

RESOLUTION NO. 1515

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR A FACILITY LEASE BETWEEN THE CITY OF CENTRAL POINT AND THE DOUGLAS EDUCATION SERVICE DISTRICT**

RECITALS:

- A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have the authority to perform.
- B. The City of Central Point and the Douglas Education Service District deem it to be to their mutual advantage and to be in the best interest of their respective constituencies to enter into an intergovernmental agreement for the lease of a city facility to be used for a special education preschool program.

The City of Central Point resolves:

**Section 1.** The attached agreement between the City of Central Point and the Douglas Education Service District for the lease of a facility is approved.

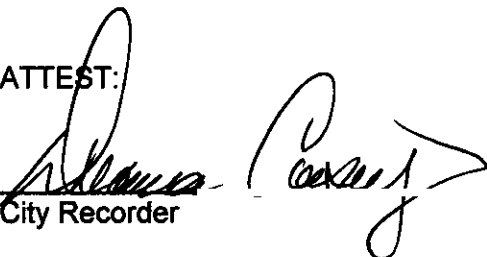
**Section 2.** Upon approval of this agreement the City Manager is authorized to execute the facility lease agreement.

**Section 3.** Upon approval of this agreement by the Douglas Education Service District, the attached agreement shall govern contract services between the two agencies from August 1, 2017 through June 30, 2022.

The City Manager of Central Point is authorized to sign the attached agreement on behalf of the City of Central Point.

Passed by the Council and signed by me in authentication of its passage this 24<sup>th</sup> day of August, 2017

  
Mayor Hank Williams

ATTEST:  
  
City Recorder

**INTERGOVERNMENTAL AGREEMENT  
FOR  
FACILITY LEASE  
BETWEEN DOUGLAS EDUCATION SERVICE DISTRICT (ESD),  
and CITY OF CENTRAL POINT (CITY)  
July 6, 2017**

**RECITALS**

- A. The parties to this agreement are the Douglas Education Service District (ESD) and the City of Central Point, OR (CITY).
- B. ESD contracts with Jackson County for its Early Intervention/Early Childhood Special Education (EI/ECSE).
- C. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents have the authority to perform.
- D. The parties agree that provision of facilities for Operation of a preschool and/or community center will mutually benefit the parties.

**AGREEMENT**

1. **PURPOSE:** ESD intends utilize the facility at 405 S. 4<sup>th</sup> St., Central Point, OR 97502 to operate a preschool classroom for the Jackson County EI/ECSE program. ESD is the responsible agency for the EI/ECSE program. The classroom will be in operation from August 1 through June 30 each year. CITY has informed ESD that future plans may include the use of this site as a community center in which case this Agreement may be terminated as provided herein below.
2. **TERM:** The term of this Agreement is August 1, 2017 through June 30, 2022.
3. **COMPENSATION TO CITY:** ESD shall pay City four-hundred (\$400.00) per month. This amount will pay for all utilities and no further financial responsibility will be assessed to ESD for use of the facility, except as otherwise provided herein.
- 3.1 Each year the monthly compensation will be reviewed and may be adjusted to meet increased costs of utilities for the site. CITY will notify ESD of any increase and show documentation for the increase. The maximum increase per year, for the EI/ESCE program is ten (10) percent.

4. REPAIRS/MAINTENANCE:

4.1 The following shall be the responsibility of CITY:

- a. Repairs and maintenance of the roof and gutters, exterior walls (including painting), bearing walls, structural members, floor slabs, and foundation.
- b. Repair and maintenance of exterior water, sewage, gas, and electrical services up to the point of entry to the leased Facility and wiring and plumbing from the point of entry to the Facility.
- c. Repair and replacement of the heating and air conditioning system other than ordinary maintenance.

Repairs and maintenance performed by CITY shall comply with all applicable laws and regulations.

4.2 The following shall be the responsibility of ESD:

- a. ESD will be responsible for the custodial/cleaning of the facility at its sole cost.
- b. Interior walls, ceilings, doors, windows, and related hardware, light fixtures and switches within the Facility.
- c. Any repairs, maintenance and replacements necessitated by the negligence of ESD and/or its agents, employees, and invitees, including repairs that would otherwise be the responsibility of CITY under Section 4.1.
- d. Ordinary maintenance of the heating and air conditioning system and any repairs necessary because of improper maintenance. Ordinary maintenance shall be deemed to mean maintenance performed by a reliable heating and air conditioning service company under a maintenance service contract which provides for regularly scheduled maintenance typically provided by such companies in Jackson County, Oregon. At all times during the term of this lease, ESD shall contract with a heating and air conditioning service company for such a maintenance service contract and shall provide CITY evidence of such contract.
- e. Any repairs or alterations required under ESD's obligation to comply with laws and regulations as set forth herein.

