



NORTH CLACKAMAS
PARKS & RECREATION DISTRICT

**BOARD OF DIRECTORS MEETING
AGENDA**

Date: September 18, 2024
Time: 6:00 p.m. – 7:30 p.m.
Location: North Clackamas Aquatic Park (7300 SE Harmony Road Milwaukie, OR 97222) –
or [join virtually \(via Zoom\)](#)

1. CALL TO ORDER

- a. Roll Call
- b. Pledge of Allegiance

2. PRESENTATION *(Following are items of interest to the residents of the District)*

- a. Report of the Chair of the District Advisory Committee (Jeanette DeCastro)
- b. Proposed 5-year Financial Forecast

3. BOARD DISCUSSION ITEMS *(The following item will be individually presented by District staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

- a. Approval of a Purchase & Sale Agreement and an Intergovernmental Agreement with North Clackamas School District for the Disposition of the Wichita Property.
- b. Approval of a Professional Services Contract with Design Workshop, Inc. for consulting services to develop Phases 3 and 4 of Parks and Recreation System Plan. Total value is \$358,028.

4. CONSENT AGENDA *(The following items are considered routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

- a. Approval of Meeting Minutes from March 30, 2024 NCPRD Board Meeting

5. DISTRICT ADMINISTRATOR & DISTRICT DIRECTOR UPDATE

6. PUBLIC COMMENTS *(The Chair of the Board will call for statements from people regarding issues relating to District governance. It is the intention that this portion of the agenda shall be limited to items of District business which are properly the object of Board consideration and may not be of a personal nature. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

7. BOARD COMMUNICATIONS

8. ADJOURN



September 18, 2024

BCC Agenda Date/Item: _____

North Clackamas Parks and Recreation District Board of Directors

Review of the 5-year NCPRD Financial Forecast

Previous Board Action/Review	NCPRD Board of Directors Meeting on March 20, 2024		
Performance Clackamas	<ul style="list-style-type: none"> Honor, utilize, promote, and invest in our natural resources Build public trust through good government 		
Counsel Review	No	Procurement Review	No
Contact Person	Kia Selley	Contact Phone	971-337-6867


EXECUTIVE SUMMARY: The proposed 5-year financial forecast has been updated from March 2024 when it was last presented to the Board of Directors, and is consistent with the proposed supplemental FY 24-25 Budget that will be presented to the Board on September 26.

- **NCPRD General Funds:** Revenues are not able to keep up with rising expenses beyond FY 30-31 due to a static tax base, no/minimal fee increases, and drawing down of the beginning fund balance; this is one year longer than the forecast shown previously to the Board in March. This is due in large part to a larger allocation of System Development Charge funds to capital projects.
- **Capital Projects Fund:**
 - **Capital Repair & Replacement:** Funds from potential property sales have been allocated to this fund for future major asset repairs, property improvements, and property acquisitions informed by the System Plan.
 - **Capital Improvement Projects:** New capital improvement projects identified in the System Plan, will require funds to be transferred to this account. The fund can include many sources of funds such as NCPRD General Fund, System Development Charge funds, grants, and donations.
- **System Development Charge Funds (3 zones):** Funds for each of the three SDC zones are projected using the current zone methodology. Capital improvement projects and property acquisitions should utilize these funds to the extent possible to reduce pressure on the NCPRD General Fund.

Finally, this is a dynamic report and will be updated to reflect changes in numbers and/or assumptions on an annual basis.

RECOMMENDATION: None. Information update only.

Respectfully submitted,


Kia Selley, RLA
NCPRD Director

For Filing Use Only

NCPRD General Fund Forecast FY24-25 through FY29-30

	Actuals FY 22-23	Adopted FY 23-24	YE Projection FY 23-24	Adopted FY24-25	Projected FY24-25	Projected FY 25-26	Projected FY 26-27	Projected FY27-28	Projected FY28-29	Projected FY29-30
Beginning Fund Balance	10,281,162	13,576,195	14,899,100	6,409,721	15,440,752	7,352,159	6,511,082	5,517,323	4,293,680	2,816,560
Taxes	6,949,573	7,116,634	7,087,992	7,443,000	7,443,000	7,748,163	8,065,838	8,388,471	8,715,622	9,055,531
Federal, State, Local, All Other Gifts & Donations	3,243,653	328,193	505,897	224,450	224,450	226,695	228,961	231,251	233,564	235,899
Charges, Fees, License, Permits	2,541,808	2,277,200	2,797,802	2,554,100	2,554,100	2,579,641	2,605,437	2,631,492	2,657,807	2,684,385
All Other Revenue Resources	888,706	473,989	1,230,966	635,353	635,353	521,081	541,924	563,601	586,145	609,591
Transfer in	44,071	635,200	17,979	557,732	271,780	285,369	299,637	314,619	330,350	343,234
Operating Revenue	13,667,811	10,831,216	11,640,636	11,414,635	11,128,683	11,360,949	11,741,798	12,129,435	12,523,488	12,928,640
% Change from prior year	N/A	-21%	7%	-2%	-3%	2%	3%	3%	3%	3%
Personnel Services*	6,266,188	8,019,365	7,497,741	7,963,085	8,058,085	8,460,989	8,884,039	9,328,241	9,794,653	10,088,492
Materials and Services	2,759,952	3,639,355	3,176,862	3,588,441	3,493,441	3,668,113	3,851,519	4,024,837	4,205,955	4,374,193
Transfer Out	23,733	8,900,000	424,381	700,045	7,665,750	72,923	-	-	-	-
Operating Expense	9,049,873	20,558,720	11,098,984	12,251,571	19,217,276	12,202,025	12,735,557	13,353,078	14,000,607	14,462,685
% Change from prior year	N/A	127%	-46%	10%	57%	-37%	4%	5%	5%	3%
Net Operating Income (Loss)	4,617,938	(9,727,504)	541,652	(836,936)	(8,088,593)	(841,077)	(993,759)	(1,223,643)	(1,477,120)	(1,534,045)
Ending Fund Balance	14,899,100	3,848,691	15,440,752	5,572,785	7,352,159	6,511,082	5,517,323	4,293,680	2,816,560	1,282,515
Contingency	-	2,908,692	-	2,000,000	2,000,000	1,220,203	1,273,556	1,335,308	1,400,061	1,446,269
Reserves	-	940,000	-	3,572,785	3,572,785	5,290,880	4,243,768	2,958,372	1,416,500	(163,753)
Unappropriated Ending Fund Balance	14,899,100	(1)	15,440,752	-	1,779,374	-	-	-	-	-

Assumptions:

- ~Taxes - Property assessed value growth Yr 1: 4.1%, Yr 2: 4.1%, Yr 3: 4.0%, Yr 4: 3.9% forward
- ~Contributions & Donation growth: 1%
- ~Fees & Charges growth: 1% for increased programming (not an increase in fees)
- ~CPI growth: Yr 1-2: 5.0%, Yr 3-4: 4.5%, and Yr 5: 4.0%
- ~Contract Employees: Yr 1-4: 5.0% and 3% forward
- ~Contingency is minimum 5% of Operating Expense per policy - FY 24-25 Budget is roughly 16%; Yr: 1-5 10%

*NCPRD staff are contracted through Clackamas County and are accounted for in Materials & Services. For the purposes of this forecast, staff costs are shown under Personnel Services.

