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**INTERGOVERNMENTAL AGREEMENT BETWEEN
LINCOLN COUNTY SCHOOL DISTRICT AND CITY OF NEWPORT
RELATING TO CONSTRUCTION AND USE OF A SOCCER FIELD**

This Intergovernmental Agreement (“Agreement”) is between Lincoln County School District (“District”), an Oregon municipal corporation furnishing educational services in Lincoln County, including that portion of the District within Newport city limits, and City of Newport (“City”), an Oregon municipal corporation furnishing general governmental services within its corporate boundaries.

Both entities are units of local government, organized and operated under the laws of the State of Oregon. ORS Chapter 190 authorizes written agreements between units of local government for the performance of any or all functions and activities that a party to the Agreement has authority to perform. There is no intergovernmental entity created by this Agreement.

RECITALS

A. It is in the common interest, of both the District and City to achieve the following objectives:

1. Economically and efficiently serve the public by utilizing resources available to each party to this agreement to the maximum benefit of the parties' respective constituencies;
2. Effectively and efficiently manage use of District and City facilities and grounds for the benefit of Newport's youth, residents, and out-of-town residents;
3. Provide facilities and grounds usable for District and City programs;
4. Establish procedures to encourage cooperative working relationships between District and City personnel at all levels and to quickly resolve issues;
5. Encourage joint and cooperative ventures, including facility maintenance and development;

B. District and City wish to enter into this Agreement to set forth the obligations of both parties relating to the Project.

AGREEMENT

In consideration of the mutual covenants of the District and City, each to the other, the District and City do hereby agree as follows:

1. **Purpose:** The intent of this Agreement is to improve the functionality and usability of an existing sports field, with the primary use for soccer, while not diminishing the current soccer field use at other District and City facilities.

2. Description of Project: The project is located at Sam Case Elementary in Newport, Oregon. The site address is 459 NE 12th Street, Newport, Oregon. The current school field is supporting two sports, soccer and baseball. The project will include the relocation of playground equipment, construction of a small retaining wall, earthwork, drainage improvements, and the installation of approximately 54,500 SF of artificial sports field turf.
3. Funding of Project: The City agrees to pay \$500,000 in financial contributions toward the construction of an artificial turf sports field at Sam Case Elementary. The District is responsible for all other costs related to the planning, design, construction, and future maintenance of the location.
4. Construction of Project: The District is responsible for all project details and logistics related to the planning and construction of the field, including compliance with all applicable procurement and public contracting statutes, rules, regulations, and policies. The District is responsible for obtaining all applicable permits including, but not limited to, City Right-of-Way Permit, Excavation/Grading Permit, and a DEQ 1200-C Permit. The District will need to provide the City with design documents or specifications describing the extent to which stormwater that would otherwise naturally infiltrate will instead be redirected into the City's storm system.
5. Ownership of Facility: The District is the sole owner of the property where the sports field is located.
6. Use of Facility: The City is responsible for scheduling of all field use during non-school hours for the first ten (10) years after construction is complete and the field is ready for public use. The City is responsible for determining the priority schedule of use during the ten (10) year period. The District is responsible for field use during regular school hours and after the first ten (10) year period of use.

The District will have five (5) special use days per school year during the first ten (10) years of public use. The District must request these days no less than two (2) weeks in advance of the desired date of use. The City will provide priority use to the District for the five (5) annual dates requested. The City will try to best accommodate additional District special use requests on a case-by-case basis based on the field's schedule of use.

The District agrees to keep the field open for public use unless mandated by a federal, state, or county authority, or it is necessary to close the space for maintenance or safety purposes.

The District agrees to provide restroom access to scheduled field users during non-school hours. Field users will only have access to the restrooms inside Sam Case Elementary located between the gymnasium and school hallway. The District will inspect the restrooms before and after non-school hour use of the field.

The District and the City will coordinate bathroom keycard assignments for City personnel and scheduled users. The City will assign and track the keycards issued to City personnel and field users. If this model proves to be unworkable for either agency, then the parties agree to work together to develop a reasonable solution.

7. Maintenance of Facility: The District is responsible for the approval/disapproval, purchase, installation, replacement, maintenance, and/or storage of any field furniture and apparatus such as, but not limited to, goals, bleachers, players' benches, regularity signage, etc.

The City agrees that City personnel will be responsible for providing basic restroom cleaning, stocking, and securing of the restroom facility during non-school hours and at the end of each day.

