

INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into as of the 2nd day of July, 2001, by and between CHEHALEM PARK AND RECREATION DISTRICT, hereinafter called "Chehalem," and the CITY OF NEWBERG, hereinafter called "City."

RECITALS:

1. The City, through the efforts of Mayor Charles Cox and the Congressional Delegation from the State of Oregon, was able to secure a grant directly from the Federal Government for the Community and Family Recreation Center for a renovation project.
2. The City has received notification from the U.S. Department of Housing and Urban Development - Economic Development Initiative on May 5, 2001 that it has been awarded a grant to help finance the renovation and remodel of Central School.
3. The City and Chehalem have in the past have entered into a relationship similar to this intergovernmental agreement. At that time the City received grant funds from the State Housing and Community Development Block Grant program to construct a Senior Center.
4. The City and Chehalem enter into this intergovernmental agreement in order to reimburse Chehalem for part of the cost incurred in renovating Central School into a Community Family and Resource Center.

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

1. PURPOSE AND GOAL

The purpose of this Agreement is to establish cooperation between Chehalem and the City in regards to the improvement of land and facilities owned by Chehalem. Said construction is known as the "Central School renovation into a Community Family and Resource Center" and is shown on Exhibit "A" which is attached hereto and incorporated by reference herein. The goal of this Agreement is to clarify the terms and conditions for Chehalem to receive funds from the city that are provided from the U.S. Department of Housing and Urban Development as specified in the Omnibus Consolidated and Emergency Appropriations Act of Fiscal Year 2001 (P.L.106-554). The Omnibus Act of Fiscal Year 2001 specifies the following special project:

"\$498,900 'for the Community and Family Resource Center for a renovation project.'"

2. AGREEMENT TO PERFORM AND ASSURANCES

Chehalem agrees to perform the project, Central School renovation into a Community Family and Resource Center, according to all applicable laws as provided for in the grant document submitted by the City and here to attached as Exhibit "B" on Chehalem's behalf and to hold the City harmless for non-compliance by Chehalem.

3. TERM

The term of this Agreement shall commence on 1/14, ²⁰⁰²~~2001~~, and shall continue through 1/14, 2011.

4. PAYMENT OF COSTS

It is agreed that Chehalem shall be responsible for the payment of certain costs associated with the Central School renovation into a Community Family and Resource Center. It is further agreed that Chehalem shall share or be solely responsible for the costs as provided in this Agreement and as was agreed to by said parties, and as identified on Exhibit C. The cost breakdown agreed to at said meeting is attached hereto as Exhibit "C" and incorporated by reference herein. It is further agreed that Chehalem shall pay each cost immediately upon becoming due.

5. BOARD RESOLUTION AND ATTORNEY OPINION

Each party hereto shall provide to the other parties copies of the appropriate board resolutions and an opinion of legal counsel stating that the acts of the respective parties are in fact authorized and lawful.

6. FUTURE INTERGOVERNMENTAL AGREEMENTS

Chehalem agrees to participate in future intergovernmental agreements with the City regarding the completion of the Central School renovation into a Community Family and Resource Center. Such intergovernmental agreements shall be entered into to ensure that the City can fulfill the terms and conditions of its grant award. It is the intent of these intergovernmental agreements that Chehalem shall bear the costs of operating the Community Family and Resource Center. The City shall not incur any of the costs for the operation of the Community Family and Resource Center, unless City agrees to pay those costs.

7. BUDGET APPROVAL

It is understood that the parties must have budget approval in order to obtain funds to pay for the costs expressed in this Agreement and any agreement shall have force and effect only to the extent that such funds are provided to the parties.

8. PLACE OF CONTRACT

This agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of Oregon. All references in this agreement to the "State" shall mean the State of Oregon.

9. SEVERABILITY

Should any provisions of this Agreement or the application thereof, be held invalid or unenforceable, the remainder of this Agreement and the application thereof other than those provisions as to which it shall have been held invalid or unenforceable, shall not be affected thereby and shall continue valid and enforceable to the fullest extent permitted by law or equity.

10. CONTRACT DISPUTES

The parties agree that any disagreements regarding the interpretation, meaning, or effect of any provision of this Agreement shall be settled by arbitration if so requested by any party in writing. In case of such a written request, the parties agree that within sixty (60) days, binding arbitration will be entered into, with the parties collectively selecting an arbitrator. The decision of the arbitrator

shall be borne equally between all the parties.

In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other parties such sums as the court may adjudge reasonable, such as attorney's fees at trial and/or on any appeal of such suit or action in addition to all other sums provided by law.

11. EXTENSION

With each party having satisfactorily performed all of the obligations required of them hereunder, and upon prior written consent of each party to this Agreement, this Agreement may be extended for an additional term of ten (10) years or for such longer time as may be necessary to carry out the purposes of the parties as they may deem necessary. The beginning and end of said additional term shall be agreed to in writing, prior to any extension. Any changes in payment or duties as set forth in this Agreement shall be agreed to, in writing, prior to any extension.

In order to extend this Agreement, a request in writing by any party shall be given to the other parties no later than three (3) months in advance of the term's expiration notifying the other parties of this request.

12. ASSIGNMENT

This Agreement is binding upon the parties and their successors and assigns by operation of law and shall not be assigned by any party to any other person or entity of any nature without the prior written consent of all the other parties having been obtained.

13. NOTICES TO PARTIES

All notices to be given by the parties to this Agreement shall be in writing and served by depositing the same in the United States Mail, postage prepaid, registered or certified mail.

Notices to the parties shall be addressed to:

Don Clements, Director
Chehalem Park and Recreation District
1802 Haworth Avenue
Newberg, Oregon 97132

City of Newberg
Duane Cole, City Manager
P. O. Box 970
Newberg, Oregon 97132

Any of the parties to this Agreement may change its address of record for receipt of official notice by giving the other parties written notice of such change and any necessary mailing instructions.

14. LAWS AND REGULATIONS

During the entire term of this Agreement, all parties shall comply in every respect with the other parties' policies, all laws, rules and regulations of this State affecting or regulating public education and local government.

15. INDEMNITY

All parties hereto agree to be solely responsible for the cost of any claim, demand and/or cause of action (including attorney's fees and other expenses incident thereto) for loss to property or injury to or death of any person, regardless of when such loss, damage, injury or death occurs, if such is caused in whole or in part by any act or omission of that party or their employees and agents in connection with this Agreement.

16. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement between Chehalem and the City concerning the subject matter hereof. There are no representations, either oral or written, between the parties other than those contained in this Agreement. All modifications shall be in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year herein above written.

**CHEHALEM PARK AND
RECREATION DISTRICT**

By: 
Don Clements, Director

CITY OF NEWBERG

By: 
Duane R. Cole, City Manager

APPROVED AS TO FORM AND CONTENT:

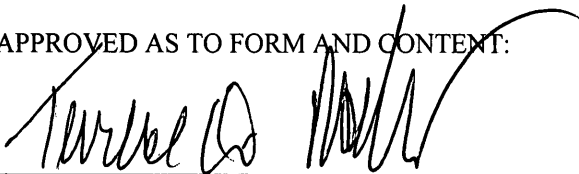

Terrence D. Mahr, City Attorney

Exhibit "C"

**Central School Renovation into a Community Family
and**

**Resource Center
COST BREAKDOWN**

Activity	Local Funding	Federal Funding	Date to be Completed
Design and Engineering	\$ 500,000	-0-	75% Completed
Structural Restoration and Seismic	-0-	\$ 300,000	
Historic Restoration	-0-	\$ 200,000	
General Finish and A.D.A.(1)	-0-	\$1,500,000	
Specific Finishes, Landscaping and Parking (2)	\$2,500,000	-0-	
TOTAL	\$3,000,000		

Assistance Award/Amendment

U.S. Department of Housing
and Urban Development
Office of Administration

Exhibit CITY OF NEWBERG
RECORD INDEX NO. 1877 ^B

1. Assistance Instrument ☐ Cooperative Agreement ☒ Grant		2. Type of Action ☒ Award ☐ Amendment	
3. Instrument Number B-01-SP-OR-0751	4. Amendment Number	5. Effective Date of this Action 1/14/02	6. Control Number
7. Name and Address of Recipient City of Newberg P.O. Box 970 Newberg, OR 97132 EIN: 93-6002221		8. HUD Administering Office Community Planning and Development	
10. Recipient Project Manager Duane R. Cole (503) 537-1207		9. HUD Government Technical Representative Janice Smith (202) 708-3773	
11. Assistance Arrangement ☐ Cost Reimbursement ☐ Cost Sharing ☒ Fixed Price	12. Payment Method ☐ Treasury Check Reimbursement ☐ Advance Check ☒ Automated Clearinghouse	13. HUD Payment Office Chief Financial Officer	
14. Assistance Amount		15. HUD Accounting and Appropriation Data	
Previous HUD Amount \$		15a. Appropriation Number 861/30162 Year 2001	15b. Reservation number EID-01-
HUD Amount this action \$498,900.00		Amount Previously Obligated \$	
Total HUD Amount \$498,900.00		Obligation by this action \$498,900.00	
Recipient Amount \$		Total Obligation \$498,900.00	
Total Instrument Amount \$498,900.00			

16. Description

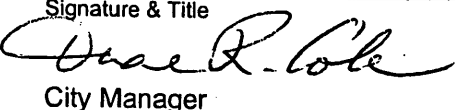
This EDI-Special Project Grant will be used for a renovation project.

