

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 12- 03

A RESOLUTION ADDING THE SUNRISE PROPERTY TO TIGARD'S LOCAL SHARE PROJECT LIST AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT (IGA) WHEREBY WASHINGTON COUNTY WILL MAKE A \$400,000 CONTRIBUTION TO PARTIALLY FUND THE PURCHASE OF THE SUNRISE PROPERTY

WHEREAS, in 2006, voters passed Metro's natural areas bond measure and a portion of the bond measure funds were allocated to park providers like Washington County and the City of Tigard; and

WHEREAS, the city purchased the Sunrise property in May 2011; and

WHEREAS, in December 2011, Washington County approved a \$400,000 contribution from its 2006 Metro bond measure allocation to partially fund the Sunrise property purchase; and

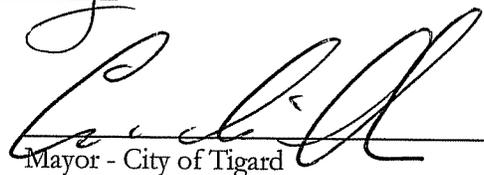
WHEREAS, to receive the contribution, the city must execute the IGA with Washington County and Metro and add the purchase of the Sunrise property to its 2006 list of Metro bond projects, known as the Tigard's local share project list; and

WHEREAS, the city wishes to accept the \$400,000.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

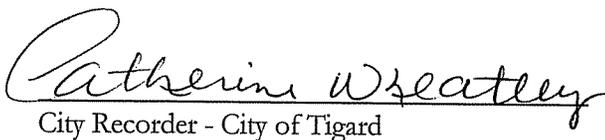
- SECTION 1: Tigard's local share project list is hereby amended to include the purchase of the Sunrise property.
- SECTION 2: The city manager is authorized to execute the attached IGA (Exhibit A) with Washington County and Metro. This IGA will transfer of \$400,000 in Metro bond funds from Washington County to the City of Tigard in accordance with bond requirements.
- SECTION 3: The county's \$400,000 contribution will partially reimburse Tigard park bond funds used to purchase the Sunrise property.
- SECTION 4: This resolution is effective immediately upon passage.

PASSED: This 12th day of February 2012.



Mayor - City of Tigard

ATTEST:


Catherine Wheatley
City Recorder - City of Tigard

INTERGOVERNMENTAL AGREEMENT

**FOR BOND MEASURE LOCAL SHARE FUND TRANSFER
SUNRISE PROPERTY**

METRO, CITY OF TIGARD AND WASHINGTON COUNTY

THIS AGREEMENT is made and entered into by and between METRO, a district established pursuant to ORS Chapter 268 ("Metro"), WASHINGTON COUNTY ("County"); and the CITY OF TIGARD ("City"), with an Effective Date of _____, 201__.

WITNESSETH

RECITALS

- A. The voters of Metro approved Ballot Measure 26-80 on November 7, 2006, which provided funds for natural areas, clean water, and protection of fish and wildlife, including funds to be expended by local parks providers for specified projects.
- B. The County and City are local parks providers.
- C. The City and County have each signed an Intergovernmental Agreement ("IGA") with Metro for Natural Areas Bond Measure Local Share Component (the "Local Share Program").
- D. The "Sunrise Property", described in Exhibit "A" and shown on Exhibit "B" attached hereto, is identified on the Local Share Project List attached to the Metro-County IGA.
- E. ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform.
- F. City has taken all actions necessary to acquire the Sunrise Property including, without limitation, paying the purchase price, closing the purchase and obtaining title to the property. The Sunrise Property was acquired for purposes allowed under the Local Share Program.
- G. The County Board of Commissioners by County Minute Order 10-335, dated October 19, 2010, approved and authorized a financial contribution to acquisition by City of the Sunrise Property, using a portion of County's Local Share Program funds.

AGREEMENT

NOW, THEREFORE, the premises being in general as stated in the foregoing Recitals, and in consideration of the terms, conditions and covenants as set forth below, the parties hereto agree as follows:

ARTICLE I - COUNTY OBLIGATIONS

1. County shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of this transaction with Metro and the City.
2. Within thirty (30) days after the Effective Date, County shall sign and deliver to Metro a Requisition Certificate for Release of Funds, Natural Areas Bond Local Share ("Certificate"), requesting release of funds in the amount of \$400,000 from the County's Local Share Program funds to the City, to be placed in the City's Local Share funds for use by the City as reimbursement toward City funds previously used for its purchase of the Sunrise Property (the "Transfer").
3. County shall have no responsibility for the management, control or use of the Sunrise Property and shall have no legal interest in the Sunrise Property. Following completion of the County's obligations for signature and delivery of the Certificate, County shall have no further obligations under this Agreement.

