

THE BOARD OF EDUCATION OF
SCHOOL DISTRICT NO. 68 (NANAIMO-LADYSMITH)

PORTION OF NDSS SITE DISPOSAL BYLAW, 2017

WHEREAS section 65 (5) of the *School Act* provides that a board of education may exercise a power with respect to the acquisition or disposal of property owned or administered by the board only by bylaw;

AND WHEREAS pursuant to Section 96 (1) of the *School Act*, “land” includes any interest in land, including any right, title or estate in it of any tenure;

AND WHEREAS section 96 (3) of the *School Act* provides that a board of education may dispose of land or improvements, or both, subject to the orders of the Minister of Education (the “**Minister**”);

AND WHEREAS section 3 of Ministerial Order M193/08 Disposal of Land or Improvements Order (the “**Disposal Order**”) provides that boards must not dispose of land or improvements by sale and transfer in fee simple or by way of lease or 10 years or more unless such disposal is to another board or an independent school for educational purposes or is approved by the Minister in accordance with section 5 of the Disposal Order;

AND WHEREAS section 5 of the Disposal Order provides that the Minister may approve, with any terms and conditions, a disposition of land or improvements;

AND WHEREAS:

- (i) The Board of Education of School District No. 68 (Nanaimo-Ladysmith) (the “**Board**”) has determined and hereby confirms that the land and improvements comprising the two parcels (collectively, the “**Parcels**”) described on Schedule A attached hereto, shown as a 4.9 hectare (12.2 acre) portion and a 1.04 hectare (2.6 acre) acre portion of the Nanaimo District Secondary School site (the “**Property**”), are not required for future educational purposes;
- (ii) the Property is facility number 68001;
- (iii) the address of the Property is 395 Wakesiah Avenue, Nanaimo, British Columbia, V9R 3K5, and the legal description of the Property is:

Parcel Identifier: 025-088-777
Lot B Section 1 Nanaimo District Plan VIP71878, Except Part in Plan VIP71881;
- (iv) the Board entered into a Memorandum of Understanding dated February 10, 2017 with City of Nanaimo (the “**City**”) providing, among other things, for the negotiation of a Purchase and Sale Agreement (the “**PSA**”) pursuant to which the Board would sell the Parcels to the City (the “**Sale**”) for a purchase price of Four Million One Hundred Thousand Dollars (\$4,100,000.00) (the “**Purchase Price**”), subject to conditions including completion of a public consultation process, adoption of a bylaw by the Trustees of the Board in their discretion and approval of the Sale by the Minister;
- (v) the Board has completed a public consultation process regarding the proposed Sale; and
- (vi) the Board is satisfied that the Purchase Price represents fair market value for the Parcels.

NOW THEREFORE be it resolved as a Bylaw of the Board that, subject to the approval of the Minister, the Board enter into the PSA, subdivide the Property and complete the sale of the Parcels to the City for the Purchase Price, on the terms and subject to the conditions set out in the PSA.

BE IT FURTHER resolved that the Secretary-Treasurer be and is hereby authorized, on behalf of the Board, to settle, execute and deliver the PSA and all such amendments thereto (except as to the Purchase Price) as the Secretary-Treasurer may, in her discretion, consider advisable, and all related and ancillary documents required to complete the subdivision of the Property and, subject to the approval of the Minister, the sale of the Parcels to the City pursuant to the terms of the PSA.

This bylaw may be cited as "School District No. 68 (Nanaimo-Ladysmith) Portion of NDSS Site Disposal Bylaw, 2017".