This Award consists of the following items which are appended to and hereby made part of this Award:

- (A) Cover Page - HUD Form 1044
- (B) Grant Agreement

Special Conditions:

Please contact Doug Carlson - HUD - Oregon State Office environmental officer at (503) 326-2701 concerning environmental review. **NO FUNDS** may be drawdown prior to environmental release of funds approval.

17. ☒ Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office		18. ☐ Recipient is not required to sign this document.	
19. Recipient (By Name) Duane R. Cole		20. HUD (By Name) Stella Hall	
Signature & Title  City Manager	Date (mm/dd/yyyy) 10/16/2001	Signature & Title  National EDI-SP Grant Officer	Date (mm/dd/yyyy) 1/14/02

FY 2001 EDI-SPECIAL PROJECT NO. B-01-SP-OR-0751

GRANT AGREEMENT

This Grant Agreement between the Department of Housing and Urban Development ("HUD") and the City of Newberg ("the Grantee") is made pursuant to the authority of Public Law 106-554 (the FY 2001 Appropriations Act for HUD and other agencies) and House Report 106-1033 (the Conference Report on the Appropriations Act). The original grant amount was reduced by 0.22% pursuant to the same FY 2001 Omnibus Act, which mandated a government wide rescission. The Grantee's application package, as may be amended by the provisions of this Grant Agreement, is hereby incorporated into this Agreement.

In reliance upon and in consideration of the mutual representations and obligations hereunder, HUD and the Grantee agree as follows:

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of \$498,900.00 available to the Grantee.

The Grantee agrees to abide by the following:

ARTICLE I. HUD Requirements.

The Grantee agrees to comply with the following requirements for which HUD has enforcement responsibility.

A. The grant funds will only be used for activities described in the application, which is incorporated by reference and made part of this Agreement as may be modified by Article VII (A) of this Grant Agreement.

B. EQUAL OPPORTUNITY REQUIREMENTS

The grant funds must be made available in accordance with the following:

1. For projects involving housing, the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107.
2. The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.

3. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.
 4. The requirements of 24 CFR 5.105(a) regarding equal opportunity as well as the requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.
 5. For those grants funding construction covered by 24 CFR 135, the requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) which requires that economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, be given to low- and very low-income persons and to businesses that provide economic opportunities for these persons.
 6. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, the Grantee must make efforts to encourage the use of minority and women's business enterprises in connection with grant funded activities. See 24 CFR Part 85.36(e) , which describes actions to be taken by the Grantee to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.
 7. Where applicable, Grantee shall maintain records of its efforts to comply with the requirements cited in Paragraphs 5 and 6 above.
- C. The Grantee agrees to assume all of the responsibilities for environmental review and decision making and actions, as specified and required in regulations issued by the Secretary pursuant to the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR Part 58.

- D. Administrative requirements of OMB Circular A-133 "Audits of States, Local governments and Non-Profit Organizations."
- E. For State and Local Governments, the Administrative requirements of 24 CFR Part 85, including the procurement requirements of 24 CFR Part 85.36, and the requirements of OMB Circular A-87 regarding Cost Principles for State and Local Governments. For Non-Profits, the Administrative requirements of 24 CFR Part 84, including the procurement requirements of 24 CFR Part 84.40, and OMB Circular A-122 regarding Cost Principles for Non-Profit Institutions. For Institutions of Higher Education the applicable OMB Circular regarding Cost Principles is A-21.
- F. The regulations at 24 CFR Part 87, related to lobbying, including the requirement that the Grantee obtain certifications and disclosures from all covered persons.
- G. Restrictions on participation by ineligible, debarred or suspended persons or entities as described in Executive Order 12549 and at CFR 24 Part 5.105(c).
- H. The Uniform Relocation Act as implemented by regulations at 49 CFR Part 24.
- I. The Grantee will comply with all accessibility requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, where applicable.

ARTICLE II. Conditions Precedent to Draw Down.

