

GROUND LEASE, GROUND SUBLEASE AND OPERATING AGREEMENT

THIS GROUND LEASE, GROUND SUBLEASE AND OPERATING AGREEMENT, made and entered into on the 15<sup>th</sup> day of February, 2001, by and between THE CITY OF SPRINGFIELD, MISSOURI, by and through THE SPRINGFIELD/GREENE COUNTY PARK BOARD, a municipal corporation, hereinafter "PARK BOARD" and SPRINGFIELD SKATEPARK ASSOCIATION., a Missouri not-for-profit corporation, hereinafter "SKATEPARK",

WITNESSETH:

WHEREAS, SKATEPARK desires to construct at its sole cost and expense an indoor skate park facility which will be open to the public and operated by SKATEPARK on land owned or controlled by the PARK BOARD as described in Exhibit A attached hereto; and

WHEREAS, PARK BOARD is willing to enter into a long term ground lease and sublease to SKATEPARK for such purposes, upon the terms and conditions, and for the considerations set forth herein;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN SET FORTH, PARK BOARD AND SKATEPARK AGREE AS FOLLOWS:

1. PREMISES. PARK BOARD, in consideration of the rents, promises and covenants contained herein, does hereby sublease to SKATEPARK, and SKATEPARK does hereby lease and sublease from PARK BOARD, solely for the purposes of the construction and operation of a public skate park facility, and ancillary operations, as approved by PARK BOARD, that property shown on Exhibit A , which is attached hereto and incorporated herein by reference.

2. TERM. The term of the lease and sublease shall be for a period commencing on January 12, 2001 and ending on October 31, 2007. The term of this lease and sublease will be extended

provided that the term of the Lease Agreement between PARK BOARD and School District of Springfield R-12 for the premises is extended.

3. RENT. SKATEPARK shall pay to PARK BOARD annual rent of One Dollar (\$1.00), payable on or before the 31<sup>st</sup> day of January of each year of the sublease commencing in 2001.

4. CONSTRUCTION OF IMPROVEMENTS. SKATEPARK shall at its sole cost and expense provide for the design and construction of an indoor skate park facility on the property described in Exhibit A. All work shall be performed and completed in accordance with plans and specifications prepared by registered architects or engineers. SKATEPARK shall require its contractor to provide labor and materials bonds for the projects in compliance with Section 107.170 R.S. Mo., and in form and with corporate sureties approved by PARK BOARD. SKATEPARK shall have responsibility for payment of any prevailing wages on its construction project if so required by the final decision of a court of competent jurisdiction interpreting the state prevailing wage statute and shall defend, indemnify and hold PARK BOARD harmless from any claims asserted against PARK BOARD thereunder.

5. MANAGEMENT AND OPERATION OF SKATE PARK. During the term of the sublease, SKATEPARK shall have the right and be fully responsible for the safety, operation and management of the skate park facility and activities, in accordance with general written policies of SKATEPARK, subject to the approval of the Parks Director, or his designee prior to the opening of the facility for public use. SKATEPARK shall collect all fees, pay all operating expenses, employ all necessary staff personnel, and operate or supervise any concessions located in the facility. PARK BOARD shall have the right to approve any concession not operated by SKATEPARK. SKATEPARK shall be responsible for any major repairs required for the facility and all repairs and maintenance of the skating and skateboard areas. SKATEPARK agrees to obtain

from all participants in its activities, signed written forms of parental/individual assumption of risk, waiver and release of any claims against PARK BOARD, its officers, agents and employees, the City of Springfield, Missouri and the School District of Springfield R-12 for personal injury or property damage arising out of use of the skate park facility.

6. REPAIRS AND MAINTENANCE. SKATEPARK shall maintain the indoor skate park facility in good condition and working order. SKATE PARK shall be solely and fully responsible for the safe condition of all equipment, devices and facilities used by patrons. SKATEPARK shall be fully responsible for making all necessary repairs to the indoor facility at its expense. SKATEPARK shall provide for routine maintenance and janitorial services for the indoor facility. PARK BOARD agrees to provide exterior maintenance for the grounds and parking lots only, to include mowing, snow removal, and trash removal. PARK BOARD shall have the right to require the facility to be closed because an ice and snow event until such time as it has had the opportunity to clear and/or salt the parking lot and sidewalks.

7. UTILITIES. SKATEPARK shall construct, at its expense, all necessary utility lines for the subleased premises. Utilities include water, sewer, underground utility lines, and telephone lines. All utility lines shall be underground. The cost of utility service for the facilities shall be paid by SKATEPARK.