ARTICLE II - CITY OBLIGATIONS

1. The Tigard City Council has reviewed this Agreement and authorized the City Manager to execute the final Agreement.
2. City shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of this transaction with Metro and the County.
3. Within thirty (30) days after the Effective Date of this Agreement, the City shall, in accordance with the terms of Section 5 of the Metro-City IGA, add the Sunrise Property to its Local Share Project List (the "City Project List Amendment").
4. As a result of the Transfer, City shall be responsible for fulfilling all obligations and requirement of the Metro-City IGA, including (without limitation) complying with the use limitations set forth in Section 8 of the Metro-City IGA. In the event the City breaches its IGA with Metro and such breach concerns the Sunrise Property, such action also will constitute a breach of this Agreement, and the County will have the legal right to enforce compliance by City with that IGA under the terms of this Agreement.
5. City shall be entitled to use funds provided by County under Article I.2 of this Agreement solely for reimbursement of City funds previously expended for the acquisition of the Sunrise Property.

6. Since acquisition of the Sunrise Property, the City has been and shall continue to be solely responsible for ownership, management, supervision and control of the Sunrise Property. This paragraph shall not limit the City's ability to transfer the Sunrise Property for park purposes to a park district or other public entity that assumes the continuing obligations of this Agreement.

ARTICLE III - GENERAL PROVISIONS

1. Metro shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of this transaction with the County and City.

2. Upon receipt of (i) the Certificate from the County as provided in Article I.2 and (ii) the City Project List Amendment as provided in Article II.3, Metro shall effectuate the Transfer, as reimbursement of City funds used to acquire the Sunrise Property.

3. In accordance with the terms of the Metro-City IGA, Metro shall have no responsibility for the management, control, or use of the Sunrise Property, and shall have no legal interest in the Sunrise Property.

4. Metro's approval of this Agreement shall constitute Metro's approval of the transfer of Local Share Funds by County in accordance with the Metro-County IGA, notwithstanding that the Sunrise Property will be acquired and held in the name of the City.

ARTICLE IV - GENERAL PROVISIONS

1. **LAW OF OREGON.** The parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon.

2. **DEFAULT.** Any party shall be deemed to be in default if it fails to comply with any provision of this Agreement. The parties agree time is of the essence in the performance of any of the obligations within this Agreement. Complaining party shall provide the defaulting party with written notice of default and allow thirty (30) days within which to cure the defect.

3. **INDEMNIFICATION.** This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold the other harmless, to include their respective officers, employees, agents and representatives, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omission of services or in any way resulting from the acts or omissions of the parties so indemnifying and/or its officers, employees, agents or representatives. Indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300).

4. **MODIFICATION OF AGREEMENT.** No waiver, consent, modification or change of 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 specific instances and for the specific purpose given.

5. **DISPUTE RESOLUTION.** In the event of a breach of this Agreement by any party, and if the defaulting party fails to cure the breach within thirty (30) days after receiving notice of the breach from a non-defaulting party, the parties agree to use their best efforts to resolve any dispute arising out of this Agreement by mediation. If mediation is not successful within thirty (30) days of commencement, the parties are free to utilize any legal remedy they may have.

6. **SEVERABILITY.** If any terms or provisions of this Agreement or the application thereof to any person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

7. **NONDISCRIMINATION.** No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the County.

8. **INTEGRATION.** This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

9. **EFFECT OF AGREEMENT.** This Agreement shall be effective upon execution by the parties, and shall continue in effect until all obligations have been performed. The City's obligations under Article II.4, and the County's and Metro's right to enforce those obligations, shall survive closing of the purchase of the Sunrise Property and conveyance to the City. This Agreement shall serve as an amendment to Section 2 of the Metro-County IGA and Section 2 of the Metro-City IGA.

10. **AMENDMENT OR EXTENSION.** This Agreement may be amended or extended by consent of the parties, subject to provisions of this Agreement.

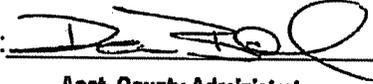
IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

DONE AND DATED this _____ day of _____, 201__.

CITY OF TIGARD

WASHINGTON COUNTY, OREGON

By: _____

By: 

Title: City Manager

Title: Asst. County Administrator

Date: _____

Date: 1/18/12

METRO

By: _____

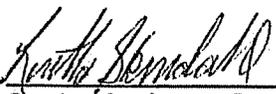
Title: _____

Date: _____

APPROVED AS TO FORM

Assistant Metro Attorney

APPROVED AS TO FORM:



Senior Assistant County Counsel

Exhibit "A"

Real property in the County of Washington, State of Oregon, described as follows:

