

**CITY OF ANN ARBOR AND ANN ARBOR SKATEPARK ACTION
COMMITTEE**

MEMORANDUM OF INTENT

This memorandum of intent is entered into on this ____ day of _____, 2008 by the City of Ann Arbor, a municipal corporation, 100 North Fifth Avenue, Ann Arbor, Michigan, (“City”), and the Ann Arbor Skatepark Action Committee, a committee formed for the purposes stated in this Memorandum, _____, Ann Arbor, Michigan, (“AASAC”),.

RECITALS

- A. Whereas, there is significant community interest in support of a skatepark within the City of Ann Arbor Parks system.
- B. Whereas, the City of Ann Arbor Parks Advisory Commission, passed a resolution on May 20, 2008, recommending that City Council approve the proposed location of a skatepark at Veterans Memorial Park, contingent on the skatepark meeting or exceeding storm water management standards and other environmental requirements.
- C. Whereas, the City Parks and Recreation Services Unit has designated a parcel of land within Veteran’s Memorial Park for construction of a City of Ann Arbor skatepark (“Facility”) located in the general area as shown on Attachment A, as long as construction has commenced by January 1, 2014.
- D. Whereas, the Ann Arbor Skatepark Action Committee shall raise funds for the design, construction, operation and maintenance of the Facility, and the City and Ann Arbor Skatepark Action Committee desire to work together regarding the design, operation, and maintenance of the Facility.
- E. Whereas, 10% of all funds raised by the Ann Arbor Skatepark Action Committee shall be allocated to an endowed fund designated the Ann Arbor Skatepark Fund (or similar name), through the Ann Arbor Area Community Foundation for operations, maintenance and future improvements to the Ann Arbor Skatepark.
- F. Whereas, The City of Ann Arbor and the Ann Arbor Skatepark Action Committee wish to state their intent regarding how the parties will work together toward completion of the Facility, and to specify a preliminary outline of any and all future agreements between the parties regarding the Facility.

In consideration of the above, CITY and AASAC intend to work together in good faith to do the following in order to construct, operate and maintain the Facility:

General

1. City Resolution. City, by Resolution, has agreed to the development, construction, and operation of the Facility at Veterans Memorial Park, contingent on: (1) City's receipt of funds raised by AASAC, the Ann Arbor Area Community Foundation or others providing 100% of the costs of design, development and construction of the Facility; (2) City's receipt of funds for maintenance and operating costs, or approval of a funding mechanism for the provision of these funds; and, (3) City's approval of the Facility design.
2. Skatepark Action Committee. AASAC has been working since 2005 to pursue its mission to build a public, concrete skatepark as a permanent resource for residents of the Ann Arbor Area. AASAC intends to form a nonprofit 501(c)(3) organization no later than January 1, 2010, in order to contract with City regarding the development, construction, operation, and maintenance of the Facility. (City will not enter into a construction agreement for the Facility until the nonprofit has been formed.) The nonprofit organization shall be named Friends of the Ann Arbor Skatepark, or other similar name. When formed, AASAC intends that this nonprofit organization will be the successor in interest to AASAC for this Memorandum of Intent, and the nonprofit organization shall execute a revised Memorandum of Intent, if required by the City, with the nonprofit organization assuming the rights and duties of the AASAC as provided in this Memorandum of Intent.
3. Facility. The parties intend that the Facility shall consist of a 30,000 square feet +/- concrete skatepark, including "street" elements (flat surfaces, stairs, rails), "transitional" elements (bowls, curved surfaces, half pipes), as well as lighting, seating and picnic areas and any other element agreed to by the parties. AASAC intends to donate the cost of improvements to the Facility, which will remain under the ownership of the City of Ann Arbor.
4. Environmental Responsibility. It is the intention of the parties that the Facility will meet or exceed all storm water management and other environmental requirements, and will compliment the current park and landscape. The parties intend to minimize the environmental impact of the Facility, incorporating where practical, solar powered lights, preservation of existing trees, use of drought resistant species of trees, and low maintenance ground covers. If possible, the Facility will also incorporate public art.
5. Ann Arbor Skatepark Fund. AASAC intends to fund the design, development, construction, operation and maintenance of the Facility with donations collected for the benefit of the Facility by the Ann Arbor Skatepark Fund, a fund held by the Ann Arbor Area Community

Foundation. City intends to accept all donations as a gift or grant subject to City Council approval of any gift or grant conditions.

6. Term. City intends to operate and maintain the Facility for a minimum of 12 years, but will reserve the right to discontinue operating and maintaining the Facility as a skatepark for excessive operational and maintenance costs, safety or liability concerns, or any other issue contrary to the public and fiduciary obligations of City Council.
7. Recitals. The recitals listed above are included and made a part of this Memorandum of Understanding by reference.

