



NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

Development Services Building
150 Beavercreek Road, Oregon City, OR 97045

Michael Bork, NCPRD Director

September 29, 2022

Board of North Clackamas Parks and Recreation District

Members of the Board:

Approval of an Intergovernmental Agreement between North Clackamas
Parks and Recreation District and Metro to donate NCPRD owned parcels of
Mt. Talbert Nature Park

Purpose/Outcome	Donate three parcels of NCPRD owned land within Mt. Talbert Nature Park to Metro.
Dollar Amount and Fiscal Impact	No more than an estimated \$1000 for legal and closing costs related to the property transfer.
Funding Source	No funds paid by NCPRD.
Duration	Permanent upon transfer.
Previous Board Action/Review	May 20, 2010 Metro IGA for NCPRD Management of Mt. Talbert Nature Park; May 20, 2020 Amendment of IGA for Metro Management of Mt. Talbert Nature Park.
Strategic Plan Alignment	<p>1. <i>How does this item align with your department's Strategic Business Plan goals? Redirecting operational funds to properties benefiting the most district residents.</i></p> <p>2. <i>How does this item align with the County's Performance Clackamas goals? Build public trust through good government.</i></p>
Counsel Review	<p>1. <i>Date of Counsel review: 8/25/2022</i></p> <p>2. <i>Initials of County Counsel performing review. JM</i></p>
Procurement Review	<p>1. Was the item processed through Procurement? No</p> <p>2. This is an IGA.</p>
Contact Person	Mike Bork, NCPRD Director (971) 610-1036, Jeffrey Munns, Assistant County Counsel (503) 742-5984
Contract No.	N/A

BACKGROUND: Pursuant to the 1995 Metro Open Spaces Bond Measure, approved by the electors of Metro on May 16, 1995, Metro and NCPRD jointly acquired more than 190 acres of real property located in Clackamas County, Oregon, commonly known as the Mount Talbert

Nature Park (the “Nature Park”). The largest of the three parcels to be transferred here was originally acquired by the County in 2000 as an open space dedication and conveyed to NCPRD in 2015. The other two small parcels were acquired by the Development Agency as part of the Sunnybrook extension and likewise transferred to NCPRD in 2015.

NCPRD and Metro were parties to an Intergovernmental Agreement effective May 20, 2010 for the management of the Nature Park (the “2010 Intergovernmental Agreement”). The 2010 Intergovernmental Agreement established the framework for joint management of the Nature Park with daily management responsibilities entrusted to NCPRD.

Following the withdrawal of Happy Valley from NCPRD, NCPRD and Metro amended the 2010 Intergovernmental Agreement on May 20, 2020. The amendment extended the term to June 30, 2020 and thereafter terminated the 2010 Intergovernmental Agreement to allow for an efficient and effective transfer of NCPRD management responsibilities to Metro.

Following termination of the 2010 Intergovernmental Agreement in June 2020, all management responsibilities of the Nature Park were transferred to Metro.

NCPRD is the sole owner of approximately 5 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 in the County of Clackamas, State of Oregon, commonly known as Tax Parcels 1100, 1200 and 2200 in Section 3 of Township 2 South Range 2 East of the Willamette Meridian, and more particularly described on the attached Exhibit A (the “Property”).

NCPRD no longer manages or programs any activities involving Mt. Talbert Nature Park. NCPRD recommends that the parcels be donated Metro as the owner of the other parcels of Park.

RECOMMENDATION:

Staff recommends the Board approve this IGA to donate these parcels for Metro to manage Mt. Talbert Nature Park.

ATTACHMENTS:

1. IGA with Metro Donation Agreement.

Respectfully submitted,

Michael Bork, Director
North Clackamas Parks and Recreation District



**INTERGOVERNMENTAL AGREEMENT
Metro – NCPRD**

THIS INTERGOVERNMENTAL AGREEMENT (this “Agreement”), dated effective as the last day of signature set forth below (the “Effective Date”), is entered into under the provisions of ORS chapter 190 by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter (“Metro”), and North Clackamas Parks and Recreation District, a county service district organized under ORS chapter 451 (“NCPRD”), (each a “Party” or together the “Parties”).

RECITALS

A. Pursuant to the 1995 Metro Open Spaces Bond Measure, approved by the electors of Metro on May 16, 1995, Metro and NCPRD jointly acquired more than 190 acres of real property located in Clackamas County, Oregon, commonly known as the Mount Talbert Nature Park (the “Nature Park”).

B. NCPRD and Metro were parties to an Intergovernmental Agreement effective May 20, 2010 for the management of the Nature Park (the “2010 Intergovernmental Agreement”). The 2010 Intergovernmental Agreement established the framework for joint management of the Nature Park with daily management responsibilities entrusted to NCPRD.

C. NCPRD and Metro amended the 2010 Intergovernmental Agreement on May 20, 2020, which extended the term to June 30, 2020 and thereafter terminated the 2010 Intergovernmental Agreement to allow for an efficient and effective transfer of NCPRD management responsibilities to Metro.

D. Following termination of the 2010 Intergovernmental Agreement in June 2020, all management responsibilities of the Nature Park were transferred to Metro.

E. NCPRD is the sole owner of approximately 5 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 in the County of Clackamas, State of Oregon, commonly known as Tax Parcels 1100, 1200 and 2200 in Section 3 of Township 2 South Range 2 East of the Willamette Meridian, and more particularly described on the attached Exhibit A (the “Property”).

F. The Property described above and more specifically in Exhibit A, is currently managed by Metro as part of the Nature Park.

G. Metro is an Oregon municipal corporation that owns and operates a system of regional parks and greenspaces. Metro is a qualified recipient of deductible charitable contributions under I.R.C. § 170(b)(1)(A)(v) and § 170(c)(1).

H. NCPRD desires to donate to Metro, and Metro desires to accept NCPRD's donation to Metro of all right, title and interest in the Property. Metro intends to continue management of the Property as part of the Nature Park.

I. The Parties desire to enter into this Agreement to set forth the conditions under which NCPRD will donate the Property to Metro.

The terms of this Agreement are as follows:

AGREEMENT

1. Donation of Property. For and in consideration of the mutual covenants and promises contained in this Agreement and in acknowledgment of Metro's material reliance on this Agreement and Metro's expenditure of significant funds and time in connection herewith, NCPRD agrees to convey to Metro the Property by donation. Metro agrees to accept title to the Property on the terms and conditions set forth in this Agreement.

2. Closing Date. This transaction shall close no later than ninety (90) days after the Effective Date of this Agreement, unless otherwise extended as set forth herein (the "Closing Date" or "Closing"). Closing will occur at the office of Chicago Title Company, located at 1211 SW 5th Avenue, Portland, Or 97219.

3. Metro's Title Review. Metro 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"). Metro will have forty-five (45) days following the later of (i) the Effective Date or (ii) Metro's receipt of the Title Report to review the Title Report and give NCPRD written notice of the exceptions listed in the Title Report that are unacceptable to Metro (the "Unacceptable Exceptions"). Mortgages, delinquent taxes, or other financial obligations secured by the Property are automatically deemed Unacceptable Exceptions. If Metro notifies NCPRD of its objection to any Unacceptable Exceptions, NCPRD will thereafter have fifteen (15) days to provide Metro written notice stating whether NCPRD will (at NCPRD's sole cost and expense) cause such exceptions to be removed from the Title Policy issued to Metro at Closing. If NCPRD refuses to remove any of the Unacceptable Exceptions and Metro is not then satisfied with the condition of title, Metro may terminate this Agreement. All exceptions other than the Unacceptable Exceptions objected to by Metro shall be deemed acceptable to Metro (the "Permitted Exceptions"). Should the Title Company inform Metro 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 Metro.