BEING TRACTS OF LAND AS DESCRIBED IN THE FOLLOWING DOCUMENTS: 98-070527, 2003-020130, 2000-061432, 2004-107939, BOOK 1151, PAGE 113, 2004-082311, 2004-082312, 2005-27699, AND 97-084282 ALL WASHINGTON COUNTY DEED RECORDS, SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, IN COUNTY OF WASHINGTON, STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 97-084282, WHICH BEARS NORTH 89° 50' 44" WEST, 571.41 FEET ALONG THE SOUTH LINE OF SECTION AND NORTH 00° 41' 42" EAST, 20.00 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 5 BEING MARKED WITH AN ALUMINUM DISC IN CONCRETE; THENCE ALONG A LINE 20.00 FEET NORTHERLY OF, AND PARALLEL WITH SAID SOUTH SECTION LINE NORTH 89° 50' 44" WEST, 212.90 FEET TO THE SOUTHWEST CORNER OF SAID TRACT; THENCE SOUTH 00° 41' 42" WEST, 20.00 FEET TO SAID SOUTH SECTION LINE; THENCE ALONG SAID SOUTH SECTION LINE NORTH 89° 50' 44" WEST, 233.64 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 80-019854; THENCE ALONG SAID EASTERLY LINE NORTH 00° 43' 00" EAST, 200.00 FEET TO THE NORTHEAST CORNER THEREOF; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT NORTH 89° 50' 44" WEST, 124.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE ALONG THE WESTERLY LINE OF SAID TRACT SOUTH 00° 43' 00" WEST, 180.00 FEET TO THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2004-107939, BEING 20.00 FEET NORTHERLY OF, WHEN MEASURED PERPENDICULAR TO SAID SECTION LINE; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT THE FOLLOWING THREE (3) CALLS; THENCE PARALLEL WITH SAID SECTION LINE NORTH 89° 50' 44" WEST, 180.00 FEET; THENCE LEAVING SAID PARALLEL LINE, NORTH 00° 43' 00" EAST, 20.00 FEET; THENCE NORTH 89° 50' 44" WEST, 23.33 FEET TO A POINT BEING 40.00 FEET NORTHERLY OF, WHEN MEASURED PERPENDICULAR TO SAID SECTION LINE; THENCE SOUTH 00° 43' 00" WEST, 40.00 FEET TO THE SOUTH SECTION LINE; THENCE ALONG SAID SOUTH SECTION LINE NORTH 89° 50' 44" WEST, 107.00 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2002-161976; THENCE ALONG THE EASTERLY LINE OF SAID TRACT NORTH 00° 41' 34" EAST, 240.00 FEET TO THE SOUTHERLY LINE OF THAT TRACT DESCRIBED IN DOCUMENT NO. 2002-128525; THENCE ALONG SAID SOUTHERLY LINE SOUTH 89° 50' 44" EAST, 42.89 FEET TO THE SOUTHEAST CORNER OF SAID TRACT; THENCE ALONG THE EASTERLY LINES OF THOSE TRACTS DESCRIBED IN DOCUMENT NO. 2002-128525 AND DOCUMENT NO. 2005-134615 NORTH 00° 40' 00" EAST, 399.77 FEET TO THE SOUTHERLY LINE OF THAT TRACT DESCRIBED IN DOCUMENT NO. 2004-046173; THENCE ALONG SAID SOUTHERLY LINE SOUTH 89° 46' 29" EAST, 85.62 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE ALONG THE EASTERLY LINE OF SAID TRACT, NORTH 00° 43' 00" EAST, 161.39 FEET TO THE MOST NORTHERLY EAST CORNER THEREOF; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT NORTH 79° 30' 00" WEST, 243.12 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SUNRISE LANE (BEING 20.00 FROM THE CENTERLINE THEREOF, WHEN MEASURED PERPENDICULAR THERETO); THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) CALLS: NORTH 14° 15' 05" WEST, 98.41 FEET; THENCE NORTH 17° 04' 55" EAST, 72.15 FEET; THENCE NORTH 43° 11' 55" EAST, 116.47 FEET; THENCE NORTH 04° 35' 55" EAST, 84.20 FEET TO THE SOUTHWEST CORNER OF THAT TRACT DESCRIBED IN DOCUMENT NO. 95-037734; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT SOUTH 89° 28' 42" EAST, 699.75 FEET TO THE NORTHWEST CORNER OF THAT TRACT DESCRIBED IN DOCUMENT NO. 2001-085039; THENCE ALONG THE WESTERLY LINE OF SAID TRACT THE FOLLOWING FIVE (5) COURSES: SOUTH 00° 41' 42" WEST, 393.64 FEET; THENCE SOUTH 89° 50' 44" EAST, 100.00 FEET; THENCE SOUTH 00° 41' 42" WEST, 480.00 FEET; THENCE SOUTH 89° 50' 44" EAST, 112.90 FEET; THENCE SOUTH 00° 41' 42" WEST, 280.00 FEET TO SAID POINT OF BEGINNING.

First American Title

Exhibit "B"

