

**MEMORANDUM OF UNDERSTANDING  
(Superseding BOS Agreement 09-071)**

This Memorandum of Understanding (MOU) is entered into on the 14<sup>th</sup> day of September, 2010 ("Effective Date"), by and between the County of Mendocino (hereinafter referred to as "the County") and the City of Ukiah (hereinafter referred to as "the City"), superseding BOS Agreement No.09-071:

Whereas, on June 26, 1973, the City and the County entered into a 'Cost Sharing Agreement Based on Use' ("Use Agreement", see attached Exhibit A) for property (APN 001-020-09) adjoining the County Regional Park on Low Gap Road, said property being more particularly depicted and described in the attached "Exhibit B" and "Exhibit C"; and

Whereas, the area subject to the Use Agreement ("the Parking Area") is a portion of APN 001-020-09; and

Whereas, the terms of the Use Agreement granted the County of Mendocino the use of "the Parking Area" for a parking facility for said park, in return for a contribution toward the purchase price of APN 001-020-09, not to exceed \$12,500; and

Whereas, after the City's purchase of APN 001-020-09, the County developed a portion of APN 001-020-09 ("the Park Use Area"), for a parking facility, picnic tables, playground, tennis courts, volleyball courts, and a Rotary Club memorial grove; and

Whereas, since 1973, the County has continually developed, improved, installed, operated and maintained the "Park Use Area", which is more particularly described in the attached "Exhibit D", as a portion of the County Regional Park on Low Gap Road; and

Whereas, the City will be constructing a Skate Park and restrooms located within the "Park Use Area", which is more particularly described in the attached "Exhibit E"; and

Whereas, the City has received a grant from Roberti-Z'Berg-Harris Nonurbanized Area Need-Basis Program 2002 in the amount of \$500,000 ("the Grant"), which contains conditions with which the City is required to comply; and

Whereas, under the terms of the Grant, the City is required to exercise "site control" over the property improved with grant funds and to keep the improved facilities available for public recreation purposes for not less than twenty (20) years; and

Whereas, "site control" for the operation, management, oversight, and maintenance of Low Gap Regional Park was established on October 2, 2007,

under Board of Supervisors Agreement 07-202, and subsequently superseded on May 12, 2009, under Board of Supervisors Agreement 09-071 to further include "site control" over the location of the Skate Park and Restroom area; and

Whereas, the terms of the Use Agreement give the County the use of the Ukiah Skate Park for property development; and

Whereas, the County has agreed to put forth \$70,000 of Prop 40 funds to the City for the building of a skate park at the Low Gap Park; and

Whereas, after the County's contribution toward development of the Ukiah Skate Park, the City will continue to dedicate the Ukiah Skate Park for public and community use; and

Whereas, under the terms of the Grant, the City must have the authority to oversee and approve the County's use of the improved property in order to comply with the City's obligations under the terms of the Grant; and

Whereas, for the foregoing reasons, the City and County desire to set forth herein their rights and obligations concerning the operation and maintenance of the Ukiah Skate Park; and

Whereas, the City and the County mutually agree to support one another's applications for future grant funding for Low Gap Park;

Now, therefore, the following are the terms and conditions of this MOU:

1. The County will continue, at its own expense, to operate, manage, provide oversight of, and maintain the Park Use Area for the uses currently conducted on that property, described above, as part of the County Regional Park on Low Gap Road. The County will continue to maintain the playground equipment as required by Proposition 12. The County shall use reasonable efforts to maintain the current facilities within the newly described "Park Use Area" (Exhibit E) in a condition that allows for public use of the facilities for their intended purposes and shall not permit or maintain a dangerous condition of public property thereon.

2. In the event that the County does not operate, manage, provide oversight of, and maintain the facilities in the "Park Use Area" and within the County Regional Park on Low Gap Road in the condition as required by Section 1 of this Agreement, the City shall have the right to provide written notice to the County of any conditions that violate the requirements of this Section 2. Within 15 days of its receipt of the notice, the County must provide the City Manager with a written response.. The current conditions of the facilities of the Park Use Area are depicted on the attached "Exhibit E". Nothing in this Agreement shall be construed to require the County to assign an employee to supervise the Park Use Area at all times that it is being used by the public. The County in its

discretion shall determine how often and by what means it supervises the use of the Park Use Area.