City personnel will be given access to the school's restroom supplies for restocking. City personnel will record the supplies used during non-school hours and the District will bill the City at the end of each month. If this model proves to be unworkable for either agency, then the parties agree to work together to develop a reasonable solution.

8. Repairs to Facility: The District is responsible for all costs related to materials, supplies, and contracted services associated with the maintenance and repair of the restrooms. The District will provide portable toilets if the Sam Case Elementary restrooms are closed due to routine maintenance or repairs.

The District is responsible for all costs related to materials, supplies, testing, and any contracted services associated with the maintenance, repair and/or replacement (whether total or partial) of the synthetic turf field carpet, under drainage, sub-base, and infrastructure of the field.

9. Termination: If the District decides to terminate this Agreement during the ten (10) year period the City is responsible for scheduling, the District will reimburse the City on a prorated scale of \$50,000 per year. E.g., Agreement is terminated in Year 1 - the District will owe the City \$450,000; Agreement is terminated in Year 9 - the District will owe the City \$50,000.

10. Term of Agreement: This Agreement shall remain in effect until and unless the parties mutually agree to terminate or modify it.

11. Notices: Any notices required by the terms of this Agreement to be given by one party to the other, or desired so to be given, shall be sufficient if the writing is by email notification or in a sealed envelope, deposited in the United States registered or certified mail, with return receipt requested, and with postage fully prepaid and addressed to the other party at the following address, or such other address to which either party may have properly notified the other:

City of Newport
Attn: City Manager
169 SW Coast Highway
Newport, Oregon 97365

Lincoln County School District
Attn: Superintendent
P.O. Box 1110
Newport, Oregon 97365

12. **Attorney Fees:** If either party commences any arbitration, action, suit, or proceeding against the other to rescind, interpret, enforce, or recover damages for breach of the terms of this Agreement, the parties agree that the prevailing party shall be awarded reasonable attorney fees and costs incurred in any such arbitration, action, suit, or proceeding and in any later appeals filed as a consequence thereof. Such costs shall bear interest at the statutory legal rate from the date incurred, until the date paid.
13. **Severability:** If any part, term, or clause of this Agreement is held by a court or arbitrator to be unenforceable, of no effect or in conflict with any law, the validity of the remaining provisions and clauses shall not be affected and the rights and obligations of the parties shall be construed and in force as if the Agreement did not contain the particular part, term, or clause held to be unenforceable.
14. **Amendments:** The terms of this Agreement may be waived, modified, supplemented, or amended only upon written agreement by duly authorized representatives of both parties.
15. **Liability to Third Parties:** To the extent permitted by the Oregon Constitution, and to the extent permitted by the Oregon Tort Claims Act (ORS 30.260 to 30.300), and to the extent otherwise provided for in private contracts of insurance, both the City and District agree to indemnify, defend, and hold the other and its officers, employees, or agents, harmless from all damages, losses and expenses, including but not limited to attorney fees, and to defend all claims, proceedings, lawsuits, and judgments arising out of or resulting from the indemnifying party's negligence in the performance of or failure to perform under this Agreement. No party to this Agreement will be required to indemnify or defend the other party for any liability arising solely out of wrongful acts of another party or third party, or that other party's own officers, employees, or agents. Indemnity and defense for claims arising during the term of this Agreement shall survive expiration or termination of this Agreement.
16. **Additional Insureds:** Both the City and District agree to obtain and maintain in force at all times during the term of this Agreement a policy or policies of general liability insurance with liability limits of at least \$2,000,000 (two million dollars) per occurrence and \$3,000,000 (three million dollars) in the annual

aggregate, with the City policy or policies naming the District and its officers, employees, and agents as additional insureds, and the District policy or policies naming the City and its officers, employees, and agents as additional insureds.

17. Entire Agreement: This Agreement contains the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior agreements, commitments, representations, and discussions between the parties, whether written or verbal, relating to the subject matter of this Agreement.

LINCOLN COUNTY SCHOOL DISTRICT

CITY OF NEWPORT



By: Superintendent

By: City Manager

Date: _____

Date: 04-26-22



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LINCOLN COUNTY SCHOOL DISTRICT AND CITY OF NEWPORT
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LINCOLN COUNTY SCHOOL DISTRICT


By: Superintendent

Date: 4/26/22

CITY OF NEWPORT


By: City Manager

Date: 04-26-22

