 EAST THURSTON AVE., SPOKANE, WA.

|             |  |
|-------------|--|
| DATE        |  |
| DESIGNED BY |  |
| CHECKED BY  |  |
| APPROVED BY |  |
| TELEPHONE   |  |

SITE PLAN

40-137

- GRANT ELEMENTARY AVE HUG
- GREEN AREA  
1. OWNED BY PARKS DEPARTMENT  
2. ALL MAINTENANCE DONE BY CITY PARKS

- RED AREA  
1. OWNED BY SPOKANE PUBLIC SCHOOLS  
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS

- RED / GREEN AREA  
1. PROPERTY OWNED BY PARKS DEPT. PLAYGROUND EQUIPMENT MAINTAINED BY SCHOOL DISTRICT

GRANT ELEMENTARY

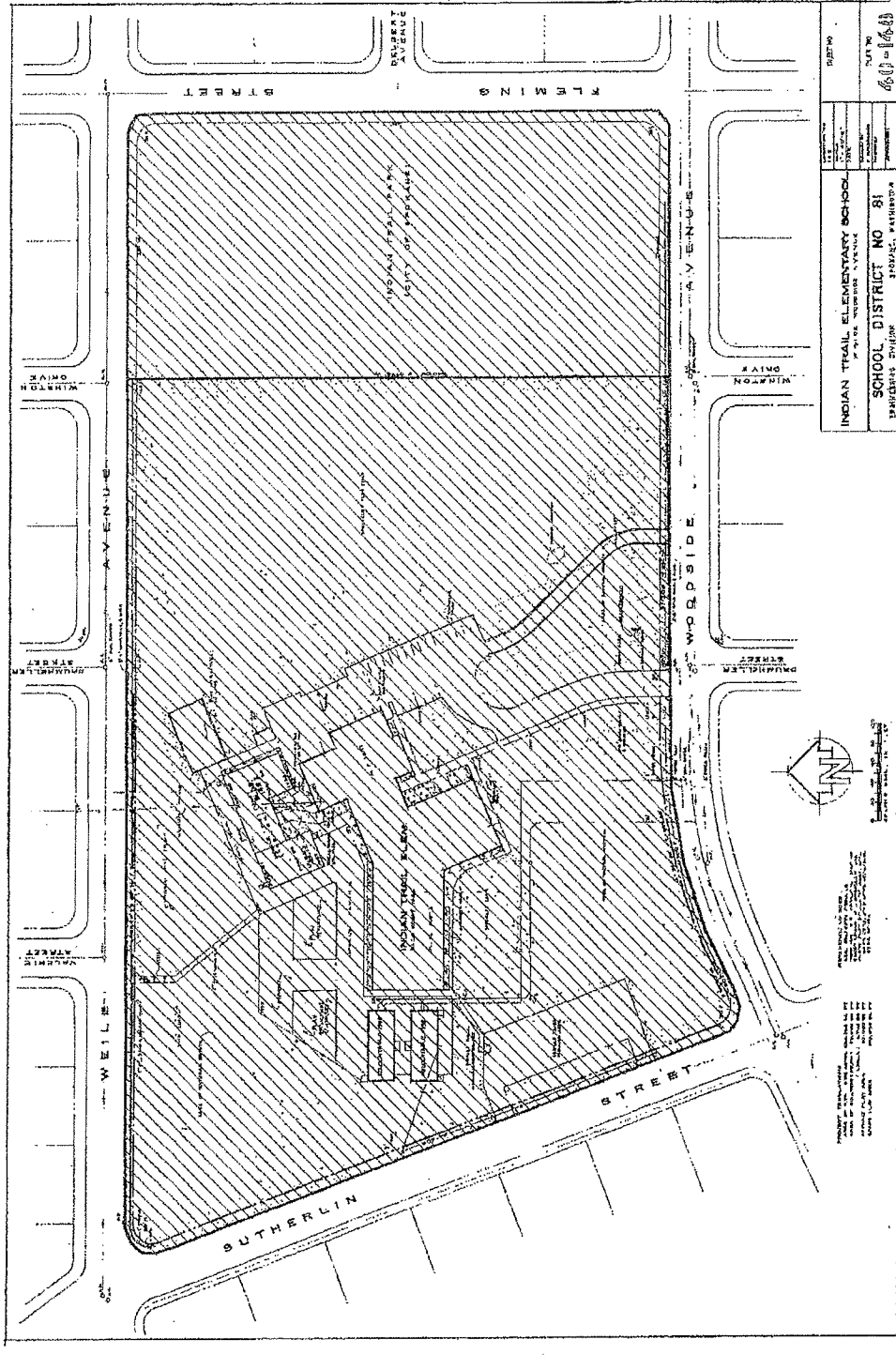
INDIAN TRAIL ELEMENTARY

GREEN AREA

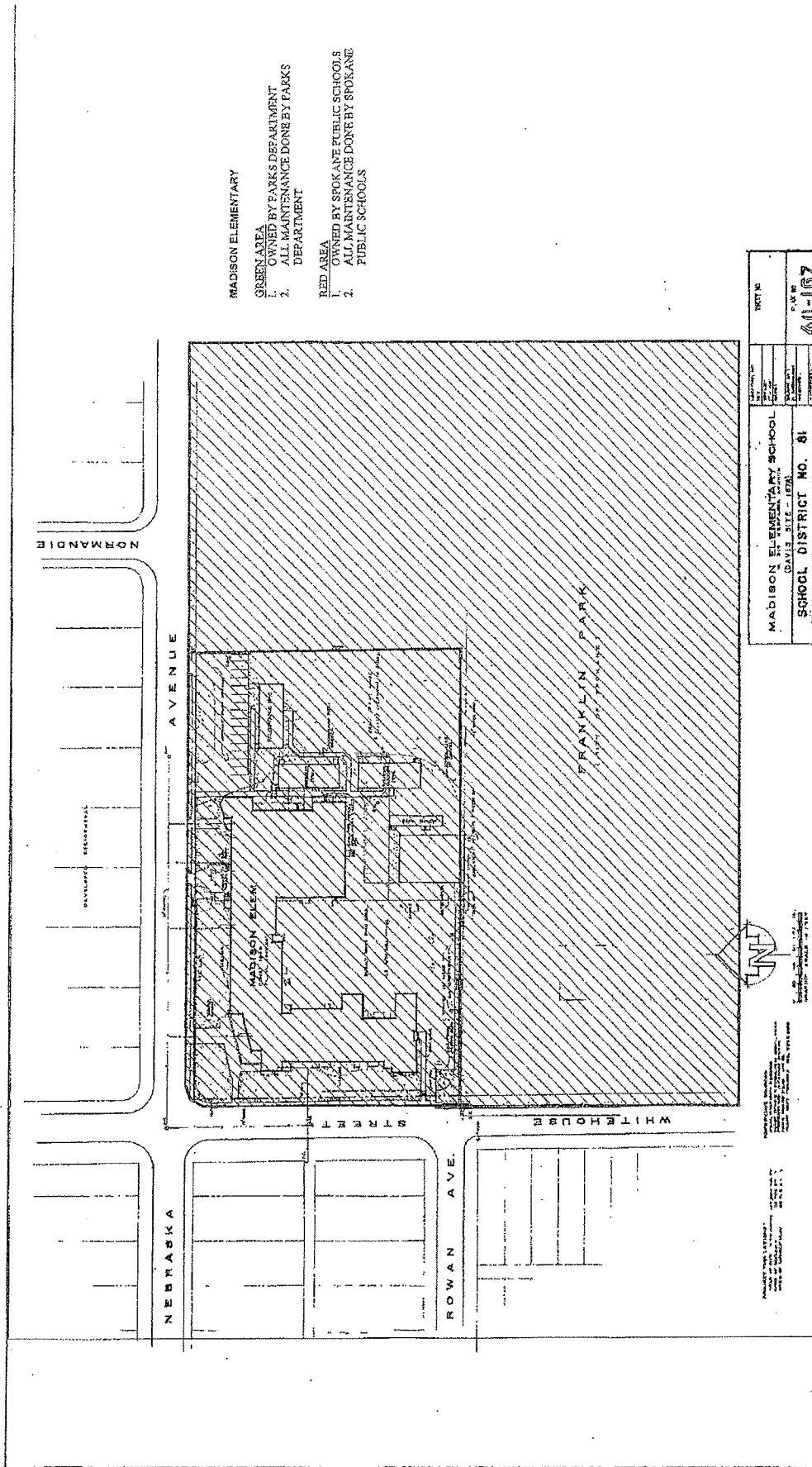
1. OWNED BY PARKS DEPARTMENT
2. ALL MAINTENANCE DONE BY PARKS DEPARTMENT

RED AREA

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS



|                                |                          |            |
|--------------------------------|--------------------------|------------|
| INDIAN TRAIL ELEMENTARY SCHOOL | SCHOOL DISTRICT NO. 81   | 66-1016-13 |
| P. O. BOX 1000000 - SPOKANE    | INDIAN TRAIL DIVISION    |            |
| DATE: 10/1/66                  | BY: [Signature]          |            |
| CHECKED BY: [Signature]        | APPROVED BY: [Signature] |            |



