

# INTERLOCAL AGREEMENT FOR THE USE OF THE GAR BALLFIELD AND DORLUND PARK

This INTERLOCAL AGREEMENT is made on this 26 day of March, 2003, by and between the OCOSTA SCHOOL DISTRICT # 172 ("School District") and the CITY OF WESTPORT ("City"), collectively referred to in this Agreement as the "Parties."

## RECITALS

A. Property. The City owns two park properties called GAR Memorial Park, and Westport City Park (Harriett Dorlund Municipal Park), both of which include or soon will include public restrooms, fenced ball fields, dugouts, bleachers, bullpens, batting cages, scoreboards, garbage containers, and parking areas, collectively referred to as the "Parks." The City makes these properties available for use by the community, including the School District.

B. Need. The School District has determined that it has a need for fenced ball fields, public restrooms, dugouts, bleachers, bullpens, batting cages, scoreboards, garbage containers, storage, concessions, and parking areas for baseball and fast pitch (softball) practices and games. The City has determined that it has a need for assistance in the financing of the baseball and softball fields being constructed.

C. Two-Party Agreement. The School District and the City have mutually determined that the public interest would be best served with the least expenditure of public funds by a two-party Agreement providing for the School District and the City to join together to plan and provide jointly a public recreation facility.

D. Authorization. The Board of the Directors of the School District and the City Council of the City have authorized and directed their respective representatives to enter into the Agreement.

E. Agreement. The School District and the City therefore enter into this Agreement.

## GENERAL TERMS

1. Authority. This Agreement is entered into under the authority of Chapter 39.34 Revised Code of Washington, which allows local governmental units to make the most efficient use of their powers by cooperating with other localities on a basis of mutual advantage and thereby providing services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local

communities. This Agreement is binding upon and shall inure to the benefit of the successors and assigns of the Parties to this Agreement.

2. Duration. The term of this Agreement runs from March 1, 2003 through June 15, 2018, except that if the GAR Memorial Park is not ready for use for high school baseball, Section 4 shall not go into effect or apply to the GAR Memorial Park until it is completed and used by the School District for practices and games. The Agreement shall expire on June 15, 2018 unless the School District and the City agree to renew this Agreement, or as otherwise provided herein.

3. Purpose. The Agreement is entered into by the City and the School District pursuant to Chapter 39.34 Revised Code of Washington for the purpose of authorizing the use of common or shared resources to support, maintain, and continue the development of the Parks, both located in the City of Westport.

4. The Responsibilities of the School District

4.1 The School District shall be responsible for clearing debris (garbage) from the Parks grounds and placing it in containers provided by the City resulting from the School District's use for baseball and fast pitch practices and games. The School District is not responsible for cleaning debris (garbage) left by other user groups or individuals.

4.2 The School District shall be responsible for maintaining and caring for the Parks starting one week prior to the first official day of practice and ending after the final home game and/or official practice. The Constitution and By-laws of the Washington Interscholastic Activities Association (WIAA) shall be used to identify the first official day of practice for both baseball and fast pitch seasons. Maintenance of the Parks shall consist of picking up garbage after scheduled practices and games, lining the fields for the School District's scheduled games, and aerating the fields once in the fall. The School District shall schedule the date and time of the aerating through the City Street Department Superintendent (City Administrator, or his/her designee) or his/her designee.

4.3 The School District shall submit baseball and fast pitch practice and game schedules for the Parks to the City Administrator, or his/her designee, fifteen (15) days prior to the first practice. However, the schedule for practices and/or games may be changed on short notice as a result of inclement weather conditions, the needs of the School District, condition of the playing surface(s), etc. The School District will attempt to keep changes to a minimum. Said schedules shall include the dates, start and estimated ending times for all practices and games. Further, the City Administrator, or his/her designee, or his/her designee, shall be notified of any schedule changes as soon as reasonably possible (i.e., rain cancellation, change in site location).

4.4 The School District may set up and remove portable bleachers if attendance at the scheduled events exceeds the seating capacity of the bleachers at the Parks. The School District shall indemnify, defend, and hold the City harmless for any/all claims arising from or associated in any way with said portable bleachers. Further, the School District agrees to conduct monthly inspections of said portable bleachers. The School District may, at its own discretion, purchase or construct a set of bleachers to be permanently installed at either Park. The City will provide a location and work with the School District if the School District decides to install permanent bleachers.

4.5 The School District shall be allowed to apply *Turfus*, or a similar product designed to absorb water, to the dirt playing surface in the Parks as deemed necessary by the School District.