3. In the event that the City does not provide adequate supervision and oversight of the Skate Park, so as to minimize any negative impacts on the County leased portion of the City's property (Park Use Area), the County shall have the right to provide written notice to the City of any conditions that violate the requirements of this Section 3. Within 15 days of its receipt of the notice, the City Manager must provide the County with a written response. Nothing in this Agreement shall be construed to require the City to assign an employee to supervise the Skate Park at all times that it is being used by the public. The City in its discretion shall determine how often and by what means it supervises the use of the Skate Park.

4. The City shall at its own expense operate, manage, provide oversight of, and maintain the Ukiah Skate park for public recreation purposes. The City shall use reasonable efforts to maintain the park in a condition that allows for public use for its intended purposes and does not constitute a dangerous condition of public property. For the term of this MOU, the County hereby grants the City authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee the Skate Park portion of the property located at 1041 Low Gap Road, Ukiah, California for the public recreational use of said property and the City shall keep the Ukiah Skate Park available for public recreational purposes and in a condition suitable for such purposes, for a period of twenty (20) years from the completion of the work funded by the Grant.

5. The County shall have the right to provide the City with written notification In the event that the City does not operate, manage, provide oversight of, and maintain the Ukiah Skate park in an operational condition as of the Effective Date and in a condition as required by paragraph 4 above.

6. Within 15 days of its receipt of the notice as described in paragraph 5, the City manager must provide the County with a written response, setting forth remedies which are acceptable to the County. If the City closes the Skate park, it shall accept full responsibility for any liabilities of the County arising under the terms of the Grant agreement, if any, and shall fully indemnify and defend the County from and against any such liability.

7. The "Park Use Area" shall no longer include the City owned property wherein the City plans to build the Skate Park, as depicted in Exhibit E, and the County has no ownership, or operation and maintenance responsibilities of the Skate Park.

8. The City shall provide restroom facilities on the City's property near the location of the Skate Park and shall maintain said restroom facilities, which shall be available for the use by users of the Skate Park and the Park Use Area. If the restrooms are damaged at any time by minor vandalism (an amount not to exceed \$2,000), the City and the County shall share equally the cost to repair

such damage. If the restrooms are damaged at any time by major vandalism (an amount over \$2,000) the City shall be solely responsible for the costs associated with the repairs. If at any time prior to December 31, 2012, the State of California releases the County's Proposition 40 per capita funding, the County shall contribute, not to exceed, \$70,000 of said funds to pay or reimburse the cost of construction of the Skate Park. Said \$70,000 from the County is contingent upon approval by the State for said project.

9. The City shall provide parking lot enhancements to include combining into a single parking lot the two existing parking lots and paving the lots in accordance with standards mutually agreeable to the parties. Once the lots have been improved, as provided herein, the parties shall share equally the costs to maintain the parking lot infrastructure. Routine daily maintenance of the parking lot shall be the responsibility of the City.

10. City and County will comply with all federal, state, and local laws and ordinances as may be applicable to the carrying out this MOU.

11. The Term of the MOU shall commence on Sept. 14, 2010 shall continue until Sept. 14, 2030. This MOU may be extended on its same terms and conditions, for a period not to exceed twenty (20) years, upon written agreement between the County and City.

12. The County shall indemnify, defend and hold harmless the City, its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including the fees of attorneys, investigators, experts, expert witnesses and consultants, arising out of the County's performance under this Memorandum of Understanding, and the performance thereunder of its contractors, subcontractors, officers, agents and employees or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where the claim, damage, loss or expense is caused by active, sole negligence, or willful misconduct of the City. County shall name City as an additional insured under its insurance coverage, whether by an insurance company or a joint powers agency. County shall furnish City with a policy endorsement or other satisfactory evidence that such coverage is in effect and that City is named as an additional insured.

13. The City shall indemnify, defend and hold harmless the County, its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including the fees of attorneys, investigators, experts, expert witnesses and consultants, arising out of the City's performance under this Memorandum of Understanding, and the performance thereunder of its contractors, subcontractors, officers, agents and employees or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where the claim, damage, loss or expense is caused by active, sole negligence, or willful misconduct of the County. City shall name County as an additional insured under its insurance coverage, whether by an insurance company or a joint powers agency. City shall furnish County with a policy

endorsement or other satisfactory evidence that such coverage is in effect and that County is named as an additional insured.