4. Metro's Due Diligence and Inspections.

4.1. NCPRD's Delivery of Documents. Within fifteen (15) days after the Effective Date, NCPRD shall deliver to Metro any and all material information and documentation in NCPRD'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.

4.2. Property and Environmental Inspections. Metro and its agents, including but not limited to consultants, surveyors, engineers, home inspectors, appraisers, and other professionals hired by Metro, 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 Metro deems necessary. NCPRD shall cooperate with Metro in making such inspections. Metro 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 Metro deems necessary. Any area disturbed by Metro's inspections shall be restored by Metro, at Metro's sole costs and expense, to its pre-inspection condition.

5. Conditions Precedent to Closing.

5.1. Conditions Precedent to Metro's Obligations. In addition to any other conditions contained in this Agreement, the conditions set forth in this Section 5.1 must be satisfied prior to Metro's obligation to accept NCPRD's donation of the Property. These conditions are intended solely for Metro's benefit and Metro 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, Metro will have the right to terminate this Agreement.

5.1.1. Due Diligence and Inspection Results. Metro must be satisfied, in its sole and absolute discretion, with its review of the Due Diligence Documents and the results of Metro's inspections of the Property conducted under Section 4.2 above.

5.1.2. Title. At Closing (a) NCPRD shall convey fee simple title to the Property to Metro in accordance with Section 6.1.1, and (b) the Title Company must be committed to issue to Metro the Title Policy described below in Section 8.

5.1.3. Representations, Warranties, and Covenants of NCPRD. NCPRD's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Closing Date.

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

5.1.5. NCPRD's Deliveries. NCPRD shall have delivered each item to be delivered by NCPRD pursuant to this Agreement, including (without limitation) the documents and materials described below in Section 6.1.

5.1.6. Removal of Personal Property and Debris. NCPRD shall have removed or have caused to be removed from the Property, at NCPRD's sole cost and expense, any and all personal property and/or trash, rubbish, debris, illegally dumped materials or illegal fill materials.

5.2. Conditions Precedent to NCPRD's Obligations. Closing and NCPRD's obligations with respect to the transactions contemplated by this Agreement are subject to (a) Metro's delivery to the Title Company on or before the Closing Date of the documents and materials described below in Section 6.2.

5.3. Failure of Conditions. In the event any of the conditions set forth above in Sections 5.1 or 5.2 are not timely satisfied or waived for a reason other than the default of Metro or NCPRD under this Agreement, then this Agreement, escrow, and the rights and obligations of Metro and NCPRD hereunder shall terminate.

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

6. Deliveries to the Title Company.

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

6.1.1. Deeds. A Quitclaim Deed for Tax Parcel 2200 and a Bargain and Sale Deed for Tax Parcels 1100 and 1200 (the “Deeds”), duly executed and acknowledged in recordable form by NCPRD, conveying the Property to Metro free and clear of all liens and encumbrances except the Permitted Exceptions accepted by Metro pursuant to Section 3 above. The Title Company’s usual, preprinted exceptions (typically listed as general exceptions 1-5 on the Title Report) shall not be listed as exceptions on the Deeds.

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

6.1.3. Lien Affidavits; Other Documents. Any lien affidavits or mechanic’s lien indemnifications as may be reasonably requested by the Title Company, and such other fully executed documents as are required of Seller to close the transaction in accordance with this Agreement.

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

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

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

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

8. Title Insurance. At Closing, NCPRD shall cause the Title Company to issue to Metro a standard ALTA owner’s title insurance policy in the full amount of the full amount of the assessed or appraised value of the Property, insuring (a) fee simple title vested in Metro or its nominees, subject only to the Permitted Exceptions as established under Section 3 of this Agreement and (b) unrestricted vehicular access from the Property to a public road (the “Title Policy”).

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

10. Prorations and Taxes.

10.1. 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 NCPRD and Metro as of the Closing Date.