Stage I - Design

1. Facility Design. The parties intend that the Facility shall be designed to be constructed in at least two distinct phases. The elements of each phase shall be designed so that the CITY can construct and operate an entire phase as a skatepark if funding is not available for the next phase of the project.
2. Funding of Facility Design. AASAC intends to pay all costs for the design and engineering of the Facility with donated funds from the Ann Arbor Skatepark Fund.
3. Consultant. AASAC intends to contract with a qualified design consultant to provide all design and engineering documents required for construction of the Facility. (AASAC intends to provide contract documents to the City for review and approval prior to executing any such contract. AASAC acknowledges that City may need specific provisions added to the contract regarding insurance and indemnification.) AASAC and City intend that the City Parks and Recreation Services Unit will provide advice and assistance in identifying a qualified design consultant. AASAC intends to prepare a Request for Proposals for a design consultant with the assistance of the City.
4. Cooperation. AASAC and the City Parks and Recreation Services Unit, and other City staff intend to work together cooperatively along with the consultant to insure that the Facility design meets all project goals, as will be decided between the City and AASAC prior to contracting with the consultant.
5. Timing. AASAC intends that it will commence Facility design, when the complete cost of Facility design is funded from the Ann Arbor Skatepark Fund, but no later than July 1, 2010. (AASAC currently estimates that the cost of Facility design will be \$40,000-\$100,000.) AASAC intends to be

responsible for all costs for Facility design incurred prior to the completion of construction of the Facility.

6. Final Design. City and AASAC intend to agree upon a plan for the design and configuration of the Facility prior to the initiation of any work at the site. Upon completion of the Facility design, City intends to review the design proposal, following all established City ordinances and procedures, including, but not limited to, public input, review by the Parks Advisory Commission, the Planning Commission, if necessary, and City Council. The final design of the Facility shall be subject to City Council approval.

Stage II - Construction

1. Construction Contract. City intends to contract for construction of the Facility subject to all City policies and ordinances regarding procurement, contracting and construction. City intends to prepare bid/construction documentation and manage the competitive bid process and project development. AASAC intends to review and provide assistance in the selection of responsible bidders.
2. Funding of Facility Construction. AASAC intends to pay all costs for the construction of the Facility with donated funds from the Ann Arbor Skatepark Fund. City does not intend to provide any funding for the construction of the Facility, but may decide to contribute to the cost of construction at a later time.
3. Timing of Construction. City intends to commence construction of any phase that has been completely funded within a reasonable amount of time. City will reconsider its commitment to the Facility if no phase is completely funded by January 1, 2012. Once funding for each phase is complete, the City and AASAC will develop a schedule for completion of each particular phase.
4. Phased Construction. City only intends to commence construction of the approved Facility design conditioned upon the prior receipt of funds to complete the construction, operation and maintenance of any given phase of the Facility, including:
 - a. All site-preparation and construction costs, including a 10% contingency, based on a construction bid, or verified cost received within 30 days of the date of commencement of construction.
 - b. Funds for the operation and maintenance of the phase for _____ years [This number will need to match the operation commitment in Paragraph #6 (Term) in the General section, above.] , or an endowment or other mechanism, subject to City approval that will

provide the City with funds that meet or exceed the comprehensive operation and maintenance budget for the facility.

5. Construction Agreement. City and AASAC intend to negotiate and enter into a comprehensive agreement for construction of the Facility. The parties intend that concurrent with or sometime after City Council approval of the Facility design, the City Parks and Recreation Services Unit will present the agreement to City Council for approval. City and AASAC intend that this comprehensive construction agreement will include terms that specify:
 - a. Any necessary Parties and their respective roles and responsibilities. (The parties acknowledge that in order to contract with the City, AASAC will need to form a nonprofit organization, as referenced above. Also, the Ann Arbor Area Community Foundation may need to be added as an additional party to specify the timing and distribution of funds.)
 - b. The Facility design as approved by AASAC and City Council.
 - c. That any material changes to the design and configuration of the Facility shall require the prior written approval of both AASAC and City.
 - d. Cost estimates for the construction for each phase of the project.
 - e. Reasonable deadlines for AASAC raising funds for each phase of the project.
 - f. How all construction costs, operation and maintenance costs for 12 years, as well as any costs for special upgrades or improvements desired by AASAC, will be funded by AASAC.
 - g. Any provisions of this Memorandum of Intent, or other issues that need to be included in contract form.