Other Notes:

- ~Actual funds received in FY 22-23 and FY 23-24 under Federal, State, Local, etc. includes American Rescue Plan Act (ARPA) Recover Funds. NCPRD received \$3,263,443 in ARPA funds.
- ~Decrease in All Other Revenue between FY 23-24 Projected Year-end and FY 24-25 Adopted Budget is the loss in interest from a lower fund balance and loss of lease revenue at Clackamas building.
- ~Transfer In aligns with Transfers Out under the SDCs for staff time spent on SDC eligible projects
- ~The park, playground, and phase I community center improvements located at the Concord property are covered by SDCs from each zone since the property amenities are considered a district-wide asset. The rate in which the project can be covered by SDCs is 53.5%. The share of SDCs to be used on Concord will be 45% in an effort to conserve use of SDCs for other projects. The share of SDCs to be used is computed after sale proceeds and awarded grants have been subtracted.
- ~NCPRD will present a supplemental budget in the 1st quarter of FY 24-25 to account for the changes in the budget

FY 23-24 Year End Projections - Transfer Out for \$424,381 detail:

\$293,873 Concord Park & Community Center
 \$130,508 Jennings Lodge

FY 24-25 Adopted Budget - Transfer Out for \$700,045 detail:

\$376,475 Jennings Lodge
 \$323,570 Milwaukie Bay Park

FY 24-25 Projected Budget - Transfer Out for \$7,665,750 detail:

\$572,926 Jennings Lodge
 \$323,570 Milwaukie Bay Park
 \$240,289 System Plan
 \$6,528,965 Park, playground, and phase I community center improvements at the Concord property.

Unappropriated Ending Fund Balance under Projected FY24-25 column is the increase to fund balance after updating FY 23-24 year-end projections.

NCPRD Capital Repair & Replacement Program Forecast FY24-25 through FY29-30

	Actuals FY 22-23	Adopted FY 23-24	YE Projection FY 23-24	Adopted FY24-25	Projected FY24-25	Projected FY 25-26	Projected FY 26-27	Projected FY27-28	Projected FY28-29	Projected FY29-30
Beginning Fund Balance	3,339,189	2,993,684	3,183,190	2,950,579	3,027,509	7,668,109	7,257,629	6,850,377	6,446,650	6,046,580
Federal, State, Local, All Other Gifts & Donations	-	45,000	45,000	-	-	-	-	-	-	-
All Other Revenue Resources	95,252	50,000	152,167	120,000	5,175,000	124,800	129,792	134,984	140,383	145,998
Operating Revenue	95,252	95,000	197,167	120,000	5,175,000	124,800	129,792	134,984	140,383	145,998
% Change from prior year	N/A	0%	108%	-39%	4213%	-98%	4%	4%	4%	4%
Materials and Services	9,697	18,000	3,691	33,600	33,600	35,280	37,044	38,711	40,453	42,071
Capital Outlay	241,554	1,664,948	349,157	500,800	500,800	500,000	500,000	500,000	500,000	500,000
Total Expense	251,251	1,682,948	352,848	534,400	534,400	535,280	537,044	538,711	540,453	542,071
% Change from prior year	N/A	570%	-79%	51%	0%	0%	0%	0%	0%	0%
Net Income (Loss)	(155,999)	(1,587,948)	(155,681)	(414,400)	4,640,600	(410,480)	(407,252)	(403,727)	(400,070)	(396,073)
Ending Fund Balance	3,183,190	1,405,736	3,027,509	2,536,179	7,668,109	7,257,629	6,850,377	6,446,650	6,046,580	5,650,507
Contingency	-	-	-	1,000,000	1,000,000	1,451,526	1,370,075	1,289,330	1,209,316	1,130,101
Reserves	-	1,405,736	-	1,536,179	1,536,179	5,806,103	5,480,302	5,157,320	4,837,264	4,520,406
Unappropriated Ending Fund Balance	3,183,190	-	3,027,509	-	5,131,930	-	-	-	-	-

Assumptions:

~All Other Revenue Resources growth 4%

~CPI growth: Yr 1-2: 5.0%, Yr 3-4: 4.5%, and Yr 5: 4.0%

NCPRD Capital Improvement Projects Program Forecast FY24-25

	Actual FY 22-23	Adopted FY 23-24	YE Projection FY 23-24	Adopted FY24-25	Projected FY24-25
Beginning Fund Balance	4,143,090	2,995,091	3,397,665	9,297,827	1,374,688
Federal, State, Local, All Other Gifts & Donations	-	2,963,000	114,255	2,900,373	3,986,118
All Other Revenue Resources	114,187	61,640	141,546	350,000	350,000
Transfer in	234,284	12,922,065	514,586	3,763,028	15,411,175
Total Revenue	348,471	15,946,705	770,387	7,013,401	19,747,293
% Change from prior year	N/A	4476%	-95%	810%	182%
Materials and Services	12,044	73,265	3,836	10,500	10,500
Capital Outlay	1,081,853	14,450,000	2,789,528	15,413,028	19,427,289
Total Expense	1,093,897	14,523,265	2,793,364	15,423,528	19,437,789
% Change from prior year	N/A	1228%	-81%	452%	26%
Net Income (Loss)	(745,426)	1,423,440	(2,022,977)	(8,410,127)	309,504
Ending Fund Balance	3,397,664	4,418,531	1,374,688	887,700	1,684,192
Contingency	-	-	-	373,700	95,162
Reserves	-	4,407,156	-	514,000	514,000
Unappropriated Ending Fund Balance	3,397,664	11,375	1,374,688	-	1,075,030

Other Notes:

~Capital Improvement Projects is a program within the NCPRD Capital Projects Fund 480.

~Not forecasting further than FY 24-25 Adopted Budget as future activities for Capital Projects will be determined by the System Plan currently in process.

~FY 24-25 Beginning Fund Balance is from SDCs, NCPRD General Fund, and Grant Funds

~\$514,560 of beginning fund balance is from Trimet to fund a TriMet approved project for the Trolley Trail on the north side of North Clackamas Park.

~The park, playground, and phase I community center improvements located at the Concord property are covered by SDCs from each zone since the property amenities are considered a district-wide asset. The rate in which the project can be covered by SDCs is 53.5%. The share of SDCs to be used on Concord will be 45% in an effort to conserve SDCs for other projects. The share of SDCs to be used is computed after sale proceeds and awarded grants have been subtracted.

~NCPRD will present a supplemental budget in the 1st quarter of FY 24-25 to account for the changes in the budget

Adopted FY 24-25 in Capital Outlay for \$15,413,028 includes:

\$263,028 System Plan

\$9,250,000 Park and Community Center at Concord property

\$550,000 Park at Jennings Lodge

\$50,000 Park at the Justice Property

\$4,300,000 Milwaukie Bay Park

\$1,000,000 Potential land acquisition identified by the System Plan

Projected FY 24-25 in Capital Outlay for \$19,427,289 includes:

\$240,289 System Plan

\$13,000,000 Park and Community Center at Concord property

\$837,000 Park at Jennings Lodge

\$50,000 Park at the Justice Property

\$4,300,000 Milwaukie Bay Park

\$1,000,000 Potential land acquisition identified by the System Plan

*Overall budgets for the projects listed have not changed; timing of the projects have shifted.

Unappropriated Ending Fund Balance under Adopted FY24-25 column is the increase to fund balance after updating FY 23-24 year-end projections.

