



Board Agenda Item Request

AGENDA ITEM: Action Item - City of Rathdrum MOU

PURPOSE: Requires Board Approval

MEETING DATE: October 9, 2024

PREPARED BY: Lisa Arnold

SUMMARY

Based on the conversation between the LJSD School Board and the Rathdrum City Council at the joint meeting the language in red under 1.g. is my draft language to capture what was accepted at the meeting regarding the scheduling of practices and games in our facilities. Additionally, I removed language related to the crossing guards and SRO and included the exact language from the SRO MOU related to the annual review of the MOU. Hopefully I captured all of the changes discussed. The link to the draft is [here](#). Additionally, Megan provided suggestions for edits. The MOU is [here](#). I will bring a draft MOU for Crossing Guards to the November Board meeting as we do not currently have one in place.

As an aside, the entities outlined in the draft MOU met on Monday, September 30 and were able to schedule all practices and games for Park and Rec and Lakeland Student Club Sports in an hour. The meeting was very collaborative and positive. Everyone left feeling good about the new process and ALL needs were met.

Superintendent Recommendation:

The superintendent recommends that we approve the MOU.

**MEMORANDUM OF UNDERSTANDING
CITY OF RATHDRUM
AND
LAKELAND JOINT SCHOOL DISTRICT #272**

THIS MEMORANDUM is entered into on this 9th day of October, 2024, by and between the CITY OF RATHDRUM, a municipal corporation in and of the State of Idaho (hereinafter referred to as the “CITY”), and the LAKELAND JOINT SCHOOL DISTRICT #272, a public school district in and of the State of Idaho (hereinafter referred to as the “DISTRICT”).

WHEREAS, the CITY is a municipality created and operating pursuant to the authority granted in Title 50, Idaho Code, operating within Kootenai County, Idaho; and

WHEREAS, the DISTRICT is a public school district created and operating pursuant to the authority granted in Title 33, Idaho Code, operating within, but not exclusively, in the within the corporate limits of the CITY within Kootenai County, Idaho; and

WHEREAS, pursuant to Idaho Code Section 67-2328, the CITY and the DISTRICT, as public agencies, may enter into an agreement for the joint exercise of power for joint use, ownership, and/or operation for the cooperative benefit of each party; and

WHEREAS, the CITY and the DISTRICT entered into a joint service contract dated July 6, 1978 for the purpose of jointly developing outdoor recreational facilities (hereinafter referred to as the “1978 Joint Service Contract”); and

WHEREAS, the CITY and the DISTRICT entered into a joint powers agreement dated February 8, 1999, recorded on April 15, 1999 under Kootenai County Recording No. 1584203, for the purpose of detailing shared use of recreational facilities (hereinafter referred to as the “1999 JPA”); and

WHEREAS, it is the desire of the parties to continue to work cooperatively to accommodate the needs of each party in a fair way by entering into a Memorandum of Understanding; and

WHEREAS, this Memorandum by the parties hereto shall benefit the general public with particular reference to pupils, parents, staff, and patrons of the DISTRICT, and staff, departments, and residents of the CITY; and

WHEREAS, each of the parties agree to enter into this Memorandum for the purpose of defining the rights, duties, and responsibilities of each of the parties as detailed herein.

NOW THEREFORE, the CITY and the DISTRICT agree as follows:

1. DISTRICT'S CONSIDERATION: SHARED FACILITY USE/PRIORITY TO CITY

- a. **Use of DISTRICT'S Facilities:** The DISTRICT agrees to continue joint cooperation with the CITY, specifically with joint use of the DISTRICT'S gymnasiums and other school facilities as coordinated by the CITY'S Parks and Recreation Department, District personnel, and Representatives of Lakeland Student Club Sports.
- b. **DISTRICT Fees:** The DISTRICT shall charge no fees to the CITY except:
 - i. Any fees associated with DISTRICT personnel availability for Saturday and Sunday usage; and
 - ii. Charges for paper products/custodial expenses associated with the use of the facilities.
- c. **Maintenance:** The DISTRICT shall maintain the premises in accordance with its normal maintenance schedule, including keeping the premises clean and in usable condition. The CITY shall, when using the facilities and at the CITY'S expense, provide supervision of its use, cause the premise floor to be swept, and any debris or garbage to be removed from the seating or audience areas after activities.
- d. **Damages:** The CITY shall not allow or cause damage to any improvements thereon, inclusive of any adjacent buildings. Any damage incurred by the DISTRICT's facilities during the CITY's use shall be the sole responsibility of the CITY to pay for the repair to at least the same condition it was in before the damage took place.
- e. **Priority of Use:** The DISTRICT shall have priority of use of the DISTRICT's facilities (which shall mean only those programs offered by the DISTRICT itself and not any private or associated groups even if said private or associated groups include DISTRICT staff or students). The CITY shall be given priority for the use of DISTRICT facilities located within the City of Rathdrum when not being utilized by the DISTRICT in accordance with the "**Condition of Use**" set forth below.
- f. **Supervision of the Use of Facilities:** When the DISTRICT's facilities are used by CITY, the CITY shall maintain not less than one (1) member/employee/volunteer for supervision purposes at all times while the facilities are in use (which includes, without limitation, any set-up, take down, pickup and drop off times).
- g. **Coordination of Use:**
 - i. Prior to the start of each sport season (fall, winter, spring) representatives from Rathdrum CITY Park and Recreation Department, Representatives from Lakeland Students Club Sports, and the District Facilities Use Coordinator will meet and work collaboratively to schedule practices and

games, utilizing the DISTRICT's indoor and outdoor facilities, to ensure that all groups' needs are met.

2. CITY'S CONSIDERATION: IRRIGATION SERVICES AND CITY FEE WAIVERS

a. Irrigation Services: The CITY currently provides irrigation water, free of charge, to the DISTRICT for the purpose of irrigating the real property as depicted in Exhibit A, attached hereto and incorporated herein by this reference, per the Addendum to the 1978 Joint Service Contract.

i. In consideration of the DISTRICT's provision of recreational facilities to the CITY, as detailed above, the CITY agrees to continue to provide irrigation water to the DISTRICT, free of charge, to the real property depicted in Exhibit A only as long as the following conditions are met:

1. A city approved and provided irrigation meter shall be installed by the CITY on the real property promptly after execution of this memorandum so that the CITY can accurately measure the amount of irrigation water that is used each month; and
2. The CITY will track the water usage through the irrigation meter for one (1) year. The month with the highest usage shall be considered the ceiling that the CITY will use in the following years that this Memorandum is in effect (the "Ceiling Amount"). If the DISTRICT'S usage ever goes above the Ceiling Amount in any given month while this Memorandum is in effect, the CITY may bill the DISTRICT for the amount that is considered "overage" in the same way as any other utility bill is issued at the applicable rate(s) set forth in the most recently adopted fee schedule.
3. Should this Memorandum expire or terminate without another Memorandum to replace it that includes a provision for these irrigation services, the CITY shall revert to billing the DISTRICT under the same quantity requirements as any other utility bill is issued at the applicable rate(s) set forth in the most recently adopted fee schedule

b. City Fee Waiver:

- i. The CITY'S Fee Schedule Resolution allows City Council for the CITY to, upon request, approve by a majority vote a fee waiver for causes that benefit a school as long as the fee waiver only applies to those fees listed within the fee schedule that are associated with recouping expenses for employee time/labor on such things as processing applications, administrative time, inspections, performing services to the public, or plan review. Fees listed that are collected to recoup the CITY'S cost of items, capitalization fees, impact fees, or any other fee that is not associated solely with employee labor cannot be waived except as allowed by the adopted Rathdrum Municipal Code.
- ii. While the CITY cannot guarantee a fee waiver will be approved, in further consideration of the DISTRICT's provision of recreational facilities to the

CITY, the CITY agrees that if the DISTRICT requests a fee waiver from the City Council for the CITY in accordance with the above adopted authority, the CITY will consider said fee waiver request favorably in light of this Memorandum between the parties.

3. AUTHORITY

- a. The parties hereto covenant and represent that the execution of this Memorandum has been authorized by the governing body of the respective parties and that the individual signature set forth herein is authorized by the governing body of the respective party.

