

This Agreement is made and entered into as of the 22nd day of January, 2004, by and between CHEHALEM PARK AND RECREATION DISTRICT, hereinafter called "Chehalem," and the CITY OF NEWBERG, hereinafter called "City."

## RECITALS:

1. The City, with the assistance of Chehalem and the Congressional Delegation from the State of Oregon, has been 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 27, 2003 that it has been awarded a grant to help finance the continued renovation and remodel of Central School.
3. The City and Chehalem have in the past have entered into a relationships similar to this intergovernmental agreement. The City received grant funds from the State Housing and Community Development Block Grant program to construct a Senior Center. The City also has received two grants totaling \$548,900 from the U.S. Department of Housing and Urban Development for part of the cost incurred in renovating Central School into a Community Family and Resource 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 renovation construction project is known as the "Central Community Family and Resource Center". 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 VA-HUD-Independent Agencies Appropriations Act of FY 2003 (P.L.108-7). VA-HUD-Independent Agencies Appropriations Act of FY 2003 specifies the following special project:

"\$178,830: For the City of Newberg, Oregon for the development of a Community and Family Resource Center (B-03-SP-OR-0629)"

## **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 agreement between the City and the U.S. Department of Housing and Urban Development and here to attached as Exhibit "A" 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 January 22, 2004, and shall continue through December 9, 2008.

## **4. PAYMENT OF COSTS**

It is agreed that Chehalem shall comply with all purchasing laws of the State of Oregon for costs associated with the Central School renovation. It is further agreed that Chehalem shall review and approve all bills prior to submitting the bills to the City for payment and in compliance with the project costs identified in Exhibit B. It is further agreed that Chehalem will bear the cost of any necessary Single Audit expenses related to federal audit requirements and will reimburse the City for administrative expenses incurred by the City of Newberg related to the grant.

## **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 cost 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  
125 S. Elliot Road  
Newberg, Oregon 97132

James H. Bennett, City Manager  
City of Newberg  
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

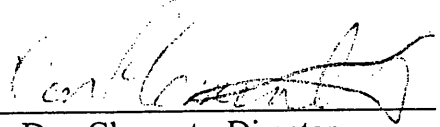
The City is acting as a conduit for the grant funds to Chehalem. Therefore, Chehalem hereto agrees to be solely responsible for the cost of any claim, demand and/or cause of action (including attorney's fees and other expenses incident thereto) for loss to property, injury to or death of any person, or contractor disputes, or other litigation in connection with the grant funded renovation project or this agreement, regardless of when such loss, damage, injury or death, or contractor dispute or other litigation 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 the grant funded renovation project or this agreement. The City will be responsible for any claim resulting from neglect or omission by the City.

#### 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.

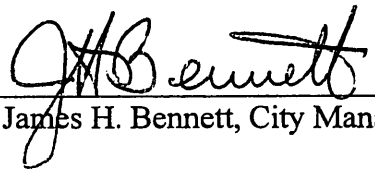
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year herein above written.

#### CHEHALEM PARK AND RECREATION DISTRICT

By: 

Don Clements, Director

#### CITY OF NEWBERG

By: 

James H. Bennett, City Manager

APPROVED AS TO FORM AND CONTENT:

 1/13/03

Terrence D. Mahr, City Attorney

|                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                      |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------|--------------|------------------|--------------|------------------|--|-------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------------------------|-----------------------------------|-----------------------------|--|---------------------------|--------------|------------------|--------------|
| 1. Assistance Instrument<br><input type="checkbox"/> Cooperative Agreement <input checked="" type="checkbox"/> Grant                                                                                                                                                                                        |                                                                                                                                                                                      | 2. Type of Action<br><input checked="" type="checkbox"/> Award <input type="checkbox"/> Amendment                            |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 3. Instrument Number<br>B-03-SP-OR-0629                                                                                                                                                                                                                                                                     | 4. Amendment Number                                                                                                                                                                  | 5. Effective Date of this Action                                                                                             | 6. Control Number |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 7. Name and Address of Recipient<br>City of Newberg<br>401 East Third Street<br>Newberg, OR 97132<br><br>EIN: 93-6002221                                                                                                                                                                                    |                                                                                                                                                                                      | 8. HUD Administering Office<br>CPD, EDI Special Project Division<br>451 7th Street, SW, Rm 7146<br>Washington, DC 20410-7000 |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 10. Recipient Project Manager<br>James H. Bennett                                                                                                                                                                                                                                                           |                                                                                                                                                                                      | 9. HUD Government Technical Representative<br>Gregory Lambert 202-708-3773, Extension: 4621                                  |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 11. Assistance Arrangement<br><input type="checkbox"/> Cost Reimbursement<br><input type="checkbox"/> Cost Sharing<br><input checked="" type="checkbox"/> Fixed Price                                                                                                                                       | 12. Payment Method<br><input type="checkbox"/> Treasury Check Reimbursement<br><input type="checkbox"/> Advance Check<br><input checked="" type="checkbox"/> Automated Clearinghouse | 13. HUD Payment Office<br>Chief Financial Officer                                                                            |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 14. Assistance Amount                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                      | 15. HUD Accounting and Appropriation Data                                                                                    |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| <table border="1"> <tr><td>Previous HUD Amount</td><td></td></tr> <tr><td>HUD Amount this Action</td><td>\$178,830.00</td></tr> <tr><td>Total HUD Amount</td><td>\$178,830.00</td></tr> <tr><td>Recipient Amount</td><td></td></tr> <tr><td>Total Instrument Amount</td><td>\$178,830.00</td></tr> </table> |                                                                                                                                                                                      | Previous HUD Amount                                                                                                          |                   | HUD Amount this Action | \$178,830.00 | Total HUD Amount | \$178,830.00 | Recipient Amount |  | Total Instrument Amount | \$178,830.00 | <table border="1"> <tr> <td>15a. Appropriation Number<br/>86 3/5 0162</td> <td>15b. Reservation Number<br/>EID 03</td> </tr> <tr> <td>Amount Previously Obligated</td> <td></td> </tr> <tr> <td>Obligation by this Action</td> <td>\$178,830.00</td> </tr> <tr> <td>Total Obligation</td> <td>\$178,830.00</td> </tr> </table> |  | 15a. Appropriation Number<br>86 3/5 0162 | 15b. Reservation Number<br>EID 03 | Amount Previously Obligated |  | Obligation by this Action | \$178,830.00 | Total Obligation | \$178,830.00 |
| Previous HUD Amount                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                      |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| HUD Amount this Action                                                                                                                                                                                                                                                                                      | \$178,830.00                                                                                                                                                                         |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Total HUD Amount                                                                                                                                                                                                                                                                                            | \$178,830.00                                                                                                                                                                         |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Recipient Amount                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                      |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Total Instrument Amount                                                                                                                                                                                                                                                                                     | \$178,830.00                                                                                                                                                                         |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| 15a. Appropriation Number<br>86 3/5 0162                                                                                                                                                                                                                                                                    | 15b. Reservation Number<br>EID 03                                                                                                                                                    |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Amount Previously Obligated                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                      |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Obligation by this Action                                                                                                                                                                                                                                                                                   | \$178,830.00                                                                                                                                                                         |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |
| Total Obligation                                                                                                                                                                                                                                                                                            | \$178,830.00                                                                                                                                                                         |                                                                                                                              |                   |                        |              |                  |              |                  |  |                         |              |                                                                                                                                                                                                                                                                                                                                |  |                                          |                                   |                             |  |                           |              |                  |              |

## 16. Description

For the city of Newberg, OR for the development of a Community and Family Resource Center

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

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

**Special Conditions:**

**Please contact Lisa Frack - HUD Area Environmental Officer at 503-326-2701, concerning environmental review. NO FUNDS may be drawdown prior to environmental release of funds approval.**

|                                                                                                                                                     |                 |                                                                               |                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------------------------|------------------|
| 17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office. |                 | 18. <input type="checkbox"/> Recipient is not required to sign this document. |                  |
| 19. Recipient (By Name):<br>Mr. James H. Bennett                                                                                                    |                 | 20. HUD (By Name):<br>Donald P. Mains <i>[Signature]</i>                      |                  |
| Signature & Title:<br>City Manager <i>[Signature]</i>                                                                                               | Date:<br>9/5/03 | Signature and Title:<br>DAS for Economic Development                          | Date:<br>12/9/03 |