Read a first time this _____ day of _____, 2017

Read a second time this _____ day of _____, 2017

Read a third and final time, passed and adopted this _____ day of _____, 2017

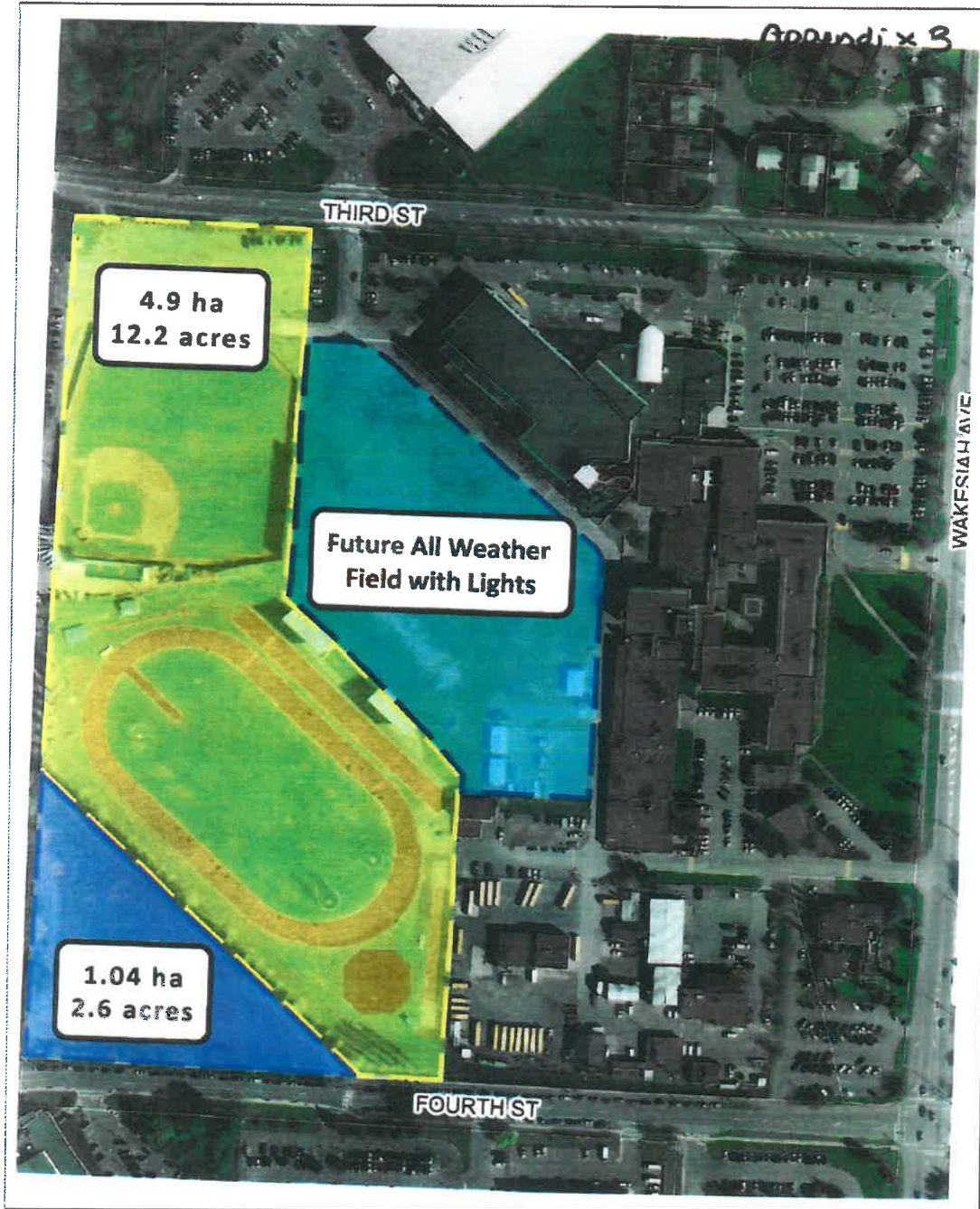
Chair

Secretary-Treasurer

I HEREBY CERTIFY this to be a true and original "School District No. 68 (Nanaimo-Ladysmith) Portion of NDSS Site Disposal Bylaw, 2017" adopted by the Board this ___ day of _____, 2017.

Secretary-Treasurer

SCHEDULE A





From the Board of Education
Email: BoardOfEducation@sd68.bc.ca

February 10, 2017

Tracy Samra
Chief Administrative Officer
City of Nanaimo
455 Wallace Street Nanaimo, B.C. V9R 5J6

RE: Memorandum of Understanding regarding:

Potential Sale of Portions of the Nanaimo District Secondary School (the "**School**")
lands located at 395 Wakesiah Avenue, Nanaimo, B.C., legally described as:

PID: 025-088-777 Lot B Section 1 Nanaimo District Plan VIP71878, Except Part in Plan
VIP71881 (the "**Lands**"), and

Potential Construction of a Lit All Weather Synthetic Turf Field on the Lands

The purpose of this Memorandum of Understanding ("**MOU**") is to set out the basic terms and conditions upon which The Board of Education of School District No.68 (Nanaimo-Ladysmith) (the "**Board**") would be prepared to negotiate with City of Nanaimo (the "**City**") to sell to the City a portion or portions of the Lands, as shown on Schedule A attached hereto, as may be agreed between the Board and the City (collectively, the "**Parties**", and individually a "**Party**"), each in their discretion, subject to settlement and execution of a definitive agreement of purchase and sale (a "**PSA**"), and the basic terms and conditions on which the Parties would jointly finance the construction of a lit all weather synthetic turf field (the "**Field**") on the remainder of the Lands, subject to settlement and execution of a definitive funding agreement (a "**Funding Agreement**").

