

**TO: Honorable Mayor and City Council**  
**FROM: City Administrator Ron Johnson**  
**SUBJECT: Approve John Burch Park Agreement**  
**DATE: May 28, 2015**

**BACKGROUND**

The current agreement between the school district and the city related to John Burch Park expires at the end of July. The Public Works Commission has been working on this and has recommended approval. Supt. Giese has reviewed and will present to the School Board subsequent to Council approval.

The League of MN Cities' staff has reviewed the agreement and recommended the inclusion of the insurance and liability section which was absent in the earlier agreement.

The LMC also recommended that we have a separate agreement with concessionaires regarding liability, and staff will work on that next.

Included in the packet is the proposed agreement and existing and previous agreements/amendments regarding John Burch Park.

**REQUESTED COUNCIL ACTION**

Approve a motion approving the proposed agreement with Independent School District 252 regarding John Burch Park.

Attachment(s): Proposed agreement and current/previous agreements/amendments

**OPERATION AND MAINTENANCE ADDENDUM**  
To Athletic Field Lease dated 7-31-1980  
Effective 7/31/02

**LIGHTS**

City will provide electric power and will do routine maintenance of fixtures and bulbs.

\* School will pay City \$25 per game where lights are used and will pay one/half of the actual cost of bulb replacement and lighting repairs, these costs to be billed at the end of each season.

**PHONE**

City will provide and pay for a phone line to the baseball press box during April-August.

School will provide and pay for phone to football press box.

**MOWING**

City will mow the field twice per week from May-August and once per week during other times when needed.

\* Additional mowing for special school requirements will be done by School or at school expense.

**FIELD PREPARATION**

School will prepare the field for high school and community education program events. The School will provide leadership in the spring for team volunteers to prepare John Burch Park for use.

School will maintain and move portable bleachers to the field prior to the football season and will remove them from the field at the end of each season. In any event, bleachers shall be removed from the field prior to the baseball season.

City will clean public bathrooms before each event.

School shall clean bathrooms after each school sponsored event.

School shall provide and install ropes, snow fences, etc. to maintain crowd control for football events.

TRASH REMOVAL

School will arrange for trash pick-up after each school sponsored event.

\* If concessions are sold at the event, City will bill school for the costs of disposal of the trash after each school sponsored event.

SCHEDULING

All events at John Burch Park shall be coordinated by the Athletic Director and/or Community Education Director of the School District who shall keep the master event schedule for the facility. The City reserves the right to allow the facility to be used by others during times that no school event is scheduled.

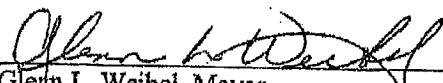
In the event of conflict of schedules the following priorities shall be recognized:

1) School varsity events, 2) Bears, 3) Legion, 4) School non-varsity events, 5) Community events, 6) Private events. When the schedule has been set, a higher priority event may not bump another event except in the case of play-off/tournament games that came up after the schedule was set. The School may reserve dates to keep them open for rain-outs, etc.

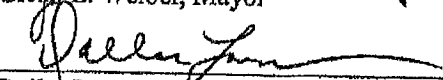
Executed this 31 day of July, 2002.

City of Cannon Falls

Independent School District 252

  
Glenn L. Weibel, Mayor

  
\_\_\_\_\_

  
Dallas Larson, Administrator

\* Areas where City may bill School District for services.

LEASE ADDENDUM

WHEREAS, City of Cannon Falls, hereinafter "CITY" and Independent School District No. 252, hereinafter "DISTRICT", entered into a lease agreement dated July 31, 1980, for use of athletic field facilities, and

WHEREAS, CITY and DISTRICT desire to continue the lease agreement beyond its expiration date of July 31, 2005, and

WHEREAS, CITY and DISTRICT desire to jointly undertake lighting system improvements to leased facilities at an estimated cost of \$172,000, and

WHEREAS, a fundraising effort is being made by the John Burch Park Committee, and

WHEREAS, the Committee has raised approximately \$60,000, and efforts will continue.