## **FY 2003 EDI-SPECIAL PROJECT NO. B-03-SP-OR-0629**

### **GRANT AGREEMENT**

This Grant Agreement between the Department of Housing and Urban Development (HUD) and City of Newberg (the Grantee) is made pursuant to the authority of Public Law 108-7 (the FY 2003 Appropriations Act for HUD and other agencies) and House Report 108-10 (the Conference Report on the Appropriations Act). The amount shown below is 99.35% of the amount specified in the Conference Report because of a .65% rescission mandated in the Act. The Grantee's application package, as may be amended by the provisions of this Grant Agreement, is hereby incorporated into this 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 \$178,830 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 VIII (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. ENVIRONMENTAL REVIEW REQUIREMENTS.

1. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, 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.
2. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital, or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe, or Alaskan Native Village, within which the project is located and which exercises land use responsibility, to assume all of the responsibilities for environmental review and decision-making as specified in paragraph C.1 above, and the Grantee shall carry out all of the responsibilities of a recipient under 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 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.
- B. Any other conditions 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 or Part 84 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. Funds provided by this grant however, may not be used for reimbursement of expenses incurred prior to the enactment of The Act authorizing these funds on **February 20,2003**.

#### ARTICLE IV. Progress Reports.

- A. 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 consist of (1) a narrative of work accomplished during the reporting period and (2) a completed Financial Status Report - Form 269 A.

HUD may require additional information or increased frequency of reporting as described in Article VII ( C ).

- B. 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.
- C. No grant drawdowns will be approved for projects with overdue progress reports.

#### ARTICLE V. Project Close-out.

- A. The grantee shall submit to the Grant Officer a written request to close-out the grant 30 days after the grantee has drawn down all funds and completed the activities described in the application, as may be amended. The final report shall consist of (1) a narrative of all work accomplished during the project period and (2) a completed Financial Status Report - Form 269 A covering the entire project period.

HUD will then send the Close-out Agreement and Close-out Certification 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. The Grantee shall provide to HUD the following documentation:
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, A-87 or A-21 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 and Close-out Certificate.
- E. The Close-out Agreement will include the Grantee's Agreement to abide by any continuing federal requirements.

#### 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.

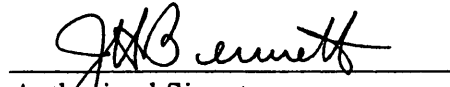
#### ARTICLE VII. Additional Provisions.

- 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:

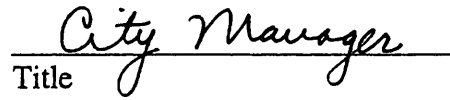
U.S. Department of Housing  
and Urban Development

City of Newberg  
Mr. James H. Bennett

  
Authorized Signature

  
Authorized Signature

Donald P. Mains  
DAS for Economic Development

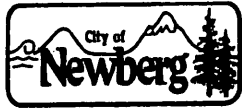
  
Title

12/9/03  
Date

9/5/03  
Date

**Chehalem Community Cultural Center  
Economic Development Initiative Special Project #B-03-SP-OR-0629  
Window Remodel & Replacement Budget**

|                     |                  |
|---------------------|------------------|
| Administration      | \$ 2,000         |
| Building Permits    | \$ 3,000         |
| Plan Review         | \$ 250           |
| Window Demolition   | \$ 28,000        |
| New Windows         | \$110,000        |
| <u>Installation</u> | <u>\$ 35,580</u> |
| <b>Grand Total:</b> | <b>\$178,830</b> |



## ***RESOLUTION No. 2003-2470***

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**A RESOLUTION OF THE NEWBERG CITY COUNCIL  
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN  
INTERGOVERNMENTAL AGREEMENT WITH CHEHALEM  
PARK AND RECREATION DISTRICT FOR THE  
IMPLEMENTATION OF FEDERAL GRANT FUNDS  
(\$178,830) FOR THE PARTIAL RENOVATION OF THE  
FORMER CENTRAL SCHOOL FOR A FUTURE  
COMMUNITY CULTURAL CENTER.**