**MADISON ELEMENTARY**

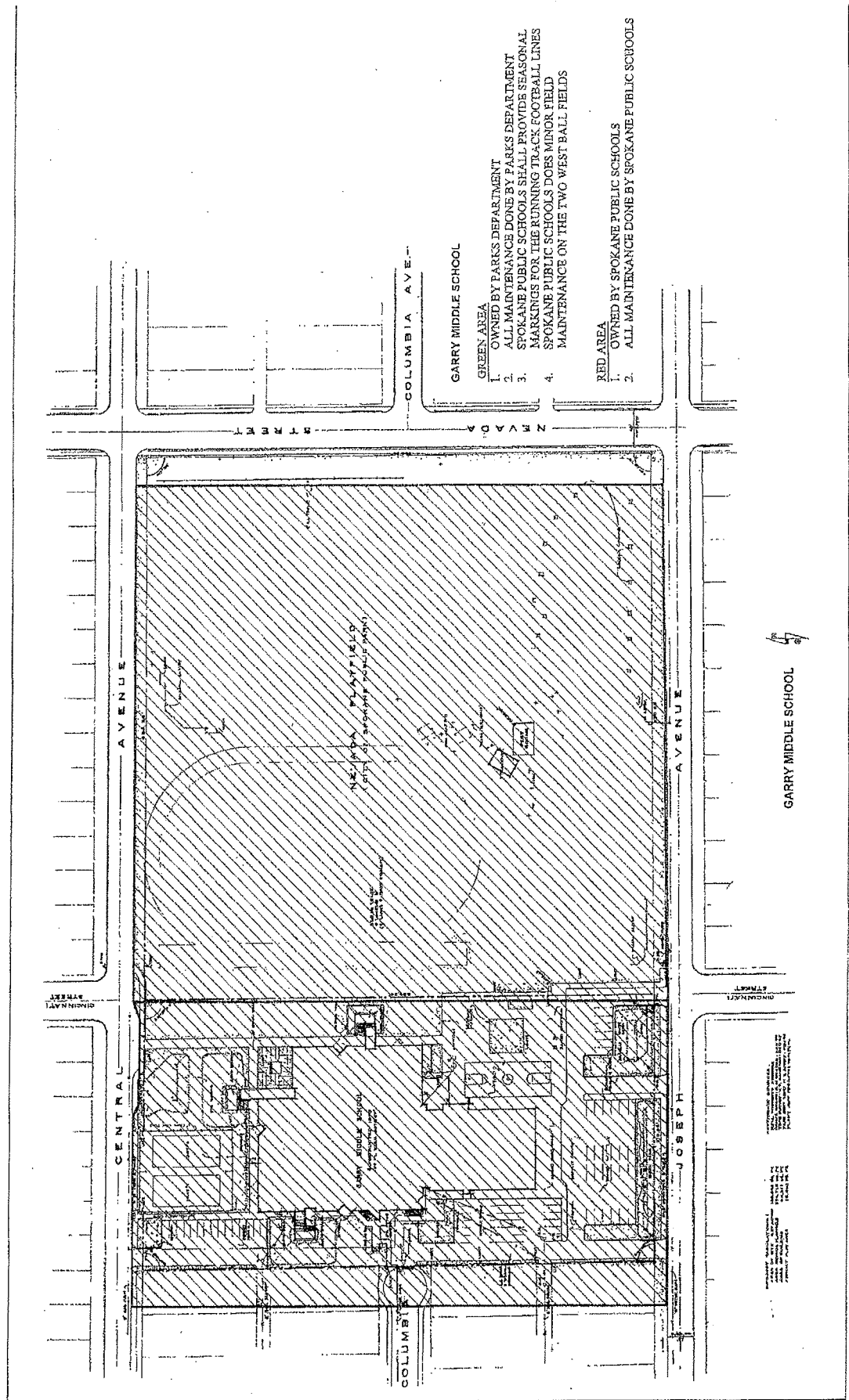
**GREEN AREA**

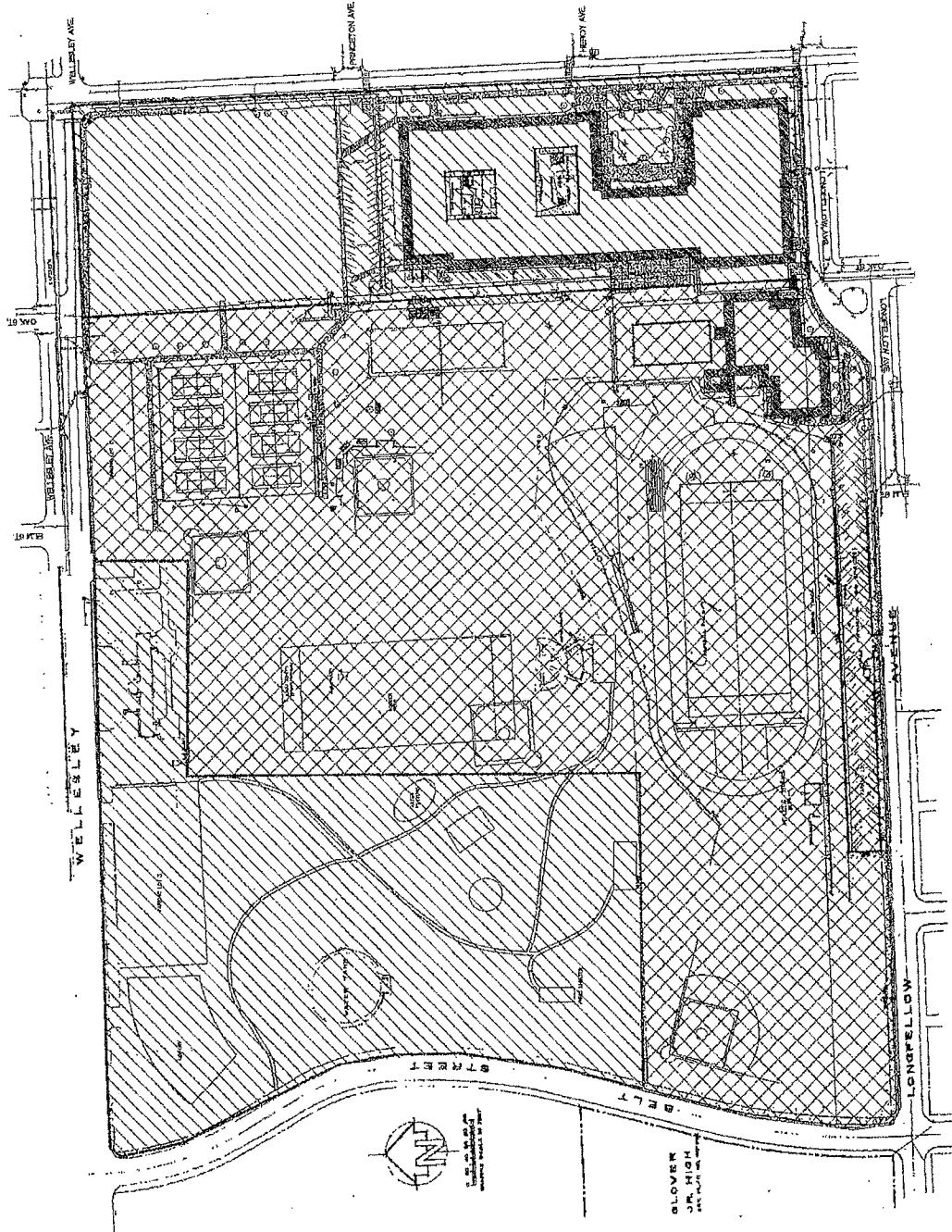
1. OWNED BY PARKS DEPARTMENT
2. ALL MAINTENANCE DONE BY PARKS DEPARTMENT

**RED AREA**

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS

|                           |          |                        |        |
|---------------------------|----------|------------------------|--------|
| MADISON ELEMENTARY SCHOOL |          | SCHOOL DISTRICT NO. 61 |        |
| DAVIS HILL - IZEA         |          | SPokane, Idaho         |        |
| DATE                      | 10-15-17 | BY                     | 60-157 |
| PROJECT NO.               |          | DATE                   |        |
| SCALE                     |          | BY                     |        |
| DESIGNED BY               |          | CHECKED BY             |        |
| DRAWN BY                  |          | APPROVED BY            |        |
| CONTRACT NO.              |          |                        |        |