14. County and City each bind themselves, their partners, successors, executors, and administrators and assigns to the other party to this MOU, and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

15. Except as above, neither County nor City shall assign, sublet, or transfer this interest in this MOU without the written consent of the other.

16. This MOU may be terminated by either party with a 60 day written notification to the other party. This MOU may be amended by written consent of both parties. Either party shall have the right to terminate the MOU upon the failure of the other party to adhere to the conditions of the MOU. Notice of intent to terminate shall be in writing, and shall provide that the party not in compliance shall have the right to come into compliance within 60 days of receiving such written notification.

17. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this MOU or any part thereof is, for any reason, held to illegal, such decision shall not affect the validity of the remaining portions of this Agreement or any part thereof.

18. No waiver, alteration, or modification of any of the provisions of this MOU shall be binding unless in writing and signed by a duly authorized representative of both parties to this Agreement.

19. Whenever notice is permitted or required under the terms of this Agreement, it shall be deemed given when received, if delivered personally, by fax or by overnight courier, and 48 hours after deposit in the United States Mail with proper first class postage affixed thereto. Notices shall be sent to the following address or fax number, unless notice of an address change is given as provided herein.

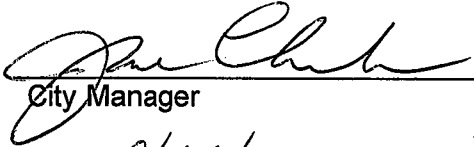
CITY OF UKIAH  
C/O City Manager  
Ukiah Civic Center  
300 Seminary Ave.  
Ukiah, CA. 95482  
Fax: 463-6204

COUNTY OF MENDOCINO  
C/O GSA  
841 Low Gap Road  
Ukiah, CA. 95482  
Fax: 463-4673

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate original the day and year first above written.

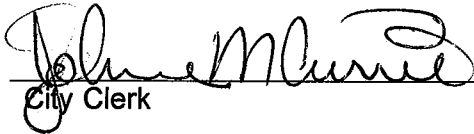
CITY OF UKIAH

COUNTY OF MENDOCINO

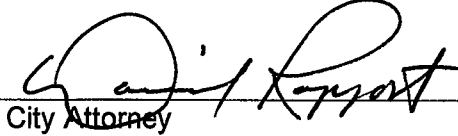
  
\_\_\_\_\_  
City Manager

9/24/2010  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
JEANINE B. NADEL,  
County Counsel

INSURANCE REQUIREMENTS:

KRISTIN McMENOMEY, Director  
General Services Agency

By \_\_\_\_\_  
RISK MANAGER

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate original the day and year first above written.

CITY OF UKIAH

COUNTY OF MENDOCINO

\_\_\_\_\_  
City Mayor



\_\_\_\_\_  
Chair, Board of Supervisors  
**SEP 14 2010**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk



\_\_\_\_\_  
Clerk of the Board **DEPUTY**

APPROVED AS TO FORM:

APPROVED AS TO FORM:

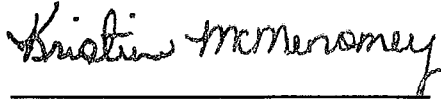
\_\_\_\_\_  
City Attorney



\_\_\_\_\_  
JEANINE B. MADEL,  
County Counsel

INSURANCE REQUIREMENTS:

KRISTIN McMENOMEY, Director  
General Services Agency



By \_\_\_\_\_  
RISK MANAGER

I hereby certify that according to the provisions of Government Code sections 25103, delivery of this document has been made.

CARMEL J ANGELO  
Clerk of the Board

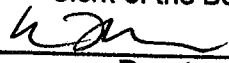
By:  \_\_\_\_\_  
Deputy

EXHIBIT A

COST SHARING AGREEMENT  
BASED ON USE

1  
2  
3 WHEREAS, the City of Ukiah has negotiated the purchase of  
4 a parcel of property adjoining the proposed County Regional Park  
5 on Low Gap Road, and

6 WHEREAS, the County of Mendocino has indicated, that in  
7 return for the use of a portion of the property for a parking  
8 facility for said park, the County of Mendocino would contribute  
9 one half of the land purchase price, said figure not to exceed  
10 \$12,500.00.