4. TERM, AMENDMENT, RENEWAL, AND TERMINATION OF MEMORANDUM

- a. **Duration:** This Memorandum of Understanding shall remain in effect for a period of one (1) year; from September 1 to August 30. This Memorandum shall be amended for consideration and renewed annually unless terminated in accordance with this section. This Memorandum may be terminated in writing by mutual consent of the CITY and DISTRICT. In addition, this Memorandum may be terminated at any time by either party upon written notice no later than March 15 of the intent to terminate to the other party.
- b. **Administrative entity:** The parties have agreed that no separate legal or administrative entity is created by this Memorandum.
- c. **Purpose:** The purpose, as referenced in the recitals of this Memorandum, is to define the rights, duties, and responsibilities of each of the parties for the facilities and services that each party provides the other for the mutual benefit of the parties.
- d. **Manner of Financing and Maintaining Budget:** There shall be no separate financing or budgetary consideration by either of the parties, each party is responsible to maintain its own premises, costs of operation of such premises, and budget for any other costs associated with the obligations of each party as detailed herein.
- e. **Termination and Disposal of Property:** The term of this Memorandum shall be as set forth in Subsection (a) hereinabove, subject to any amendment by mutual written agreement of the parties. In the event this Memorandum is terminated, each party shall remain in possession of their particular premises affected hereby. No additional property jointly owned shall be created by this Memorandum.
- f. **Annual Meeting:** The DISTRICT's Superintendent (or designee) and the CITY'S Administrator (or designee) shall make themselves or their representatives available for joint meetings as may be requested by either party for the purpose of resolving any issues which may arise in the administration and execution of this Memorandum. On or before April 1 both parties shall meet to evaluate the partnership prior to deciding whether to continue.

- g. **No Property Jointly Held:** No real or personal property shall be jointly held pursuant to this Memorandum, each party to maintain the ownership and possession of their own property used, whether real or personal.

5. NOTICE

- a. Any notice under this Memorandum shall be in writing and be delivered either 1) by U.S. Postal Service Mail certified mail with return receipt requested to the address listed below, or 2) by electronic mail to the email address listed below.

DISTRICT:
P.O. Box 39
Rathdrum, ID 83858
larnold@lakeland272.org

CITY:
8047 W. Main Street.
Rathdrum, ID 83858
mayor@rathdrum.gov

6. LIABILITY

- a. To the extent legally possible, the CITY promises, covenants, and agrees to hold harmless, protect, and indemnify the DISTRICT from and against any and all liabilities, losses, damages, expenses, and charges, including, but not limited to, attorneys fees and expenses of litigation, incurred in or from any such obligation to be performed under the terms of this Memorandum by the CITY, or arising from any act, negligence, or omission by the CITY or any of its authorized agents, employees, or volunteers. The CITY's liability under this paragraph shall be limited by the terms of the Idaho Tort Claims Act and the self insurance provisions adopted by the City and Idaho Code Section 67-5776.
- b. To the extent legally possible, the DISTRICT promises, covenants, and agrees to hold harmless, protect, and indemnify the CITY from and against any and all liabilities, losses, damages, expenses, and charges, including, but not limited to, attorneys fees and expenses of litigation, incurred in or from any such obligation to be performed under the terms of this Memorandum by the DISTRICT, or arising from any act, negligence, or omission by the DISTRICT or any of its authorized agents, employees, or volunteers. The DISTRICT's liability under this paragraph shall be limited by the terms of the Idaho Tort Claims Act.
- c. The covenants and agreements regarding liability as set forth in this section (subparagraphs a and b above), shall not apply, one party to the other, in the event of a wrongful act of a third party (i.e. business invitee or guest), which said wrongful action does not arise from any act, negligence, or omission of the DISTRICT or the CITY incurred in or from any such obligation to be performed under the terms of this Memorandum.

7. INSURANCE

- a. The DISTRICT shall maintain comprehensive public liability and property damage insurance. The combined aggregate liability limit of the DISTRICT and its employees for damages, costs, and attorney fees under state law, on account of bodily or personal injury, death, or property damage, or other loss as the result of any one occurrence or accident regardless of the number of persons injured or the number of claimants, shall be not less than ONE MILLION DOLLARS

(\$1,000,000.00), unless the DISTRICT has purchased applicable, valid, and collectible liability insurance coverage in excess of said limit, in which event the controlling limit shall be the remaining available proceeds of such insurance. This insurance will protect it from claims for damages because of bodily injury, including death, or damages because of injuries or destruction or loss of use of property, which may arise from its operations under this Memorandum whether such operations be by it or its agents or anyone directly or indirectly employed by the DISTRICT. In addition, the DISTRICT is responsible for the following: (a) The DISTRICT shall notify the CITY in writing as soon as practicable after notice of an injury or a claim is received; (b) The DISTRICT shall cooperate completely with the CITY and/or the CITY'S insurers in the defense of such injury or claim and the DISTRICT shall take no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the CITY from protecting the CITY'S interests. All insurance required under this paragraph shall be maintained in full force and effect in a company or entity or companies or entities reasonably satisfactory to CITY and shall be maintained at the DISTRICT'S expense until this Memorandum terminates. Certificates of such insurance shall be provided to the CITY contemporaneously with the execution and delivery of this Memorandum by the DISTRICT and at any other time upon reasonable notice by the CITY to the DISTRICT. Failure to maintain the insurance required by this Memorandum shall be grounds for its immediate termination notwithstanding any other provisions governing termination of this Memorandum.