# SHADLE PARK HIGH SCHOOL

## GREEN AREA

1. OWNED BY PARKS DEPARTMENT
2. ALL MAINTENANCE DONE BY PARKS DEPARTMENT

## RED / GREEN AREA

1. LEASED FROM PARKS DEPARTMENT
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS

## RED AREA

1. OWNED BY SPOKANE PUBLIC SCHOOLS
2. ALL MAINTENANCE DONE BY SPOKANE PUBLIC SCHOOLS

SHADLE PARK HIGH SCHOOL



# Joint Use Agreement



**INTERLOCAL AGREEMENT BETWEEN  
SPOKANE PUBLIC SCHOOLS AND  
SPOKANE PUBLIC LIBRARY  
REGARDING JOINT USE OF FACILITIES**

1. **Parties.** This Agreement is entered into by and between Spokane Public Schools, legally referenced as Spokane School District No. 81 ("District"), a Washington state municipal corporation, whose address is 200 North Bernard Street, Spokane, WA 99201, and the Spokane Public Library ("Library"), a public library operating under Chapter 27.12 RCW, whose address is 906 West Main Avenue, Spokane, WA 99201.

2. **Authority and Purpose.** The Revised Code of Washington, Chapter 39.34, recognizes and authorizes local government units to make agreements for joint performance of functions and activities which they have the authority to perform.

The intent of this Agreement is to promote maximum public utilization of public facilities and grounds owned by the Library and District within the ability of their available budgets and legal restrictions in order to best accommodate their respective activity programs and for provision of adequate facilities for the leisure, enrichment and well-being of the community; thus minimizing the economic waste of providing duplicate land and facilities at the expense of the common taxpayer.

This purpose includes coordinated planning for new acquisitions and facilities, particularly in the area of schools and libraries.

3. **Administration.** The parties acknowledge that regular ongoing communication is vital to the success of the collaboration and administration of this Agreement. This joint undertaking shall be conducted by the parties according to the terms of this Agreement and jointly administered by the District Superintendent or designee and the Library Executive Director or designee. The following joint meetings of the parties shall occur throughout the term of this Agreement:

3.1 **Meetings.** District and Library staff involved with the direct provision of services will meet a minimum of three times a year, in person, to address issues regarding delivery of services under this Agreement.

3.2 **Coordinator of Services.** Each party hereby designates the following persons to be its Coordinator of Services:

**District:** Associate Superintendent, School Support Services (509-354-7272)

**City:** Library Executive Director (509-444-5305)

The parties agree that Coordinator of Staff duties can be delegated to staff by notice in writing to the other party.

4. **Duration.** This Agreement shall remain in force upon execution and filing through August 31, 2119, with automatic annual renewals thereafter from September 1st through August 31st unless terminated earlier as provided for in Section 11 below.

5. **Definitions.**

- 5.1 **"Schools"** shall mean all district schools and facilities.
- 5.2 **"Library Facilities"** shall mean those open spaces and facilities operated by the Library.
- 5.3 **"Class I Organization Sanctioned School Sponsored Activities"** shall mean those activities defined in Section III.2.a., School District Procedure 4260 as now or hereafter amended. Current Policy/Procedure 4260 (Use of School Facilities) is available on the district website at [www.spokaneschools.org](http://www.spokaneschools.org)
- 5.4 **"Direct Cost"** shall mean costs incurred solely as a result of the other party's specific use of a facility or grounds such as labor, supervision or custodial costs, equipment maintenance costs.
- 5.5 **"District Facilities"** shall refer to both "School Grounds" and "School Buildings".
- 5.6 **"Exhibits"** shall include the following:
- A. Joint Use Scheduling Procedures
  - B. Annual August Meeting Agenda
- 5.7 **"Joint Use Partner"** shall mean any entity that has a reciprocal agreement with either party to this Agreement.
- 5.8 **"School Buildings"** shall refer to the physical school building including the gyms, the multi-purpose rooms, the classrooms, libraries, auditoriums, conference rooms, kitchens and cafeterias.
- 5.9 **"School Grounds"** shall refer to grounds and playfields owned by the District.

6. **Priority of Use.**

- 6.1 **First Priority Use.** The Property owner has first priority for scheduling their facilities.
- 6.2 **Second Priority Use.** Second priority is given to the joint use partner under this agreement as described in **Exhibit A and B.**
- 6.3 **Limitation.** Each entity reserves the right to limit Joint Use to no more than fifty percent (50%) of an area (e.g., room or field) at any given facility per week. Specific time adjustments may be made by mutual agreement of the parties. Late submissions of requests may result in denial of such requests.
- 6.4 **Third and Lower Priority Use.** Shall be at the discretion of the entity.

7. **Use of Facilities.**

- 7.1 **Usage and Facility Availability.** District Facilities available for use are primarily elementary and middle schools. High school buildings and grounds and use of administrative

sites may be available, but availability is limited. School sites are not available for use during the school day. Library facility usage will be available during library operating hours.

## **7.2 Scheduling.**

**7.2.1 Scheduling of School Buildings.** Scheduling shall be in accordance with the details identified in **Exhibit A**: "Schools/Library Scheduling Procedures" as mutually agreed upon between the parties. Site approval is needed for scheduling high school gyms, multi-purpose rooms and auditoriums. Nutrition Services approval is required for use of SPS kitchens.

**7.2.2 Scheduling Fields and Other Facilities.** Scheduling shall be in accordance with the details identified in **Exhibit A and B** as mutually agreed upon between the parties.

**7.2.3 Non-school Day and Holiday Use.** Either party can request use of the other party's facilities for non-school days and holiday use in the same manner as above providing the user shall pay all Direct Costs incurred by the facility owner.

**7.2.4 Cancellation.** Either party will provide minimum notice as provided for in **Exhibit A**. Alternate sites will be provided as available. If no alternate site is available, the cancelled party will be afforded a make-up day.

## **8. Rights and Responsibilities of Both Parties.**

**8.1 Compliance with Rules and Laws.** The parties shall comply with all applicable laws, ordinances and regulations as well as applicable local policies and procedures. The District is a tobacco free, drug free, and weapon free environment. Employees, patrons and agents of the parties who use or participate in activities pursuant to this Agreement shall conform to the policies applicable to the host party at all times.

## **8.2 Supervision and Inspection.**

**8.2.1** With regard to any programs or activities engaged in under this Agreement, neither party shall have supervisory responsibility over the other party's programs, activities, employees, agents, representatives, volunteers, guests, licensees, invitees. Any party has the right to withhold use of facilities under this Agreement until that party is provided a written statement to its satisfaction designating who is supervising a program or activity along with the details of supervision for a program or activity.

**8.2.2** Each party is solely responsible for inspecting the other party's facilities or property prior to use to identify any defects or hazards therein or thereupon which may render the facilities or property not reasonably safe for the intended use. Upon identifying any such unsafe defects or hazards, the party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party and are removed, repaired, or otherwise made safe by the owning party.

## **8.3 Fees, Maintenance and Custodial Service.**

**8.3.1** No fees except for Direct Costs shall be charged the other party for use of District and Library Facilities.

**8.3.2** Routine maintenance of the properties shall be the responsibility of the owning party.

**8.3.3** Custodial services shall be provided by the owner of the facility, except in instances where other specific arrangements are agreed to in writing. Maintenance and custodial costs shall be borne by using party only when such maintenance involves extra costs to the owning party.

**8.4** **Utilities.** The party owning the facility shall furnish all necessary utilities.

**8.5** **Equipment and Supplies.**

**8.5.1** The equipment used during and for all programs and activities conducted under the terms of this Agreement shall, for the most part, be furnished by the party who owns the property, except consumable equipment and supplies shall be provided by the using party. District-owned or City-owned equipment which is not easily moved may be used by the using party. The using party shall be responsible for any damage to the equipment (other than normal wear and tear) and shall repair or replace the equipment so that it is returned to a condition as good as or better than the condition prior to damage.

**8.5.2** Regardless of which party has furnished equipment or supplies, the using party shall be solely responsible for inspecting all such equipment and supplies prior to usage and is solely responsible for assuring that the equipment and supplies are in reasonably safe condition and appropriate for intended use.

**8.5.3** The using party is solely responsible for inspecting the other party's facilities or real property to identify any defects or hazards therein or thereupon which may render the facilities or real property not reasonably safe for the using party's intended usage. Upon identifying any such unreasonably unsafe defects or hazards, the using party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party by the using party, and are removed, repaired, or otherwise made safe by the owning party.