11  
12 W I T N E S S E T H:  
13

14 That the parties hereto agree to the following assurances.

- 15 1. That the County of Mendocino, State of California will  
16 contribute one half of the land purchase price, said  
17 figure not to exceed \$12,500.00. Said contribution  
18 to be made within 30 days from the closing of escrow.
- 19 2. That the City of Ukiah, State of California, will allow  
20 said County to utilize a portion of the purchased  
21 property for the parking of vehicles of those persons  
22 utilizing the proposed Low Gap Regional Park. Said  
23 portion utilized will be located in the southwest  
24 portion of the parcel to be purchased. Said utilization  
25 will be provided until the year 2025.
- 26 3. If the purchased property is not available to the County  
27 for Park parking purposes prior to 2025, the City agrees  
28 to reimburse the County's funding participation up to  
29 \$12,500.00 to the County.

30 IN WITNESS WHEREOF, this agreement has been executed by  
31 County this 26<sup>th</sup> day of June, 1973, and by City this  
32 29<sup>th</sup> day of June, 1973.



EXHIBIT A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

County of Mendocino  
State of California

City of Ukiah, State of  
California, a Municipal  
Corporation.

*Carroll H. P. W.*  
Chairman, Board of Supervisors,  
Mendocino County

*Jack Simpson*  
Mayor

ATTEST:

Attest:

VIOLA N. RICHARDSON, County  
Clerk and ex-officio Clerk  
of the Board of Supervisors

*Hattie M. Wells*  
City Clerk

By *Christy Wells*

# EXHIBIT B

Mendocino County

45334

RECORDING REQUESTED BY

RECORDED AT REQUEST OF  
WESTERN TITLE GUARANTY COMPANY  
MENDOCINO COUNTY DIVISION

AND WHEN RECORDED MAIL TO

BOOK 932 PAGE 593  
JUL 25 10 32 AM '73

NAME The City of Ukiah  
ADDRESS 203 S. School St.  
CITY & STATE Ukiah, Ca. 95502

OFFICE OF THE COUNTY  
RECORDING CLERK  
State of California  
RECORDED 174 fl

Title Order No. 58607 Escrow No.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO

NAME Grantee at above address  
ADDRESS  
CITY & STATE Ukiah, California

Documentary transfer tax \$ 25.50  
 Computed on full value of property conveyed, or  
 Computed on full value less liens and encumbrances  
remaining thereon at time of sale

William Dyer Western Title  
Secretary of Western Title Guaranty Company

## Individual Grant Deed

WESTERN TITLE FORM NO. 104

FOR VALUE RECEIVED, CHARLES SHIMMIN and MARIE SHIMMIN, his wife,  
THOMAS E. GOFORTH and SHARON GOFORTH, his wife, and  
NEWELL RAWLES and DOLLENE RAWLES, his wife,  
GRANT TO THE CITY OF UKIAH, a Municipal Corporation,

All that real property situate in the

County of

Mendocino

State of California, described as follows:

BEGINNING at a point on the Northerly line of Lot 8, Yokayo Rancho,  
distant thereon South 71° 30' East, 673.19 feet from the Northwest corner  
of said Lot 8; thence South 60° 19' West, 237.26 feet; thence South 38° 35'  
East, 409.89 feet; thence South 39° 25' East, 71.34 feet; thence North 55°  
26' East, 222.33 feet; thence North 82° 27' East, 224.74 feet; thence South  
51° 32' East, 290.11 feet; thence South 75° 10' East, 103.60 feet; thence  
North 18° 30' East, 215.04 feet to said Northerly line of Lot 8; thence  
North 71° 30' West along said Northerly line 893.54 feet to the point of  
beginning.

EXCEPTING therefrom a strip of land 20 feet in width lying along and  
adjacent to said Northerly line of Lot 8, and containing after said  
exception, 5.00 acres, more or less.