**NCPRD SDC Fund Forecast FY24-25 through FY29-30
Summary of all Funds (281-283)**

	Actuals FY 22-23	Adopted FY 23-24	YE Projection FY 23-24	Proposed FY24-25	Projected FY24-25	Projected FY 25-26	Projected FY 26-27	Projected FY27-28	Projected FY28-29	Projected FY29-30
Restricted Beginning Fund Balance	10,903,099	10,684,802	11,716,681	10,089,674	13,508,406	7,433,869	7,344,353	8,046,248	8,752,522	9,463,091
Charges, Fees, License, Permits	766,561	276,250	1,319,120	582,400	582,400	585,312	588,239	591,180	594,136	597,106
All Other Revenue Resources	322,502	141,000	604,345	403,000	403,000	419,120	435,885	453,320	471,453	490,311
Total Revenue	1,089,063	417,250	1,923,465	985,400	985,400	1,004,432	1,024,123	1,044,500	1,065,589	1,087,417
% Change from prior year	N/A	-62%	361%	-49%	0%	2%	2%	2%	2%	2%
Materials and Services	20,858	13,850	23,556	20,490	20,490	21,515	22,590	23,607	24,669	25,656
Transfer Out	254,622	4,657,265	108,184	3,620,715	8,017,205	1,072,434	299,637	314,619	330,350	343,234
Total Expense	275,480	4,671,115	131,740	3,641,205	8,037,695	1,093,949	322,228	338,226	355,019	368,890
% Change from prior year	N/A	1596%	-97%	2664%	121%	-86%	-71%	5%	5%	4%
Net Income (Loss-or use of fund balance)	813,583	(4,253,865)	1,791,725	(2,655,805)	(7,052,295)	(89,517)	701,896	706,274	710,569	718,528
Ending Fund Balance	11,716,682	6,430,937	13,508,406	7,433,869	6,456,111	7,344,353	8,046,248	8,752,522	9,463,091	10,181,619
Contingency	-	-	-	3,652,000	1,659,470	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Reserves	-	6,430,937	-	3,781,869	3,781,869	5,344,353	6,046,248	6,752,522	7,463,091	8,181,619
Unappropriated Ending Fund Balance - Restricted	11,716,682	-	13,508,406	-	1,014,772	-	-	-	-	-

Assumptions:

- ~Charges, Fees, License, Permits growth at 0.5%
- ~All Other Revenue Resources growth at 4%
- ~CPI growth: Yr 1-2: 5.0%, Yr 3-4: 4.5%, and Yr 5: 4.0%
- ~Transfer Out align with Transfers In under the NCPRD General Fund for staff time spent on SDC eligible projects

Other Notes:

- ~SDCs collected may only be spent on new development and cannot be used to maintain existing assets or operations. Under Oregon Revised Statute (ORS) 223.297-223.314, Oregon state law authorizes local governments to assess SDCs and specifies how, when, and for what improvements they can be imposed.
- ~Collection of SDCs is unpredictable and trend with the state of the economy and feasibility to build.
- ~The park, playground, and phase I community center improvements located at the Concord property are covered by SDCs from each zone since the property amenities are considered a district-wide asset. The rate in which the project can be covered by SDCs is 53.5%. The share of SDCs to be used on Concord will be 45% in an effort to conserve SDCs for other projects. The share of SDCs to be used is computed after sale proceeds and awarded grants have been subtracted.
- ~NCPRD will present a supplemental budget in the 1st quarter of FY 24-25 to account for the changes in the budget
- ~The NCPRD System Plan will no longer be supplemented by the use of SDCs

FY 23-24 YE Projection \$108,185

- \$13,936 Park, playground, and phase I community center improvements at the Concord property
- \$30,051 System Plan
- \$63,220 Park at Jennings Lodge
- \$978 Park at Justice Property

FY 24-25 Adopted Budget \$3,620,715

- \$538,650 System Plan
- \$10,331 Trails Master Plan
- \$274,515 Park at Jennings Lodge
- \$1,085,397 Park at Justice Property
- \$1,576,430 Milwaukie Bay Park
- \$135,392 Park, playground, and phase I community center improvements at the Concord property

FY 24-25 Projected Budget \$8,017,205

- \$365,065 Park at Jennings Lodge
- \$1,085,397 Park at Justice Property
- \$1,576,430 Milwaukie Bay Park
- \$4,990,313 Park, playground, and phase I community center improvements at the Concord property

*Overall budgets for the projects listed have not changed; timing of the projects have shifted.



Jane E. Vetto
County Counsel

September 18, 2024

BCC Agenda Date/Item: _____

Scott C. Ciecko
Amanda Keller
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Hong Huynh
Caleb Huegel
Angela Hajihashemi
Assistants

Board of Directors of the
North Clackamas Parks and Recreation District

**Approval of an Intergovernmental Agreement with
North Clackamas School District for Field and Facility Use.
No NCPRD General Funds will be used.**

Previous Board Action/Review	June 26, 2024 Joint Board Meeting with NCSD to approve terms of Sale of Wichita School, use of NCSD Fields and Facilities IGA		
Performance Clackamas	Which indicator of success does this item affect? Building Trust Through Good Government		
Counsel Review	Yes, JM	Procurement Review	N/A, Item is an IGA
Contact Person	Jeffrey D. Munns	Contact Phone	(503) 742-5984

EXECUTIVE SUMMARY: Both the Board of County Commissioners and the Board of Directors of NCPRD have approved a plan to approve a sale by NCPRD to the North Clackamas School District of the Wichita Center for \$2,375,000 in addition to receiving a \$1,000,000 credit for field and facility use by NCPRD for recreational programming. The County will also be providing a \$1,000,000 ARPA grant for facility repairs at the Wichita Center.

This IGA sets the price for field and facility usage and a term of 7 years to apply the credit. For youth programming the rate is fixed at the lowest Class A rate for the duration of the agreement. Other programming will be charged at the current appropriate rate. NCPRD will also receive priority scheduling for the duration of the agreement.

RECOMMENDATION: Staff recommends approval of this Field and Facility IGA.

Respectfully submitted,

Jeffrey D. Munns
Assistant County Counsel

For Filing Use Only

**INTERGOVERNMENTAL AGREEMENT BETWEEN
NORTH CLACKAMAS SCHOOL DISTRICT AND
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT**

This Intergovernmental Agreement ("Agreement") is made and entered into on the day the last party signs, by and between NORTH CLACKAMAS SCHOOL DISTRICT ("School District") and NORTH CLACKAMAS PARKS AND RECREATION DISTRICT ("Parks District"), collectively referred to as the "Parties."

WHEREAS, the Parties have entered into a sales agreement for the purchase of the Wichita Property located at 6031 SE King Road, Milwaukie, OR 97222; and

WHEREAS, the Parties desire to establish terms for the Parks District's access to and use of School District fields and facilities;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. PURPOSE

This Agreement outlines the terms and conditions under which the Parks District may access and use School District fields and facilities for community programs as a component of the sales agreement for the Wichita Property from the Parks District to the School District.

2. TERM

This Agreement shall commence on the day the last party signs and shall continue for a period of seven (7) years or until the credit described in Section 3 is exhausted, whichever occurs first.

3. CREDIT AND RATES

3.1 The School District will provide a \$1,000,000 credit to the Parks District for the following:

- a) Hourly use of fields and facilities
- b) Permit fees
- c) Equipment use fees

Parks District will be charged additional costs for any required custodial and support staff, false alarm fees, stadium light fees, and other incidental charges as applicable.

3.2 The Parks District will be charged the 2023-2024 discounted Class A rates for youth programming until either:

- a) The \$1,000,000 credit is exhausted; or
- b) Seven (7) years have elapsed from the commencement of this Agreement, whichever occurs first.

3.3 The Parks District will pay the applicable Class B rate in effect at the time of scheduling for all other programs not classified as youth programming.

3.3.1 Unpaid fees that are 90 days past due may result in the temporary suspension of the Parks District's ability to schedule School District fields and facilities until the account is brought current.

3.4 The Parks District will agree to follow all other applicable protocols and regulations as outlined in Policies KG, KG-AR.

4. PRIORITY SCHEDULING

The Parks District will receive priority scheduling for programming for a period of seven (7) years or until the credit described in Section 3 is exhausted, whichever occurs first.

5. APPLICATION PROCESS

5.1 The Parks District shall submit Field and Facility Use applications seasonally according to the following schedule (exact dates to be posted on the School District website and communicated to the Parks District as part of the regular scheduling process):

- Fall use: due in August
- Winter use: due in October
- Spring use: due in February
- Summer use: due in May

5.2 Applications submitted by the due date of each season will be assigned fields and facilities as equitably as possible. NCSD plans for the facility availability to be similar to use during the 2023-24 school year. Any substantial change in the type of programs offered or increase in use or programming must be agreed upon by both parties.