**8.6** **Manner of Financing, Budgeting, and Billing.** One objective of this Agreement is to minimize billings and rental agreements between the parties; however, if it is more convenient for the using party to pay incurred cost for specific events/use, that party may do so at its option. The annual cost of such events/use shall be based upon a general rule of 'Direct Cost'. This requires that each party maintain sufficient records to determine the Direct Cost that was incurred by and due to each party's use of facilities during the previous year. Direct Cost shall include direct incremental costs such as labor, supervision, custodial, maintenance, utilities, or a percentage of total use times the total costs. Items such as depreciation, debt retirement, normal wear and tear, and utilities that will occur regardless of use by the other party, may not be included as a cost to the using party. Usages which will create Direct Cost will be identified, costs estimated, and notification given to the user at the time of reservation.

**8.7** **No Dual Employment.** Nothing contained in this Agreement, or related documents shall be construed as creating any form of an employment relationship between the parties, or the agents, officers, volunteers or employees of the parties. The officers, agents, employees or volunteers of each party shall not be entitled to any rights or privileges of employment

with the other party. Each party assumes exclusive responsibility for any and all actions, rights and obligations of its respective officers, agents, employees or volunteers. .

**8.8 Nondiscrimination.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

**8.9 ADA Requirements.** Each party is responsible for its own facilities' compliance with ADA requirements. If the District receives an accommodation request relating to use of a City facility, it will notify the City of the request, and vice versa. The parties will cooperate to respond to and resolve any accessibility complaints.

**8.10 Damage to Property.** When either party to this Agreement shall use, operate, occupy, or have the care, custody, or control of any facility owned by the other party, the party using the facility or grounds shall bear any risk, loss, or damage to the facility or grounds being used up to the amount of damage.

**9. Assignment/Binding Effect.** Performance of any or all aspects of this Agreement may not be assigned without written authorization by all the parties. Likewise, neither party may assign its respective rights to any claims or actions arising out of or relating to this Agreement without written authorization.

**10. Integration/Modification/Supersession.** This Agreement constitutes the entire and exclusive agreement between the parties regarding this matter and no deviations from its terms shall be allowed unless a formal, written, mutual amendment occurs between the parties. No modification of this Agreement shall be valid unless the written modification is first provided via certified mail or personal delivery to each of the parties listed in Section 12.3 of this Agreement. Actual receipt by either party constitutes compliance with the requirement to send by certified mail or personal delivery.

**11. Termination/Written Notice.**

**11.1 Termination Notice.** This Agreement may be terminated with one hundred eight (180) days written notice by either party for a material breach of this Agreement. In its written notice of termination, the terminating party shall provide the basis for the material breach. The non-terminating party shall have the opportunity to rectify the material breach within the 180 day time period. The parties shall engage in the mandatory dispute resolution provision in Section 12 of this Agreement prior to termination of the Agreement.

**11.2 Recipients of Termination Notices.** Notice shall be sent to the parties as follows:

District: Office of School Support Services  
Associate Superintendent, School Support Services  
Spokane Public Schools  
200 North Bernard Street  
Spokane, WA 99201-0282

Library: City of Spokane Public Library  
Executive Director  
906 W Main Ave  
Spokane, WA 99211

**11.3 Financial Crisis.** In the event of a financial crisis, declared by resolution of the governing body of either party, that party reserves the right to terminate this Agreement upon one hundred eighty (180) days notice to the other

**12. Mandatory Dispute Resolution.** In the event that a dispute shall arise regarding the terms, conditions, or breach of this Agreement, the parties shall, as a condition precedent to taking any action mediate the dispute using the services of a mutually agreed upon independent mediator. The parties shall equally split the expenses of the mediator and the facility for the mediation. Each party shall otherwise pay its own expenses.

**13. Governing Law/Venue.** The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of this Agreement, the venue of such action shall be in Spokane County, Washington.

**14. Authority to Sign and Obligate.** The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the parties.

**15. Effective Date of Agreement.**

This Agreement shall not become effective unless and until it is properly executed by the parties and all filing requirements are met.

**16. RCW 39.34 Required Clauses.**

**16.1 Purpose.** See Section 2 above.

**16.2 Duration.** See Section 4 above.

**16.3 Organization of Separate Entity and Its Powers.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

**16.4 Administration.** See Section 3 above.

**16.5 Responsibilities.** See provisions above.

**16.6 Agreement to be Filed.** The Library shall file this Agreement with its City Clerk and file it with the Spokane County Auditor or place it on its web site or other electronically retrievable public source in accordance with state law. The District shall file this Agreement with its Secretary and file it with the Spokane County Auditor or place it on its web site or other electronically retrievable public source.

**16.7 Financing.** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

**16.8 Termination.** See Section 11 above.

**16.9 Property Upon Termination.** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of the Agreement. Jointly acquired property shall be divided in proportion to the percentage share of each party contributing to its acquisition.

**SPOKANE PUBLIC SCHOOLS**

Linda McDermott

Dr. Linda McDermott  
Associate Superintendent, School Support Services

7/17/2019  
Date

**CITY OF SPOKANE LIBRARY**

Andrew Chanse

Andrew Chanse  
Executive Director

7.16.19  
Date

Attest:

Lynn H. Harte  
City Clerk

Approved as to form:

Michael J. Piroch  
Assistant City Attorney





## **EXHIBIT A**

### **Spokane Public Schools (SPS) City of Spokane Library (Library) Joint Use of Facilities Scheduling Procedures**

#### **I. SPS/Library Joint Use Agreement**

The SPS/Library Joint Use agreement is a partnership between SPS and Library to allow reciprocal use of facilities owned by both parties.

#### **II. Authorization Protocol**

- a. Library Executive Director or designated staff are authorized to make requests on behalf of Library or approve requests.
- b. SPS staff authorized to make requests on behalf of SPS or approve requests from Library are the Event Services Team or designated staff.

#### **III. SPS and Library Facilities & Availability**

- a. Property owner has first priority for scheduling their facilities. Second priority is given to the joint use partner under this agreement.
- b. School facility use is limited to administrative sites during school days.
- c. *During the academic school year*, sites having Express After-School Child Care programs are available at 6:15 pm in the multipurpose rooms and 6:00 pm in the gyms (if the gym and multipurpose room are separate from each other.) All other sites are available at 5:15 pm. Express site information is available online at:
- d. The latest that an activity at an SPS Facility can be scheduled to end is 9:30pm unless otherwise approved by SPS Event Services. The latest that an activity can be scheduled at an Library Facility is the regular scheduled closed unless approved by Library Executive Director or designee.
- e. Library may request building use on a non-student day however use may be limited to custodial staffing hours. If the event is outside of regular custodial hours direct costs will apply. In general, custodial coverage is available until 3 pm on non-student days; after 3 pm on non-student days a fee for custodial services is charged.

#### **IV. Required Time Line**

There will be a required annual meeting no later than the first week of August to establish deadlines for the year. An agenda with required topics is included as Exhibit C.

#### **V. Facility Use Cancellations or Changes**

- a. Cancellation and changes of scheduled events must be communicated to the facility owner at least three (3) working days prior to the event.
- b. In the event of a scheduling conflict, the facility owner must notify the user and relocate or reschedule the cancelled event. Cancellation for a conflict should be communicated at least five (5) days prior to an event.
- c. For SPS facilities changes to scheduled events shall be submitted through e-mail to the Event Services Team at [eventservices@spokaneschools.org](mailto:eventservices@spokaneschools.org). In the event of a later cancellation a call must be made to Event Services at 354-7167.
- d. For SPL facilities changes to scheduled events shall be submitted through e-mail at [ask@spokanelibrary.org](mailto:ask@spokanelibrary.org). In the event of a later cancellation a call must be made to 444-5300.
- e. If schools are closed due to weather all scheduled usage is cancelled.

**VI. Scheduling**

- a. SPS programs to take priority in SPS facilities and Library programs to take priority in Library facilities.
- b. Use of SPS facilities shall be scheduled through Event Services. Requests should be sent to
- c. Use of Library facilities shall be scheduled through the online scheduling system for use during regular library hours. For use outside of regular hours, use shall be scheduled by submitting an e-mail request to ask@spokanelibrary.org
- d. When scheduling a continuing event, at least one make-up day shall be designated in case of cancellation.

**VII. Fees**

- a. There will be no rental fees between the parties.
- b. There will be charges for direct costs outside of regular custodial hours.
- c. Additional fees for equipment replacement, extraordinary maintenance costs, or other infrequently occurring costs we be funded as mutually agreed upon.