8. OWNERSHIP OF IMPROVEMENTS ON TERMINATION. Upon termination of this sublease, unless the same shall be renewed by agreement of the parties, the building and all permanent fixtures and improvements located upon the subleased premises, structure, excluding personal property, shall immediately become the property of PARK BOARD. SKATEPARK shall deliver possession of the premises to PARK BOARD upon termination of this sublease in good condition, ordinary wear and tear and providential destruction excepted.

9. INDEMNITY AND INSURANCE. SKATEPARK agrees to defend, indemnify and hold PARK BOARD, the City of Springfield, Missouri and the School District of Springfield, R-12, and their respective officers, agents and employees, harmless from and against any and all third party claims, liabilities, damages, losses or costs, including, but not limited to, those in the nature of mechanic's liens, or for prevailing wages, personal injury, wrongful death or property damage, arising from any breach of this agreement, or the use and occupancy of the premises by SKATEPARK, or from the negligent, or intentionally wrongful, acts or omissions of SKATEPARK, its officers, employees, contractors, sub-contractors, agents or invitees. This indemnity obligation shall survive expiration or early termination of this sublease. SKATEPARK shall maintain at all times during this sublease general public liability insurance covering personal injury and property damage claims with a financially sound and reputable public insurance company qualified to transact insurance business in the State of Missouri, the policy to contain independent contractor's coverage and contractual liability endorsements, with initial policy limits of not less than \$1,000,000 for any single claim and \$2,000,000 aggregate coverage. SKATEPARK shall increase the policy limits at the request of PARK BOARD as necessary to provide adequate coverage up to limits of the sovereign immunity waiver caps under Section 537.600 RS Mo et seq. During the initial term of this lease and sublease, and any extensions thereof, PARK BOARD agrees to contribute to SKATEPARK the difference in premium costs between \$1,000,000 in liability coverage and \$2,000,000 in liability coverage so that the required insurance can be purchased. SKATEPARK shall maintain worker's compensation insurance covering its employees and volunteers to the extent that may be required by law. SKATEPARK shall further carry at all times fire and extended coverage insurance on the building, listing PARK BOARD as an additional insured. In the event of fire or other casualty loss, the proceeds of insurance shall be used to repair or rebuild the facilities unless

SKATEPARK and PARK BOARD mutually agree otherwise. SKATEPARK shall furnish PARK BOARD with a current certificates of insurance containing a requirement that PARK BOARD receive 30 days notice of any cancellation or non-renewal. At PARK BOARD'S request SKATEPARK shall furnish for examination the actual insuring policies, including all endorsements.

10. ENVIRONMENTAL COMPLIANCE. SKATEPARK shall comply with all applicable federal, state, and local laws, regulations, or ordinances pertaining to air and water quality, hazardous materials, waste disposal, air emissions, and other environmental matters.

11. NONDISCRIMINATION. SKATEPARK shall not cause or permit any person or group to be denied access to any event or facility because of said person's or group's race, creed, color, national origin or ancestry, sex, religion, disability, or political opinion or affiliation, and any admission prices charged for any event shall be fairly and uniformly imposed.

12. SHARED PARKING. Parking facilities shown on the subleased premises are subject to a joint parking agreement between PARK BOARD and School District of Springfield R-12, which has the privilege of using up to eighty per cent (80%) of the parking areas for its patrons and students for school athletic events at the soccer fields. SKATEPARK agrees to abide by this agreement and to cooperate with the School District with respect to shared parking.

13. SECURITY. SKATEPARK shall be responsible for the safety and security of the premises for its activities. PARK BOARD may furnish some security patrols during evening hour programs, but this shall not relieve SKATEPARK from its primary responsibility with respect to the security of its property and the security of person and property of its patrons.

14. USE OF PREMISES. The grounds and premises herein set forth shall be used by SKATEPARK solely for the operation of a skate park facility and related activities for the benefit of the general public. The premises shall be used at all times in compliance with the City Code of

Springfield, Missouri, the laws of the State of Missouri and the United States of America. No use of tobacco, alcoholic beverages or illegal drugs, or acts of vandalism, abuse, or harassment of patrons, shall be permitted on the premises, nor shall SKATEPARK tolerate or allow such acts to occur. SKATEPARK may permit smoking in a designated areas outside of the building only. No smoking shall be permitted within the building.

15. BREACH. If any covenant or clause in this Sublease is violated by SKATEPARK, and not corrected within thirty (30) days after SKATEPARK receives notification from PARK BOARD of the specific violation to be corrected, this sublease shall be subject to termination. Upon termination, SKATEPARK shall immediately cease all use of the subleased premises, vacate and surrender possession said premises to PARK BOARD, and the balance of the term of the Sublease shall be canceled.