5.3 All changes and requests for additional use after the application due date must be submitted through the district's scheduling software.

6. INDEMNIFICATION AND LIABILITY

Each party agrees to indemnify, defend, and hold harmless the other party, its officers, agents, and employees from and against any and all claims, damages, losses, and expenses, including reasonable attorney fees, arising out of or resulting from the indemnifying party's performance under this Agreement, to the extent caused by the negligent acts, errors, or omissions of the indemnifying party, its employees, agents, or representatives.

7. 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.

8. TERMINATION

8.1 The Parks District may terminate this Agreement upon written notice. In the case of termination by Parks District any remaining credit shall be forfeited.

8.2 The School District may terminate this Agreement upon 90 days written notice. If the School District terminates the Agreement early, any remaining credit balance shall be paid to Parks District within 90 days of termination.

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

9. AMENDMENTS

This Agreement may be amended only by written instrument signed by both Parties.

10. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

11. FORCE MAJEURE

No Party shall be held responsible for delay or default caused by events outside of the Party's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, a Party 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 performance of its obligations under this Agreement.

12. NO ATTORNEY FEES

In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

North Clackamas School District

North Clackamas Parks and Recreation District

By: _____

By: _____

Name:

Name:

Title:

Title:

Date: _____

Date: _____



Jane E. Vetto
County Counsel

September 18, 2024

BCC Agenda Date/Item: _____

Scott C. Ciecko
Amanda Keller
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Hong Huynh
Caleb Huegel

Board of Directors of the
North Clackamas Parks and Recreation District

**Approval of a Purchase and Sale Agreement with
North Clackamas School District for the sale of the Wichita Center. No NCPRD General Funds will be used.**

Angela Hajjhashemi
Assistants

Previous Board Action/Review	June 26, 2024 Joint Board Meeting with NCSD to approve terms of Sale of Wichita School, use of NCSD Fields and Facilities IGA		
Performance Clackamas	Which indicator of success does this item affect? Building Trust Through Good Government		
Counsel Review	Yes, JM	Procurement Review	N/A, Item is an IGA
Contact Person	Jeffrey D. Munns	Contact Phone	(503) 742-5984

EXECUTIVE SUMMARY: Both the Board of County Commissioners and the Board of Directors of NCPRD have approved a plan to approve a sale by NCPRD to the North Clackamas School District of the Wichita Center for \$2,375,000 in addition to receiving a \$1,000,000 credit for field and facility use by NCPRD for recreational programming. The County will also be providing a \$1,000,000 ARPA grant for facility repairs at the Wichita Center.

The purchase and sale agreement set the purchase price and closing date for the sale of the Wichita Center. The property is located at 6031 SE King Rd., Milwaukie, Oregon. The parties intend to close the sale of the property on September 30, 2024.

RECOMMENDATION: Staff recommends approval of this agreement to sell the Wichita Center to the North Clackamas School District.

Respectfully submitted,

Jeffrey D. Munns
Assistant County Counsel

For Filing Use Only

PURCHASE AND SALE AGREEMENT
Wichita Center

THIS PURCHASE AND SALE AGREEMENT (this “Agreement”) is made and entered into as of the last date of signature indicated below (the “Effective Date”), by and between the North Clackamas Parks and Recreation District, an ORS Chapter 451 County Service District of Clackamas County (“Seller”), and the North Clackamas School District, an Oregon municipal corporation (“NCSD”).

RECITALS

- A. Seller is the owner of the Wichita Center which comprises approximately 4.52 acres of real property, together with all the improvements thereon and all rights appurtenant thereto (including but not limited to access rights, timber rights, water rights, grazing rights, development rights and mineral rights), located at 6031 SE King Rd., Milwaukie, in the County of Clackamas, State of Oregon, commonly known as Tax Parcels 12E30DD09100 in Section 30 of Township 1 South, Range 2 East, of the Willamette Meridian, and more particularly described on the attached Exhibit A (the “Property”).
- B. NCSD desires to purchase from Seller, and Seller desires to sell and convey to NCSD, all right, title and interest in the Property.
- C. The terms of this Agreement are as follows:

TERMS

1. Purchase and Sale. Seller agrees to sell and convey to NCSD, and NCSD agrees to purchase from Seller, the Property upon the terms and conditions set forth below in this Agreement.

2. Purchase Price. The Purchase Price for the Property is Two Million Three Hundred Seventy-Five Thousand DOLLARS (\$2,375,000), payable as follows: On or before the Closing Date (as hereafter defined), NCSD shall deposit into escrow with the Title Company the Purchase Price. In addition, NCSD shall provide a \$1,000,000 credit to Seller for field and facility use, the complete terms of that agreement will be contained in a separate intergovernmental agreement. Clackamas County will also provide \$1,000,000 of ARPA State and Local Fiscal Recovery Funds (SLFRF) to NCSD, in a separate grant agreement, for the replacement of the roof and other qualifying work on the Wichita center.

3. Closing Date. This transaction shall close no later than September 30, 2024, unless otherwise extended as set forth herein (the “Closing Date” or “Closing”). Closing will occur at the office of the Title Company, located at _____, _____, Oregon 9_____.

4. NCSD’s Title Review.

4.1. Title Report; Unacceptable Exceptions. NCSD has obtained a preliminary title report on the Property from the Title Company, along with legible copies of all plats and exceptions documents referenced in such report (the “Title Report”). NCSD will have forty-five (45) days following the Effective Date to review the Title Report and give Seller written notice of the exceptions listed in the Title Report that are unacceptable to NCSD (the “Unacceptable Exceptions”). Mortgages, delinquent taxes, or other financial obligations secured by the Property are automatically deemed Unacceptable Exceptions. If NCSD notifies Seller of any Unacceptable Exceptions, Seller will thereafter have fifteen (15) days to give NCSD written notice that Seller will remove the Unacceptable Exceptions from title to the Property prior to Closing (at Seller’s sole cost and expense) or that Seller will not remove the Unacceptable Exceptions. Seller’s failure to deliver such notice shall be deemed to mean that Seller will remove the Unacceptable Exceptions. If Seller elects not to remove any of the Unacceptable Exceptions and NCSD is not then

satisfied with the condition of title, NCSD may elect to terminate this Agreement, in which event the Earnest Money shall be returned to NCSD.

4.2. Failure to Deliver Clean Title at Closing. If Seller fails to eliminate any Unacceptable Exception by the Closing Date, then NCSD may, without limiting any of its otherwise available remedies, elect to either (a) accept title to the Property subject to such exceptions, (b) refuse to accept the Property and terminate this Agreement, in which case the Earnest Money shall be refunded to NCSD, or (c) extend the Closing Date for a period of forty-five (45) days to provide Seller with additional time to remove such exceptions. If NCSD elects option (c) and at the end of the 45-day period such exceptions have not been removed, NCSD may then elect to proceed in accordance with either option (a) or (b) described above. To the extent that an Unacceptable Exception is a monetary lien or financial obligation secured by the Property, the Title Company is hereby directed to pay off such lien or obligation to the extent that it can be satisfied by application of all or a portion of the Purchase Price delivered into escrow by NCSD at Closing.

4.3. Permitted Exceptions. All exceptions other than the Unacceptable Exceptions shall be deemed acceptable to NCSD (the “Permitted Exceptions”); provided, however, that in no event will mortgages, delinquent taxes, or other financial obligations secured by the Property be deemed Permitted Exceptions. Should the Title Company inform NCSD of any new title exceptions not appearing on the initial Title Report, such new exceptions shall be deemed Unacceptable Exceptions, unless specifically accepted in writing by NCSD.

