



June 6, 2024

BCC Agenda Date/Item: _____

North Clackamas Parks and Recreation District Board of Directors

Approval of an Intergovernmental Agreement with Clackamas Community College for Community Based Instructional Programs. Total value is \$45,204 for three years. Funding through anticipated revenue in recreation services programming. No County General Funds are involved.

Previous Board Action/Review	6/1/23 Business Meeting- Approved renewal for Amendment #3 6/29/22 Business Meeting- Approved renewal for Amendment #2 6/24/21: Business Meeting – Approved renewal for Amendment #1 7/23/20: Business Meeting – Approved renewal for FY 20-21.		
Performance Clackamas	1. Which indicator of success does this item affect? Ensure safe, healthy and secure communities: This partnership assists in providing program offerings that promote and enhance healthy and active lifestyles, social connection and personal growth of our residents.		
Counsel Review	Yes	Procurement Review	No
Contact Person	Sarah Kreiter, NCPRD Recreation Manager	Contact Phone	(971) 429-7110

EXECUTIVE SUMMARY: The North Clackamas Parks and Recreation District (NCPRD) requests the approval of an Intergovernmental Agreement (IGA) with Clackamas Community College (CCC) for community-based instructional programs held at NCPRD facilities and parks. This long-term partnership IGA with CCC provides NCPRD revenue to support the planning and promoting of community-based instructional classes for adults 18+, such as water aerobics, lifeguard, water safety, and staff training.

It is estimated that NCPRD will annually provide programs and services equivalent to more than 41 total full-time equivalent (FTE) students (in accordance with OAR 589-001-0300) and will be eligible to receive reimbursement from CCC in the amount of \$15,068.

RECOMMENDATION: Staff recommends the Board approve this IGA.

Respectfully submitted,


Kia Selley
NCPRD Director

For Filing Use Only

**INTERGOVERNMENTAL AGREEMENT
BETWEEN NORTH CLACKAMAS PARKS AND
RECREATION DISTRICT
AND CLACKAMAS COMMUNITY COLLEGE**

THIS AGREEMENT ("Agreement") is entered into and between **North Clackamas Parks and Recreation District ("District")**, a service district of Clackamas County, and **Clackamas Community College ("College")**, an Oregon municipal corporation, collectively referred to as the "Parties" and each a "Party."

RECITALS

Whereas, both the College and the District desire to jointly plan, promote, and sponsor programs for adults and, whereas, the District desires to engage the College to render specific educational services to Districts patrons.

Whereas, Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements to perform any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

Now, therefore, in consideration of the mutual promises set forth below and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

Term. This Agreement shall be effective upon execution and shall expire upon the completion of each and every obligation of the Parties set forth herein, or June 30, 2027.

1. Rights and Obligations of the College.

A. The College agrees to:

1. Confirm with District the class schedule before the start of each College term.
2. Appoint a liaison to work with the District on implementing or coordinating the services.

2. Rights and Obligations of the District.

A. The District agrees to:

1. Provide appropriate classrooms and facilities for classes to be held at NCPRD Facilities.
2. Plan, promote and deliver a variety of community-based instructional programs, resulting in forty-one (41) or more total reimbursable FTE, as noted in Exhibit A.
3. Appoint a liaison to work with the College on implementing and coordinating the services.

4. Compensation.

- A. The College agrees to pay the District \$15,068 for forty-one (41) or more Full-Time Equivalent (FTE) students in accordance with OAR 589-001-0300 annually. If it is determined that the District will not fulfill the originally anticipated FTE goal, the total payment will be adjusted according to the schedule posted in Exhibit A. Payments are issued in January and June and based on total FTE.

5. Representations and Warranties.

- A. *College Representations and Warranties:* College represents and warrants to District that College has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of College enforceable in accordance with its terms.
- B. *District Representations and Warranties:* District represents and warrants to College has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of District enforceable in accordance with its terms.
- C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

- A. Either the District or the College may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- B. Either the District or the College may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correcting the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The District or the College shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. The College may terminate this Agreement in the event the College fails to receive expenditure authority sufficient to allow the College, in the exercise of its reasonable administrative discretion, to continue to make payments for the performance of this Agreement or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Project under this Agreement is prohibited or the College is prohibited from paying for such work from the planned funding source.

- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

7. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the District agrees to indemnify, save harmless and defend the College, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof, except for attorneys' fees, arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the District or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the College agrees to indemnify, save harmless and defend the District, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof, except for attorneys' fees, arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the College or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the College has a right to control.

- 8. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
- 9. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered. Any communication or notice by personal delivery shall be deemed given when delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

- A. Sarah Kreiter, or their designee, will act as liaison for the District.

Contact Information:

Sarah Kreiter
North Clackamas Parks & Recreation
3811 SE Concord Rd.
Milwaukie, Oregon 97267
503-794-8001

Angie Byrd, or their designee, will act as liaison for the College.

Contact Information:

Angie Byrd
Clackamas Community College
7738 SE Harmony RD Milwaukie,
OR 97222
(503) 594-0627

10. General Provisions.

A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas District without giving effect to the conflict of law provisions thereof. Any claim between District and College that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas District for the State of Oregon: provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the District of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. College, by execution of this Agreement, hereby consents to the in person jurisdiction of the courts referenced in this section.

11. Compliance with Applicable Law. Both Parties shall comply with all applicable local, state, and federal ordinances, statutes, laws, and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

12. Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach or any other default or breach by the other Party.

13. Access to Records. College shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. College shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to reflect actions taken clearly. During this

record retention period, College shall permit the Districts authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.

14. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon the appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

15. Severability. If any provision of this Agreement is found to be unconstitutional, illegal, or unenforceable, this Agreement shall nevertheless remain in full force and effect, and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal, or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible to the intentions of the Parties.

16. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

17. Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

18. Independent Contractor. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee, or contractor of one Party shall be deemed a representative, agent, employee, or contractor of the other Party for any purpose except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

19. No Third-Party Beneficiary. College and District are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

20. Subcontract and Assignment. College shall not enter into any subcontracts for any of the work required by this Agreement or assign or transfer any of its interest in this Agreement

by operation of law or otherwise without obtaining prior written approval from the District, which shall be granted or denied in the District's sole and absolute discretion. Districts consent to any subcontract shall not relieve College of its duties or obligations under this Agreement.

- 21. Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 22. Survival.** All provisions in sections 6, 8, and 9 shall survive the termination of this Agreement.
- 23. Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- 24. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 25. Force Majeure.** Neither College nor District shall be held responsible for delay or default caused by events outside of the College or District's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, the College shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue the performance of its obligations under this Agreement.
- 26. Confidentiality.** College acknowledges that it and its employees or agents may be exposed to or acquire confidential information when performing their responsibilities under this Agreement. Any and all information of any form obtained by College or its employees or agents in the performance of this Agreement shall be deemed confidential information of the District ("Confidential Information"). College agrees to hold Confidential Information in strict confidence, using at least the same degree of care that College uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Agreement.

[Signatures on Following Page]

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

North Clackamas Parks and
Recreation District Board of
Directors:

Clackamas Community College
19600 Molalla Avenue
Oregon City, OR 97045

Jeff Shaffer Digitally signed by Jeff
Shaffer
Date: 2024.05.08 13:00:00
-07'00'

Chair, NCPRD Board

Clackamas County College
Jeff Shaffer VP of Finance and
Operations/CFO

Date

Date

Recording Secretary

Date

Approved as to form


 5/13/2024
County Counsel

EXHIBIT A
OREGON FTE FORMULA
 #students * #hours /510

PROGRAM	REQUIRED FTE	ESTIMATED CLASSES ENROLLMENT REQUIRED	2024-2025
SMALL	12-20	10 CLASSES & 100 ENROLLED	\$4,956.00
MEDIUM	21-30	90 CLASSES & 900 ENROLLED	\$8,293.00
LARGE	31-40	130 CLASSES AND 1200 ENROLLED	\$11,631.00
X-LARGE	41+	130 CLASSES & 1800 ENROLLED	\$15,068.00