**VIII. Sign-up Process to be Eligible to Use Facilities**

Rules for facility usage must be completed by the requestor prior to the scheduled start date. In order to gain access to facilities instructors/coaches are required to have a copy of their signed documents available while utilizing the facilities. Without these documents instructors/coaches may not be allowed access into the facility.

## **EXHIBIT B**

### **SPL/SPS Annual August Meeting Agenda**

(Meeting to be held no later than the first week of August year)

1. Update contact list
2. Review school calendar
3. Discuss needs of each program and problems solve any challenges
4. Review deadlines for priority submission of schedules
5. Review scheduling details
6. Review rules for use and process for collection of signed rules
7. Review current rate schedules for direct costs
8. Facility/field projects that impact availability
9. Discuss any program changes that may impact other programs
10. Changes to facility/program hours
11. Equipment, maintenance and other needs
12. Discuss any operational changes or concerns
13. Other

**Agenda meeting notes to be distributed to all meeting participants by e-mail and retained as documentation of operating protocols.**

# Joint Use Agreements



**JOINT USE AGREEMENT BETWEEN SPOKANE PUBLIC LIBRARY AND  
CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT  
REGARDING JOINT USE OF FACILITIES**

1. **Parties.** This Agreement is entered into by and between Spokane Public Library ("Library"), a department of the City of Spokane organized under Chapter 27.12 RCW, whose address is 906 West Main Ave. Spokane, WA 99201, and the City of Spokane Parks and Recreation Department of the City of Spokane ("City"), a municipal corporation of the State of Washington, whose address is 808 West Spokane Falls Boulevard, Spokane, WA 99201.
2. **Authority and Purpose.** The intent of this Agreement is to promote maximum public utilization of public facilities and grounds owned by the City and Library within the ability of their available budgets and legal restrictions in order to best accommodate their respective activity programs and for provision of adequate facilities for the leisure, enrichment and well-being of the community; thus minimizing the economic waste of providing duplicate land and facilities at the expense of the taxpayer.

This purpose includes coordinated planning for new acquisitions and facilities, particularly in the area of libraries and parks.

3. **Administration.** The parties acknowledge that regular ongoing communication is vital to the success of the collaboration and administration of this Agreement. This joint undertaking shall be conducted by the parties according to the terms of this Agreement and jointly administered by the Library Executive Director or designee and the Director of Parks and Recreation or designee. The following joint meetings of the parties shall occur throughout the term of this Agreement:
  - 3.1 **Meetings.** Library and City staff involved with the direct provision of services will meet a minimum once a year, in person, to address issues regarding delivery of services under this Agreement.
  - 3.2 **Coordinator of Services.** Each party hereby designates the following persons to be its Coordinator of Services:

**Library:** Executive Director; (509-444-5305)

**City:** Director of Parks and Recreation; (509-625-6204)

The parties agree that Coordinator or Staff duties can be delegated to staff appropriate by notice in writing to the other party.

- 4 **Duration.** This Agreement shall remain in force upon execution and filing through August 31, 2019, with automatic annual renewals thereafter from September 1<sup>st</sup> through August 31<sup>st</sup> unless terminated earlier as provided for in Section 14 below.

5 **Definitions.**

- 5.1 **“Branch Locations”** shall mean libraries which are located adjacent or in close proximity to City park property. The following is a list of ‘Branch Locations’ including but not limited to:

Libraries/Parks

Downtown/Riverfront Park  
Eastside/Liberty Park  
Hillyard/AM Cannon Park  
Shadle/Shadle Park  
Indian Trail/Indian Trail Park  
South Hill/Comstock Park

- 5.2 **“City Facilities”** shall mean those park and recreation open spaces and facilities on City property. Riverfront Park facilities are based on availability and include open spaces, the North Bank and Forestry Shelters. Current policy is available on the City website at [www.spokaneparks.org](http://www.spokaneparks.org).

- 5.3 **“Direct Cost”** shall mean costs incurred solely as a result of the other party’s specific use of a facility or grounds such as labor, supervision or custodial costs, equipment maintenance costs.

- 5.4 **“Library Facilities”** shall refer to both “Library Grounds” and “Library Buildings”.

- 5.5 **“Exhibits”** shall include the following:

- A. Joint Use Scheduling Procedures
- B. SPRD/SPL Annual August Meeting Agenda

- 5.6 **“Joint Use Partner”** shall mean any entity that has a reciprocal agreement with either party to this Agreement.

6 **Priority of Use.**

- 6.1 **First Priority Use.** The Property owner has first priority for scheduling their facilities.

- 6.2 **Second Priority Use.** Second priority is given to the joint use partner under this agreement as described in **Exhibit A.**

6.3 **Limitation.** Each entity reserves the right to limit Joint Use to no more than fifty percent (50%) of an area (e.g., room or open space) at any given facility per week. Specific time adjustments may be made by mutual agreement of the parties. Late submissions of requests may result in denial of such requests.

6.4 **Third and Lower Priority Use.** Shall be at the discretion of the entity.

## **7 Use of Facilities.**

7.1 **Usage and Facility Availability.** Additional details are available in **Exhibit A** to this Agreement.

7.1.1 **Library Facilities** available for use are: spaces at all Spokane Public Libraries, primarily program rooms, class rooms, and conference rooms. Other library spaces (including staff, computer, and collection areas) have limited availability, but can be requested.

7.1.2 **Park Facilities** available for use are: spaces at Spokane Park facilities, including open spaces, playgrounds and picnic shelters.

## **7.2 Scheduling.**

7.2.1 **Scheduling of Library Buildings and Park Facilities.** Scheduling shall be in accordance with the details identified in **Exhibit A**: "Library/Park & Recreation Scheduling Procedures" as mutually agreed upon between the parties.

7.2.2 **Cancellation.** Either party will provide a minimum of 5 days' notice of any cancellation. Alternate sites will be offered as available. If no alternate site is available, the cancelled party will be afforded a make-up day.

7.2.3 **Play Equipment Availability.** Play equipment on parks adjacent to Libraries will be available to the public except when the Library desires exclusive use. When exclusive use is desired, the Library shall either post notice of the Library's exclusive use in the Park or otherwise provide notice to the public of the Library's exclusive use in coordination with the designated SPRD staff member.

## **8 Rights and Responsibilities of Both Parties.**

8.1 **Compliance with Rules and Laws.** The parties shall comply with all applicable laws, ordinances and regulations as well as applicable local policies and procedures. Employees, patrons and agents of the parties who use or participate in activities pursuant to this Agreement shall conform to the policies applicable to the host party at all times.

8.2 **Supervision and Inspection.**

8.2.1 With regard to any programs or activities engaged in under this Agreement, neither party shall have supervisory responsibility over the other party's programs, activities, employees, agents, representatives, volunteers, guests, licensees, invitees. Any party has the right to withhold use of facilities under this Agreement until that party is provided a written statement to its satisfaction designating who is supervising a program or activity along with the details of supervision for a program or activity.

8.2.2 Each party is solely responsible for inspecting the other party's facilities or property prior to use to identify any defects or hazards therein or thereupon which may render the facilities or property not reasonably safe for the intended use. Upon identifying any such unsafe defects or hazards, the party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party and are removed, repaired, or otherwise made safe by the owning party.

8.3 **Fees, Maintenance and Custodial Service.**

8.3.1 No fees except for Direct Costs shall be charged the other party for use of Library or City Facilities.

8.3.2 Routine maintenance of the properties shall be the responsibility of the owning party. In no circumstances shall any entity other than the equipment owner or owner's vendor make repairs or alterations to the owning party's equipment.

8.3.3 Custodial services shall be provided by the owner of the facility, except in instances where other specific arrangements are agreed to in writing. Maintenance and custodial costs shall be borne by using party only when such maintenance involves extra costs to the owning party.

8.4 **Utilities.** The party owning the facility shall furnish all necessary utilities.

8.5 **Equipment and Supplies.**

8.5.1 The equipment used during and for all programs and activities conducted under the terms of this Agreement shall, for the most part, be furnished by the party who owns the property, except consumable equipment and supplies shall be provided by the using party. Library-owned or City-owned equipment which is not easily moved may be used by the using party. The using party shall be responsible for any damage to the equipment (other than normal wear and tear) and shall repair or replace the equipment so that it is



returned to a condition as good as or better than the condition prior to damage.

8.5.2 Regardless of which party has furnished equipment or supplies, the using party shall be solely responsible for inspecting all such equipment and supplies prior to usage and is solely responsible for assuring that the equipment and supplies are in reasonably safe condition and appropriate for intended use.

8.5.3 The using party is solely responsible for inspecting the other party's facilities or real property to identify any defects or hazards therein or thereupon which may render the facilities or real property not reasonably safe for the using party's intended usage. Upon identifying any such unreasonably unsafe defects or hazards, the using party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party by the using party, and are removed, repaired, or otherwise made safe by the owning party.