5. NCSD’s Due Diligence and Inspections.

5.1. Seller’s Delivery of Documents. Within fifteen (15) days after the Effective Date, Seller shall deliver to NCSD any and all material information and documentation in Seller’s possession or control pertaining to the Property (the “Due Diligence Documents”). The Due Diligence Documents include (without limitation) copies of (a) all environmental data, studies, analyses, and reports relating to the Property or any neighboring property, (b) any existing survey of the Property, (c) any existing leases, boundary agreements, road maintenance agreements, or other contracts relating to all or a portion of the Property, (d) all topographical, geotechnical, wetlands, soils, and groundwater reports, or any other professional reports relating to the Property, (e) any well logs or water right certificates or permits relating to the Property, and (f) copies of any government permits, land use approvals or conditions, or zoning restrictions affecting the Property. If Seller is aware of the existence of any material information or documentation pertaining to the Property that is not in Seller’s possession or control, Seller shall notify NCSD of the existence of such information within fifteen (15) days after the Effective Date or two (2) business days after learning of such information. Should Seller fail to timely provide NCSD with any Due Diligence Documents, NCSD may, at NCSD’s sole discretion, extend the Closing Date for a period not to exceed twenty (20) days so that NCSD may have adequate time to review such additional documentation.

5.2. Property and Environmental Inspections. NCSD and its agents, including but not limited to consultants, surveyors, engineers, home inspectors, appraisers, and other professionals hired by NCSD, shall have the right to access the Property to conduct environmental studies (including Phase I and Phase II Environmental Site Assessments), structural inspections, sewer and septic system sampling, asbestos and lead testing, and any other due diligence NCSD deems necessary or desirable. Seller shall cooperate with NCSD in making such inspections. NCSD and its agents will have the right to enter the Property at reasonable times before Closing to perform such surveys, analyses, studies, appraisals, and other due diligence that NCSD deems necessary or desirable; provided, however, that NCSD shall give Seller forty-eight (48) hours notice prior to entering any residence located on the Property. Any area disturbed by NCSD’s inspections shall be restored by NCSD, at NCSD’s sole costs and expense, to substantially its pre-inspection condition.

6. Conditions Precedent to Closing.

6.1. Conditions Precedent to NCSD's Obligations. In addition to any other conditions contained in this Agreement, the conditions set forth in this Section 6.1 must be satisfied prior to NCSD's obligation to acquire the Property. These conditions are intended solely for NCSD's benefit and NCSD has the sole right and discretion to waive, by written notice, any of the conditions. In the event any condition is not satisfied or waived on or before Closing, NCSD will have the right to terminate this Agreement, in which event the Earnest Money shall promptly be returned to NCSD.

6.1.1. Due Diligence and Inspection Results. NCSD must be satisfied, in its sole and absolute discretion, with its review of the Due Diligence Documents, the Property, and the results of NCSD's inspections of the Property conducted under Section 5.2 above. If NCSD gives notice to Seller prior to the Closing Date that NCSD is not satisfied with the Property due to the results of its due diligence and inspections under Section 5, the Closing Date will be automatically extended for a period of forty-five (45) days so that Seller and NCSD may address such results. If at the end of the 45-day period, NCSD and Seller have not reached an agreement regarding the issues disclosed as a result of such due diligence and inspections, then this Agreement will automatically terminate and the Earnest Money shall be refunded to NCSD.

6.1.2. Title. At Closing (a) Seller shall convey fee simple title to the Property to NCSD in accordance with Section 7.1.1, and (b) the Title Company must be committed to issue to NCSD the Title Policy described below in Section 9.

6.1.3. Representations, Warranties, and Covenants of Seller. Seller shall have performed all of its obligations hereunder, and Seller's representations and warranties set forth in this Agreement shall be true, complete and correct as of the Effective Date and as of the Closing Date.

6.1.4. No Material Changes. At Closing, there shall have been no material adverse changes related to or connected with the Property.

6.1.5. Seller's Deliveries. Seller shall have timely delivered each item to be delivered by Seller pursuant to this Agreement, including (without limitation) the documents and materials described below in Section 7.1.

6.2. Conditions Precedent to Seller's Obligations. Closing and Seller's obligations with respect to the transactions contemplated by this Agreement are subject to NCSD's delivery to the Title Company on or before the Closing Date of (i) the Purchase Price and (ii) the documents and materials described below in Section 7.2.

6.3. Cancellation Fees and Expenses. In the event the escrow terminates because of the failure of any condition for a reason other than the default of Seller under this Agreement, NCSD shall pay the cancellation charges required to be paid to the Title Company. In the event this escrow terminates because of Seller's default, Seller shall pay the cancellation charges required to be paid to the Title Company.

7. Deliveries to the Title Company.

7.1. By Seller. On or before the Closing Date, Seller shall deliver the following into escrow with the Title Company:

7.1.1. Deed. A Statutory Warranty Deed (the “Deed”), duly executed and acknowledged in recordable form by Seller, conveying the Property to NCSD free and clear of all liens and encumbrances except the Permitted Exceptions accepted by NCSD pursuant to Section 4 above. The Title Company’s usual, preprinted exceptions (typically listed as general exceptions 1 through 5 on the Title Report) shall not be listed as exceptions on the Deed.

7.1.2. Proof of Authority. Such proof of Seller’s authority to enter into this Agreement and consummate the transaction contemplated hereunder, as may be reasonably required by the Title Company and/or NCSD.

7.1.3. Lien Affidavits. Any lien affidavits or mechanic’s lien indemnifications as may be reasonably requested by the Title Company in order to issue the Title Policy.

7.1.4. Other Documents. Such other fully executed documents and funds as are required of Seller to close the sale in accordance with this Agreement, including (without limitation) escrow instructions.

7.2. By NCSD. On or before the Closing Date, NCSD shall deliver the following into escrow with the Title Company.

7.2.1. Purchase Price. The Purchase Price, in accordance with Section 2 above.

7.2.2. Proof of Authority. Such proof of NCSD’s authority to enter into this Agreement and consummate the transaction contemplated hereunder, as may be reasonably required by the Title Company and/or Seller.

7.2.3. Other Documents. Such other fully executed documents and funds as are required of NCSD to close the sale in accordance with this Agreement, including (without limitation) escrow instructions.

8. Deliveries to NCSD at Closing. At Closing, Seller shall deliver to NCSD (i) exclusive possession of the Property and (ii) keys to all improvements and personal property located on the Property.

9. Title Insurance. At Closing, Seller shall cause the Title Company to issue to NCSD a standard ALTA owner’s title insurance policy in the full amount of the Purchase Price, insuring (a) fee simple title vested in NCSD or its nominees, subject only to the Permitted Exceptions as established under Section 4 of this Agreement and (b) unrestricted vehicular access from the Property to a public road (the “Title Policy”).

10. Closing Costs. Seller shall pay for the Title Policy, one-half of all escrow fees, any real property transfer or excise taxes, all recording charges other than those allocated to NCSD below, and Seller’s share of prorations pursuant to Section 11 below. NCSD shall pay the cost of recording the Deed and the Memorandum, one-half of all escrow fees, and NCSD’s share of prorations pursuant to Section 11 below. NCSD and Seller each shall pay for its own legal and professional fees incurred. All other costs and expenses are to be allocated between NCSD and Seller in accordance with the customary practice in the county where the Property is located.

11. Prorations and Taxes.

11.1. Prorations. Any and all state, county, and/or city taxes for the current year, rents, or other income or operating expenses pertaining to the Property will be prorated between Seller and NCSD as of the Closing Date.

11.2. Taxes and Assessments. All taxes, assessments, and encumbrances that will be a lien against the Property at Closing shall be satisfied by Seller at Closing. If Seller shall fail to do so, NCS D may pay any such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase Price. If the Property is subject to farm or forest deferred taxes, Seller will have no obligation or responsibility for said deferred taxes, unless the Property becomes disqualified for or loses its deferred tax status as a result of Seller's actions prior to Closing in which case such taxes shall be Seller's responsibility.

12. Seller's Representations and Warranties. Seller hereby warrants and represents to NCS D the following matters, and acknowledges that they are material inducements to NCS D to enter into this Agreement. Seller agrees to indemnify, defend, and hold NCS D harmless from all expense, loss, liability, damages and claims, including (without limitation) attorney's fees, arising out of the breach or falsity of any of Seller's representations, warranties, and covenants, which indemnity shall survive the Closing. These representations and warranties shall survive Closing. Seller warrants and represents to NCS D that the following matters are true and correct, and will remain true and correct through Closing:

12.1. Authority. Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the Property in accordance with this Agreement. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

12.2. Unrestricted Access. The Property has unrestricted, insurable vehicular access to a public road.

12.3. Minimum Acreage: To Seller's knowledge, the Property is at least 4.52 acres in size.

12.4. Hazardous Substances. For purposes of this Agreement, the term "Hazardous Substances" has the meaning defined in and includes those substances set forth in ORS 465.200. Seller warrants and represents as follows:

(a) To Seller's knowledge, there are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;

(b) Seller has not brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, emitted, released from, or produced or disposed of, from, or on the Property, any Hazardous Substances in violation of any environmental laws of the federal or state government;

(c) To Seller's knowledge, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that may have at one time contained any Hazardous Substances;

(d) To Seller's knowledge, the Property is materially in compliance with applicable state and federal environmental standards and requirements affecting it;

(e) Seller has not received any notices of violation or advisory action by regulatory agencies regarding environmental control matters or permit compliance with respect to the Property;

(f) Seller has not transferred, and to Seller's knowledge no other person has transferred, Hazardous Substances from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements; and

(g) There are no proceedings, administrative actions, or judicial proceedings pending or, to Seller's knowledge, contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.

12.5. Encroachments. To Seller's knowledge (a) all structures and improvements, including any driveways and accessory structures, are wholly within the lot lines of the Property, (b) no existing building, structure, or improvement of any kind encroaches upon the Property from any adjacent property, and (c) there are no present or past discrepancies or disputes regarding the boundaries of the Property.

12.6. Rights and Contracts Affecting Property. Except for this Agreement, Seller has not entered into any other contracts for the sale of the Property, nor do there exist any rights of first refusal or options to purchase the Property. Except for those exceptions of record listed on the Title Report, Seller owns the Property in fee, free and clear of all liens, conditions, reservations, mortgages, leases, licenses, easements, prescriptive rights, permits, or other similar encumbrances. Seller has not sold, transferred, conveyed, or entered into any agreement regarding timber rights, mineral rights, water rights, "air rights", or any other development or other rights or restrictions relating to the Property, and to Seller's knowledge no such rights encumber the Property. There are no service contracts or other agreements pertaining to the Property that will bind the Property or NCSD on or after the Closing.

12.7. Possession. Except as specifically set forth in this Agreement, there are no leases, licenses, or other agreements permitting, nor has Seller entered into any course of conduct that would permit, any person or entity to occupy or use any portion of the Property. Seller shall deliver immediate and exclusive possession of the entire Property to NCSD at Closing.

12.8. Reforestation. The Property is not subject to any pending or delinquent reforestation requirements and Seller has complied with all applicable reforestation requirements. In accordance with Section 5, Seller shall deliver copies of any notices, agreements, or other documents related to past, present, or future reforestation of the Property.

12.9. Recitals. The statements and information set forth in the Recitals are true and correct.

12.10. No Legal Proceedings. There is no suit, action, arbitration, judgment, legal, administrative, or other proceeding, claim, lien, or inquiry pending or threatened against the Property or against Seller (nor is there any basis for any such proceeding) that could (a) affect Seller's right or title to the Property, (b) affect the value of the Property, or (c) subject an owner of the Property to liability.

12.11. Mechanic's and Other Liens. No work on the Property has been done or materials provided that would give rise to actual or impending mechanic's liens, private liens, or any other liens, against the Property.

12.12. Public Improvements or Governmental Notices. To Seller's knowledge, there are no intended public improvements which will result in the creation of any liens upon the Property, nor have any notices or other information been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property.

12.13. Breach of Agreements. The execution of this Agreement will not constitute a breach or default under any agreement to which Seller is bound or to which the Property is subject.

12.14. Bankruptcy Proceedings. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to Seller's knowledge, threatened against Seller, nor are any such proceedings contemplated by Seller.

12.15. PATRIOT Act. Neither Seller nor, to Seller's knowledge, any person having a direct or indirect beneficial interest in Seller (nor any principal, officer, or director of the foregoing), (a) appears on the Specially Designated Nationals and Blocked Person List or similar list prepared or maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and none of the foregoing is a Senior Foreign Political Figure or Prohibited Foreign Shell Bank (as such terms are defined in the PATRIOT Act (Public Law 107-56)), (b) is a person with whom a United States citizen is prohibited from transacting business under any U.S. law, regulation or Executive Order, or (c) is engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempting to violate, any of the prohibitions set forth in any U.S. anti-money laundering law.

12.16. Real Property Acquisition Policy Compliance. In light of the requirements of federal land acquisition laws and regulations, Seller has been informed of NCSD's limited authority to acquire property only from willing sellers, Seller represents that it is a willing seller on the terms and conditions set forth in this Agreement, and Seller understands that the Purchase Price for the Property is based on NCSD's valuation of the fair market value of the Property.

12.17. Changed Conditions. If Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to NCSD of those facts and information. If any of the foregoing warranties and representations cease to be true before Closing, Seller shall use its best efforts to remedy the problem, at its sole expense, before Closing. If the problem is not remedied before Closing, NCSD may elect to either: (a) terminate this Agreement, in which case NCSD will have no obligation to purchase the Property and the Earnest Money shall be refunded to NCSD, or (b) extend the Closing Date for a period not to exceed forty-five (45) days or until such problem has been remedied, whichever occurs first. Should NCSD extend the Closing Date and the problem is not remedied within the 45-day timeframe, NCSD may then elect to terminate this Agreement and receive a refund of its Earnest Money; provided, however, that such election will not constitute a waiver of NCSD's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor will it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

13. Condition of the Property Through Closing. Seller shall (a) maintain the Property in substantially the same condition as it was on the Effective Date, with no tree cutting, timber harvesting, or alteration of the Property in any way, (b) keep all existing insurance policies affecting the Property in full force and effect, (c) make all regular payments of interest and principal on any existing financing, (d) pay all real property taxes and assessments against the Property prior to delinquency, (e) comply with all government regulations, and (f) keep NCSD timely advised of any repair or improvement required to keep the Property in substantially the same condition as it was on the Effective Date.

14. NCSD's Representations and Warranties. In addition to any express agreements of NCSD contained herein, the following constitute representations and warranties of NCSD to Seller:

(a) Subject to the conditions stated herein, NCSD has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated herein;

(b) Subject to the conditions stated herein, all requisite action has been taken by NCSD in connection with entering into this Agreement and the instruments referred to herein and the consummation of the transactions contemplated herein; and

(c) Subject to the conditions stated herein, the persons executing this Agreement and the instruments referred to herein on behalf of NCSD have the legal power, right, and actual authority to bind NCSD to the terms and conditions of this Agreement.

15. Legal and Equitable Enforcement of This Agreement.

15.1. Default by Seller. In the event Closing and the consummation of the transaction herein contemplated do not occur by reason of any default by Seller, NCSD shall be entitled to all its out-of-pocket expenses incurred in connection with the transaction, including the Earnest Money, and will have the right to pursue any other remedy available to it at law or equity, including the specific performance of this Agreement.