- f. All other repairs to the Facility, which CITY is not required to make under Section 4.1.

4.3 Reimbursement for Repairs Assumed. If either party fails or refuses to make repairs that are required by this Section 4, the other party may make the repairs and charge the actual costs of repairs to the first party. Such expenditures shall be reimbursed by the first party on demand together with interest at the rate of twelve percent (12%) per annum from the date of expenditure. Such expenditures by ESD may not be deducted from rent and other payments subsequently becoming due. Except in an emergency creating an immediate risk of personal injury or property damage, neither party may perform repairs which are the obligation of the other party and charge the other party for the resulting expense unless at least 15 days before work is commenced, the defaulting party is given notice in writing outlining with reasonable particularity the repairs required, and such party fails within that time to initiate such repairs in good faith.

4.4 Inspection of Facility. CITY shall have the right to inspect the Facility at any reasonable time or times, upon reasonable notice, to determine the necessity of repair. Whether or not such inspection is made, the duty of CITY to make repairs shall not mature until a reasonable time after CITY has received from ESD written notice of the repairs that are required.

5. TERMINATION: Any party may terminate this agreement for any reason, upon six (6) months prior written notice, to the other party.

6. FACILITY PREPARATION: CITY shall, at its sole cost prepare the following improvements to the Facility: carpet/floor cleaning, necessary painting, HVAC filters and cleaning, plumbing/sewer issues, site safety issues. ESD will be responsible for damage to the site caused by normal use as provided in Section 4 herein.

7. INSURANCE: ESD shall maintain general liability insurance and employee worker's comp insurance through PACE, Oregon School Board Association and shall name CITY as an additional insured.

8. SHARED USE: ESD will provide to CITY an annual use calendar for the EI/ESCE program. This calendar will provide EI/ECSE dates of operation. ESD agrees that CITY may have access to the facility for evening and weekend recreation classes. CITY will provide a recreational use schedule to ESD in September, January and May of each year. CITY will be responsible for any damage to the site or equipment as a result of CITY classes.

9. INDEMNIFICATION: To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes, each of the parties hereto agrees to indemnify, defend and save the other harmless from any claims, liability or damages including attorney fees, at trial and on

appeal, arising out of any error, omission or act of negligence on the part of the indemnifying party, its officers, agents or employees in the performance of this agreement.

10. LIENS:

10.1 Except with respect to activities for which CITY is responsible, ESD shall pay as due all claims for work done on and for services rendered or material furnished to the Facility, and shall keep the Facility free from any liens. If ESD fails to pay any such claims or to discharge any lien, CITY may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of twelve percent (12%) per annum from the date expended by CITY and shall be payable on demand. Such action by CITY shall not constitute a waiver of any right or remedy which CITY may have on account of ESD's default.

10.2 ESD may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as CITY's property interests are not jeopardized. If a lien is filed as a result of nonpayment, ESD shall, within 10 days after knowledge of the filing, secure the discharge of the lien or deposit with CITY cash or sufficient corporate surety bond or other surety satisfactory to CITY in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

11. ASSIGNMENT AND SUBLETTING: No part of the Facility may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of CITY, which consent shall not be unreasonably delayed or withheld. This provision shall apply to all transfers by operation of law. No consent in one instance shall prevent the provision from applying to a subsequent instance. CITY shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

12. DISPUTE RESOLUTION: The parties shall exert every effort to cooperatively resolve any disagreements they may have under this Agreement. In the event that the parties alone are unable to resolve any conflict under this Agreement, they agree to present their disagreements to a mutually agreeable mediator for mediation. This mediation procedure shall be followed to its conclusion prior to either party seeking relief from the court, except in the case of an emergency.

If the dispute remains unresolved through mediation, the parties may agree in writing to submit the dispute to arbitration, using such arbitration process as they may choose at the time and which includes the following conditions.

- a. The location of the arbitration shall be in Medford, Oregon;

b. Each party shall bear its own costs (except arbitration filing costs), witness fees and attorney fees;

c. Arbitration filing costs and any arbitrator's fees will be divided equally between the parties; and

d. Judgment upon the award rendered by the arbitrator may be entered in the Circuit Court in Jackson County, Oregon

13. **COMPLIANCE WITH LAWS:** The parties shall comply with all applicable federal, state and local laws, rules, ordinances, and regulations at all times and in the performance of the Work, including all applicable State and local public contacting provision.

14. **NOTICES:** Any notices permitted or required by this agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to the representative designated in paragraph 6. Either party may change its address by notice given to the other in accordance with this paragraph.

15. **INTEGRATION:** This agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This agreement shall supersede all prior communications, representations or agreements, either oral or written, between parties.

16. **INTERPRETATION:** This agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.

City of Central Point

Douglas ESD

By:

By:

Date:

Date: