

RESOLUTION NO. 6183

A RESOLUTION TRANSFERING APPROPRIATIONS FOR THE USE OF A GYMNASIUM AT
TIMBER RIDGE SCHOOL

WHEREAS, Oregon Local Budget Law provides that a transfer of resources between funds may be made by resolution; and

WHEREAS, on September 12, 2012 the Albany City Council approved by motion an Intergovernmental Agreement with Greater Albany Public Schools; for the long-term use of a gymnasium and related spaces at Timber Ridge School.

WHEREAS, resources are available in the Parks Fund, SDC Projects; and

WHEREAS, a transfer will be made to the Parks Fund, Capital Improvement Projects where the expense will be made.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Albany authorizes a \$400,000 increase in Beginning Fund Balance in the Parks Fund, SDC Projects and a \$400,000 increase in transfers to Parks Capital Improvement Projects increasing expenditures to fund the agreement.

BE IT FURTHER RESOLVED that the appropriations will be applied as follows:

Parks SDC Projects

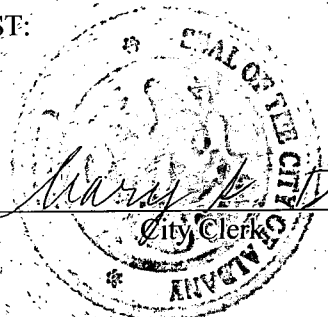
Beginning Fund Balance (202-35-1500-49905)		\$400,000
To Parks Capital Imp Projects (202-35-1500-91255)	\$400,000	

Parks capital Improvement Projects

From Parks SDC Program(202-35-1507-49039)		\$400,000
City Gymnasium (202-35-1507-72045)	\$400,000	

DATED AND EFFECTIVE THIS 12TH DAY OF DECEMBER 2012.

ATTEST:


Mary K. Dibble
City Clerk


Mayor

INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into this 25 day of October, 2012, by and between the City of Albany, Oregon, an Oregon Municipal Corporation, hereinafter referred to as "City" and Greater Albany Public School District No. 8J, hereinafter referred to as "GAPS."

WHEREAS, GAPS and the City have a history of partnering to share resources in furtherance of the common goal of providing the best educational and recreational opportunities possible for their shared constituencies; and

WHEREAS, GAPS is willing to make available its large gymnasium at Timber Ridge School for City parks and recreation purposes; and

WHEREAS, City is willing to provide financial resources to GAPS in recognition of the value of the aforesaid gymnasium usage; and

WHEREAS, both parties desire, by this Agreement, to memorialize their understandings concerning the sharing of facilities and compensation therefore.

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed as follows:

1. Authority of Parties. The parties hereby declare that they have the authority to enter into this Agreement pursuant to Oregon Revised Statutes, Sections 190.003-190.030.
2. City Use of Timber Ridge Gymnasium. Immediately following the execution of this Agreement, City shall be given priority user status for the large gymnasium at Timber Ridge School, 373 Timber Ridge Street NE; Albany, Oregon as well as the related facilities described herein. "Priority use" means, for purposes of this Agreement, the right to use the gymnasium and related facilities seven days a week during non-school hours except to the extent that the facility is necessary for school functions which have been scheduled by the parties at least three months in advance. "School hours" shall be defined as the period beginning one hour prior to the start of the school day and continuing through one hour after the end of school. It is the intent of this authorization that City may plan for and regularly use the gymnasium and related facilities for City recreational purposes. The City's entitlement to use the gymnasium and related facilities is subject to the following terms:
 - A. The City must be the principal user or sponsor of the event or activity for which the gymnasium and related facilities will be used.
 - B. The City is responsible for cleaning up the gymnasium and related facilities following each usage.

C. The City will have a supervisor in place at the gymnasium during all activities.

3. Maintenance and Insurance.

A. GAPS will be responsible for all costs associated with the general operation and maintenance of the gymnasium and related facilities and shall, during the term of this Agreement, maintain said facilities in good repair such that they will be suitable for City use.

B. The City will be responsible for all repair of any damage to the building and school equipment that results directly from City use and is not considered the result of normal wear-and-tear.

C. The City shall be responsible for its own equipment and supplies used and stored at the school.

D. GAPS will insure the gymnasium and related facilities against loss or damage.

E. City will maintain liability coverage naming GAPS as an additional insured against liability associated with City use of the gymnasium and related facilities.

4. Utility Expenses. GAPS will be responsible for all utility expenses incurred or reasonably necessary for the City's use of the gymnasium and related facilities.

5. Related Facilities - Defined. The "related facilities" as referred to in this Agreement include the large gymnasium at Timber Ridge School and the nearest public rest rooms (male and female), hallways necessary to allow convenient ingress and egress and access to other related facilities, nearby parking lots, and a suitable storage place for City recreational paraphernalia.

6. Operational Modifications of Agreement. The parties envision that GAPS and City will continue to cooperate concerning the scheduling of activities and events in a manner intended to avoid conflict with the scheduled activities of either party. In order to carry out this intent, the City designates the Parks & Recreation Director of the City, GAPS designates the principal of Timber Ridge School, or such other persons as either party may designate, as persons authorized to modify the usage schedule and terms of this Agreement.

7. City Financial Contribution to GAPS. In recognition of the value of the priority user status being accorded to City under the terms of this Agreement, and the City's avoided cost in not having to build its own recreational gymnasium, City shall, within 30 days of the execution of this Agreement, pay to GAPS the sum of \$400,000.

8. Term. This Agreement shall expire December 31, 2032.
9. Dispute Resolution. Venue for the resolution of any dispute concerning either parties performance of this agreement or damages for its breach, shall be exclusively with the Circuit Court of the State of Oregon for Linn County. The prevailing party shall be entitled to an award of its reasonable attorneys fees and costs including those incurred on appeal.
10. Agreement Not Construed Against Drafter. Each of the parties and their counsels have reviewed, revised and negotiated or had the opportunity to negotiate the terms and conditions, and language of this Agreement. The rule of construction against the drafting party shall not be applied in interpreting this Agreement.
11. Severability. In the event any of the provisions of this Agreement are deemed to be void, invalid or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope and breadth, such provisions shall be deemed valid to the extent of the scope and breadth permitted by law.
12. Entire Agreement; Modification. This Agreement and any other document to be furnished pursuant to the provisions hereof embody the entire agreement and understanding of the parties hereto as to the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to in such documents. This Agreement and all such documents supersedes all prior agreements and understanding among the parties with respect to the subject matter hereof.
13. Notices. Service of all notices under this Agreement shall be sufficient if given personally or mailed to the other party involved at the address set forth herein below. Any such notice shall be mailed to said address by certified mail, return receipt requested and shall be effective when deposited in the United States Mail, duly addressed and with postage prepaid.
14. Merger Clause. This Agreement is intended to and does constitute the entire Agreement between the parties. No waiver, consent modification or change in the terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent modification or change, if made, shall be effective only in this specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, which was not specified herein regarding this Agreement.
15. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

16. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees and personal representatives, successors and assigns.

CITY OF ALBANY

GREATER ALBANY PUBLIC SCHOOL
DISTRICT 8J

By: Wes Hase
Title: City Manager

By: Frank Bridon
Title: Vice Chair

Address for Purposes of Notice:

P.O. Box 490
Albany, Oregon 97321-0144

Address for Purposes of Notice:

718 SEVENTH AVENUE SW
ALBANY, OR 97321