

RESOLUTION NO. 1579

A RESOLUTION APPROVING THAT INTERGOVERNMENTAL AGREEMENT WITH JACKSON COUNTY SCHOOL DISTRICT #6 AND THE CITY OF CENTRAL POINT FOR JOINT USE OF DISTRICT AND CITY RECREATION FACILITIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENT

Recitals:

- A. Jackson County School District #6 ("District") and City each own real property in the City of Central Point, including facilities and active use areas, that are capable of being used by the respective agencies for community recreational purposes.
- B. The City finds these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community.
- C. ORS 190.010 authorizes the City to enter into agreements with other governmental agencies to promote the health and general welfare of the community.
- D. City staff has negotiated an intergovernmental agreement with District for Joint Use of recreation facilities.
- E. The agreement will enhance the recreational opportunities afforded to the children and adults in the community.

The City of Central Point resolves as follows:

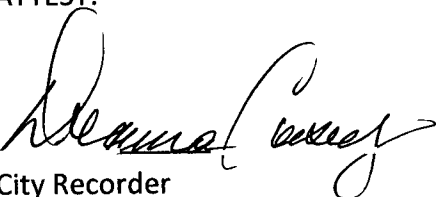
Section 1. The City hereby approves that Joint Use of District and City Recreation Agreement between City and Jackson County School District #6, as set forth on the attached Exhibit "A".

Section 2. The City Manager or his designee is authorized to sign said agreement in substantially the form attached hereto as Exhibit "A".

Passed by the Council and signed by me in authentication of its passage this 23<sup>rd</sup> day of May, 2019.

  
Mayor Hank Williams

ATTEST:

  
City Recorder

*City of Central Point and Jackson County School District  
#6*

**Joint Use of District and City Recreation Facilities Agreement**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of May, 2019 by and between City of Central Point, a municipal corporation, hereinafter referred to as "City", and Jackson County School District # 6, a public school district hereinafter referred to as "District."

**Recitals**

WHEREAS, District is the owner of real property in the City of Central Point, including facilities and active use areas that are capable of being used by City for community recreational purposes; and

WHEREAS, City is the owner of real property in the City of Central Point, including facilities and active use areas that are capable of being used by District for school recreational purposes; and

WHEREAS, under appropriate circumstances, these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community; and

WHEREAS, ORS 190.010 authorizes the governing bodies to enter into agreements with each other to promote the health and general welfare of the community and contribute to enhance the recreational opportunities afforded to the children in the community; and

NOW, THEREFORE, District and City agree to cooperate with each other as follows:

**1. Term**

This Agreement will begin on July 1, 2019 and will continue thereafter until terminated in the manner set forth in Section 17 of this Agreement.

**2. Cooperative Agreement**

As provided herein, District and City hereby agree to cooperate in coordinating programs and activities conducted on all their respective properties and in all their respective facilities that are listed on Attachment A ("District Property") and Attachment B ("City Property"). District and City shall have the right to add or exclude properties during the term of this Agreement, provided that any such change shall be in writing and approved by both District and City. Reference to District Property or City Property in this Agreement shall include the facilities and the property upon which the facilities are located. As used in this Agreement, "Owner" shall mean the party to this Agreement that owns a particular property and/or facility covered by this Agreement,

and “User” shall mean the other party using the Owner’s property and/or facility under the terms of this Agreement. “Public Access Hours” shall mean the hours during which City or third parties use District Property, or District or third parties use City Property.

### **3. Permitted Uses**

#### **a. District Property (excluding Twin Creeks “Civic Fields”)**

##### **i District Use**

District shall be entitled to the exclusive use of District Property for public school and school-related educational and recreational activities, including summer school, and at such other times as District Property is being used by District or its agents.

##### **ii City Use**

At all times other than periods of District’s exclusive use, and subject to the schedule developed by City and District, City will be entitled to use District Property without charge on a “first come, first served” basis for community, recreational, and educational purposes for the benefit of District students, District, and City at large. City shall enforce all District rules, regulations, and policies provided by District while supervising community recreational activities on District Property. In planning programs and scheduling activities on school grounds, the security, academic, athletic, and recreational needs and opportunities of school-aged children will be the highest priority and be adequately protected.