NOW THEREFORE, THE PARTIES HERETO, AGREE AS FOLLOWS:

- 1) CITY and DISTRICT agree that the lease agreement shall be extended to July 31, 2015.
- 2) DISTRICT shall enter into a contract with Muska Electric for the lighting system improvements,
- 3) CITY and DISTRICT shall each pay \$30,000 toward the costs of such improvements.
- 4) CITY and/or DISTRICT shall obtain a five-year loan in the approximate amount of \$50,000, on behalf of John Burch Park Fundraising Committee who will endeavor to make the annual loan payments through continued fundraising efforts.
- 5) CITY and DISTRICT agree to equally share in any shortfall in payments by the fundraising Committee until such loan is paid in full.

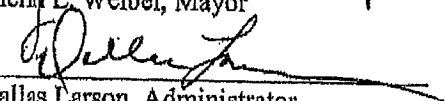
Executed this 31 day of July, 2002.

City of Cannon Falls

Independent School District 252

  
Glenn L. Weibel, Mayor

  
\_\_\_\_\_

  
Dallas Larson, Administrator

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NON-EXCLUSIVE LEASE  
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THIS INDENTURE, made in duplicate this 31st day of July, 1980, by and between the CITY OF CANNON FALLS, a Minnesota municipal corporation hereinafter designated and referred to as lessor, and INDEPENDENT SCHOOL DISTRICT NO. 252, hereinafter designated and referred to as lessee,

WITNESSETH: That said lessor in consideration of the rents and covenants hereinafter mentioned, to be paid and performed by said lessee, does hereby demise, lease and let unto the said lessee and the said lessee does hereby hire and take from the said lessor, the following described premises situate in the City of Cannon Falls, County of Goodhue, State of Minnesota, to-wit:

Block 37 and 5/8 of Block 28, Original plat of the City of Cannon Falls, per the recorded plat thereof (City Athletic Field).

TO HAVE AND TO HOLD the above premises on a non-exclusive basis for the term of twenty-five (25) years from and after the first day of August, 1980, to the thirty-first day of July, 2005, both dates inclusive, for the following purposes and for no other purposes, to-wit: public school varsity and non-varsity athletic events.

And the said lessee agrees to and with said lessor to pay the lessor as rent for the above mentioned premises the sum of SIXTEEN THOUSAND ONE HUNDRED AND NO/100---Dollars (\$16,100.00 ) cash, receipt of which is hereby acknowledged.

The parties further mutually agree as follows:

1) LEASE NON-EXCLUSIVE

Lessor retains the right to sublet the demised premises on such terms and conditions as it sees fit with all monies received from such subletting accruing to its benefit provided that lessee

shall have priority use of the demised premises for its athletic events.

2) MAINTENANCE AND REPAIRS

The lessor shall keep at its own expense the demised premises and fixtures and equipment in, over, upon, serving or appurtenant to said demised premises in good repair and in good sanitary condition during the term of this lease subject to the further terms and conditions of the annual Operation and Maintenance Addendum attached hereto and made a part hereof.

3) INSURANCE

Lessor shall provide premises liability insurance in an amount not less than \$300,000.00 for any one person, accident or occurrence. Lessee shall provide further insurance coverage at its option and expense.

4) FIXTURE AND PERSONAL PROPERTY IMPROVEMENTS

All fixture and personal property improvements made to the demised premises shall be the property of the lessor provided lessee shall retain title to the portable bleachers to be sited upon said premises.

5) OPERATION AND MAINTENANCE ADDENDUM

The lessor shall provide, at lessee's request, the services as itemized on the attached Operation and Maintenance Addendum charging lessee the fees stated therein. Such Addendum's fee structure shall be renegotiated every year throughout the term of the lease, the first such renegotiation being completed on or before

August 1, 1981. As each Addendum is renegotiated, it shall be attached to this lease and become a part hereof, superseding the previous Addendum.