8.6 **Manner of Financing, Budgeting, and Billing.** One objective of this Agreement is to minimize billings and rental agreements between the parties; however, if it is more convenient for the using party to pay incurred cost for specific events/use, that party may do so at its option. The annual cost of such events/use shall be based upon a general rule of 'Direct Cost'. This requires that each party maintain sufficient records to determine the Direct Cost that was incurred by and due to each party's use of facilities during the previous year. Direct Cost shall include direct incremental costs such as labor, supervision, custodial, maintenance, utilities, or a percentage of total use times the total costs. Items such as depreciation, debt retirement, normal wear and tear, and utilities that will occur regardless of use by the other party, may not be included as a cost to the using party. Usages which will create Direct Cost will be identified, costs estimated, and notification given to the user at the time of reservation.

8.7 **Background Checks.** The City and the Library will comply with the requirements of RCW 43.43.830 requiring background checks for any prospective employee or volunteer who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of the prospective employee's employment or volunteer opportunity. Both parties will use their best efforts to assure that no employee or volunteer with an adverse conviction record will or may have access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of the employment or volunteer activity. Any failure to comply with this section shall be grounds for immediate termination of this Agreement and immediate termination of any use of facilities by the other party or its agents.

8.8 **No Dual Employment.** Nothing contained in this Agreement, or related documents shall be construed as creating any form of an employment relationship between the parties, or the agents, officers, volunteers or employees of the parties. The officers, agents, employees or volunteers of each party shall not be entitled to any rights or

privileges of employment with the other party. Each party assumes exclusive responsibility for any and all actions, rights and obligations of its respective officers, agents, employees or volunteers. Each party's employees and students do not, by this Agreement, become agents or employees of the other party, and shall not be entitled to any rights and privileges established for employees of the other party, such as vacation, sick leave with pay, paid days off, life, accident and health insurance or severance pay upon termination of this Agreement.

- 8.9 **Nondiscrimination.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.
- 8.10 **ADA Requirements.** Each party is responsible for its own facilities' compliance with ADA requirements. If the Library receives an accommodation request relating to use of a City facility, it will notify the City of the request, and vice versa. The parties will cooperate to respond to and resolve any accessibility issues.
- 8.11 **Damage to Property.** When either party to this Agreement shall use, operate, occupy, or have the care, custody, or control of any facility owned by the other party, the party using the facility or grounds shall bear any risk, loss, or damage to the facility or grounds being used up to the amount of damage.
- 9 **Assignment/Binding Effect.** Performance of any or all aspects of this Agreement may not be assigned without written authorization by all the parties. Likewise, neither party may assign its respective rights to any claims or actions arising out of or relating to this Agreement without written authorization.
- 10 **Integration/Modification/Supersession.** This Agreement constitutes the entire and exclusive agreement between the parties regarding this matter and no deviations from its terms shall be allowed unless a formal, written, mutual amendment occurs between the parties. No modification of this Agreement shall be valid unless the written modification is first provided via certified mail or personal delivery to each of the parties listed in Section 12.3 of this Agreement. Actual receipt by either party constitutes compliance with the requirement to send by certified mail or personal delivery.
- 11 **Indemnification/Hold Harmless/Duty to Defend.** Each party to this Agreement is responsible for its own acts and omissions of its officers, employees, and agents. Each party agrees to defend, indemnify, and hold the other party harmless from and against any claim, demand, suit, or cause of action, (hereafter "claim"), that may be asserted against the indemnitee, if and to the extent the claim against the indemnitee is based on the actual or alleged fault of the indemnitor and relates to the subject matter of the performance of this Agreement. This indemnification obligation applies to all costs of investigation, reasonable attorney fees, litigation expenses, settlement, and judgment. Where claims are asserted against both of the parties based on actual or alleged concurrent or shared fault of the parties, a party

shall not be required to indemnify the other party for that party's own proportionate share of fault. Reasonable attorney fees and litigation expenses incurred by a party in successfully enforcing the indemnification provisions of this section shall be paid by the party against whom the provision was enforced. The parties agree that these indemnification obligations shall apply to claims made by their own employees against an indemnitee, and the parties therefore knowingly and expressly waive any immunity that they otherwise might have been entitled to invoke under Title 51 RCW.

- 12 **Insurance.** During the term of this Agreement, each party shall maintain in force at its own expense, the following insurance:

12.1 Workers' Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability or Stop Gap Insurance.

12.2 General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include premises and operations, independent contractors, products and completed operations, personal injury liability, and contractual liability coverage for the indemnity provided under this contract.

12.3 There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the cancelling party or its insurer(s) to the non-cancelling party.

12.4 In lieu of the above cited insurance, either party may provide documentation demonstrating its self-insured status

- 13 **Amendment.** This Agreement may be amended only by mutual written agreement signed by authorized officials and not by course of performance

14 **Termination/Written Notice.**

14.1 **Termination.** This Agreement may be terminated with one hundred eight (180) days written notice by either party for a material breach of this Agreement. In its written notice of termination, the terminating party shall provide the basis for the material breach within the 180 day time period. The non-terminating party shall have the opportunity to rectify the material breach within the 180 day time period. The parties shall engage in the mandatory dispute resolution provision in Section 16 of this Agreements prior to termination of the Agreement.

14.2 **Recipients of Termination Notices.** Notice shall be sent to the parties as follows:


**Library:** Spokane Public Library  
Executive Director  
906 W Main Ave,

Spokane, WA 99201

**City:** Spokane Parks and Recreation Department – City Hall  
Parks and Recreation Director  
808 West Spokane Falls Boulevard  
Spokane, WA 99201-3317

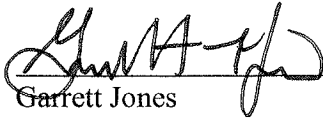
- 14.3 **Shared Facilities Disposition.** In the event of cancellation of this Agreement, the parties shall agree to negotiate in good faith for the use of shared facilities or facilities in which the party has invested.
- 15 **Financial Crisis.** In the event of a financial crisis, declared by resolution of the governing body of either party, that party reserved the right to terminate this Agreement upon one hundred eighty (180) day notice to the other party.
- 16 **Mandatory Dispute Resolution.** In the event that a dispute shall arise regarding the terms, conditions, or breach of this Agreement, the parties shall as a condition precedent to taking any action, mediate the dispute using the services of a mutually agreed upon independent mediator. The parties shall equally split the expenses of the mediator and the facility for the mediation. Each party shall otherwise pay its own expenses.
- 17 **Governing Law/Venue.** The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of this Agreement, the venue of such action shall be in Spokane County, Washington.
- 18 **Related Agreements.** This Joint Use Agreement does not supersede any other use agreement between the parties and to the extent this agreement conflicts with other pre-existing agreements the other agreements shall prevail.
- 19 **Authority to Sign and Obligate.** The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the parties.
- 20 **Effective Date of Agreement.** This Agreement shall not become effective unless and until it is properly executed by the parties.
- 21 **Organization of Separate Entity and Its Powers.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

**SPOKANE PUBLIC LIBRARY:**

  
\_\_\_\_\_  
Andrew Chanse  
Executive Director

7.16.19  
Date

**CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT**

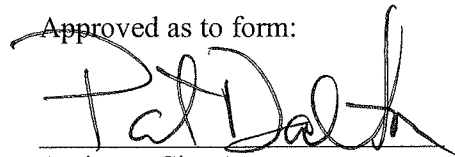
  
\_\_\_\_\_  
Garrett Jones  
Director

07/15/19  
Date

CITY OF SPOKANE

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Assistant City Attorney



## **EXHIBIT A**

### **Spokane Public Library (SPL) Spokane Parks & Recreation Department (SPRD) Joint Use of Facilities Scheduling Procedures**

#### **I. SPL/SPRD Joint Use Agreement**

The SPS/SPRD Joint Use agreement is a partnership between SPS and SPRD to allow reciprocal use of facilities owned by both parties.

#### **II. Authorization Protocol**

- a. SPRD Director of Recreation or designated staff are authorized to make requests on behalf of SPRD or approve requests.
- b. SPL staff authorized to make requests on behalf of SPL or approve requests from SPRD are the Community Engagement Managers or designated staff.

#### **III. SPL and SPRD Facilities & Availability**

- a. Property owner has first priority for scheduling their facilities. Second priority is given to the joint use partner under this agreement.
- b. Activities at an SPL Facility can be scheduled to end up until the location's standard closing time, unless otherwise approved by SPL staff. The latest that an activity can be scheduled at an SPRD Facility is 11:00pm.