- b. The CITY shall maintain such comprehensive public liability and property damage insurance as will protect it from claims for damages or bodily injury, including death or damages because of injuries or destruction or loss of use of property, which may arise from its operations under this Memorandum whether such operations be by it or its agents or anyone directly or indirectly employed by the CITY. The CITY may purchase such a policy, or may at its election be self-insured. The combined aggregate liability limit of the CITY and its employees for damages, costs, and attorney fees under state law, on account of bodily or personal injury, death, or property damage, or other loss as the result of any one occurrence or accident regardless of the number of persons injured or the number of claimants, shall be not less than ONE MILLION DOLLARS (\$1,000,000.00), unless the CITY has purchased applicable, valid, and collectible liability insurance coverage in excess of said limit, in which event the controlling limit shall be the remaining available proceeds of such insurance. In addition, the CITY is responsible for the following: (a) The CITY shall notify the DISTRICT in writing as soon as practicable after notice of an injury or a claim is received; (b) The CITY shall cooperate completely with the DISTRICT and/or the DISTRICT'S insurers in the defense of such injury or claim; and the CITY shall take no steps (such as admission of liability) that will prejudice the defense or otherwise prevent the DISTRICT from protecting the DISTRICT'S interests. All insurance required under this paragraph shall be maintained in full force and effect in a company or entity or companies or entities reasonably satisfactory to DISTRICT and shall be maintained at the CITY'S expense until this Memorandum

terminates. Certificates of such insurance shall be provided to the DISTRICT contemporaneously with the execution and delivery of this Memorandum by the CITY and at any other time upon reasonable notice by the DISTRICT to the CITY. Failure to maintain the insurance required by this Memorandum shall be grounds for its immediate termination notwithstanding any other provisions governing termination of this Memorandum.

8. SEVERABILITY

- a. If any term or provision of this Memorandum shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Memorandum shall not be affected thereby, and each term and provision of this Memorandum shall be valid and be enforceable to the fullest extent permitted by law. It is the intention of the parties that if any provision of this Memorandum is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid.

9. ENTIRE MEMORANDUM

- a. This Memorandum embodies the entire agreement of the parties, and there are no oral agreements existing relative to the subject matter hereof which are not expressly set forth herein. The Memorandum may be modified only in writing signed by all parties hereto.

10. WAIVER

- a. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any other covenant, term or condition herein.

11. FORCE MAJEURE

- a. Any inability to perform this Memorandum due to strikes, lockouts, labor disputes, acts of God, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, pandemics, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse performance by such party for a period equal to any such inability to perform.

12. ASSIGNMENT OF MEMORANDUM

- a. No assignment of this Memorandum or of any right accruing under this Memorandum shall be made, in part or in whole, by either party.

13. TERMINATION

- a. Either party may terminate this Memorandum upon written notice delivered to the other party in the manner set forth in the Notice section. Should this Memorandum be terminated the services provided by both parties, as outlined above, shall cease.

14. BINDING EFFECT

- a. This Memorandum is for the benefit only of the parties hereto and shall inure to the benefit and be binding upon the parties and their respective heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Mayor and Clerk of the City of Rathdrum and the appropriate agent/officer/trustee of Lakeland School District #272, together with the Superintendent thereof, have affixed their official seal and signatures hereto the day and year first above written.

DISTRICT:

CITY:

Michelle Thompson
School Board President

Mike Hill
Mayor

ATTEST:

Lisa Arnold
Superintendent

Lorrann Morrell
City Clerk

~~JOINT POWERS AGREEMENT BETWEEN~~
~~CITY OF RATHDRUM~~
~~AND~~
~~LAKELAND JOINT SCHOOL DISTRICT #272~~
CITY OF RATHDRUM
MOU

THIS **MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as “**Agreement**”) ~~AGREEMENT~~ is entered into on this 9th day of October, 2024, by and between the CITY OF RATHDRUM, a municipal corporation in and of the State of Idaho (hereinafter referred to as the “CITY”), and the LAKELAND JOINT SCHOOL DISTRICT #272, a public school district in and of the State of Idaho (hereinafter referred to as the “DISTRICT”).