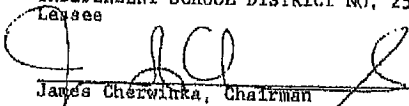
6) LESSEE LEASEHOLD TERMINATION

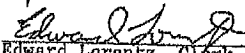
Lessee shall give lessor ninety (90) days written notice should it desire to terminate this lease at any time during the leasehold period. Such termination shall then take effect without further liability on the part of either party to the other, provided lessee shall receive no refund from lessor on its leasehold payment.

IN TESTIMONY WHEREOF, the lessor and the lessee have hereunto set their hands and seals the day and year first written.

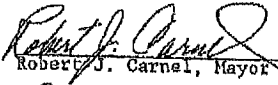
We, the lessee, hereby acknowledge that at the time of making and delivery of this lease, the lessor delivered to us a full, true and complete copy of the same.

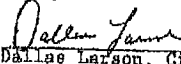
INDEPENDENT SCHOOL DISTRICT NO. 252  
Lessee

  
James Cherwinka, Chairman

  
Edward Lorentz, Clerk

CITY OF CANNON FALLS  
Lessor

  
Robert J. Carnel, Mayor

  
Dallas Larson, City Clerk-Treasurer

OPERATION AND MAINTENANCE ADDENDUM

August 1, 1980, to August 1, 1981

CITY ATHLETIC FIELD

1. <u>Varsity Football Games</u>	<u>Per Game Fee</u>
a. Field maintenance and preparation	\$150.00
b. Police	5.00 per man-hour
c. Lighting - Elec.	11.00
- Bulbs	7.00
2. <u>Non-Varsity Football</u>	
a. Lighting - Elec.	11.00
3. <u>Baseball</u>	
a. Lighting - Elec.	11.00

DUTIES OF THE CITY OF CANNON FALLS (LESSOR)

1. The City shall maintain the athletic field. The football field and baseball outfield shall be entirely covered with a good stand of grass.
2. The City shall maintain buildings located on the athletic field so that they are in a useable condition. Rest room facilities located in these buildings shall be open for public use before and during athletic contests. The City shall lock up such facilities when not in use.
3. The City shall seed and/or sod, fertilize and water the athletic field.
4. The City shall mow the athletic field. The length of grass shall be two and one-half ( $2\frac{1}{2}$ ) inches in length.
5. The City shall provide electric power for the scoreboard and to the tower located on the east side of the football field.
6. The City shall line the football field and baseball field according to specifications and standards established by the National Federation of State High School Associations, the head football and baseball coach and the athletic director. The City shall provide the liner and the materials needed for marking these fields.
7. The City shall maintain and move the bleachers onsite. All available bleachers shall be moved to the sides of the football field in the fall with the majority of such bleachers placed on the home side. The bleachers shall be moved to the football field before the first game and removed after the last night school activity has been completed in the fall. All bleachers shall be removed from the baseball playing field before the baseball season begins.



8. The City shall provide a rope fence fifteen yards or forty-five feet parallel to each side line of the football field. The purpose of such fence is to keep spectators away from the playing field.
9. The City shall provide and maintain the fences surrounding the athletic field.
10. The City shall provide and maintain the lights located at the athletic field. All lights shall be working at the start of each athletic season in which the high school uses the athletic field. The City shall purchase and replace all burned out or broken bulbs. The City shall be responsible for the cost of lighting the athletic field.
11. The Lessee shall be responsible for turning on and turning off the lights at the athletic field. During the football season the lights shall be turned on when the first team arrives on the field and turned off when players and spectators have left. During the baseball season lights shall be turned on according to the wishes of the head baseball coach and turned off when players and spectators have left. This shall be for varsity games only.
12. The Lessee shall clean up refuse after every school activity that is scheduled for the athletic field.
13. One-half hour before game time, the City shall provide at least two (2) policemen for varsity football events scheduled for the athletic field. They shall keep spectators away from the rope fences parallel to the football field and for crowd control and patrolling fences around the athletic field.
14. Any problem regarding duties of the school and/or City should be directed through the athletic director at the high school and public works director for the City of Cannon Falls.