10.2. Taxes and Assessments. All taxes, assessments, and encumbrances that will be a lien against the Property at Closing, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied by NCPRD at Closing. If the Property is subject to farm or forest deferred taxes, NCPRD 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 NCPRD's actions prior to Closing in which case such taxes shall be NCPRD's responsibility.

11. NCPRD's Representations and Warranties. NCPRD hereby warrants and represents to Metro the following matters, and acknowledges that they are material inducements to Metro to enter into this Agreement. NCPRD agrees to indemnify, defend, and hold Metro harmless from all expense, loss, liability, damages and claims arising out of the breach or falsity of any of NCPRD's representations, warranties, and covenants, excluding attorney's fees. These representations and warranties shall survive Closing. NCPRD warrants and represents to Metro that the following matters are true and correct, and will remain true and correct through Closing:

11.1. Authority. NCPRD has full power and authority to enter into this Agreement (and the persons signing this Agreement for NCPRD, if NCPRD is not an individual, have full power and authority to sign for NCPRD and to bind it to this Agreement) and to donate, 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.

11.2. Minimum Acreage. To NCPRD's knowledge, the Property is at least 5 acres in size.

11.3. 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. NCPRD warrants and represents as follows:

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

(e) NCPRD 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) NCPRD has not transferred, and to NCPRD'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 NCPRD's knowledge, contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.

11.4. Encroachments. To NCPRD'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.

11.5. Rights and Contracts Affecting Property. Except for this Agreement, NCPRD 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. There are no service contracts or other agreements pertaining to the Property that NCPRD will be required to assume at Closing.

11.6. Possession. Except as specifically set forth in this Agreement, there are no leases, licenses, or other agreements permitting, nor has NCPRD entered into any course of conduct that would permit, any person or entity to occupy or use any portion of the Property.

11.7. Reforestation. The Property is not subject to any pending or delinquent reforestation requirements and NCPRD has complied with all applicable reforestation requirements. In accordance with Section 4, NCPRD shall deliver copies of any notices, agreements, or other documents related to past, present, or future reforestation of the Property.

11.8. No Legal Proceedings. To NCPRD's knowledge, there is no suit, action, arbitration, judgment, legal, administrative, or other proceeding, claim, lien, or inquiry pending or threatened against the Property or against NCPRD that could (a) affect NCPRD's right or title to the Property, (b) affect the value of the Property, or (c) subject an owner of the Property to liability.

11.9. 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.

11.10. Public Improvements or Governmental Notices. To NCPRD'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 NCPRD from any governmental agency notifying NCPRD of any violations of law, ordinance, rule or regulation which would affect the Property.

11.11. Changed Conditions. If NCPRD discovers any information or facts that would materially change the foregoing warranties and representations, NCPRD shall immediately give notice to Metro of those facts and information.

12. Condition of the Property Through Closing. NCPRD further represents, warrants, and covenants that until this transaction is closed or escrow is terminated, whichever occurs first, it shall comply and maintain the Property in substantially the same condition as it was on the Effective Date.

13. Metro's Representations and Warranties. In addition to any express agreements of Metro contained herein, the following constitute representations and warranties of Metro to NCPRD:

(a) Subject to the conditions stated herein, Metro 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 Metro 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 Metro have the legal power, right, and actual authority to bind Metro to the terms and conditions of this Agreement.

14. Legal and Equitable Enforcement of This Agreement.

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

14.2. Default by Metro. In the event Closing and the consummation of the transaction herein contemplated do not occur by reason of any default by Metro, Metro and NCPRD agree that it would be impractical and extremely difficult to estimate the damages that NCPRD may suffer. Therefore, Metro and NCPRD agree that a reasonable estimate of the total net detriment that NCPRD would suffer in the event that Metro defaults and fails to complete the purchase of the Property is and will be an amount equal to the escrow cancellation fees. This amount shall be NCPRD'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 Metro. 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 NCPRD. Upon default by Metro, 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.