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### **RECITALS:**

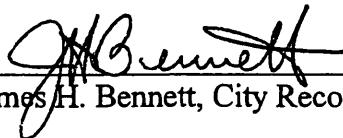
1. The City of Newberg has actively supported Chehalem Park and Recreation District's (CPRD) efforts to transform the former Central School into a Community Cultural Center. Chehalem Park and Recreation District is the owner of the former Central School and is the project manager for the renovation efforts of the facility.
2. With the assistance of CPRD and the Oregon congressional delegation, the City has secured two federal grants totaling \$548,900 from the Department of Housing and Urban Development over the last few years for the aforementioned project. For both of these grants, the City and CPRD entered into intergovernmental agreements where CPRD agreed to act as project manager for the implementation of the federal grant funds and comply with all the federal contractual requirements of the grant funds. City staff have provided grant administration service for these grants.
3. On May 27, 2003, the City of Newberg was notified that it will receive an additional \$178,830 for the continued renovation of the former Central School into a Community Center. CPRD has indicated that it would like to use the funds for the replacement of the windows in the facility.
4. Attachment A is a draft intergovernmental agreement between the City and CPRD that would require CPRD to act as project manager for the implementation of the \$178,830 in 2003 federal grant funds and comply with all the federal contractual requirements of the grant.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

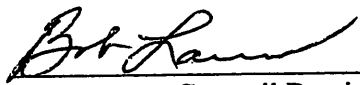
1. The City of Newberg wishes to continue its support in the effort to transform the former Central School into a Community Cultural Center.
2. The City Council does hereby authorize the City Manager to enter into an intergovernmental agreement for the City with CPRD which would require CPRD to agree to act as project manager for the implementation of the \$178,830 in 2003 federal grant funds and comply with

all the federal contractual requirements of the grant funds. The City Attorney must approve the form and content of the agreement.

> **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: October 7, 2003.  
**ADOPTED** by the City Council of the City of Newberg, Oregon, this 6<sup>th</sup> day of October, 2003.

  
James H. Bennett, City Recorder

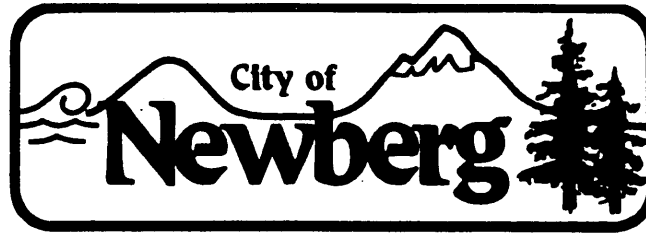
**ATTEST** by the Council President this 9<sup>th</sup> day of October, 2003.

  
Bob Larson, Council President

#### LEGISLATIVE HISTORY

By and through \_\_\_\_\_ Committee at   /  /2003   meeting. Or,   X   None.  
(committee name) (date) (check if applicable)

City of Newberg  
414 E. First Street  
P.O. Box 970  
Newberg, OR 97132



City Manager  
(503) 538-9421  
(503) 537-5013 FAX

## Community Development Office

P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1240 • Fax: (503) 537-1272

January 13, 2004

Don Clements, Director  
Chehalem Parks and Recreation District  
125 S. Elliot Street  
Newberg, OR 97132

Dear Don:

Attached you will find a copy of an intergovernmental agreement regarding the \$178,000 federal grant for the Community Center. For your reference, I have also included a resolution by our City Council (#2003-2470) authorizing our City Manager to enter into this agreement.

Please review this agreement. If you find it acceptable, please obtain a resolution by your organization's board authorizing you to enter into this agreement. The resolution is a requirement of the agreement (page 2, Section 5). The agreement also requires documentation of a legal opinion by your legal council stating that the acts of the respective parties are in fact authorized and lawful.

Thank you for your cooperation in this matter. If you have any questions, please call me at 503-537-1213.

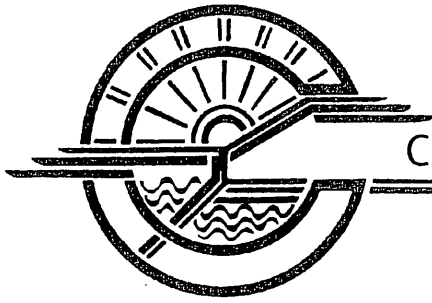
Sincerely,

A handwritten signature in black ink, appearing to read "David A. Beam". The signature is fluid and cursive, with a long horizontal stroke at the end.