#### **b. City Property (excluding Mae Richardson Elementary Fields)**

##### **i City Use**

City shall be entitled to exclusive use of City Property for the regular conduct of park, recreation, and community service activities and/or programs sponsored by City.

##### **ii District Use**

At all times other than periods of City’s exclusive use, and subject to the schedule developed by City and District, City will permit District to use City Property on a “first come, first served” basis, without charge for District educational and recreational activities and/or programs. District shall enforce all City rules, regulations, and policies provided by City while supervising community recreational activities on City Property.

#### **c. Use of Twin Creeks “Civic Fields” and Mae Richardson “Fields”**

- i Ownership.** Twin Creeks “Civic Fields” are owned by District and maintained by City at City’s sole cost. The fields located to the North and South of Mae

Richardson Elementary School (the “Mae Richardson Fields”) are owned by City and maintained by District at District’s sole cost.

**ii District Priority of Use.** District shall have first priority to use without charge the Civic Fields and the Mae Richardson Fields for public school and school-related educational and recreational activities, including summer school, and at such other times as District Property is being used by District or its agents. For purposes of this section, school related recreational activities include official sponsored school clubs, high-school and middle school sports team activities, but does not include club teams such as Junior Comets.

**iii City Use.** At all other times and subject to the schedule developed by City and District, City will be entitled to use the Civic Fields and Mae Richardson Fields without charge on a next priority basis for community, recreational, and educational purposes for the benefit of District students, District, and City at large. In planning programs and scheduling activities on school grounds, the security, academic, athletic, and recreational needs and opportunities of school-aged children will be the highest priority and be adequately protected.

**iv Third-Party Use Authorized by City or District**

**i. Priorities of Use.** City and District agree that in providing access to the Civic Fields and Mae Richardson Fields for use other than by District or City, the following priorities for use shall be established:

- |            |   |
|------------|---|
| Category 1 | Activities for youth such as youth athletic clubs, City leagues, children’s classes |
| Category 2 | District adult programs or activities.  |
| Category 3 | Other adult programs or activities or special events.                               |

**ii. City and District Responsibilities.** City and District’s obligations under this Agreement shall apply to third parties authorized by City or District using such fields. City and District shall be responsible for ensuring that third parties authorized by City or District comply with all obligations under this Agreement when using such property. City shall enforce all District rules, regulations, and policies provided by District while supervising community recreational activities on District Property. District shall enforce all City rules, regulations, and policies provided by City while supervising community recreational activities on City Property. In planning programs and scheduling activities on school grounds, the security, academic, athletic, and recreational needs and opportunities of school-aged children will be the highest priority and be adequately protected.

**4. Compliance with Law/Non Discrimination**

- a.** All use of District and City Property shall be in accordance with state and local law. In the case of a conflict between the terms of this Agreement and the requirements of

state law, the state law shall govern. Any actions taken by District or City that are required by state law, but are inconsistent with the terms of this Agreement, shall not be construed to be a breach or default of this Agreement.

- b. All joint use programming and activities scheduled under this Agreement will comply with the Owner's policies prohibiting discrimination.

## **5. Communication**

### **a. Designation of Employees**

District and City shall respectively designate an employee with whom the other party, or any authorized agent of the party, may confer regarding the terms of this Agreement.

### **b. Joint Use Interagency Team**

District and City shall establish a Joint Use Interagency Team ("Interagency Team"), composed of staff representatives of District and City, to develop the schedule for use of District and City Property (including the Civic Fields and Mae Richardson Fields) to recommend rules and regulations for District and City to adopt to implement this Agreement, to monitor and evaluate the joint use project and Agreement, and to confer to discuss interim problems during the term of the Agreement.

- i The Interagency Team shall hold conference calls or meetings annually, or at such other times as agreed to by the Interagency Team to review the performance of the joint use project and to confer to discuss interim problems during the term of the Agreement. If the Joint Use Interagency Team is unable to reach a solution on a particular matter, it will be referred to the District Superintendent and the City Manager or their designees, for resolution.