Dated July 9, 19 73

Charles Shimmin  
Marie Shimmin  
Thomas E. Goforth  
Sharon Goforth  
Newell Rawles  
Dollene Rawles

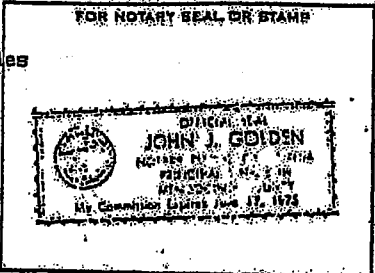
Marie Shimmin  
Sharon Goforth  
Dollene Rawles

STATE OF CALIFORNIA

County of Mendocino  
July 23, 19 73 before me, the undersigned

a Notary Public, in and for said State, personally appeared Charles  
Shimmin, Marie Shimmin, Thomas E. Goforth,  
Sharon Goforth, Newell Rawles & Dollene Rawles  
known to me with true name, and acknowledged to me that  
they executed the same.

Notary Public



BOOK 932 PAGE 593

MAIL TAX STATEMENTS AS DIRECTED ABOVE

# EXHIBIT B

Mendocino County

### CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the deed or grant dated July 9, 1973

from Charles Shinmin and Marie Shinmin, et al. to the City Council, City of Ukiah, a political corporation, and for public use is hereby accepted by the undersigned as or agent on behalf of the City Council, City of Ukiah, pursuant to authority conferred by resolution of the City Council, City of Ukiah, adopted on February 1, 1973, and the grant is hereby recorded in accordance with the provisions thereof by its duly authorized officer.

Dated 7-18-73 by [Signature]  
City Manager

### CITY BUSINESS - FREE

This is to certify that this document is presented for recordation by the City of Ukiah pursuant to Section 6103 of the Government Code and it is necessary to complete the chain of title of the City of Ukiah to be acquired by the City of Ukiah.

[Signature]  
City Clerk of the City of Ukiah

Ukiah Players Theater, et al

**EXHIBIT C**  
**Legal Description**

Being a portion of that tract of land, Shimmin, Goforth, and Rawles to the City of Ukiah, as recorded July 25, 1973 in Official Records of Mendocino County, Book 932, Page 593, said portion being more particularly described as follows:

All that portion of Lot 8, of the Yokayo Rancho, lying within the County of Mendocino, State of California, being more particularly described as follows:

Commencing at a point on the northerly line of Lot 8, of the Yokayo Rancho, said point lying S 71°30' E, 673.19 feet from the northwest corner of said Lot 8; thence leaving said point of commencement S 60°19'00" W, 26.84 feet; thence S 71°30'00" E, 168.14 feet to the True Point of Beginning; thence leaving the true point of beginning S 18°30'00" W, 122.07 feet; thence S 43°38'01" E, 110.16 feet; thence S 47°13'38" E, 71.04 feet; thence N 82°27'00" E, 220.23 feet; thence N 18°30'00" E, 106.05 feet; thence N 71°30'00" W, 360.00 feet to the True Point of Beginning, containing 1.31 Acres, more or less.

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

*Arthur W. Colvin*

Arthur W. Colvin, LS 6112, Exp.: 3-31-08  
County Surveyor

July 5, 2006

Dated



Low Gap County Park

**EXHIBIT D**  
**Legal Description**

Being a portion of that tract of land, Shimmin, Goforth, and Rawles to the City of Ukiah, as recorded July 25, 1973 in Official Records of Mendocino County, Book 932, Page 593, said portion being more particularly described as follows:

All that portion of Lot 8, of the Yokayo Rancho, lying within the County of Mendocino, State of California, being more particularly described as follows:

Commencing at a point on the northerly line of Lot 8, of the Yokayo Rancho, said point lying S 71°30' E, 673.19 feet from the northwest corner of said Lot 8; thence leaving said point of commencement S 60°19'00" W, 26.84 feet to the True Point of Beginning; thence leaving said true point of beginning S 60°19'00" W, 210.43 feet; thence S 38°55'00" E, 409.89 feet; thence S 39°25'00" E, 71.34 feet; thence N 35°26'00" E, 222.33 feet; thence N 47°13'38" W, 71.04 feet; thence N 43°38'01" W, 110.16 feet; thence N 18°30'00" E, 122.07 feet; thence N 71°30'00" W, 168.14 feet to the True Point of Beginning, containing 2.26 Acres, more or less.