David A. Beam, AICP  
Economic Development Coordinator/Planner

pc: File GR-41-03

enclosures



## Chehalem Park and Recreation District

125 S. Elliott Road, Newberg, Oregon 97132  
(503) 537-2909 • (503) 538-9669 Fax

### RESOLUTION

WHEREAS, at the January 22<sup>nd</sup> regular board meeting a request from the City to the Chehalem Park and Recreation District Board of Directors to enter into an Intergovernmental Agreement attached for the purpose of development of a Community and Cultural Center was presented to the Board, and

WHEREAS, the District Legal Council has rendered a legal opinion in the letter attached that the District may enter into the Intergovernmental Agreement; and

WHEREAS, the attached agreement requires the superintendent to sign the agreement on behalf of the District.

NOW THEREFOR BE IT RESOLVED, that the superintendent signs the agreement and the Board of Directors agrees to enter into the attached agreement,.

Adopted by the Board of Directors of the Chehalem Park and Recreation District this 22<sup>nd</sup> day of January 2004.

PRESIDENT OF BOARD \_\_\_\_\_

Mike McBride

**BROWN, TARLOW & BRIDGES, P.C.**

**Attorneys at Law**

**ALLYN E. BROWN  
DONALD O. TARLOW  
JOHN BRIDGES  
STEPHEN C. PALMER  
TRUMAN A. STONE**

**515 EAST FIRST STREET  
NEWBERG, OREGON 97132  
PHONE: (503) 538-3138  
FAX: (503) 538-9812**

January 16, 2004

Mr. Don Clements, Superintendent  
Chehalem Park & Recreation District  
125 South Elliott Road  
Newberg, Oregon 97132

Dear Don:

You have asked that I render a legal opinion on whether or not it would be legal for the Chehalem Park and Recreation District to enter into an Intergovernmental Agreement with the City of Newberg (the City) for the purpose of cooperating with the City in a special project identified as:

\$178,830 for the City of Newberg, Oregon, for the development of  
Community and Family Resource Center (B-03-SP-OR-0629), "the  
Project",

and to receive these funds from the City and apply them towards the cost of the Project as per terms of an Intergovernmental Agreement signed by City Manager James H. Bennett and City Attorney Terrance Mahr on January 13, 2004.

I have reviewed the agreement and I am sufficiently familiar with the scope of the Project. It is my opinion that the Park District has the legal authority, after proper consideration and vote of the District's Board of Directors, to enter into this Intergovernmental Agreement and to assume all the requisite obligations associated with the receipt of these federal funds as stated therein.

If you have further questions regarding the Agreement, please advise.

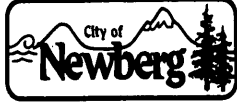
Yours very truly,

BROWN, TARLOW & BRIDGES, P.C.



Allyn E. Brown

AEB:dm



## **RESOLUTION No. 2003-2470**

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**A RESOLUTION OF THE NEWBERG CITY COUNCIL  
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN  
INTERGOVERNMENTAL AGREEMENT WITH CHEHALEM  
PARK AND RECREATION DISTRICT FOR THE  
IMPLEMENTATION OF FEDERAL GRANT FUNDS  
(\$178,830) FOR THE PARTIAL RENOVATION OF THE  
FORMER CENTRAL SCHOOL FOR A FUTURE  
COMMUNITY CULTURAL CENTER.**

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### **RECITALS:**

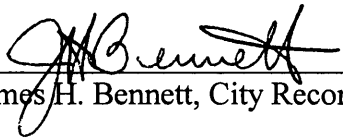
1. The City of Newberg has actively supported Chehalem Park and Recreation District's (CPRD) efforts to transform the former Central School into a Community Cultural Center. Chehalem Park and Recreation District is the owner of the former Central School and is the project manager for the renovation efforts of the facility.
2. With the assistance of CPRD and the Oregon congressional delegation, the City has secured two federal grants totaling \$548,900 from the Department of Housing and Urban Development over the last few years for the aforementioned project. For both of these grants, the City and CPRD entered into intergovernmental agreements where CPRD agreed to act as project manager for the implementation of the federal grant funds and comply with all the federal contractual requirements of the grant funds. City staff have provided grant administration service for these grants.
3. On May 27, 2003, the City of Newberg was notified that it will receive an additional \$178,830 for the continued renovation of the former Central School into a Community Center. CPRD has indicated that it would like to use the funds for the replacement of the windows in the facility.
4. Attachment A is a draft intergovernmental agreement between the City and CPRD that would require CPRD to act as project manager for the implementation of the \$178,830 in 2003 federal grant funds and comply with all the federal contractual requirements of the grant.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