## **6. Scheduling Use of Property**

### **a. Master Schedule**

District and City shall develop a master schedule for joint use of District and City Property to allocate property use to District, City, and third parties. The Interagency Team shall schedule regular meetings in October, February, June or at such other times as mutually agreed upon by District and City. At these meetings, District and City will review and evaluate the status and condition of jointly used properties and modify or confirm the upcoming season schedule. The initial Master Schedule is attached hereto as Attachment C, incorporated herein by reference.

### **b. Scheduling of City Property**

City shall have the responsibility for scheduling third party use of City Property and the Civic Fields using the priorities established in section 3.

**c. Scheduling of District Property**

District shall be responsible for scheduling third party use of District Property and the Mae Richardson Fields using the priorities established in section 3.

- d. Changes to Schedules of Use.** In the event an unanticipated change of schedule is required, either party must provide the other party written notice no less than 30-days prior to the proposed change or, in the event of emergency, as much notice as may be reasonably practicable under the circumstances. Notwithstanding the foregoing, where such change would impact an event which has: 1) already opened for registration; 2) been published in the City Recreation Guide; 3) or otherwise would detrimentally impact a previously planned event, such schedule change shall not become effective until the completion of such previously planned event, absent the written consent of both District and City.

**7. Tracking Use of Facilities**

District and City shall each track use of their respective Properties under this Agreement for purposes of the Annual Review of Benefits described in Section 8.b, below.

**8. Fees and Charges**

- a. Fees** Except as otherwise provided in this Agreement, each party shall retain all revenues (including fees) resulting from its respective program activities, including rental fees paid by third parties to the scheduling party under this Agreement, consistent with controlling laws, rules and regulations.
- b. Annual Review of Benefits** District and City may annually review the exchange of benefits based upon hours of use, costs, fees, and charges. Any compensation for an imbalance in joint use programming costs shall occur through balancing the exchange of future benefits unless otherwise agreed in writing by the parties.

**9. Improvements**

- a.** District shall obtain prior written consent of City to make any alterations, additions, or improvements to City Property; City shall obtain prior written consent of District to make any alterations, additions, or improvements to District Property. With respect to any permanent improvements proposed to be made, the terms of any such written consent shall also address the ownership and/or valuation of such improvements in the event of the sale of the underlying property.
- b.** Any such alterations, additions, or improvements will be at the expense of the requesting party, unless otherwise agreed upon.
- c.** Each party may, for good cause, require the demolition or removal of any alterations, additions, or improvements made by the other party at the expiration or termination of this Agreement. "Good cause" includes reasons of health, safety, or District's need to use District Property for educational purposes or City's need to use City

Property for municipal purposes.

## **10. Supervision, Security, and Inspections**

### **a. Supervision and Enforcement**

Each User shall train and provide an adequate number of competent personnel to supervise all activities on the Owner's Property. The User shall enforce all of the Owner's rules, regulations, and policies while supervising activities or programs on the Owner's Property. The User shall be responsible for the costs of all its personnel supervising such activities or otherwise acting on behalf of the User in carrying out this Agreement, including but not limited wages, salaries, workers' compensation and other employment benefits provided by the User.

### **b. Security**

The Owner shall provide the User with access to the Owner's Property. The Owner will provide keys, security cards, and training as needed to the User's employee(s) responsible for opening and locking the Owner's Property while supervising activities or programs.

### **c. Inspection and Notification**

The User shall inspect the Owner's Property after use to ensure these sites are returned in the condition they were received. The User shall ensure the Owner is notified within two (2) business days in the event that Owner's Property suffers damage during User's use. Such notification shall consist of sending written notification by letter, facsimile, or email to the Owner's designated employee identifying the damaged property, date of detection, name of inspector, description of damage, and estimated or fixed costs of repair or property replacement.

## **11. Supplies**

The User shall furnish and supply all expendable materials necessary to carry out its programs while using the Owner's Property.

## **12. Maintenance, Custodial Services**

### **a. Maintenance**

The User agrees to exercise due care in the use of the Owner's Property. The User shall during the time of its use keep the Owner's Property in neat order. Except as otherwise provided in Sections 3(c)(i) and 14 herein, the Owners shall be responsible for the regular maintenance, repair, and upkeep of their respective Properties.

### **b. Custodial**

The Owner shall make its trash receptacles available during the User's use of Owner's Property. The User shall encourage community users to dispose of trash and pet waste in the trash receptacles during Public Access Hours.

### 13. Parking

During Public Access Hours, District shall make available for public parking the parking facilities associated with the respective site.

### 14. Restitution and Repair

The User shall make restitution for the repair of damage to the Owner's Property during User's use of Owner's Property.

- a. Inspection and Notification** The User shall, through its designated employee, inspect and notify the Owner, of any damage, as described above in subsection 10(c).
- b. Repairs** Except as mutually agreed, the User shall not cause repairs to be made for any property, facility, building, or item of equipment for which the Owner is responsible. The Owner agrees to make such repairs within the estimated and/or fixed costs agreed upon between the parties. If it is mutually determined or if it is the result of problem-resolution under section 14(d) of this Agreement that the User is responsible for the damage, then the User agrees to reimburse the Owner at the estimated and/or fixed costs agreed upon. For purposes of this Agreement, repairs mean work needed to correct damage to the Property caused by the User, its employees, agents, guests or licensees. Notwithstanding the foregoing, repairs do not include work necessitated by regular wear and tear such as replacement of a sprinkler heads, mowing, trimming or reseeding grass.
- c. Reimbursement Procedure** The Owner shall send an invoice to the User's designated employee within ten (10) days of completion of repairs or replacement of damaged Property. The invoice shall itemize all work hours, equipment, and materials with cost rates as applied to the repair work. If the repair is completed by a contractor, a copy of the contractor's itemized statement shall be attached. Actual costs shall be reimbursed if less than estimated and/or fixed costs. The User shall reimburse the Owner within thirty (30) days from receipt of such invoice.
- d. Disagreements** The User shall retain the right to disagree with any and all items of damage to buildings or equipment as identified by the Owner, provided this disagreement is made within ten (10) days after a first notification.

  - i** The User shall notify the Owner of any disagreements in writing by letter, facsimile, or email to District's designated employee. The User shall clearly identify the reasons for refusing responsibility for the damages. Failure to make the disagreement within the prescribed time period shall be considered as an acceptance of responsibility by the User.
  - ii** After proper notification, members of the Joint Use Interagency Team, or other designated representatives of City and District, shall make an on-site



investigation and attempt a settlement of the disagreement.

- iii In the event an agreement cannot be reached, the matter shall be referred to the City Manager and the District's Superintendent, or their designees, for resolution.
- iv The Owner shall have the right to make immediate emergency repairs or replacements of Property without voiding the User's right to disagree.

#### **15. Liability and Indemnification**

To the fullest extent permitted by law, and subject to the Oregon Tort Claims Act, each party to this Agreement shall indemnify, defend, and hold harmless the other party, its elected officials, officers, agents, employees and volunteers from and against any and all claims, causes of action, liability, suits, judgments and expenses, including reasonable attorney's fees and costs, for death or injury to persons, or loss of or damage to property, to the extent that such claims arise out of, relate to or are connected with actual or alleged negligence of the party from whom indemnification is sought, or of such party's employees, agents, contractors or officers, in connection with this Agreement.

#### **16. Insurance**

District and City agree to provide the following insurance in connection with this Agreement.

- a. Commercial General Liability for bodily injury and property damage, including Personal Injury and Blanket Contractual, with limits of at least \$10,000,000.00 per occurrence and \$30,000,000.00 aggregate.
- b. Workers' compensation coverage, as required by Oregon law.
- c. City, its officials, officers, employees, agents and volunteers shall be added as an additional insured on District's general liability insurance coverage, throughout the term of this Agreement. District, its officials, officers, employees, agents and volunteers shall be added as an additional insured on the City's general liability insurance coverage, throughout the term of this Agreement.
- d. District and City shall provide to each other a certificate of insurance each year this Agreement is in effect showing proof of the above coverage. In the event District or City is self-insured for the above coverage, such agency shall provide a letter stating its agreement to provide coverage for any claims resulting from its negligence in connection with joint use facilities in the above amounts.

#### **17. Termination**

This Agreement may be terminated at any time, for any reason upon one-hundred-eighty (180) days prior written notice to the other party. This Agreement may also be terminated immediately by either party if the other party fails to comply with the

provisions of this Agreement and, after receipt of written notice, fails to correct such failures within thirty (30) days.