15.2. Default by NCSD. In the event Closing and the consummation of the transaction herein contemplated do not occur by reason of any default by NCSD, NCSD and Seller agree that it would be impractical and extremely difficult to estimate the damages that Seller may suffer. Therefore, NCSD and Seller agree that a reasonable estimate of the total net detriment that Seller would suffer in the event that NCSD defaults and fails to complete the purchase of the Property is and will be an amount equal to the Earnest Money. This amount shall be Seller's sole and exclusive remedy (whether at law or in equity), and the full, agreed, and liquidated damages for the breach of this Agreement by NCSD. The payment of said amount as liquidated damages is not intended as a forfeiture or penalty. All other claims to damage or other remedies are hereby expressly waived by Seller. Upon a termination due to a default by NCSD, this Agreement will terminate and except as set forth in this section, neither party will have any further rights or obligations hereunder or to one another.

16. Risk of Loss, Condemnation. Seller bears the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, all or any part of the Property is damaged, destroyed, condemned, or threatened with condemnation, Seller shall give NCSD written notice of such event. NCSD may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by NCSD of written notice from Seller of such casualty or condemnation and the Title Company shall return the Earnest Money to NCSD.

17. Notices. All notices required or permitted to be given must be in writing to the address set forth below and will be deemed given upon (a) personal service, (b) deposit in the United States Mail, postage prepaid, or (c) deposit with a nationally recognized overnight courier service. All such notices shall be deemed received (x) upon personal service, (y) three (3) days after deposit in the United States Mail, postage prepaid, or (z) one (1) day after deposit with a nationally recognized overnight courier service.

To Seller: Kia Selley
 NCPRD Director
 7300 SE Harmony Rd.
 Milwaukie, OR 97222
 Phone No. (971) 337-6867
 kselley@ncprd.com

To NCSD: Cindy Detchon
 Asst. Superintendent Operations
 12400 SE Freeman Way
 Milwaukie, OR 97222
 Phone No. (503) 353-6017
 detchonc@nclack.k12.or.us

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manners set forth above will be effective when received by the party for whom it is intended. Telephone, email, and fax numbers are for information only.

18. No Broker or Commission. Each party represents and warrants to the other that it has not used or engaged a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person or entity asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, then Seller shall indemnify, hold harmless, and defend NCSD from and against any such claim if based on any action, agreement, or representations made by Seller; and NCSD shall indemnify, hold harmless, and defend Seller from and against any such claim if based on any action, agreement, or representations made by NCSD.

19. Further Actions of NCSD and Seller. NCSD and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated and both parties shall use their best efforts to accomplish Closing in accordance with the provisions hereof.

20. Accommodating a 1031 Exchange. If Seller desires to transfer the Property through an exchange transaction under Section 1031 of the Internal Revenue Code, NCSD will cooperate in such exchange as long as (a) such cooperation is at the sole expense of Seller, (b) NCSD assumes no additional risk or liability or loses any remedies or rights due to the exchange transaction, (c) the Closing is not delayed as a result of the exchange, (d) Seller delivers title as agreed directly to NCSD, and (e) NCSD is not obligated to take title to any additional property. Seller shall indemnify, protect, hold harmless, and defend NCSD from and against any and all claims, damages, costs, liabilities, losses, and expenses (including reasonable attorney fees) arising out of the exchange transaction. This indemnity shall survive Closing.

21. Miscellaneous.

21.1. Recording of Memorandum. On the Effective Date the parties shall execute a memorandum of this Agreement (the "Memorandum"), which NCSD may cause to be recorded against the Property.

21.2. Partial Invalidity. If any term or provision of this Agreement or the application to any person or circumstance is, to any extent, found invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances, other than those to which it is held invalid or unenforceable, will not be affected thereby, and each such term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

21.3. Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act.

21.4. Survival of Representations. The covenants, agreements, representations, and warranties made herein shall survive Closing and will not merge into the Deed.

21.5. Successors and Assigns. This Agreement will be binding on and will inure to the benefit of the successors and assigns of the parties to it. NCSD may assign all or any portion of its interest in this Agreement to a park-providing entity without the consent of Seller. If an assignee assumes all the obligations of NCSD hereunder, then NCSD shall have no further liability with respect to this Agreement.

21.6. Representation. This Agreement was prepared by NCSD. Seller represents that Seller had an opportunity to consult with its own legal counsel prior to executing this Agreement. Seller waives any

claim that any term or condition herein should be construed against the drafter of the Agreement. This Agreement shall be construed as if it had been prepared by both parties.

21.7. Entire Agreement. This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of the Agreement and supersedes all prior understandings with respect to it. This Agreement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.

21.8. Time of Essence. Seller and NCSD hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision contained in this Agreement. Unless otherwise specified herein, in computing any period of time described in this Agreement, whenever a date for an action required to be performed falls on a Saturday, Sunday, or a state or federal holiday, then such date shall be extended to the following business day.

21.9. Recitals. The statements and information set forth in the Recitals are hereby incorporated as if fully set forth herein and shall be used for the purposes of interpreting this Agreement.

21.10. Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement is governed by and should be interpreted in accordance with the laws of the state of Oregon.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

This document will automatically expire on September 30, 2024 at 15:00 p.m., if not executed by Seller within that time and delivered to NCSD pursuant to the notice requirements contained in Section 17 above.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the last date of signature specified below.

BUYER:
North Clackamas School District,
An Oregon municipal entity

SELLER:
North Clackamas Parks and Recreation District,
A Clackamas County Service District

By: _____

By: _____
Tootie Smith, Chair

Date: _____

Date: _____

Exhibit A
Property Legal Description



September 18, 2024

BCC Agenda Date/Item: _____

North Clackamas Parks and Recreation District Board of Directors

Approval of Amendment #2 for the Professional Services Contract with Design Workshop, Inc. to Authorize Consulting Services for the Completion of Phases 3 and 4 for the Parks and Recreation System Plan. Amendment value is \$4,100 and total contract value is \$362,128. Funding is through NCPRD General Fund. No County General Funds are involved.

Previous Board Action/Review	December 7, 2023, System Plan Phase 1 & 2 Consultant Contract Approved		
Performance Clackamas	<ol style="list-style-type: none"> Honor, utilize, promote and invest in our natural resources Ensure safe, healthy, and secure communities 		
Counsel Review	Yes	Procurement Review	Yes
Contact Person	Erin Reome	Contact Phone	503-784-7784

EXECUTIVE SUMMARY: The North Clackamas Parks and Recreation District (“NCPRD”) Parks and Recreation Master Plan was adopted 20 years ago in 2004. In 2015, the Plan was updated but never finalized due to District boundary changes. The Plan has been a useful guide for long-range planning; however, after two decades and many District changes an updated vision and plan is needed to accurately guide decision-making and district investments.

In December 2023, the Board of Directors (“BOD”) approved Phase 1 (Assessment) and Phase 2 (Community Engagement) of a contract with Design Workshop to prepare an updated Parks and Recreation System Plan, and directed staff to seek a cost sharing agreement with the City of Milwaukie and return for approval of Phases 3 and 4 following completion of Phase 2. Staff is now returning to the BOD to request approval of the consultant contract for the final two phases of the project: Phase 3 (Plan Development) and Phase 4 (Plan Implementation); a cost sharing agreement with the City of Milwaukie is not in place. The total contract value for all four phases of the contract has been increased from \$358,028 to \$362,128 to accommodate map corrections and additional community engagement mailers.

Outlined below is a brief summary of work completed as part of Phases 1 and 2 of the Parks and Recreation System Plan along with key findings. All data and mapping has been developed to allow for disaggregation between the City of Milwaukie and unincorporated areas of the district.