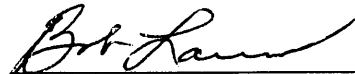
1. The City of Newberg wishes to continue its support in the effort to transform the former Central School into a Community Cultural Center.
2. The City Council does hereby authorize the City Manager to enter into an intergovernmental agreement for the City with CPRD which would require CPRD to agree to act as project manager for the implementation of the \$178,830 in 2003 federal grant funds and comply with

all the federal contractual requirements of the grant funds. The City Attorney must approve the form and content of the agreement.

> **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: October 7, 2003.  
**ADOPTED** by the City Council of the City of Newberg, Oregon, this 6<sup>th</sup> day of October, 2003.

  
James H. Bennett, City Recorder

ATTEST by the Council President this 9<sup>th</sup> day of October, 2003.

  
Bob Larson, Council President

### LEGISLATIVE HISTORY

By and through \_\_\_\_\_ Committee at   /  /2003   meeting. Or,   X   None.  
(committee name) (date) (check if applicable)

## DRAFT INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2003, by and between CHEHALEM PARK AND RECREATION DISTRICT, hereinafter called "Chehalem," and the CITY OF NEWBERG, hereinafter called "City."

### RECITALS:

- ▶ The City, with the assistance of Chehalem and the Congressional Delegation from the State of Oregon, has been able to secure a grant directly from the Federal Government for the Community and Family Recreation Center for a renovation project.
- ▶ The City has received notification from the U.S. Department of Housing and Urban Development - Economic Development Initiative on May 27, 2003 that it has been awarded a grant to help finance the continued renovation and remodel of Central School.
- ▶ The City and Chehalem have in the past have entered into a relationships similar to this intergovernmental agreement. The City received grant funds from the State Housing and Community Development Block Grant program to construct a Senior Center. The City also has received two grants totaling \$548,900 from the U.S. Department of Housing and Urban Development for part of the cost incurred in renovating Central School into a Community Family and Resource Center.
- ▶ 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:**

### 3. 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 renovation construction project is known as the "Central Community Family and Resource Center". 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 VA-HUD-Independent Agencies Appropriations Act of FY 2003 (P.L.108-7). VA-HUD-Independent Agencies Appropriations Act of FY 2003 specifies the following special project:

“\$178,830: For the City of Newberg, Oregon for the development of a Community and Family Resource Center (B-03-SP-OR-0629)”

**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 agreement between the City and the U.S. Department of Housing and Urban Development and here to attached as Exhibit “A” 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 \_\_\_\_\_, 2003, and shall continue through \_\_\_\_\_, 2008.

**4. PAYMENT OF COSTS**

It is agreed that Chehalem shall comply with all purchasing laws of the State of Oregon for costs associated with the Central School renovation. It is further agreed that Chehalem shall review and approve all bills prior to submitting the bills to the City for payment and in compliance with the project costs identified in Exhibit B. It is further agreed that Chehalem will bear the cost of any necessary Single Audit expenses related to federal audit requirements.

**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 cost 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  
125 S. Elliot Road  
Newberg, Oregon 97132

James H. Bennett, City Manager  
City of Newberg  
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**

The City is acting as a conduit for the grant funds to Chehalem. Therefore, Chehalem hereto agrees 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, injury to or death of any person, or contractor disputes, or other litigation in connection with the grant funded renovation project or this agreement, regardless of when such loss, damage, injury or death, or contractor dispute or other litigation 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 the grant funded renovation project or this agreement. The City will be responsible for any claim resulting from neglect or omission by the City.

#### **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**

**CITY OF NEWBERG**

By: \_\_\_\_\_  
Don Clements, Director

By: \_\_\_\_\_  
James H. Bennett, City Manager

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Terrence D. Mahr, City Attorney