#### **IV. Required Time Line**

There will be a required annual meeting no later than the first week of August to establish deadlines for the year if SPRD is planning on utilizing SPL space for programming. An agenda with required topics is included as Exhibit B.

#### **V. Facility Use Cancellations or Changes**

- a. Instructors are responsible for adhering to the Library's Meeting Room Policy which can be found at [www.spokanelibrary.org/meeting-rooms](http://www.spokanelibrary.org/meeting-rooms).
- b. Cancellation and changes of scheduled events must be communicated to the facility owner at least three (3) working days prior to the event.
- c. In the event of a scheduling conflict, the facility owner must notify the user and relocate or reschedule the cancelled event. Cancellation for a conflict should be communicated at least five (5) days prior to an event.
- d. For SPL facilities changes to scheduled events shall be submitted through e-mail at [ask@spokanelibrary.org](mailto:ask@spokanelibrary.org). In the event of a later cancellation a call must be made to 444-5300.
- e. For SPRD facilities changes to scheduled events shall be submitted through e-mail to the scheduler at [parkopsreservations@spokanecity.org](mailto:parkopsreservations@spokanecity.org).
- f. If facilities are closed due to weather all scheduled usage is cancelled.

**VI. Scheduling**

- a. SPL programs to take priority in SPL facilities and SPRD programs to take priority in SPRD facilities.

**VII. Fees.**

- a. There will be no rental fees between the parties.
- b. There will be charges for direct costs outside of regular custodial hours.
- c. Additional fees for equipment replacement, extraordinary maintenance costs, or other infrequently occurring costs we be funded as mutually agreed upon.

**EXHIBIT B**  
**SPRD/SPL Annual August Meeting**  
**Agenda**

Meeting to be held no later than the first week of August each year

1. Update contact list
2. Discuss needs of each program and problems solve any challenges
3. Review deadlines for priority submission of schedules
4. Review scheduling details
5. Review rules for use and process for collection of signed rules
6. Review current rate schedules for direct costs
7. Facility/park projects that may impact availability
8. Discuss any program changes that may impact other programs
9. Changes to facility/program hours
10. Equipment, maintenance and other needs
11. Discuss any operational changes or concerns
12. Other

**Agenda meeting notes to be distributed to all meeting participants by e-mail and retained as documentation of operating protocols.**



# School District & Library Operating Agreement



**INTERLOCAL AGREEMENT BETWEEN  
SPOKANE PUBLIC SCHOOLS AND  
SPOKANE PUBLIC LIBRARY  
OPERATING AGREEMENT**

1. **Parties.** This Agreement is entered into by and between Spokane Public Schools, legally referenced as Spokane School District No. 81 ("District"), a Washington state municipal corporation, whose address is 200 North Bernard Street, Spokane, WA 99201, and the Spokane Public Library ("Library"), a public library operating under Chapter 27.12 RCW, whose address is 906 West Main Avenue, Spokane, WA 99201.

2. **Authority and Purpose.** The Revised Code of Washington, Chapter 39.34, recognizes and authorizes local government units to make agreements for joint performance of functions and activities which they have the authority to perform.

The intent of this Agreement is to promote maximum public utilization of public facilities and grounds owned by the Library and District within the ability of their available budgets and legal restrictions in order to best accommodate their respective activity programs and for provision of adequate facilities for the leisure, enrichment and well-being of the community; thus minimizing the economic waste of providing duplicate land and facilities at the expense of the common taxpayer.

This Agreement clarifies the responsibilities and obligations of each party for sites with regularly scheduled ongoing use by the other party.

This purpose includes coordinated planning for new acquisitions and facilities, particularly in the area of schools and libraries. Each party will be constructing or renovating their respective shared facilities and developing programs and services. The coordinated planning between the parties for the shared facilities and the development of the programs and services will result in subsequent amendments to this Agreement to provide further provisions for the shared use of these facilities.

3. **Administration.** The parties acknowledge that regular ongoing communication is vital to the success of the collaboration and administration of this Agreement. This joint undertaking shall be conducted by the parties according to the terms of this Agreement and jointly administered by the District Superintendent or designee and the Library Executive Director or designee. The following joint meetings of the parties shall occur throughout the term of this Agreement:

3.1 **Meetings.** District and Library staff involved with the direct provision of services will meet a minimum of three times a year, in person, to address issues regarding delivery of services under this Agreement.

3.2 **Coordinator of Services.** Each party hereby designates the following persons to be its Coordinator of Services:

District: Associate Superintendent, School Support Services (509-354 7272)

City: Library Executive Director (509-444-5305)

The parties agree that Coordinator of Staff duties can be delegated to staff by notice in writing to the other party.

4. **Duration.** This Agreement shall remain in force upon execution and filing through August 31, 2024, with automatic annual renewals thereafter from September 1st through August 31st unless terminated earlier as provided for in Paragraph 13 below.

5. **Definitions.**

5.1 **Ownership.** Title to property.

5.2 **Construction.** The project design, project management and all costs and liability associated with construction of a facility.

5.3 **Shared Facilities.** Facilities that are accessed under this agreement. Facilities that have long term use of dedicated space, much like a leased space.

5.3.1 Library facilities include but are not limited to:

5.3.1.1 Sprague Branch, known as "The Hive"

5.3.1.2 Shadle Park Branch

5.3.2 School facilities include but are not limited to:

5.3.2.1 Shaw Middle School

5.4 **Shared Maintenance and Operation Costs.** Ongoing operational costs for regularly scheduled usage on a long-term basis of a facility. Shared costs include but are not limited to custodial, maintenance, consumables and equipment.

5.5 **Joint Use.** One time or limited period of usages scheduled and accessed under separate agreement, Interlocal Agreement Between Spokane Public Schools and Spokane Public Library Regarding Joint Use of Facilities.

6. **Facility Construction and Ownership.**

6.1 Facility ownership will be retained by each parting possessing title to the respective property.

6.2 Facility design will be collaborative with each party participating in the design team of the "shared facilities."

6.3 Construction costs will be the obligation of the property owner.

6.4 All costs and liability associated with the construction is the responsibility of the respective owner.

6.5 Each facility shall be equipped with the HVAC and other operating systems that are standard for the owning entity.

6.6 The facility owner shall control the final design and construction, as well as determining the construction schedule.

**7. Facility Operations, Cleaning and Maintenance.**

- 7.1 Routine cleaning is the responsibility of the property owner.
- 7.2 Routine maintenance is the responsibility of the property owner.
- 7.3 Major maintenance projects or other major improvements shall be presented and jointly approved with funding to be determined per Section 3.

**8. Facility Scheduling.** Facility scheduling shall be through each Party's facility scheduling system. See **Exhibit A** for additional detail.

**9. Shared Costs.**

- 9.1 All shared costs shall be reviewed annually at a joint meeting. See Section 3.
- 9.2 Incremental costs resulting from use under this agreement shall be estimated annually with the cost sharing agreed upon by the parties.
- 9.3 Unexpected costs shall be communicated immediately for determination on cost sharing.

**10. Rights and Responsibilities of Both Parties.**

**10.1 Compliance with Rules and Laws.** The parties shall comply with all applicable laws, ordinances and regulations as well as applicable local policies and procedures. The District is a tobacco free, drug free, and weapon free environment. Employees, patrons and agents of the parties who use or participate in activities pursuant to this Agreement shall conform to the policies applicable to the host party at all times.

**10.2 Supervision and Inspection.**

**10.2.1** With regard to any programs or activities engaged in under this Agreement, neither party shall have supervisory responsibility over the other party's programs, activities, employees, agents, representatives, volunteers, guests, licensees, invitees. Any party has the right to withhold use of facilities under this Agreement until that party is provided a written statement to its satisfaction designating who is supervising a program or activity along with the details of supervision for a program or activity.

**10.2.2** Each party is solely responsible for inspecting the other party's facilities or property prior to use to identify any defects or hazards therein or thereupon which may render the facilities or property not reasonably safe for the intended use. Upon identifying any such unsafe defects or hazards, the party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party and are removed, repaired, or otherwise made safe by the owning party.

**10.3 Utilities.** The party owning the facility shall furnish all necessary utilities, including internet access unless otherwise agreed during construction design.

**10.4      Equipment and Supplies.**

**10.4.1** The equipment used during and for all programs and activities conducted under the terms of this Agreement shall, for the most part, be furnished by the party who owns the property, except consumable equipment and supplies shall be provided by the using party. District-owned or City-owned equipment which is not easily moved may be used by the using party. The using party shall be responsible for any damage to the equipment (other than normal wear and tear) and shall repair or replace the equipment so that it is returned to a condition as good as or better than the condition prior to damage.