Except as provided in sections 1 and 3 to 6 below, this MOU is not intended to constitute a binding agreement but rather is merely a statement of the respective Intentions of the Parties with respect to the potential negotiation of a PSA and a Funding Agreement. The obligations of the Parties to proceed with a PSA and a Funding Agreement are subject to the Parties negotiating, settling, executing and delivering a PSA and a Funding Agreement that are mutually acceptable to both of the Parties, in their respective discretion, consistent with the terms and conditions set forth herein and containing further terms and conditions. Subject to the foregoing, the Parties agree as follows:

1. Good Faith Negotiations: The Parties agree to negotiate the terms of a PSA and a Funding Agreement in good faith and in accordance with the terms of this MOU until the earlier of settlement and execution of a PSA and a Funding Agreement of this MOU under section 2 hereof or termination of this MOU under section 3 hereof.

2. Anticipated Business Terms: The Parties anticipate that they will reach mutual agreement on a PSA and a Funding Agreement that contain the following and other terms and conditions:

(a) PSA

- i) the City will purchase 5.94 hectares (14.8 acres) of the Lands from the Board for \$4,100,000, to be defined by subdivision of the Lands pursuant to a subdivision plan in a form approved by each of the Parties, in their respective discretion;
- ii) the PSA shall have a closing date of June 30th, 2017, subject to extension by mutual agreement between the parties;
- iii) the Board's obligation to complete the sale is conditional on the Board completing its land disposal process, which includes a public process, adoption of a bylaw by the Trustees of the Board in their discretion, and written approval of the sale by the British Columbia Minister of Education (the "Minister"), in the Minister's discretion;
- iv) the Board will grant the City a long-term license (the "Use Agreement") to use the Field, which will include terms addressing maintenance, repair and replacement of the Field, and which will oblige the Board to compensate the City in the event of termination;
- v) the City's obligation to complete the sale is conditional on execution of the Use Agreement which will include a track field use at a rental rate of \$1.00 for the length of the term;
- vi) the City's agreement is conditioned upon Council's approval, and approval of a DVP to vary works and services;
- vii) the City will be solely responsible for all subdivision costs and approvals relating to the proposed subdivision of the Lands;
- viii) the Board will be solely responsible for all costs associated with completion of the Board's land disposal process and for applying for the approval of the Minister;
- ix) the City will be solely responsible for any goods and services taxes payable in respect of the Purchase Price or any interest thereon, and from and after the Completion Date, the City will be solely responsible for any and all applicable property taxes, utility costs, and any other federal, provincial or municipal charges or assessments relating to the Lands;
- x) the PSA will have no statement of adjustments in connection with the purchase and sale of the Lands, including, without limitation, property taxes, local improvement charges, utilities, and all other matters customarily the subject of adjustment on the sale of properties similar to the Lands;
- xi) each Party will be solely responsible for its own legal costs; and
- xii) each Party will work together to ensure any issues arising from the proposed subdivision including, without limitation, long term access, utility connections and

irrigation issues, are resolved prior to completion of the subdivision, to the mutual satisfaction of the Parties in their respective discretion.

