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MEMORANDUM

To: Mike Leonard, Executive Director
Channahon Park District

CC:

From: Adam B. Simon

Subject: Sale of Skateland

Date: January 20, 2021

The Channahon Park District is looking to sell the property commonly known as Skateland, as the Board of Park Commissioners has declared it as surplus property which is no longer necessary or useful for park purposes. As a result, the Park District has received two written offers to purchase the property, each in the form of a real estate purchase and sale contract. Below I have highlighted the material terms of each contract offer. Following the table I will discuss the pros and cons of each and my recommendation.

<u>Contract Term</u>	<u>McCoy Contract</u>	<u>Tobro Contract</u>
Price	\$575,000	\$550,000
Earnest Money	\$2,500	\$10,000
Property	Land, Building & all Fixtures (with warranties)	Land & Building (AS-IS)
Contingencies	Park Board approval; Financing;	Court approval ¹

¹ This will also require Board approval unless it receives approval before it is accepted.

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<u>Contract Term</u>	<u>McCoy Contract</u>	<u>Tobro Contract</u>
Due Diligence	General Due Diligence (60 days); Indemnity; Insurance; Restoration	General Due Diligence (30 days); Indemnity; Restoration if no closing
Seller Deliverables	Zoning Certificate; Well/Septic Tests; Mold Remediation Warranty	All service contracts and existing reports
Title	Zoning; No notice of unpermitted exceptions; 30 day cure period	Standard; No notice of unpermitted exceptions; 15 day cure period
Survey	ALTA Survey; Table A items 2, 7(a), 8	ALTA Survey; Table A items 1, 2, 3, 4, 6(a), 6(b), 14, 17 and 20
Deed	Warranty Deed	Warranty Deed
Casualty/Eminent Domain	Contract terminable	Contract terminable
Default/Remedies	Earnest Money; Buyer's Liquidated Damages (\$7,500)	Earnest Money; Buyer's Actual Damages; Specific Performance

Between the two contracts, it is plain to see that the McCoy offer is for more money. However, both contracts offer more than the appraised value, so each offers a fair price.

The Tobro contract offers more earnest money, recognizes the need for court approval and has a shorter due diligence period. Furthermore, there is no financing contingency, so there is no risk Tobro will not qualify for a loan to purchase the property. Additionally, the Tobro offer expressly states it will accept the property in an As-Is condition, which is more favorable to the District. These factors lead me to believe that Tobro intends to make an aggressive offer which is fully cognizant of the site

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conditions and risks. Although there are some provisions which will require negotiation, the offer is reasonable.

The McCoy offer places a greater burden on the Park District to demonstrate the feasibility of using the property for their intended use, which will require the Park District to incur costs which the Tobro offer will not. Although it should not result in \$25,000 in extra costs, the Board can expect for this to diminish the difference in price.

The one area where the Tobro contract offer creates a higher risk of liability to the Park District relates to remedies upon a default by the Park District. Although McCoy has capped the amount of damages and Tobro has not, the Park District has a great deal of control over whether there is any risk of liability for a default. Hence, this distinction may be given less value in the comparison.

In summary, looking at the totality of the contracts and the likelihood that each will be consummated, I find the Tobro contract offer to be preferable to the McCoy offer.

Please let me know if you have any questions about the contract terms or my analysis.