WHEREAS, the CITY is a municipality created and operating pursuant to the authority granted in Title 50, Idaho Code, operating within Kootenai County, Idaho; and

WHEREAS, the DISTRICT is a public school district created and operating pursuant to the authority granted in Title 33, Idaho Code, operating within, but not exclusively, in the within the corporate limits of the CITY within Kootenai County, Idaho; and

WHEREAS, pursuant to Idaho Code Section 67-2328, the CITY and the DISTRICT, as public agencies, may enter into an agreement ~~for the joint exercise of power for joint use, ownership, and/or operation~~ for the cooperative benefit of each party; and

WHEREAS, the CITY and the DISTRICT entered into a joint service contract dated July 6, 1978 for the purpose of jointly developing outdoor recreational facilities (hereinafter referred to as the “1978 Joint Service Contract”); and

WHEREAS, the CITY and the DISTRICT entered into a joint powers agreement dated February 8, 1999, recorded on April 15, 1999 under Kootenai County Recording No. 1584203, for the purpose of detailing shared use of recreational facilities (hereinafter referred to as the “1999 JPA”); and

WHEREAS, it is the desire of the parties to continue to work cooperatively to accommodate the needs of each party in a fair way by entering into a **new Agreement** ~~new joint powers agreement~~; and

WHEREAS, this Agreement ~~by the parties hereto~~ shall benefit the general public with particular reference to pupils, parents, staff, and patrons of the DISTRICT, and staff, departments, and residents of the CITY; and

WHEREAS, each of the parties agree to enter into this Agreement for the purpose of defining the rights, duties, and responsibilities of each of the parties as detailed herein.

NOW THEREFORE, the CITY and the DISTRICT agree as follows:

1. DISTRICT'S CONSIDERATION: SHARED FACILITY USE/PRIORITY TO CITY

- a. **Use of DISTRICT'S Facilities:** The DISTRICT agrees to ~~continue joint cooperation~~ **continue working collaboratively** with the CITY, specifically with ~~joint use of the DISTRICT~~ **facility** gymnasiums and other school facilities ~~as coordinated by the CITY'S Parks and Recreation Department or any other CITY Department.~~
- b. **DISTRICT Fees:** The DISTRICT shall charge no fees to the CITY except:
 - i. Any fees associated with DISTRICT personnel availability for Saturday and Sunday usage; and
 - ii. Charges for paper products/custodial expenses associated with the use of the facilities.
- c. **Maintenance:** The DISTRICT shall maintain the premises in accordance with its normal maintenance schedule, including keeping the premises clean and in usable condition. The CITY shall, when using **DISTRICT** the same and at the CITY'S expense, provide supervision of its use, cause the premise floor to be swept, and any debris or garbage to be removed from the seating or audience areas after activities.
- d. **Damages:** The CITY shall not allow or cause damage to any improvements thereon, inclusive of any adjacent buildings. Any damage incurred by the DISTRICT'S facilities during the CITY'S use shall be the sole responsibility of the CITY to pay for the repair to at least the same condition it was in before the damage took place.
- e. **Priority of Use:** The DISTRICT shall have priority of use of the @DISTRICT'S facilities (which shall mean only those **programs** offered by the DISTRICT itself and not any private or associated groups even if said private or associated groups include DISTRICT staff or students). The CITY shall be given priority for the use of facilities located within Rathdrum when not being utilized by the DISTRICT:
- f. **Supervision of the Use of Facilities:** When the DISTRICT'S facilities are used by **the** either part, such party shall be designated as the "using party" and shall maintain not less than one (1) member/employee/volunteer for the "using party" upon the facility for supervision purposes when the facility is in use by the "using party."
- g. **Coordination of Use:**