### **18. Entire Agreement**

This Agreement constitutes the entire understanding between the parties with respect to the subject matter and supersedes any prior negotiations, representations, agreements, and understandings.

### **19. Amendments**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

### **20. General Provisions**

- a. No Joint Venture** Nothing herein is intended to create an employment relationship, joint venture or partnership between the parties herein.
- b. No Liens** Neither party shall create or incur, or suffer to be created or incurred, or to exist, any mortgage, pledge, encumbrance, lien, charge, or any other security interest of any kind on the property of the other without the other's prior written consent. Each party shall discharge, bond, or insure over or otherwise release or collateralize to the other's reasonable satisfaction any mechanic's, laborer's, material's, warehouseman's or other lien or stop notice filed against the other's property within twenty (20) days after the date the lien or stop notice is filed.
- c. Notice** Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by email/facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of mailing thereof.
- d. Arbitration Required/Mediation First Option.** Any dispute or claim that arises out of or that relates to this agreement, or to the interpretation or breach thereof, or to the existence, validity, or scope of this agreement or the arbitration agreement, shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The parties acknowledge that mediation helps parties settle their dispute and any party may propose mediation whenever appropriate through Arbitration Service of Portland or any mediator selected by the parties.

- e. Waiver** The waiver by either party of a breach by the other, or any subsequent breach of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
  
- f. Severability** The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision, or part thereof, shall not affect the validity of invalidity of any other provision.
  
- g. No Effect on Leases** Nothing herein is intended to amend any existing leases between the parties.

**CITY OF CENTRAL POINT**

**JACKSON COUNTY SCHOOL DISTRICT  
NO. 6**

**By: Chris Clayton, City Manager**

**By: Samantha Steele, District  
Superintendent**

**ATTACHMENT "A"**

**DISTRICT PROPERTY**

**The following District facilities will be available for City use. Facilities include parking areas, athletic courts, tracks and fields.**

**Central Point Elementary School –**

**Jewett Elementary School – 1001 Manzanita Street**

**Mae Richardson Elementary School – 200 West Pine Street**

**Scenic Middle School – 1955 Scenic Avenue**

**Crater High School – 655 North Third Street**

**Crater High School Land Lab – 5040 Upton Road**

**Early Learning Center (Formerly Asante) – 615 South 2<sup>nd</sup> Street**

**Anhorn Athletic Fields – 5042 Upton Road**

**District Admin Offices – 300 Ash Street**

## **ATTACHMENT B**

### **CITY PROPERTY**

**All city parks and associated facilities will be available for District use. Associated facilities include gazebos, basketball and tennis courts, and soccer and multiuse fields, specifically:**

**Cascade Meadows Park, 852 Haskell Street**

**Don Jones Memorial Park, 223 West Vilas Road**

**Flanagan Park, 200 Tiffany Avenue**

**Forest Glen Park, 1101 Gate Park Drive**

**Griffin Oaks Park, Blue Moon Drive**

**Joel Tanzi Skate Park, 403 S. 4<sup>th</sup> Street**

**Menteer Memorial Park, 136 Brandon Street**

**Robert Pfaff Park, 635 Manzanita Street**

**Skyrman Arboretum, 4588 N. Pacific Highway**

**Twin Creeks Park, 555 Twin Creeks Crossing Loop**

**Van Horn Park, 950 Freeman Road**

**William Mott Memorial Park, 2190 Jeremy Road**

**Community Center Park, 403 S. 4<sup>th</sup> Street**

**Fields to North and South of Mae Richardson Elementary School.**

**ATTACHMENT C**  
**MASTER SCHEDULE**

**DISTRICT PROPERTY:**

District owned properties and associated facilities as available for use by the City year round, subject to any prior reservations or scheduled uses which will take priority over City's use. The exception to this is the Mae Richardson Fields, which are owned by the City but managed and maintained by the District. The District will have priority use of the Mae Richardson Fields.

**CITY PROPERTY:**

City managed park properties and associated facilities such as gazebos, tennis courts, etc. are available for use by the District year around but existing private reservations will take priority over District use. The exception to this is the Civic Fields which are owned by the District but managed and maintained by the City. The District will have priority use of these facilities.