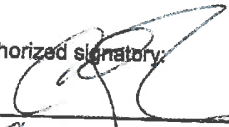
- (b) Artificial Turf Field Project Funding Agreement
- i) the Field will be located on the Lands generally as shown on Attachment A to this MOU;
 - ii) each of the Parties will contribute \$1,200,000 to the Field construction costs;
 - iii) Funding Agreement will set out how the project will be jointly constructed, managed, renewed and removed at the end of its life;
 - iv) each of the Parties will share the risk of cost overruns, subject to the terms of the Funding Agreement;
 - v) design work for the Field will be led by the Board and will begin immediately upon this MOU being settled and executed by the Parties;
 - vi) the Parties will aim for construction of the Field to be completed by the end of August, 2017; and
 - vii) the Use Agreement will be settled and executed by the Parties prior to commencement of construction of the Field.
3. Termination: If the Parties have not negotiated, settled and executed a PSA and a Funding Agreement on or before that date which is NINETY (90) days following the execution of this MOU by both Parties, or such longer period as the Parties may agree to in writing, then this MOU will automatically terminate and be of no further force or effect except as specifically provided herein.
4. Confidentiality: The Parties will keep the terms of this MOU and any confidential information received in respect of the Property in strict confidence, other than:
- (a) to provide the same to their respective representatives and advisors on the condition that such representatives and advisors keep the terms of this MOU and such information in strict confidence; or
 - (b) to the extent that may be required by law or by a court or regulatory authority having jurisdiction.
- If the transaction contemplated by this MOU is not completed for any reason, then each of the Parties shall, upon the request of the other Party, promptly return to that other Party all confidential documents received from that other Party.
5. Exclusivity
- Following execution of this MOU, the Board will not negotiate or enter into discussions with, or offer the Lands or any interest therein to, any party other than the City, unless and until the time herein provided for settlement and execution of a PSA and a Funding Agreement has expired without a PSA and a Funding Agreement being settled and executed by both Parties.

6. Execution and Delivery

This MOU may be executed by the Parties in counterpart and transmitted by e-mail or facsimile, and if so executed and transmitted, this MOU will be for all purposes as effective as if the Parties had each executed and delivered a single original instrument.

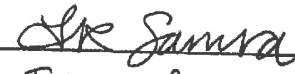
If all the terms and conditions stated herein are acceptable, please sign and return a copy of this MOU by 4:00 P.M. (local Nanaimo time) on February 14, 2017.

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 68 (NANAIMO- LADYSMITH)

By its authorized signatory: 

Name: *Carole McVeigh*
Title: *Secretary-Treasurer*

Accepted and agreed to by CITY OF NANAIMO this 10 day of February, 2017:

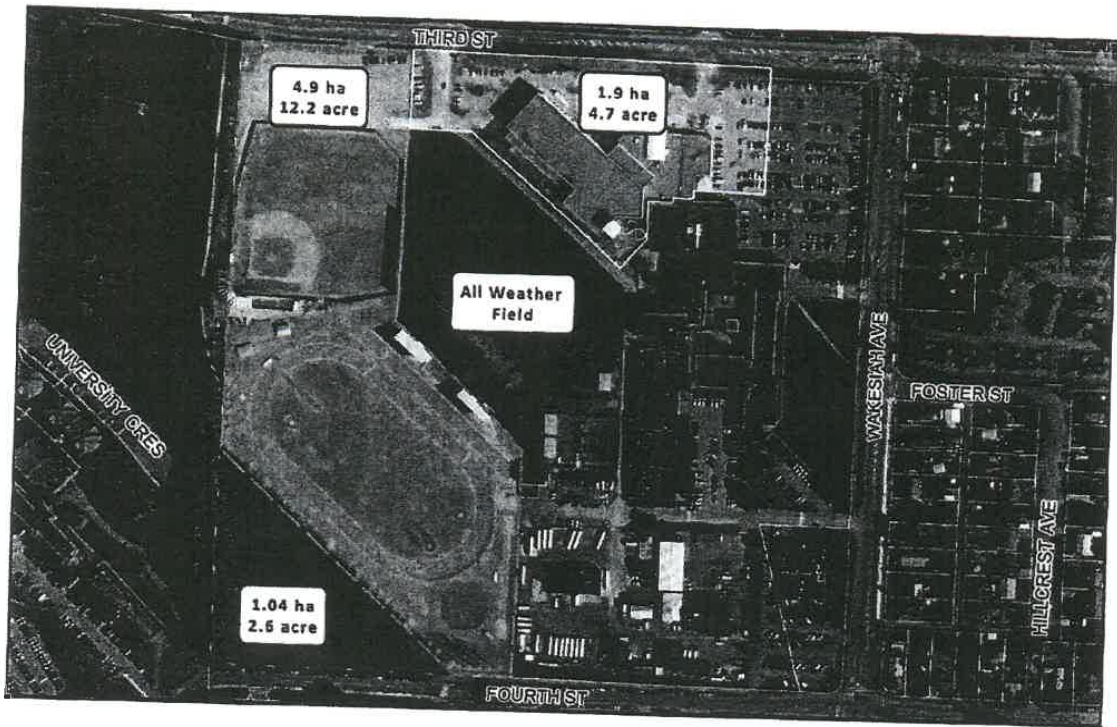
By its authorized signatory: 