4.6 The School District shall be responsible to provide all materials, equipment and personnel necessary for all pre-game preparation, such as chalking lines and dragging the dirt portion in the Park. In addition, the School District shall provide the bases (first, second, third, home) and a pitcher's rubber during the baseball and fast pitch sport seasons or reimburse the City for the actual cost (approximately \$150) for a new set of bases every odd year that this Agreement is in effect. For purposes of this Agreement, each sport season will be defined by the Constitution and By-laws of the Washington Interscholastic Activities Association (WIAA).

4.7 The School District may "line" the Parks for baseball and fast pitch practices and games (i.e., 1<sup>st</sup> and 3<sup>rd</sup> base lines, batter's and base coaches boxes, etc.) and drag/rake any dirt area (infields, warning track, etc.) as deemed appropriate.

4.8 The School District shall provide appropriate adult supervision, including coaches and umpires as appropriate, during all school-sponsored baseball and fast pitch practices and games in the Parks. City personnel, unless employed under a separate agreement or volunteering for the School District, will not be utilized for supervision of events.

4.9 At their discretion, the School District may charge admission and sell concessions at the School District's scheduled practices and games in the Parks.

4.10 The School District shall inspect the Parks prior to each use to insure they are safe for use. The School District will be responsible for repair of damage, other than normal wear and tear, to the playing surfaces and facilities caused by spectators and/or participants at School District scheduled practices and/or games. Practices and games will not be held in a Park that is not safe.

4.11 The School District shall be responsible for post-game clean up, including removal of any equipment and depositing any trash in receptacles provided by the City.

4.12 The School District shall be responsible to report any hazardous conditions or damage requiring repair to the City Administrator, or his/her designee), or his/her designee, as soon possible but no later than the beginning of the next business day or remedy such condition or damage prior to use.

5. The Responsibilities of the City

5.1 The City shall be responsible for inspection, maintenance and care, except as provided for in paragraph 4, including, inspection of the fields and other areas in the Parks, normal maintenance and repair, including mowing and weed control, garbage collection, painting, leveling, fertilizing, and seeding of the Parks and associated facilities, including the playing surfaces, fences and backstops, rest rooms, parking surfaces, benches and stands, scoreboard(s), etc. In response to a request from the City, the School District may, at its discretion, assist the City with personnel and/or equipment for the above listed maintenance items.

5.2 The City shall provide rest rooms in the Parks that are available and in usable condition during the School District's scheduled practices and games.

5.3 The City shall ensure that there are garbage receptacles in the Parks during all periods of use by the School District.

5.4 The City will make every effort possible to schedule major improvements and repairs to the Parks during the off-season to avoid closing the facilities during the School District's scheduled usage. If a field is damaged, the City and the School District will examine the field and jointly determine whether or not the field is safe for use. If it is determined the field is unsafe for use, the City and School District will estimate a date and time the field will once again be available and the City will begin and complete repairs agreed to by the City as soon as reasonably possible. The School District shall make the determination whether to cancel or delay a game due to weather conditions.

5.5 The City reserves the right to close one or both of the Parks for any period of time necessary to undertake emergency major repairs if needed. The City will work with the School District to avoid any delay or cancellation of practices or games to the extent possible. In the event it becomes necessary to close one or both of the Parks, the City will provide as much advance notice as possible and project the date and time the Park(s) will be available to the School District.

5.6 The City will handle changes to the School District's scheduled use to the best of its ability to avoid any conflicts. All other user groups shall be advised that the School District has priority usage of the Parks and that their permission to use the Park(s) may be denied at any time to accommodate the needs of the School.

5.7 The City may, but is not required to provide personnel, if available, when requested by the School District.

5.8 The City shall install and maintain a home run fence. At the discretion of the City, the fence may be either a temporary fence for use during the season or a permanent fence.

6. Joint Responsibility.

6.1 The School District and the City agree to work closely and cooperatively to resolve any maintenance, care, or safety issues concerning the Parks and to make improvements and expansions to the facilities through grants, donations, etc.

6.2 The School District and City will participate equally in the cost of annually preparing the Parks prior to the start of the spring sport season. At its discretion, the School District may provide either funds or materials such as half of the fertilizer, clay, and Turfus (or other material manufactured to absorb water).

6.3 The School District and City will conduct an inspection of the Parks each winter and jointly establish a pre-season work list to be completed prior to the start of the spring sport season (sport season shall be defined annually by the WIAA). The City shall be responsible for completing the work list. The School District shall be responsible for providing materials in accordance with the provisions of this agreement, or additional materials as jointly agreed upon during the establishment of the above work list. If requested by the City, the School District may but is not required, to provide personnel to assist the City in completing pre-season Park preparations.