16. NON-ASSIGNABILITY. This lease and sublease is non-assignable by Skatepark to any person or party, without the written consent of PARK BOARD, nor shall Skatepark mortgage or grant a security interest in this Sublease without such consent. Any such assignment or transference shall render this sublease immediately voidable at PARK BOARD's option and with five days notice to SKATEPARK.

17. GOVERNING LAW AND VENUE. This agreement and any dispute arising hereunder shall be governed by the laws of the State of Missouri. In any litigation arising under this sublease, venue shall be proper only in the Circuit Court of Greene County, Missouri. Before commencing any litigation arising under this agreement, PARK BOARD and SKATEPARK agree that for a period of not less than thirty (30) days the parties will attempt to resolve their dispute through non-binding mediation which shall be conducted with a third party mediator mutually selected by the parties who shall equally share the cost of the mediation. After thirty (30) days, either party shall

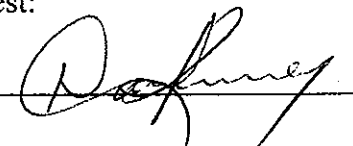
have the right to terminate the mediation and resort to judicial remedies should they determine the mediation is not likely to resolve the dispute.

IN WITNESS WHEREOF, the PARK BOARD and SKATEPARK have caused this agreement to be executed by their proper officers, duly authorized by their respective Boards, in triplicate, as of the 15<sup>th</sup> day of February, 2001.

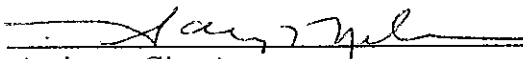
THE CITY OF SPRINGFIELD, MISSOURI  
A Municipal Corporation, by and through  
THE SPRINGFIELD GREENE COUNTY  
PARK BOARD

BY:   
John C. Rush, Chair

Attest:

  
Secretary

Approved at to Form:

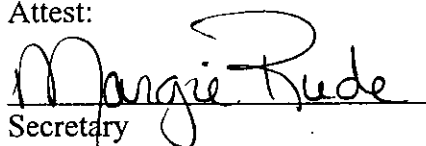
  
Assistant City Attorney

SKATEPARK ASSOCIATION

BY 

TITLE: President

Attest:

  
Secretary

**Exhibit "A"**  
**LEGAL DESCRIPTION**

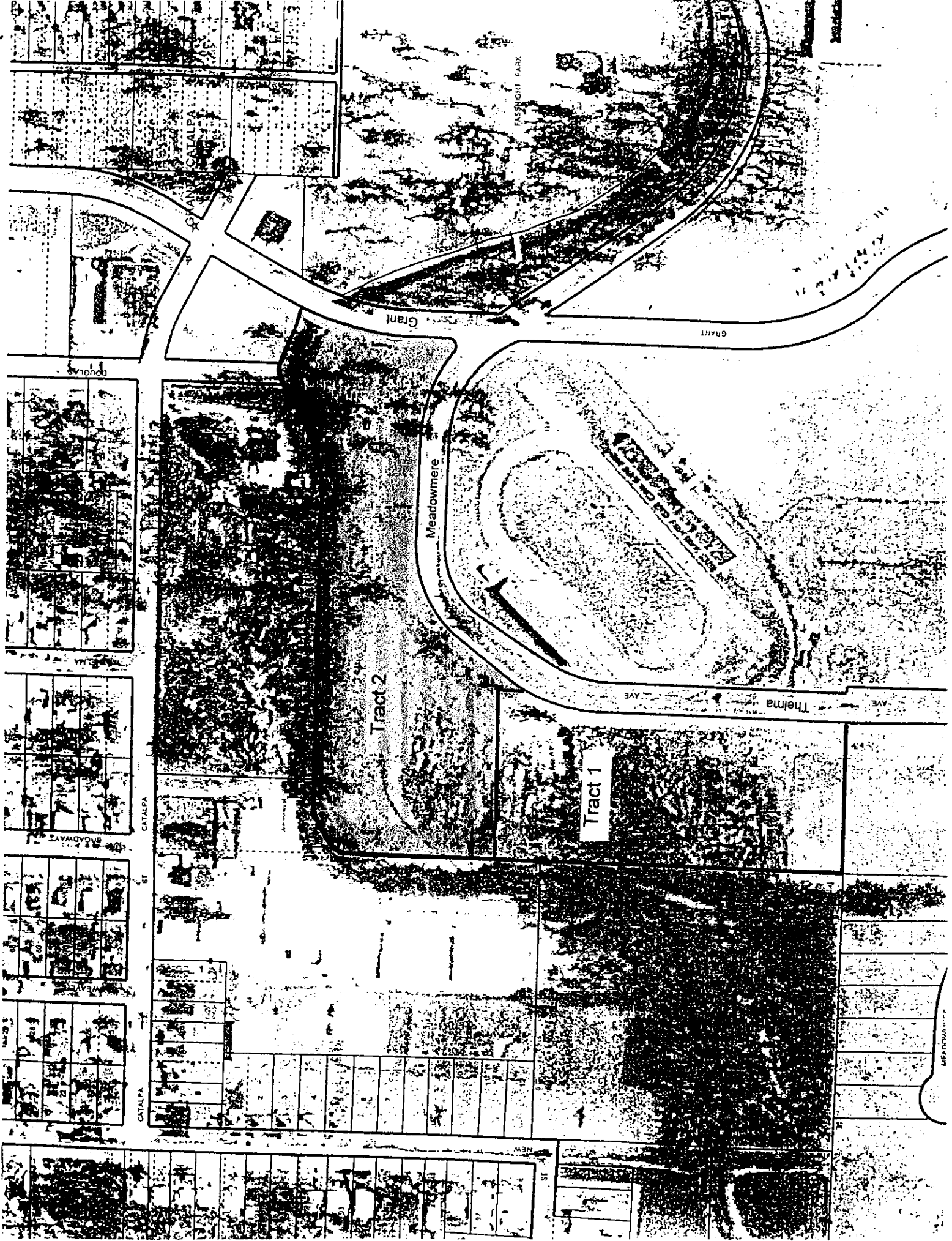
TRACT 1

Lease Property Agreement: The following described property will not change ownership. It is being leased by the School District of Springfield R-12 and the City of Springfield, Missouri, to the Springfield Sake Park. See Minutes of Springfield-Greene County Park Board meeting for Friday, February 14, 1997, and lease agreements dated November 12, 1997, and February 1, 1999.

Lease Description: Commencing at the SW corner of the NE quarter of Section 26, Township 29, Range 22; thence N 01°38'59"E, along the west line of the NE quarter of said Section 26, a distance of 93.33 feet for a point of beginning; thence continuing N 01°38'59"E along said west line a distance of 461.45 feet; thence S87°20'01"E a distance of 308.03 feet to the west right-of-way line of Thelma Street; thence southerly along said west right-of-way line on a non-tangent curve to the left, an arc length of 60.77 feet, said curve having a radius of 230.00 feet, a central angle of 15°08'19" and a long chord of 60.59 feet which bears S09°13'18"W; thence continuing along said west right-of-way line S01°38'59"W, a distance of 395.43 feet to an existing chain link fence line; thence N88°26'33"W along said existing chain link fence line, a distance of 300.00 feet to the point of beginning. Containing 3.16 acres (137,722 sq. ft.), all in Springfield, Greene County, Missouri.

TRACT 2

All of Lots 27, 28, 29, 30, 53, 54, 55, 56, 57, 58, 59, and 60 in Holman Place Addition, and also a part of the South half of the NE quarter of Section 26, Township 29, Range 22 described as follows: Beginning on the East line of said Section 26 at a point 60 poles North of the SE corner of the NE quarter of said Section; thence West 80 rods, thence North 66 feet, thence West 80 rods to the quarter Section line, thence South on quarter Section line 498 feet more or less to a Hickory tree and fence going East; thence South 89°50' East 330 feet, to the center of a 60-foot roadway, 30 feet of which is to be on each side of the following described line, which is also the South line of the land herein being described; thence North 33° East 134.50 feet, to a stake; thence North 33°15' East 209 feet, to a stake; thence South 89°48' East 297.6 feet to a stake; thence South 82° East 143 feet to a stake; thence South 35°30' East 260 feet to a stake; thence South 40° East 277.5 feet to a stake; thence South 52° East 16 feet to a stake; thence North 81°30' East 195 feet to a stake; thence North 66° East 127.50 feet to a stake; thence North 54° East 130.5 feet to a stake; thence North 37° East 149.5 feet to a stake; thence North 47°30' East 317.6 feet to a stake; thence North 82° East on a line 30 feet South of a row of shade trees, 460 feet to the center of Campbell Avenue and East line of Section 26; thence North along the center line of said Campbell Avenue and East line of said Section 26, 328 feet to an iron pin, and place of beginning; all except that part lying east of Grant Avenue; all in Springfield, Greene County, Missouri.



Tract 2

Tract 1

Meadowmere

Grant

Grant

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CATALPA

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CATALPA

FASRIGHT PARK

MEADOWMERE

MEADOWMERE

NEW

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BOULEVARD

BROADWAY