**10.4.2** Regardless of which party has furnished equipment or supplies, the using party shall be solely responsible for inspecting all such equipment and supplies prior to usage and is solely responsible for assuring that the equipment and supplies are in reasonably safe condition and appropriate for intended use.

**10.4.3** The using party is solely responsible for inspecting the other party's facilities or real property to identify any defects or hazards therein or thereupon which may render the facilities or real property not reasonably safe for the using party's intended usage. Upon identifying any such unreasonably unsafe defects or hazards, the using party shall refrain from using the facilities or real property until the defects or hazards are brought to the attention of the owning party by the using party, and are removed, repaired, or otherwise made safe by the owning party.

**10.5      Manner of Financing, Budgeting, and Billing.** One objective of this Agreement is to minimize billings and rental agreements between the parties; however, if it is more convenient for the using party to pay incurred cost for specific events/use, that party may do so at its option. The annual cost of such events/use shall be based upon a general rule of 'Direct Cost.' This requires that each party maintain sufficient records to determine the Direct Cost that was incurred by and due to each party's use of facilities during the previous year. Direct Cost shall include direct incremental costs such as labor, supervision, custodial, maintenance, utilities, or a percentage of total use times the total costs. Items such as depreciation, debt retirement, normal wear and tear, and utilities that will occur regardless of use by the other party, may not be included as a cost to the using party. Usages which will create Direct Cost will be identified, costs estimated, and notification given to the user at the time of reservation.

**10.6      No Dual Employment.** Nothing contained in this Agreement, or related documents shall be construed as creating any form of an employment relationship between the parties, or the agents, officers, volunteers or employees of the parties. The officers, agents, employees or volunteers of each party shall not be entitled to any rights or privileges of employment with the other party.

**10.7      Nondiscrimination.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age,

sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

**10.8     ADA Requirements.** Each party is responsible for its own facilities' compliance with ADA requirements. If the District receives an accommodation request relating to use of a City facility, it will notify the City of the request, and vice versa. The parties will cooperate to respond to and resolve any accessibility complaints.

**10.9     Damage to Property.** When either party to this Agreement shall use, operate, occupy, or have the care, custody, or control of any facility owned by the other party, the party using the facility or grounds shall bear any risk, loss, or damage to the facility or grounds being used up to the amount of damage.

**11.   Assignment/Binding Effect.** Performance of any or all aspects of this Agreement may not be assigned without written authorization by all the parties. Likewise, neither party may assign its respective rights to any claims or actions arising out of or relating to this Agreement without written authorization.

**12.   Integration/Modification/Supersession.** This Agreement constitutes the entire and exclusive agreement between the parties regarding this matter and no deviations from its terms shall be allowed unless a formal, written, mutual amendment occurs between the parties. No modification of this Agreement shall be valid unless the written modification is first provided via certified mail or personal delivery to each of the parties listed in Section 13.3 of this Agreement. Actual receipt by either party constitutes compliance with the requirement to send by certified mail or personal delivery.

**13.   Termination/Written Notice.**

**13.1     Termination Notice.** This Agreement may be terminated with one hundred eight (180) days written notice by either party for a material breach of this Agreement. In its written notice of termination, the terminating party shall provide the basis for the material breach. The non-terminating party shall have the opportunity to rectify the material breach within the 180 day time period. The parties shall engage in the mandatory dispute resolution provision in Section 14 of this Agreement prior to termination of the Agreement.

**13.2     Recipients of Termination Notices.** Notice shall be sent to the parties as follows:

District:            Office of School Support Services  
Associate Superintendent, School Support Services  
Spokane Public Schools  
200 North Bernard Street  
Spokane, WA 99201-0282

Library:            Spokane Public Library  
Executive Director  
906 W Main Ave  
Spokane, WA 99211

13.3     **Shared Facilities Disposition.** In the event of cancellation of this Agreement, the parties shall agree to negotiate in good faith for the use of shared facilities or facilities in which the party has invested.

13.4     **Financial Crisis.** In the event of a financial crisis, declared by resolution of the governing body of either party, that party reserves the right to terminate this Agreement upon one hundred eighty (180) days notice to the other party.

14.     **Mandatory Dispute Resolution.** In the event that a dispute shall arise regarding the terms, conditions, or breach of this Agreement, the parties shall, as a condition precedent to taking any action mediate the dispute using the services of a mutually agreed upon independent mediator. The parties shall equally split the expenses of the mediator and the facility for the mediation. Each party shall otherwise pay its own expenses.

15.     **Governing Law/Venue.** The terms of this Agreement shall be governed by the laws of the State of Washington. In the event that legal action is commenced to resolve a dispute arising out of this Agreement, the venue of such action shall be in Spokane County, Washington.

16.     **Authority to Sign and Obligate.** The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the parties.

17.     **Effective Date of Agreement.** This Agreement shall not become effective unless and until it is properly executed by the parties and all filing requirements are met.

18.     **RCW 39.34 Required Clauses.**

18.1     **Purpose.** See Section 2 above.

18.2     **Duration.** See Section 4 above.

18.3     **Organization of Separate Entity and Its Powers.** No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

18.4     **Administration.** See Section 3 above.

18.5     **Responsibilities.** See provisions above.

18.6     **Agreement to be Filed.** The Library shall file this Agreement with its City Clerk or place it on its web site or other electronically retrievable public source in accordance with state law. The District shall file this Agreement with its Secretary or place it on its web site or other electronically retrievable public source.

18.7     **Financing.** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

18.8     **Termination.** See Section 13 above.

18.9     **Property Upon Termination.** Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon

termination of the Agreement. Jointly acquired property shall be divided in proportion to the percentage share of each party contributing to its acquisition.

**SPOKANE PUBLIC SCHOOLS**

Linda McDermott  
Dr. Linda McDermott  
Associate Superintendent, School Support Services

7/17/2019  
Date

**SPOKANE PUBLIC LIBRARY**

Andrew Chanse  
Andrew Chanse  
Executive Director

7.16.19  
Date

Attest:

Kim Hefte  
City Clerk

Approve as to form:

Michael P. Pardo  
Assistant City Attorney





## **EXHIBIT A**

### **Spokane Public Schools (SPS) Spokane Public Library (Library) Joint Use of Facilities Scheduling Procedures**

#### **I. SPS/Library Scheduling Procedures for Long-Term Use**

- a. Floor plan of spaces for long-term use to be added as exhibits as facilities are constructed/remodeled.
- b. Floor plan must contain dimensions of space.
- c. Access points for after-hours entry must be identified.
- d. Storage spaces not contiguous with the space will be separately identified.
- e. Floor plan will be annually reviewed and adjusted as needed.

#### **II. Use of Conference Spaces on an Ongoing Basis**

- a. Property owner has first priority for scheduling their facilities. Second priority is given to the joint use partner under this agreement.
- b. Use of the large conference space at The Hive will be for District meetings and professional development. Use of conference space at Shaw Middle School and the Shadle Park Library Branch will be requested and scheduled as needed.
- c. Use of conference space shall be scheduled through the online scheduling system used by Library and use of the SPS scheduling system.
- d. SPS use of conference space on a regular basis shall be scheduled annually by June 1 for the period of September 1- August 31.
- e. Use scheduled after June 1 will be based on availability.
- f. Additional detail of scheduling requirements may be added or modified during the annual meetings.
- g. Use of all facilities other than the facilities specifically identified in this agreement are accessed under the Joint Use Agreement.

#### **III. Required Time-Line**

There will be a required annual meeting no later than the first week of August to establish deadlines for the year. An agenda with required topics is included as **Exhibit B**.

#### **IV. Facility Use Cancellations or Changes**

- a. Cancellation and changes of scheduled events must be communicated to the facility owner at least three (3) working days prior to the event.
- b. In the event of a scheduling conflict, the facility owner must notify the user and relocate or reschedule the cancelled event. Cancellation for a conflict should be communicated at least five (5) days prior to an event.
- c. Library facilities changes to scheduled events shall be submitted through e-mail to the scheduler at [athleticfieldallocations@spokanecity.org](mailto:athleticfieldallocations@spokanecity.org).

## **EXHIBIT B**

### **SPL/SPS Annual August Meeting Agenda**

(Meeting to be held no later than the first week of August year)

1. Update contact list
2. Review school calendar
3. Discuss needs of each program and problems solve any challenges
4. Review deadlines for priority submission of schedules
5. Review scheduling details
6. Review rules for use and process for collection of signed rules
7. Review current rate schedules for direct costs
8. Facility/field projects that impact availability
9. Discuss any program changes that may impact other programs
10. Changes to facility/program hours
11. Equipment, maintenance and other needs
12. Discuss any operational changes or concerns
13. Other

**Agenda meeting notes to be distributed to all meeting participants by e-mail and retained as documentation of operating protocols.**