7. Priority Use

7.1 While the School District shall have priority use of the Parks during the baseball and fast pitch sport seasons as defined above, this shall not deprive the City from allowing other public use of the Parks. Organizations shall be allowed to use the Parks as long as they are scheduled around the School District's activities, with the School District's scheduled activities having priority over all other uses of the Parks.

7.2 The City will not schedule use of the Parks within 24 hours of a game scheduled by the School District during the baseball and fast pitch sport seasons in order to provide the School District ample time to prepare the Park(s) for the home game (i.e., lining the field, batter's and coaches boxes, etc.). The City will assist the School District in removing non-scheduled users if needed.

8. Hold Harmless

8.1 The City agrees to hold harmless, indemnify and defend at its own expense the School District and its officers, agents, and employees, from and against any and all claims, judgments, actions, suits, liability, loss, costs, expenses, or damages arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees and/or agents, in the course of its performance under this Agreement.

8.2 The School District agrees to hold harmless, indemnify and defend at its own expense the City and its officers, agents, and employees, from and against any and all claims, judgments, actions, suits, liability, loss, costs, expenses, or damages arising out of or in any way resulting from the negligent acts or omissions of the School District, its officers, employees and/or agents, in the course of its performance under this Agreement.

8.3 If any claim, judgment, action, suit, liability, loss, cost, expense, or damage arises out of or results from the joint negligent acts or omissions of both the City and the School District with respect to acts done pursuant to this Agreement, each party shall be responsible for its own share of any resulting liability.

8.4 The School District and the City shall carry no less than two (2) million dollars General Liability coverage throughout the duration of this Agreement with limits no less than one (1) million dollars each occurrence, and two (2) million dollars general aggregate. If food will be prepared, coverage shall include products liability with limits no less than one (1) million dollars each occurrence. Not less frequent than every five years, the parties shall review such minimum coverage for possible increase based upon inflation, increased liability awards, recommended of City's and School District's professional insurance advisors and other relevant factors. The School District shall annually provide a certificate of insurance evidencing the required coverage or satisfactory evidence of participation in a self-insurance pool with coverage of no less than the required minimum limits.

9. User Fee. The School District shall not be required to pay a rental fee for use of the Parks. The School District agrees to pay a one-time assessment to ensure that the City has the equipment and

resources needed and necessary to complete, maintain and care for the Parks in the amount of fifteen thousand (\$15,000) dollars.

10. Representatives. The School District Superintendent, or his/her designee, shall represent the School District and the City Administrator, or his/her designee, shall represent the City on all matters related to this Agreement (hereinafter referred to as the "Representatives"). Each Party shall revise this designation to indicate any change, as needed. Revisions shall be delivered to the other Party's Representative as listed below:

City: Primary: Randy Lewis Phone No. 360-268-0131  
Alternate: Greg Barnes Phone No. 360-268-9091  
School: Primary: Mark Jacobson Phone No. 360-268-9125, ext. 129  
Alternate: Gary Lindstrand Phone No. 360-268-9125, ext. 140

The representatives for scheduling maintenance and upkeep shall be:

City: Primary: Randy Lewis Phone No. 360-268-0131  
Alternate: Greg Barnes Phone No. 360-268-9091  
School: Primary: Gary Lindstrand Phone No. 360-268-9125, ext. 140  
Alternate: Steve Schmeling Phone No. 360-268-9125, ext. 270

The representatives for addressing changes in scheduling of practices and/or games shall be:

City: Primary: Randy Lewis Phone No. 360-268-0131  
Alternate: Greg Barnes Phone No. 360-268-9091  
School: Primary: Brian Macy, A.D. Phone No. 360-268-9125, ext. 144  
Alternate: \_\_\_\_\_ Phone No. \_\_\_\_\_

11. Dispute Resolution. Any disputes between the Parties arising out of this Agreement shall be resolved as follows:

11.1 Site Level Party Conference. Either party may notify the other in writing of a dispute which requires resolution. The notice shall include a narrative summary of the issues of the dispute not to exceed five typewritten pages. Within five calendar days of receipt of such faxed notice, each party shall take the necessary steps to assure that all key staff, with knowledge of the facts surrounding the dispute issues, as well as the Representatives, can timely attend a conference. The party conference shall be held at a mutually agreeable site. Attorneys shall not be present for either party.

11.2 Attendees and Procedure. The key staff people of each party who have the information central to the dispute shall join together with the Representatives at the meeting to present to the Representatives the information and documents that they have developed about the disputed issues. Minutes shall be taken at the conference. The Representatives shall adjourn from the conference to work together privately in an effort to resolve the dispute. If successful in settling the matter, the Representatives shall continue to work together until they have reduced their decision to written form and signed and dated the settlement agreement.