6. Facility Sponsorship. AASAC intends that it will offer sponsorship opportunities including the naming of the Facility, a sponsor's plaque, and the naming of individual Facility elements. AASAC acknowledges and intends that all sponsorship opportunities for the Facility as well as any naming of the Facility shall be subject to City policies and ordinances, with review by the Parks Advisory Commission, and is ultimately subject to City Council approval. City intends to establish a City policy to be used to guide the use of sponsor and donor acknowledgments in City parks, and AASAC and City intend to jointly establish a policy consistent with the City's policy to be used to guide fundraising and sponsorship opportunities for the Facility.

Stage III – Operations and Maintenance

1. Budget. City and AASAC intend to work jointly to develop a comprehensive operation and maintenance budget for the Facility.
2. Maintenance. The parties intend that all maintenance of the Facility shall be completed by the City, or a contracted service under the City's control.
3. Funding of Operations and Maintenance. AASAC intends to pay all costs for the operations and maintenance of the Facility for 12 years from completion of the Facility with donated funds from the Ann Arbor Skatepark Fund. However, at its discretion, City may decide to contribute to the payment of costs for operations and maintenance. AASAC may also raise additional funds for special upgrades and improvements.
4. Operation/Maintenance Memorandum of Understanding. City and AASAC intend to negotiate and enter into a separate Operation/Maintenance Memorandum of Understanding for the Facility, which shall include specific terms and requirements that are not addressed in the comprehensive construction agreement.
5. Annual Review of Memorandum of Understanding. City and AASAC intend that the Operation/Maintenance Memorandum of Understanding shall be reviewed on an annual basis at a meeting between the City and AASAC and shall be adjusted as future circumstances may warrant based on operational and maintenance experience at the Facility, and available funding.
6. Facility Rules and Regulations. City and AASAC intend to develop reasonable rules and guidelines for the Facility that address issues such as the minimum age of users unaccompanied by an adult, hours of operation, seasonal schedule, general etiquette, use of the Facility at the users own risk, and other issues that are common to municipal skateparks around the country. AASAC acknowledges that the Facility will be part of a City park and will be subject to general City parks rules and regulations as specified by City Code and policy. City and AASAC intend that rules for the Facility shall be periodically reviewed and updated as may be required.
7. Staffing and monitoring. City and AASAC intend that there will not be assigned staffing or monitoring of the Facility and that visitors will use the Facility at their own risk. City intends to provide general oversight of the Facility, although it will be limited to such periodic inspections and monitoring as budget resources may permit in accordance with overall City park supervision.

8. Safety and enforcement. City intends to provide response to 911 and related emergency calls for assistance.
9. Signage. City and AASAC intend that rules shall be prominently posted at entrances to the Facility.
10. Facility programming. City and AASAC intend that AASAC or a Facility Advisory Committee may provide organized activities and events for the Facility, and that all activities will be subject to approval by the City Parks and Recreation Services Unit.
11. Advisory Committee/Stewardship Program. The City and AASAC intend to explore whether to form a Facility Advisory Committee, or a stewardship program, or both to assist with the continued operation, maintenance and upkeep of the Facility. A Facility Advisory Committee would advise the City regarding the continued operation and maintenance of the Facility and would consist of representatives of AASAC and City, as well as citizens of Ann Arbor. A stewardship program would consist of AASAC providing support activities for the Facility. Responsibilities for an advisory committee or stewardship program may include, but are not limited to, advising City regarding the following:
 - a. Providing advice to City staff regarding Facility operations.
 - b. Monitoring and reporting of site conditions at the Facility.
 - c. Considering Facility alterations or additional amenities.
 - d. Organizing and hosting educational and special events at the Facility.
 - e. Assisting in developing and distributing educational materials and event advertising.
 - f. Distributing Facility rules and other educational materials to Facility users.
 - g. Acting as a liaison with local residents and assisting with neighborhood issues related to Facility operation.
 - h. Reporting and documenting complaints regarding misuse of the Facility.
 - i. Fundraising to support additional approved amenities, programs and improvements at the Facility.
12. Advertising. City and AASAC intend that permanent advertising will not be allowed on Facility premises, except names and logos associated with sponsorship opportunities, as approved by City.

CITY OF ANN ARBOR

SKATEPARK ACTION COMMITTEE

By: _____
John Hieftje (DATE)
Mayor

By: _____
(DATE)

By: _____
Jacqueline Beaudry (DATE)
City Clerk

APPROVED AS TO SUBSTANCE

APPROVED AS TO FORM

By: _____
Roger W. Fraser (DATE)
City Administrator

By: _____
Stephen K. Postema (DATE)
City Attorney

By: _____
Jayne Miller (DATE)
Community Services Administrator

Attachment A
Facility Location