- i. Prior to the start of each sport season (fall, winter, spring) representatives from Rathdrum City Park and Recreation Department, Lakeland Club coaches, and the district facilities use coordinator will meet and work collaboratively to schedule practices and games to ensure that all groups' needs are met.
- ~~ii. The CITY shall submit a Schedule of Use request to the DISTRICT'S authorized scheduling representative for the following year's recreational facility needs (Fall through Summer) no later than **July 15** (the "Schedule of Use").
 1. This Schedule of Use is meant to include all known recreational activities, and it is not meant to be an all-inclusive request for use of the DISTRICT'S facilities by the CITY. The CITY can request the use of the DISTRICT'S facilities for other uses that may come up such as recreational activities, police training, public meetings, etc. by sending a written request to the DISTRICT'S authorized scheduling representative. The DISTRICT shall follow the Priority of Use detailed above, unless said requested facilities have already been scheduled for use.~~
- iii. For the ~~Schedule of Use~~, the parties shall meet, through their qualified and authorized scheduling representatives, within thirty (30) calendar days of the submission of the CITY'S ~~Schedule of Use~~ request to establish scheduled usage of the DISTRICT'S facilities. The parties shall cooperate with each other, in good faith, to provide sufficient use for the CITY.
- iv. In the event of extenuating circumstances where no reasonable alternative exists when the DISTRICT must adjust the CITY'S reserved use of a facility so that **due to the DISTRICT's need for its facility**, can use that facility, the DISTRICT will give as much advanced notice as possible to the CITY, and shall use best efforts to find the CITY another comparable facility to use or work with the CITY to reschedule the CITY'S use of the facility.

2. CITY'S CONSIDERATION: IRRIGATION SERVICES **AND** CITY FEE WAIVERS CROSSING GUARDS, & STUDENT RESOURCE OFFICER

- a. **Irrigation Services:** The CITY currently provides irrigation water, free of charge, to the DISTRICT for the purpose of irrigating the real property as depicted in Exhibit A, attached hereto and incorporated herein by this reference, per the Addendum to the 1978 Joint Service Contract.
 - i. In consideration of the DISTRICT'S provision of recreational facilities to the CITY, as detailed above, the CITY agrees to continue to provide irrigation water to the DISTRICT, free of charge, to the real property are depicted in Exhibit A only as long as the following conditions are met:
 1. A city approved and provided irrigation meter shall be installed on the irrigation service immediately upon execution

of this Agreement ~~so that~~ **to ensure** the CITY can accurately measure the amount of irrigation water ~~that is~~ used each month; and

2. The CITY will track the water usage through the irrigation meter for one (1) year. The month with the highest usage shall be considered the ceiling that the CITY will use in the following years that this Agreement is in effect (**hereinafter** the "Ceiling Amount"). If the DISTRICT's usage ever goes above the Ceiling Amount in any given month while this Agreement is in effect, the CITY may bill the DISTRICT for the amount that is considered "overage" in the same way as any other utility bill is issued at the applicable rate set forth in the most recently adopted fee schedule.
3. Should this Agreement expire or terminate without another Agreement to replace it that includes a provision for these irrigation services, the CITY shall revert to billing the DISTRICT under the same quantity requirements as any other utility bill is issued at the applicable rate set forth in the most recently adopted fee schedule

b. City Fee Waiver:

- i. The CITY'S Fee Schedule Resolution allows City Council for the CITY to, upon request, approve by a majority vote a fee waiver for causes that benefit a school as long as the fee waiver only applies to those fees listed within the fee schedule that are associated with recouping expenses for employee time/labor on such things as processing applications, administrative time, inspections, performing services to the public, or plan review. Fees listed that are collected to recoup the city's cost of items, capitalization fees, impact fees, or any other fee that is not associated solely with employee labor cannot be waived except as allowed by the adopted Rathdrum Municipal Code.
- ii. While the CITY cannot guarantee a fee waiver will be approved, in further consideration of the DISTRICT'S provision of recreational facilities to the CITY, the CITY agrees that if the DISTRICT requests a fee waiver from the City Council for the CITY in accordance with the above adopted authority, the CITY will consider said fee waiver request favorably in light of this Agreement between the parties.

~~e. **Crossing Guards:** In further consideration of the DISTRICT'S provision of recreational facilities to the CITY, the CITY agrees to continue to provide the five (5) current crossing guards to the DISTRICT.~~

- ~~i. If a current crossing guard ever leaves the employment of the CITY for any reason, the CITY has no obligation to replace said crossing guard.~~

- ~~ii. The DISTRICT agrees that if the DISTRICT desires a replacement crossing guard or any crossing guards in addition to the five (5) that the CITY provides, it will be the DISTRICT'S responsibility to hire and employ a replacement/additional crossing guards.~~
- ~~d. **Student Resource Officer:** In further consideration of the DISTRICT'S provision of recreational facilities to the CITY, the CITY agrees to continue to provide a dedicated sworn officer to act as the Student Resource Officer (SRO) for the DISTRICT in accordance with the separate agreement that the parties enter into for this position each year.
 - ~~i. Should the parties ever not enter into that separate agreement for the SRO position, the CITY has no further obligation to provide a dedicated sworn officer for the SRO position and the DISTRICT has no further obligation to pay the CITY for said position.~~~~