Name: *Tracy Samra*
Title: *City Manager*



Sky Snelgrove
Deputy Corporate Officer
City of Nanaimo

SCHEDULE "A"
Lands





NEWS RELEASE
February 9, 2017

CITY, SCHOOL DISTRICT WORK TOGETHER ON RECREATION AMENITIES

Summary

The City of Nanaimo and Nanaimo Ladysmith Public Schools are partnering to enhance Nanaimo's recreation amenities. The City made an offer to purchase a 5.94 hectare (14.8 acres) parcel of land, subject to various terms which include: A public consultation process and approval by the Board of Education and Ministry of Education. The property, located at Nanaimo District Secondary School (NDSS), includes the Rotary Bowl and Serauxmen Stadium. The cost to acquire the property will total \$4.1 million. The lands will be designated for parks and recreation purposes with the exception of a small parcel which has future development potential.

In addition, the City is working with the School District to build an artificial turf field at NDSS that can accommodate a regulation size Canadian Football field. The City and School District will split the estimated \$2.4 million cost of constructing the field and the City will gain an interest in the land the field is on. The field is expected to be open for use in the fall.

Strategic Link: Supporting Council's priority of Recreation, Culture, Sports and Tourism by providing the necessary resources and space to facilitate the development of recreation, sport and culture in Nanaimo.

Key Points

- The City of Nanaimo and Nanaimo Ladysmith Public Schools have been working together on projects of mutual benefit. One project is the long-term redevelopment of the NDSS site.
- Funds for the property acquisition were taken from the City's Parks Development Cost Charge, Property Sales and Property Acquisition Reserves.
- The City will contribute \$1.2 million out of the Community Works Fund towards the construction of the artificial turf field. Staff will draw up an MOU to outline responsibilities pertaining to the development and use of the artificial turf field.
- As per the Nanaimo Ladysmith Public Schools' disposal of property procedures, the School District will complete a public consultation process before a decision is made by the Board of Education. This will include a public open house jointly held by the City and School District.

"The value of this property and investment in the future use of this property is priceless. A generation of citizens have benefited from Rotary Bowl and Serauxmen Stadium. This purchase will guarantee another generation to enjoy the benefits of these two jewels in

the sports corridor at the base of VIU. Plans to enhance and improve the sports fields will add to the expanded use to more users. Compliments are in order to all those who contributed to the development of these properties and the School Board for reaching this agreement to the mutual benefit of all."

Bill Bestwick
Councillor
City of Nanaimo

"This is a tremendous opportunity for the School District, the City of Nanaimo and most importantly our community," said Steve Rae, Nanaimo Ladysmith Public Schools' Board Chair. "Our students will continue to access a top-notch sports facility with the added benefit of a new artificial turf field as early as September. This partnership is one of many initiatives with the City, and the Board is looking forward to continuing our unique and progressive partnership for the betterment of the entire community and the future development of the NDSS site."

Steve Rae
Board Chair
Nanaimo Ladysmith Public Schools

-30-

CONTACT:

Philip Cooper
Communication and Engagement Director
City of Nanaimo
250 755 4532

Dale Burgos
Director of Communications
Nanaimo Ladysmith Public Schools
250-741-5273

PUBLIC NOTICE

Seeking Public Input

Nanaimo Ladysmith Public Schools (NLPS) and the City of Nanaimo are partnering to enhance Nanaimo's recreation amenities. The City made an offer to purchase Rotary Bowl, Serawmen Stadium and a triangle parcel on the N DSS property. In addition, the City and NLPS propose to cost-share an artificial turf field.

Engagement Timeline:

Wednesday, February 22
Begin online engagement

Wednesday, March 8
Business Committee meeting for public presentations

Thursday, March 9
Open house - Nanaimo Ice Centre
4:30 to 8:30 p.m.

Wednesday, March 15
Regular Board meeting to receive feedback



More information @ sdfe8.bc.ca
Feedback deadline is **Friday, March 10**
communications@sdfe8.bc.ca



NANAIMO LADYSMITH
PUBLIC SCHOOLS