15. Risk of Loss, Condemnation. NCPRD 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, NCPRD shall give Metro written notice of such event. Metro may terminate this Agreement by giving written notice to NCPRD within fifteen (15) days following receipt by Metro of written notice from NCPRD of such casualty or condemnation.

16. Notices. All notices required or permitted to be given must be in writing to the addresses set forth below and will be deemed given upon (a) personal service, (b) deposit in the United States Mail, postage prepaid, (c) deposit with a nationally recognized overnight courier service or (d) by email delivery, if sent on a business day between the hours of 7:00am and 6:00pm Pacific Time; provided within one (1) business day after sending such notice by email delivery, a follow-up copy of such notice will also be sent pursuant to either clauses (a), (b) or (c) above. All such notices will be deemed received (w) upon personal service, (x) three (3) days after deposit in the United States Mail, postage prepaid, (y) one (1) day after deposit with a nationally recognized overnight courier service, or (z) if by email delivery (i) on the date of delivery, provided that the email is sent on a business day during the hours stated above or (ii) on the next business day if the email is sent outside of the hours state above).

To NCPRD: Michael Bork, NCPRD Director
North Clackamas Parks and Recreation District
7300 SE Harmony Rd
Milwaukie, OR 97222
Phone No. (503) 742-4421

Copy to:

To Metro: Metro
Natural Areas Program Director
600 NE Grand Avenue
Portland, Oregon 97232-2736
Fax No. (503) 797-1849
Phone No. (503) 797-1948

Copy to: Metro
Office of Metro Attorney
600 NE Grand Avenue
Portland, Oregon 97232-2736
Fax No. (503) 797-1792
Phone No. (503) 797-1661

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.

17. Further Actions of Metro and NCPRD. Metro and NCPRD 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 donation contemplated and both parties shall use their best efforts to accomplish Closing in accordance with the provisions hereof.

18. Miscellaneous.

18.1. Recording of Memorandum. On the Effective Date the parties shall execute a memorandum of this Agreement (the “Memorandum”), which Metro may cause to be recorded against the Property.

18.2. 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.

18.3. 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.

18.4. Survival of Representations. The covenants, agreements, representations, and warranties made herein shall survive Closing and will not merge into the Deeds upon recordation in the official real property records.

18.5. 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. Metro may assign its interest in this Agreement to a park-providing entity without the consent of NCPRD. If an assignee assumes the obligations of Metro hereunder, then Metro shall have no further liability with respect to this Agreement.

18.6. Representation. This Agreement was prepared by Metro. NCPRD represents that NCPRD had an opportunity to consult with its own legal counsel prior to executing this Agreement. NCPRD 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.

18.7. 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.

18.8. Computing Time Periods. 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.

18.9. 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.

18.10. 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.

18.11. Counterparts; Electronic Transmission. This Agreement may be executed in two (2) or more counterparts (including by electronic mail or other electronic transmission) and will be deemed to have become effective when and only when one or more of such counterparts will have been signed by or on behalf of each of the parties hereto (although it will not be necessary that any single counterpart be signed by or on behalf of each of the parties hereto, and all such counterparts will be deemed to constitute but one of the same instrument), and will have been delivered by each of the parties to the other.

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.

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

METRO,
an Oregon municipal corporation

NCPRD:

By: _____
Marissa Madrigal
Chief Operating Officer

By: _____
Tootie Smith
Chair

Date: _____

Date: _____

Exhibit A
Property Legal Description

PARCEL I:

Tract "A", PARKSIDE, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Clackamas County and dedicated for road purposes by instrument recorded April 18, 2008 as Recorder's Fee No. 2008-027933.

PARCEL II:

Lot 6, Block 2, PARKSIDE, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Clackamas County and dedicated for road purposes by instrument recorded February 13, 2008 as Recorder's Fee No. 2008-009748.

PARCEL III:

Lot 7, Block 2, PARKSIDE, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Clackamas County and dedicated for road purposes by instrument recorded February 13, 2008 as Recorder's Fee No. 2008-009748.