3. AUTHORITY

- ~~a. The parties hereto covenant and represent that the execution of this Agreement has been authorized by the governing body of the respective parties and that the individual signature set forth herein is authorized by the governing body of the respective party.~~

4. COMPLIANCE WITH JOINT EXERCISE OF POWER ACT (I.C. 67-2328)

- ~~a. **Duration:** This Agreement shall remain in effect for a period of ten (10) years from the date entered into (detailed above), unless otherwise terminated by either party, with an option to be extended for up to an additional ten (10) years upon mutual written agreement to said extension.~~
- ~~b. **Administrative entity:** The parties have agreed that no separate legal or administrative entity is created by this Agreement.~~
- ~~c. **Purpose:** The purpose, as referenced in the recitals of this Agreement, is to define the rights, duties, and responsibilities of each of the parties for the facilities and services that each party provides the other for the mutual benefit of the parties.~~
- ~~d. **Manner of Financing and Maintaining Budget:** There shall be no separate financing or budgetary consideration by either of the parties; each party is responsible to maintain its own premises, costs of operation of such premises, and budget for any other costs associated with the obligations of each party as detailed herein.~~
- ~~e. **Termination and Disposal of Property:** The term of this Agreement shall be as set forth in Subsection (a) hereinabove, subject to any amendment by mutual written agreement of the parties. In the event this Agreement is terminated, each party shall remain in possession of their particular~~

~~premises affected hereby. No additional property jointly owned shall be created by this Agreement.~~

~~f. **Creation of a Joint Board:** The DISTRICT'S Superintendent (or designee) and the CITY'S Administrator (or designee) will constitute a joint board responsible for administering this Agreement. Each party shall have one (1) vote total. The parties shall meet at least annually for the purposes of reviewing this Agreement and providing mutually agreed upon modifications or changes thereto.~~

~~g. **No Property Jointly Held:** No real or personal property shall be jointly held pursuant to this Agreement, each party to maintain the ownership and possession of their own property used, whether real or personal.~~

5. VENUE

a. In the event any legal proceeding shall be instituted between the parties, such legal proceeding shall be instituted in the courts of the County of Kootenai, State of Idaho.

6. NOTICE

a. Any notice under this Agreement shall be in writing and be delivered either 1) by U.S. Postal Service Mail certified mail with return receipt requested to the address listed below, or 2) by electronic mail to the email address listed below.

DISTRICT:
P.O. Box 39
Rathdrum, ID 83858
clerk@lakeland272.org

CITY:
8047 W. Main Street.
Rathdrum, ID 83858
mayor@rathdrum.gov

7. LIABILITY

a. To the extent legally possible, the CITY promises, covenants, and agrees to hold harmless, protect, and indemnify the DISTRICT from and against any and all liabilities, losses, damages, expenses, and charges, including, but not limited to, attorneys fees and expenses of litigation, incurred in or from any such obligation to be performed under the terms of this Agreement by the CITY, or arising from any act, negligence, or omission by the CITY or any of its authorized agents, employees, or volunteers. The CITY'S liability under this paragraph shall be limited by the terms of the Idaho Tort Claims Act and the self insurance provisions adopted by the City and Idaho Code Section 67-5776.

b. The DISTRICT promises, covenants, and agrees to hold harmless, protect, and indemnify the CITY from and against any and all liabilities, losses, damages, expenses, and charges, including, but not limited to, attorneys fees and expenses of litigation, incurred in or from any such obligation to be performed under the terms of this Agreement by the

DISTRICT, or arising from any act, negligence, or omission by the DISTRICT or any of its authorized agents, employees, or volunteers.

- c. The covenants and agreements regarding liability as set forth in this section (subparagraphs a and b above), shall not apply, one party to the other, in the event of a wrongful act of a third party (i.e. business invitee or guest), which said wrongful action does not arise from any act, negligence, or omission of the DISTRICT or the CITY incurred in or from any such obligation to be performed under the terms of this Agreement.