- **Updated NCPRD’s property inventory, completed parks and facilities conditions assessments, and defined service metrics for parks and facilities.**

For Filing Use Only

- Property inventory identified several small undevelopable parcels for potential disposition.
- An estimated 80% of parks were assessed as fair to excellent in condition and 20% were assessed as poor in condition, requiring additional capital investment.
- An estimated 53% of district residents are not within a half mile walking distance of an NCPRD park.
- **Defined areas of high community need based on concentrations of low income, disabled, and senior populations, and residential development and density.**
 - This data, paired with the walking distance, conditions assessment, and community desires expressed through the survey, will inform priority geographies for future investment.
- **Analyzed national trends and conducted community benchmarking against similar parks and recreation districts.**
 - Park acreage per 1,000 residents is significantly lower than benchmark districts and National Recreation and Parks Association (NRPA) averages. NCPRD has 1.9 acres /1,000 people. The NRPA median is 10.9 acres /1,000 people.
 - Full Time Equivalent (FTE) staff numbers are lower than benchmark districts.. NCPRD employs 7.7 FTEs per 10,000 residents. The benchmark districts employ 10.6, 25.2, and 28.8 FTEs per 10,000 residents.
 - Tax rate and revenue totals are lower than the benchmark districts.
- **Collected and analyzed feedback on resident and non-resident district users desires for parks and recreation.**
 - Online survey open from May-August received 2,262 responses and random sample survey sent to 6,400 households received 282 responses.
 - Survey findings show no significant difference in priorities expressed by City of Milwaukie residents and unincorporated district residents for the types of parks and facilities they want to see offered. Top resident priorities are trails, natural areas, water play/splash pads, access to the river, and swimming and aquatics.

Phases 3 and 4, Plan Development and Plan Implementation, will build on the assessments and community feedback collected through Phases 1 and 2 to define where, when and how to allocate resources. This work will include:

- Updating the vision, goals, and strategies that will guide District decision-making.
- Preparing a 20-year Plan to guide district investments to provide park access in deficient areas with a priority to serve areas with the greatest community needs.
- Developing a list of prioritized projects for the next 5 years, planning level cost estimates for projects, and potential funding sources.
- Recommendations for improving the efficiency and quality of district operations and maintenance.
- Recommendations for recreation programming and events to address defined community needs and wants.

RECOMMENDATION: Staff recommends approval of amendment 02 to the professional services contract with Design Workshop, Inc. to authorize consulting services for completion of phases 3 and 4 of the Parks and Recreation System Plan. Total contract value is \$362,128.

Respectfully submitted,

Kia Selley, *RLA*
NCPRD Director

**AMENDMENT #2
TO THE CONTRACT DOCUMENTS WITH DESIGN WORKSHOP, INC FOR CONSULTING
SERVICES TO DEVELOP A PARKS AND RECREATION SYSTEM PLAN
Contract #8284**

This Amendment #2 is entered into between **Design Workshop, Inc** (“Contractor”) and North Clackamas Parks and Recreation District (“District”) and shall become part of the Contract documents entered into between both parties on **December 7, 2023** (“Contract”).

The Purpose of this Amendment #2 is to make the following changes to the Contract:

1. ARTICLE I, Section 2. **Scope of Work** is hereby amended as follows:
District has authorized the remaining Scope of Work to include the anticipated Phase 3 and Phase 4 services for the Parks and Recreation System Plan, which were contemplated in the original RFP#2023-08. Phase 3 and Phase 4 includes Plan Development and Plan Creation and Sharing. The complete Scope of Work for Phase 3 and Phase 4 is included as **Exhibit “A”** to this Amendment #2 and hereby attached and incorporated by reference.

2. ARTICLE I, Section 3. **Consideration** is hereby amended as follows:
Consideration rates are in accordance to the original contract, executed on December 7, 2023. Total Contract value remains unchanged at \$362,128.00. No additional funds will be used for Phase 3 and 4.

ORIGINAL CONTRACT	\$ 358,028.00
AMENDMENT #1	\$ 4,100.00
<u>AMENDMENT #2</u>	<u>Phase 3 and 4</u>
TOTAL AMENDED CONTRACT	\$ 362,128.00

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

Design Workshop, Inc.

North Clackamas Parks and Recreation District

Authorized Signature Date

Signature Date

Printed Name

Name: _____

Title: _____

Approved as to Form:

County Counsel Date

Exhibit A
Scope of Work for Phase 3 and Phase 4



Date: Wednesday, March 20, 2024
Time: 6:00 p.m.
Location: North Clackamas Aquatic Park
(7300 SE Harmony Rd. Milwaukie, OR 97222) or virtually (via Zoom)

This meeting was recorded and the video is available on the NCPRD website at
<https://ncprd.com/public-meetings/meeting-minutes>
These minutes document action items approved at the meeting

PRESENT:

NCPRD Board Chair Tootie Smith
NCPRD Board Director Paul Savas
NCPRD Board Director Martha Schrader
NCPRD Board Director Mark Shull
District Administrator Gary Schmidt
District Counsel Jeff Munns
NCPRD Director Kia Selley

1. CALL TO ORDER

- a. Roll Call
- b. Pledge of Allegiance

2. PRESENTATION

- a. Report from the Chair of the District Advisory Committee
Reported by Jeanette DeCastro. Updated the Board of Directors on the changes to the DAC members, and expressed concerns with the transparency of communication.

3. BOARD DISCUSSION ITEMS

- a. System Plan Roll-Out
Director Selley provided an update on the System Plan. The Board approved phases one and two of the consulting contract in December 2023. The project kicked off in January, and will be completed next summer in 2025.
- b. Development Updates
 - Concord Community Center, Playground and Parking
Construction began earlier this year to construct a two-acre park, and to complete phase one of a renovated community center at the former Concord Elementary

School site. Project completion is expected next summer in 2025. A public naming process will be undertaken soon.

- Jennings Lodge Property
NCPRD is working cooperatively with the Oregon City School District to develop a new park on an underutilized portion of the Jennings Lodge Elementary School campus. Last June, the Board of Directors approved a consulting contract for design services, and we now have two distinctly different design concepts developed based on district resident feedback collected last fall. We put those concepts back out to the community at an open house in February, and we are now putting together our analysis of all the community feedback on those two design concepts. Construction documents are expected to be completed next Spring in 2025.
- Justice Property
NCPRD is exploring options for expanding the footprint of the Justice Property increasing the size of the 2.95-acre parcel will create more opportunities to efficiently meet multiple District needs. I expect to present options in Summer of this year.

c. Financial Forecast

Cindy Becker, recent acting Director of NCPRD, presented the NCPRD forecast. Cut out about \$400,000 of costs so that the budget actuals are closer to the budget projections. The forecast is going downhill due to the same tax rate we've had forever, minimal increases in fees, and rising costs. This leads us to need to figure out a way to get more money, or cut programs.

4. CONSENT AGENDA

- a. Approval of Meeting Minutes from September 20, 2023 NCPRD Board Meeting

ACTION: Director Savas: "I move to approval the minutes." Director Shull seconded the motion.

Clerk Mayernik called the poll
Director Schrader, Aye
Director Shull, Aye
Director Savas, Aye
Chair Smith, Aye; motion passes 4-0.

5. DISTRICT ADMINISTRATOR & DISTRICT DIRECTOR

- a. District Administrator Gary Schmidt thanked Dominic Cortinas, Cindy Becker, and Kia Selley for their service to the North Clackamas Parks and Recreation District.
- b. Kia Selley, the NCPRD Director, provided updates for NCPRD. The March for Meals fundraiser for the Milwaukie Community Center Nutrition Program is underway. Recreation programs are back to pre-pandemic levels.

6. PUBLIC COMMENT

- a. Grover Bornefeld – Resident of Unincorporated Clackamas County in Jennings Lodge
 - a. DAC Representation
- b. Victoria Medina – Resident of Milwaukie
 - a. Future of Wichita Center

7. BOARD COMMUNICATIONS

8. ADJOURN

DRAFT