The Grantee may not draw down grant funds until the following actions have taken place:

- A. The Grantee and HUD have executed a contract.
- B. The Grantee has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying and by 24 CFR 24.510(b) regarding ineligibility, suspension and debarment.
- C. Any other preconditions listed in Article VII (C) of this Grant Agreement.

ARTICLE III. Draw Downs.

- A. A request by the Grantee to draw down grant funds under the Voice Response Access system or any other payment system constitutes a representation by the Grantee that it and all participating parties are complying with the terms of this Grant Agreement.
- B. The Grantee will be paid on an advance basis provided that the Grantee minimizes the time elapsing between transfer of the grant funds and disbursement for project purposes and otherwise follows the requirements of 24 CFR Part 85 and Treasury Circular 1075 (31 CFR Part 205).
- C. Before the Grant Agreement is signed, the Grantee may incur cost for activities which are exempt from environmental review under 24 CFR Part 58 and may charge the costs to the grant.

ARTICLE IV. Progress Reports.

The Grantee shall submit to the Grant Officer a progress report every six months after the effective date of the Grant Agreement. Progress reports shall include reports on both performance and financial progress and shall conform with 24 CFR 85.40 and 85.41 or 24 CFR Sections 84.50 through 84.53, as applicable. Additional information required or increased frequency of reporting as may be described in Article VII (C).

- A. The performance reports must contain the information required under 24 CFR Part 85.40(b) (2) or 24 CFR Part 84.51(a), as applicable including a comparison of actual accomplishment to the objectives indicated in the approved application, the reasons for slippage if established objectives were not met, and additional pertinent information including explanation of significant cost overruns.
- B. Financial reports shall be submitted on Standard Form 269 and the following: for construction costs, form 271; for non-construction costs, a breakdown in costs similar to the line items in the application budget.
- C. No grant payments will be approved for projects with overdue progress reports.

ARTICLE V. Project Close-out.

- A. The Grantee shall initiate project close-out within 30 days of project completion by submitting to HUD the Financial Status Report.
(Form 269A). Grantee shall indicate in Block 12 of SF 269A: "Ready to initiate project close-out." HUD will then send close-out documents to the Grantee. At HUD's option, the Grantee may delay initiation of project close-out until the resolution of any HUD monitoring findings. If HUD exercises this option the Grantee must promptly resolve the findings.
- B. The Grantee recognizes that the close-out process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any review in any way possible, including making available records requested by HUD and the project for on-site HUD inspection.
- C. Within 90 days of project completion, the Grantee shall provide to HUD the following documentation., in the format approved by HUD.
 - 1. A Certification of Project Completion.
 - 2. A Grant Close-out Agreement.
 - 3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of OMB Circular A-122 or A-87 as applicable, including the "necessary and reasonable" standard); a certification of the costs; and the amounts and sources of other project funds.
 - 4. A final performance report providing a comparison of actual accomplishments with each of the project commitments and objectives in the approved application, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.
- D. The Grantee agrees that the grant funds are allowable only to the extent that the project costs, meeting the standard of OMB Circular A-122. A-87 or A-21 as applicable, equal the grant amount plus other sources of project funds provided.

- E. When HUD has determined that the grant funds are allowable, the activities were completed as described by the Grant Agreement, and all Federal requirements were satisfied, HUD and the Grantee will sign the Close-out Agreement.

ARTICLE VI. Default.

A default under this Grant Agreement shall consist of using grant funds for a purpose other than as authorized by this Agreement, any noncompliance with legislative, regulatory, or other requirements applicable to the Agreement, any other material breach of this Agreement, or any material misrepresentation in the application submissions.

ARTICLE VII. Additional Provisions.

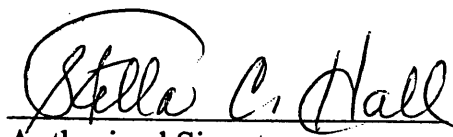
A. Project Description. The project is as described in the application with the following changes: NONE

B. Changes or Clarification to the Application Related to Participating Parties: NONE

C. Special Conditions: The grantee shall carry out such environmental review procedures as are recommended by the HUD – Oregon State Office environmental officer, prior to HUD's release of grant funds.

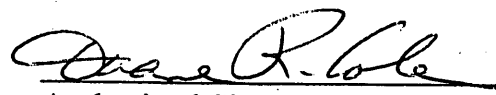
U.S. Department of Housing and
Urban Development

City of Newberg


Authorized Signature

Grant Officer
Title

1/14/02
Date


Authorized Signature

City Manager
Title

Oct. 16, 2001
Date