8. INSURANCE

- a. The DISTRICT shall maintain such comprehensive public liability and property damage insurance with limits reasonably satisfactory to the CITY as will protect it from claims for damages because of bodily injury, including death, or damages because of injuries or destruction or loss of use of property, which may arise from its operations under this Agreement whether such operations be by it or its agents or anyone directly or indirectly employed by the DISTRICT. In addition, the DISTRICT is responsible for the following: (a) The DISTRICT shall notify the CITY in writing as soon as practicable after notice of an injury or a claim is received; (b) The DISTRICT shall cooperate completely with the CITY and/or the CITY'S insurers in the defense of such injury or claim and the DISTRICT shall take no steps (such as admission of liability) which will prejudice the defense or otherwise prevent the CITY from protecting the CITY'S interests. All insurance required under this paragraph shall be maintained in full force and effect in a company or entity or companies or entities reasonably satisfactory to CITY and shall be maintained at the DISTRICT'S expense until this Agreement terminates. Certificates of such insurance shall be provided to the CITY contemporaneously with the execution and delivery of this Agreement by the DISTRICT and at any other time upon reasonable notice by the CITY to the DISTRICT. Failure to maintain the insurance required by this Agreement shall be grounds for its immediate termination notwithstanding any other provisions governing termination of this Agreement.
- b. The CITY shall maintain such comprehensive public liability and property damage insurance as will protect it from claims for damages or bodily injury, including death or damages because of injuries or destruction or loss of use of property, which may arise from its operations under this Agreement whether such operations be by it or its agents or anyone directly or indirectly employed by the CITY. The CITY may purchase such policy, or may at its election be self insured. The combined aggregate liability of the CITY and its employees for damages, costs, and attorney fees under state law, on account of bodily or personal injury, death, or property damage, or other loss as the result of any one occurrence or accident regardless of the number of persons injured or the number of claimants, shall be not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00), unless the CITY has purchased applicable, valid, and

collectible liability insurance coverage in excess of said limit, in which event the controlling limit shall be the remaining available proceeds of such insurance. In addition, the CITY is responsible for the following: (a) The CITY shall notify the DISTRICT in writing as soon as practicable after notice of an injury or a claim is received; (b) The CITY shall cooperate completely with the DISTRICT and/or the DISTRICT's insurers in the defense of such injury or claim; and the CITY shall take no steps (such as admission of liability) that will prejudice the defense or otherwise prevent the DISTRICT from protecting the DISTRICT's interests. All insurance required under this paragraph shall be maintained in full force and effect in a company or entity or companies or entities reasonably satisfactory to DISTRICT and shall be maintained at the CITY's expense until this Agreement terminates. Certificates of such insurance shall be provided to the DISTRICT contemporaneously with the execution and delivery of this Agreement by the CITY and at any other time upon reasonable notice by the DISTRICT to the CITY. Failure to maintain the insurance required by this Agreement shall be grounds for its immediate termination notwithstanding any other provisions governing termination of this Agreement.

9. SEVERABILITY

- a. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law. It is the intention of the parties that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, the provision shall have the meaning which renders it valid.

10. ENTIRE AGREEMENT

- a. This Agreement embodies the entire agreement of the parties, and there are no oral agreements existing relative to the subject matter hereof which are not expressly set forth herein. The Agreement may be modified only in writing signed by all parties hereto.

11. WAIVER

- a. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any other covenant, term or condition herein.

12. FORCE MAJEURE

- a. Any inability to perform this Agreement due to strikes, lockouts, labor disputes, acts of God, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse performance by such party for a period equal to any such inability to perform.

13. ASSIGNMENT OF AGREEMENT

- a. No assignment of this Agreement or of any right accruing under this Agreement shall be made, in part or in whole, by either party.

14. DURATION

- a. This Agreement shall be in effect for a period of one (1) year from the date entered into above. This Agreement shall be reviewed annually to ensure both parties are receiving the mutual benefits identified above from said Agreement.

15. TERMINATION

- a. Either party may termination this Agreement upon written notice delivered to the other party in the manner set forth in the Notice section.

16. BINDING EFFECT

- a. This Agreement is for the benefit only of the parties hereto and shall inure to the benefit and be binding upon the parties and their respective heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Mayor and Clerk of the City of Rathdrum and the appropriate Board of Trustees of Lakeland School District #272, together with the Superintendent thereof, have affixed their official seal and signatures hereto the day and year first above written.

DISTRICT:

CITY:

Michelle Thompson
Board Chair

Mike Hill
Mayor

ATTEST:

Lisa Arnold
Superintendent

Lorrann Morrell
City Clerk

DRAFT