## **USAGE AGREEMENT OF JOHN BURCH PARK**

WHEREAS, City of Cannon Falls, hereinafter "CITY" and Independent School District No. 252, hereinafter "DISTRICT", for use of the John Burch Park athletic field facilities, and

WHEREAS, CITY and DISTRICT desire to continue the said agreement on a year to year basis;

NOW THEREFORE, THE PARTIES HERETO, AGREE AS FOLLOWS:

- 1) CITY AND DISTRICT agree that the lease agreement shall run August 1,2015-July 31,2016
- 2) CITY and DISTRICT shall each pay time John Burch Park is utilized in accordance to city fee schedule.

## **OPERATION AND MAINTENANCE ADDENDUM**

### LIGHTS

- City will provide electric power and will do routine maintenance of fixtures and bulbs.
- School will pay City \$ 50.00 per game where lights are used and will pay one/half of the actual cost of bulb replacement and lighting repairs, these costs to be billed at the end of each season.

### PHONE

- City will provide and pay for a phone line to the baseball press box during April-August.
- School will provide and pay for phone to football press box.

### MOWING

- City will mow the field twice per week from May-August and once per week during other times when needed.
- Additional mowing for special school requirements will be done by School or at school expense.

### FIELD PREPARATION

- School will prepare the infield for high school events. The School will prepare John Burch Park for use in the spring.
- School is responsible for conversion of field for football including field markings.
- School will, maintain and move portable bleachers to the field prior to the football season and will remove them from the field at the end of each season. In any event, bleachers shall be removed from the field prior to the baseball season.
- City will clean public bathrooms before each event.
- School shall clean bathrooms after each school sponsored events.
- School shall provide and install ropes, snow fences etc. to maintain crowd control for football events.

## TRASH REMOVAL

- The school will arrange for trash pick-up after each school-sponsored event. If the school does not arrange for trash pick-up following an event, and the city does the trash pick-up after the school-sponsored event, then the city will bill the school for this.
- If concessions are sold at a school-sponsored event, then the City will bill the school for the cost of disposal of the trash after the school-sponsored event unless the school has made arrangements to do so. (See A above).

## SCHEDULING

- All events at John Burch shall be coordinated by the Athletic Director and/or Community Education Director of the School District who shall keep the master event schedule for the facility. The City reserves the right to allow the facility to be used by others during times that no school event is scheduled.

## INSURANCE AND LIABILITY

The City and District shall maintain municipal liability insurance in an amount not less than the maximum liability applicable to municipalities under Minnesota Statutes, Section 466.04, subd. 1, as amended. The City shall be added as an additional insured to the District's liability coverage for any claims that may arise under this agreement. The District shall be added as an additional insured to the City's liability coverage for any claims that may arise under this agreement. Each party agrees to defend, indemnify and hold the other harmless from any and all claims and demands, including reasonable attorney fees, arising out of a party's negligence or intentional misconduct or a party's failure to perform its duties and responsibilities under this agreement. Nothing in this Agreement shall constitute a waiver of the statutory limits on liability set forth in Minnesota Statutes, Chapter 466, or a waiver of any available immunities or defenses.

### **In the event of conflict of schedules the following priorities shall be recognized:**

- 1) School varsity events
- 2) Bears
- 3) Legion
- 4) School non-varsity events
- 5) Community events
- 6) Private events.

\*\*When the schedule has been set, a higher priority event may not bump another event except in the case of play-off/tournament games that came up after the schedule was set. The School may reserve dates to keep them open for rain-outs, etc.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2015

City of Cannon Falls, Minnesota

Independent School District 252

\_\_\_\_\_  
Lyman M. Robinson, Mayor

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School Superintendent Giese

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Ronald S. Johnson, City Administrator

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Board Chairman Brintnall