11.3 Mediation. In the event the disputed issues considered at the Party Conference have not been resolved within 24 hours of the date of the Party Conference as discussed in 11.1 and 11.2 above, then the matter shall be submitted to a mediation service (Washington Arbitration and Mediation Services, Inc.) or such other service as mutually agreed to for mediation. Either party may apply to the mediation service selected for the establishment of a mediation file to deal with this dispute. The mediation service selected shall proceed to set the hearing date as soon as possible. Upon selection of the mediation service, a single mediator shall be named by stipulation of the parties and identified in a writing forwarded to the mediation service. In the event a specific mediator is not selected by stipulation of the parties within three (3) business days of filing notice of the dispute with the mediation service, then a mediator shall be promptly appointed by the mediation service. The mediator shall mediate all unresolved issues that exist between the parties. Each party shall identify all such issues in writing within three (3) business days of the filing by notice to the other party and to the mediator. The minutes of the Party Conference shall also be submitted to the mediator for her/his use. The mediation shall be conducted pursuant to the rules of procedure published by the particular mediation service selected. The Representatives must attend the mediation with authority to settle the matter in full at the mediation.

11.4 Court. If the dispute is not settled at mediation, either party may commence a court action to resolve the matter. The prevailing party in any dispute shall be awarded its costs and reasonable attorneys' fees.

12. Ownership. Title and ownership of the Parks shall always remain vested with the City.
13. Additional Facilities. In the event the City installs additional facilities (i.e. lights, concession stands, etc.) the School District shall compensate the City for the School District's use of utilities for said facilities in an amount to be negotiated in the future.
14. Severability. If any term of this Agreement is held invalid or unenforceable, the remainder of the Agreement will not be affected, but continue in full force.
15. Termination. This Agreement once fully executed, may be terminated upon written mutual agreement between the Parties, or as otherwise provided herein.

15.1 If the School District cancels all or part of a sport season, the School District shall no longer be responsible for the *Responsibilities of the School District*, Items 4.1 through 4.12 for the balance of the sport season for the Park in which the sport was scheduled. An example of why this might occur would be an insufficient number of participants to field a team. The School District agrees to comply with the *Responsibilities of the School District*, Items 4.1 through 4.12, for the Park needed to support the remaining sport, unless both sports are cancelled. In either case, the School District will not pay any compensation to the City or receive any refund or compensation from the City resulting from the cancellation of a portion of or a full sport season for either baseball or fast pitch or both. If all or part of a sport season is cancelled, the School District agrees to notify the City in writing within five (5) business days.

After five years, the School District may terminate this agreement, either in its entirety, or as to one of the fields anytime after giving the City six months written notice of said termination and will not pay any compensation to the City or receive any refund or compensation from the City.

15.2 The City may terminate this agreement after five years, either in its entirety, or as to one of the fields anytime after giving the School 12 months written notice of said termination and paying to the School District \$500 per field for each field terminated, for each year remaining under General Terms, Item 2 entitled *Duration*.

16. Non-waiver. Failure of either Party to insist upon the strict performance of any term of this Agreement will not constitute a waiver or relinquishment of any Party's right to thereafter enforce such term.
17. Integration. This writing contains all terms of this Agreement. It replaces all prior and contemporaneous negotiations and agreements. Modifications must be in writing and be signed by each Parties' representative.

18. Filing and Recordation of Inter-local Agreement. This Agreement will be filed pursuant to RCW 39.34.040 with the Grays Harbor County Records and Election Division.

OCOSTA SCHOOL DISTRICT # 172

CITY OF WESTPORT

By: Mark E. Jacobson  
Superintendent Mark E. Jacobson

By: Berkley E. Barker  
The Honorable Berkley E. Barker, Mayor  
Mayor, City of Westport Lewis

DATE: March 25, 2003

DATE: 4/1/03

# OCOSTA SCHOOL DISTRICT

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*The mission of the Ocosta School District is to work cooperatively with the community to provide quality education in a safe and nurturing environment where every student develops the competencies needed to realize their fullest potential as productive life-long learners in a diverse and changing world.*

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## MEMO

TO: Randy Lewis  
FROM: Mark Jacobson, Superintendent  
DATE: 2-11-04  
SUBJECT: Agreement

Attached is an updated representative list from the Ocosta School District and the current schedule of games for both fast pitch and baseball. Naturally, the schedule is subject to change based on weather conditions, condition of the field(s), and needs of the school district. Please update your files.

It is my understanding that the first scheduled practice is March 1, 2004. If you have any questions, please feel free to contact me.

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Alternate: Greg Barnes Phone No. 360-268-9091  
School: Primary: Barbara Rasmus, A.D. Phone No. 360-268-9125, ext. 152  
Alternate: \_\_\_\_\_ Phone No. \_\_\_\_\_