This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

*Arthur W. Colvin*

Arthur W. Colvin, LS 6112, Exp.: 3-31-08  
County Surveyor

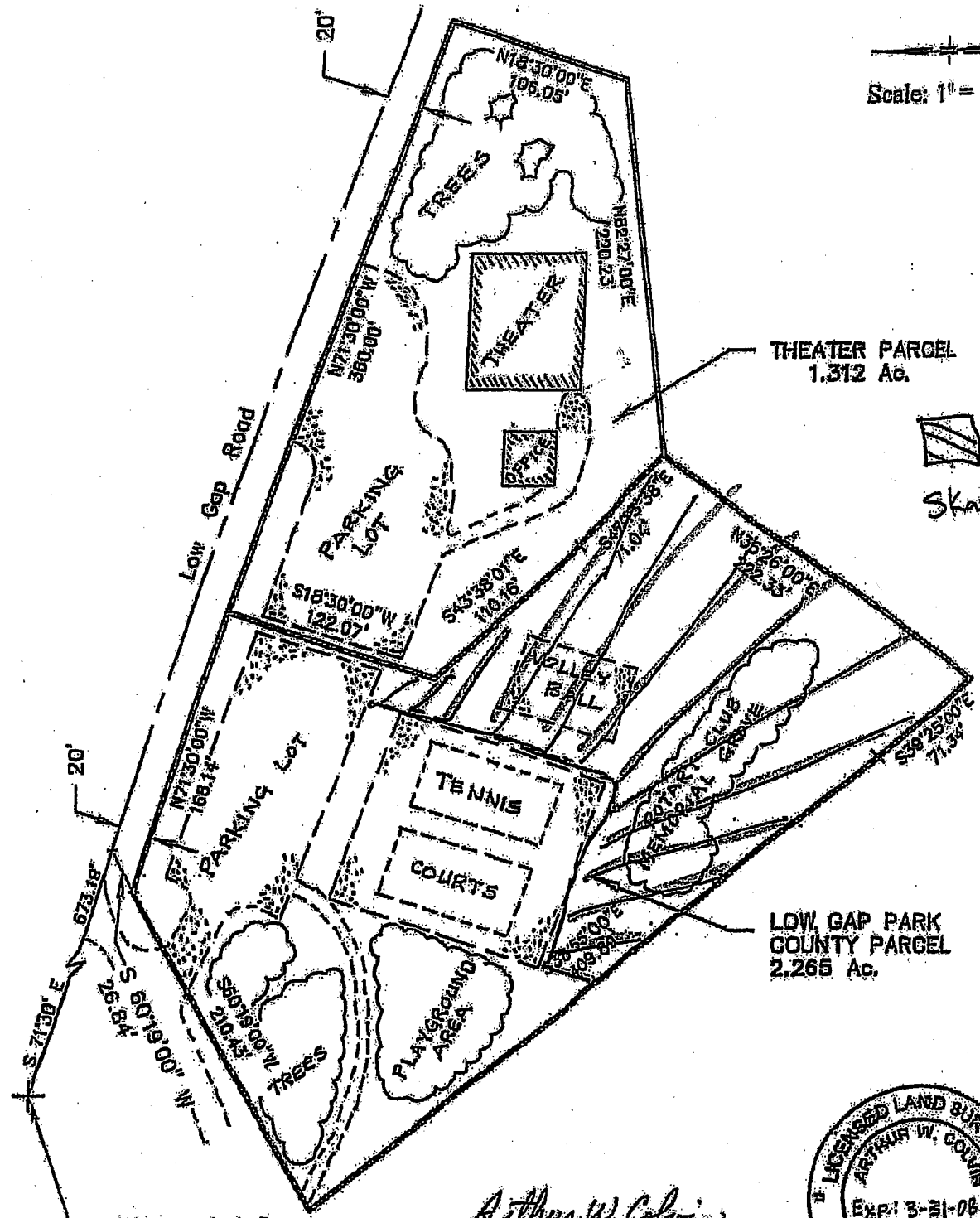
July 5, 2006

Dated



EXHIBIT E

Scale: 1" = 80'



THEATER PARCEL  
1.312 Ac.

  
Skate Park

LOW GAP PARK  
COUNTY PARCEL  
2.265 Ac.

NW Cor. Lot B  
Yakaya Rancho

*Arthur W. Colvin*  
Arthur W. Colvin, LS 6112  
EXP. Date: 3-31-08



Date: July 5, 2006